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Emergency rules now in effect

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

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

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

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

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

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

Agriculture, Trade & Consumer Protection (2)

1. Rules adopted 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. ATCP 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

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

Finding of Emergency

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

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

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

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

Commerce (2) (Financial Resources for Businesses and Communities, Chs. Comm 104–131)

1. Rules adopted creating **ch. Comm 104**, relating to Woman-Owned Business Certification Program.

Exemption From Finding of Emergency

The Legislature, by section 5 (1) (a) in 2005 Wisconsin Act 358, exempts the Department from providing evidence that this emergency rule is necessary for the preservation of public peace, health, safety or welfare; and exempts the Department from providing a finding of emergency for the adoption of this rule.

Pursuant to section 227.24 of the statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper. In accordance with section 5 (1) (b) of 2005 Wisconsin Act 358, this rule will remain in effect until March 1, 2007, or the date on which permanent rules take effect, whichever is sooner.

Plain Language Analysis

These emergency rules primarily specify (1) which businesses are eligible for becoming certified in this program;

(2) how to apply for certification and recertification; (3) how the certifications will be issued, renewed, and rescinded; and (4) how to appeal a decision by the Department. Parameters are also included for recognizing equivalent certifications that are issued by other public agencies.

Publication Date: February 9, 2007
Effective Date: February 9, 2007
Expiration Date: See Section 5 (1) (b) 2005 Wis. Act 358
Hearing Date: March 30, 2007

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

Exemption From Finding of Emergency

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

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

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

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

Dentistry Examining Board

Rules were adopted amending **ch. DE 11**, relating to better identifying the different levels of anesthesia, including nitrous oxide, anxiolysis, conscious sedation-enteral, conscious sedation-parenteral, deep sedation, and general anesthesia, and the requirements for each level.

Finding of Emergency

The board finds that failure to delay the effective date of CR04-095, from January 1, 2007, to July 1, 2007, will create a danger to the public health, safety and welfare. The extra six months are needed to allow the implementation of the rule to

occur and to ensure the continued use of conscious sedation for dental patients.

Publication Date: December 21, 2006
Effective Date: December 29, 2006
Expiration Date: May 28, 2007
Hearing Date: January 31, 2007
Hearing Date: December 13, 2006

Insurance (2)

- 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 a 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
Extension Through: March 29, 2007

- 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 a 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 (2) (Fish and Game, etc., Chs. NR 1—)

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

Exemption from finding of emergency

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

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

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

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

Exemption from finding of emergency

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

Rule FR-11-07(E) specifies those emergencies on forested land under the jurisdiction of the department over which the chief state forester shall have management authority. This rule describes causes of unforeseen damage or threat of damage to trees that could lead the chief state forester

to declare an emergency and assume management authority. Included in the list of damaging agents that could lead to the declaration of an emergency are those required by the legislature: invasive species, pest infestation, disease, and damage to timber from fire, snow, hail, ice, or wind. The rule states that when declaring and responding to an emergency, the chief state forester shall consider the purpose of and management plan for the affected property in his or her decisions. This rule, however, would allow the chief state forester to take actions not described in the management plan for a property if that were the most appropriate response to the emergency. Finally, this rule describes the processes by which the declaration of the state of emergency shall be made effective, canceled or modified.

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

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

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
Hearing Date: February 13, 2007

Transportation

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

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

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

Finding of Emergency

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

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

Publication Date: January 22, 2007
Effective Date: January 22, 2007
Expiration Date: June 21, 2007

**Workforce Development
(Public Works Compensation, Chs. DWD
290–294)**

Rules adopted amending s. DWD 290.155 (1), relating to the adjustment of thresholds for application of prevailing wage rates.

Finding of Emergency

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

Adjusting the thresholds for application of the prevailing wage rate requirements by emergency rule ensures that the adjustments are effective on a date certain that is prior to the time of year that project requests are generally submitted to the Department and applicability of the prevailing wage law is determined. The adjustment avoids imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process.

Publication Date: December 28, 2006
Effective Date: January 1, 2007
Expiration Date: May 31, 2007
Hearing Date: February 19, 2007

Scope statements

Health and Family Services

Subject

The Department of Health and Family Services proposes to amend ch. HFS 107, relating to dental services under Wisconsin Medicaid.

Policy Analysis

The Department proposes to amend ch. HFS 107 to clarify circumstances under which the Wisconsin Medicaid program will reimburse providers for orthodontia and certain other services provided to recipients under age 21. In s. HFS 107.07 (2), the prior authorization subsection of the dental services section of the Medicaid Administrative Code, a revision was recently made that caused a result which was not the intention of the Department. To correct this error, the Department proposes to clarify that the Department's intent to require prior authorization for orthodontia and other services provided under early and periodic screening, diagnosis and treatment (EPSDT) services. The medical necessity of these services is determined by the Department based on information submitted by the provider. Thus, it is necessary to require prior authorization to determine the appropriateness of providing these services to an individual recipient.

Permitting the existing rule language to remain in its present form could require reimbursement for orthodontia that is not medically justified.

Statutory Authority

Section 49.45 (10) authorizes the Department to promulgate such rules as are consistent with its duties in administering medical assistance. Section 227.11 (2), Stats., gives state agencies general authority to promulgate rules that are necessary to operate its programs.

Staff Time Required

40 hours. This will include working with the Wisconsin Dental Association and the Medical Assistance Advisory Committee to ensure that adequate public input is received on the proposed rule.

Entities Affected by the Rule

Dentists who serve Medicaid recipients in Wisconsin and Wisconsin Medicaid recipients.

Comparison with Federal Regulations

Section 441.56 of Title 42 of the Code of Federal Regulations specifies the procedures and tests required to provide early and periodic screening, diagnosis and treatment (EPSDT) services to recipients.

This revision will assist the state in complying with the requirements of that provision, by specifying more clearly that the state's intent is to only cover certain services required as a result of a screening, as described in that provision. The provision of dental services to Medicaid recipients is described in 42 CFR s. 440.100. The state regulations are currently in conformance with that provision. This revision will not change that conformance.

Health and Family Services

Subject

The Department of Health and Family Services proposes to amend ch. HFS 144, rules governing immunization of students. The proposed rule amendment would accomplish the following:

1. Add pneumococcal infection to the list of diseases in ch. HFS 144 against which students in day care centers are to be immunized because pneumococcal conjugate vaccine has been shown to be highly effective in reducing disease among children less than 5 years of age and because the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP) has recommended this vaccine for all children aged 2 through 23 months.

2. Add a new formulation of diphtheria, tetanus and pertussis (whooping cough) vaccine [tetanus toxoid, reduced diphtheria toxoid and acellular pertussis (Tdap)] to ch. HFS 144 Table 144.03–A because this vaccine can be given to adolescents and immunizing older students will prevent pertussis outbreaks in schools and will protect infants too young to be fully immunized. From 1986 through 2004, Wisconsin had the fifth highest incidence of pertussis in the nation. The ACIP has recommended this vaccine for all children at 11–12 years of age.

3. Add a second dose of varicella (chickenpox) vaccine to ch. HFS 144 Table 144.03–A because two doses of the vaccine have been shown to be more effective than one dose in preventing breakthrough cases and because the ACIP has provisionally recommended two doses of this vaccine for all children 1 through 12 years of age.

4. Remove hepatitis B and varicella vaccine coverage phase-in language because these phase-in time periods have passed and the language is no longer necessary.

5. Add language stating that the Department may temporarily suspend a vaccine requirement if the ACIP determines that there is a national shortage of the vaccine because a student could not possibly obtain a required vaccine in such circumstances.

6. Revise the definition of "written evidence of immunization" to include electronic records because immunization registries used by many providers store immunization data that are accessible to schools electronically.

7. Change the language regarding release of immunization information between vaccine providers and schools or day care centers, and among providers, from discretionary to mandatory to create a clear requirement for disclosure.

Policy Analysis

Under section 252.04 (1) of the Wisconsin statutes, the Department of Health and Family Services is responsible for carrying out a statewide immunization program to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, and other diseases that the Department specifies by rule, and to protect against tetanus. To achieve this goal, any student admitted to a day care center, or a nursery, elementary, middle, junior or senior

high school is required to present written evidence of having completed the immunizations for each vaccine required for the student's grade. The immunization requirement is waived if the student's parent, guardian or legal custodian submits a written statement to the school or day care center objecting to the immunization for reasons of health, religion or personal conviction. The most recent additions to the list of diseases against which students are to be immunized are hepatitis B (1997) and varicella (2001).

An alternative to regulatory action is promotion of these vaccine recommendations to parents and immunization providers. Allowing time to elapse between licensure of a vaccine and enacting a school requirement has traditionally allowed market forces to increase the number of immunized children. However, coverage achieved through voluntary compliance with vaccine recommendations is always lower than that achieved through regulation. After vaccine licensure and before states enacted school vaccine requirements, outbreaks of vaccine-preventable diseases continued because vaccine coverage among students was suboptimal. For example, although an effective measles vaccine was licensed in 1967, measles outbreaks involving thousands of Wisconsin children continued to occur until a school requirement was set in place in 1980.

The intended goals of the proposed rulemaking are to:

Prevent pneumococcal infections, pertussis infections and break-through varicella infections among students;

Update the rules by deleting obsolete sections and adding clarifying language; and

Create a clear requirement for disclosure of immunization information.

The proposed rules may affect students in day care centers, nursery, elementary, middle, junior or senior high schools, and their parents.

Statutory Authority

Sections 252.04(1), 252.04(2), 252.04(10), and 227.11(2), Stats.

Staff Time Required

The Department will require approximately 80 hours of staff time to develop the rules. Additionally, members of the Wisconsin Council on Immunization Practices will provide input on the technical content of the rules, which may minimize needed revisions to the rules subsequently in the promulgation process.

Entities Affected by the Rule

The proposed rules may affect schools, day care centers, local health departments, medical providers and county attorney offices.

Comparison with Federal Regulations

There appear to be no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

Health and Family Services

Subject

The Department of Health and Family Services proposes to amend ch. HFS 145, rules governing control of communicable diseases. The proposed amendment would accomplish the following:

1) Add the following eight diseases to ch. HFS 145 Appendix A, the list of communicable diseases that must be

reported to the local health officer by medical providers, health care facilities and laboratories:

- a. Any illness caused by an agent that is foreign, exotic or unusual to Wisconsin, and that has public health implications
- b. Influenza-associated pediatric deaths
- c. Lymphocytic Choriomeningitis Virus (LCMV) infections
- d. Poliovirus infection, nonparalytic
- e. Severe Acute Respiratory Syndrome-associated Coronavirus (SARS-CoV)
- f. Human Transmissible spongiform encephalitis (TSE)
- g. Vancomycin-intermediate *Staphylococcus aureus* (VISA) infections and Vancomycin-resistant *Staphylococcus aureus* (VRSA) infections

h. Vibriosis

2) Delete the following six diseases from ch. HFS 145 Appendix A:

a. Amebiasis

b. Cat scratch disease (infection caused by *Bartonella* species)

c. Encephalitis, viral (other than arboviral)

d. Hepatitis non-A, non-B, (acute)

e. Reye syndrome

f. Typhus fever

3) Change the way the following four diseases are listed in ch. HFS 145 Appendix A:

a. Change Arboviral infection (encephalitis/meningitis) to Arboviral Disease

b. Change *E. coli* 0157:H7, and other enterohemorrhagic *E. coli*, enteropathogenic *E. coli*, enteroinvasive *E. coli*, enterotoxigenic *E. coli* to *E. coli* 0157:H7 and other Shiga toxin-producing *E. coli* (STEC), enteropathogenic *E. coli*, enteroinvasive *E. coli*, and enterotoxigenic *E. coli*

c. Change Hepatitis E from a category I disease to a category II disease

d. Change Varicella (chickenpox) – report by number of cases only to Varicella (chickenpox)

4) Alphabetize the diseases in ch. HFS 145 Appendix A.

5) Add language that states that reports of communicable diseases may be in the form of electronic transmission.

6) Cite the most recent editions of the Sexually Transmitted Diseases Treatment Guidelines and the Control of Communicable Diseases Manual.

7) Add language requiring laboratories to forward specimens to the State Laboratory of Hygiene to verify the presence or absence of a communicable disease or condition if requested by the State Epidemiologist.

8) Add language requiring laboratories to report a negative test result on a case or a suspected case to justify release from isolation or quarantine if requested by the State Epidemiologist.

Policy Analysis

Section 252.02 (1), Stats., authorizes the Department to establish systems of surveillance for communicable diseases and s. 252.02 (4), Stats., authorizes the Department to promulgate rules to prevent and control communicable diseases. The Department's surveillance system requires medical providers, health care facilities and laboratories to report the communicable diseases listed in ch. HFS 145 Appendix A to local health departments or the state epidemiologist. At the national level, the Council of State and Territorial Epidemiologists (CSTE) recommends diseases

that should be reported by adding them to the Nationally Notifiable Infectious Diseases (NNID) list. States are encouraged to establish parallel reporting requirements. The diseases CSTE places under surveillance are typically novel pathogens or those with severe manifestations whose transmission is amenable to control by public health measures. Five of the eight diseases this proposed rulemaking adds, and none of the diseases this proposed rulemaking deletes, are on the NNID list. The intended goals of the proposed rulemaking are to make communicable disease reporting requirements in Wisconsin current, consistent with CSTE recommendations and supportive of Wisconsin public health practice.

Instead of regulatory action, medical providers, health care facilities and laboratories could be asked to submit reports voluntarily. However, such reporting would be incomplete and more staff time would be required to solicit the reports. Without this proposed rulemaking, disease reporters would continue to complete and submit reports of some communicable diseases unnecessarily, national communicable disease data would not reflect diseases occurring in Wisconsin, and the rule language would be outdated.

The Department does not anticipate that there will be any adverse impact on the public from deletion of the 6 diseases from mandatory reporting.

Members of the public who may be affected by the proposed rulemaking are those who acquire one of the communicable diseases the proposed rulemaking adds. Other members of the public who may be affected are the individual's family members or other contacts who were spared infection because public health measures were applied.

Statutory Authority

Sections 252.04 (1), (2) and (10), and 227.11 (2), Stats.

Staff Time Required

The Department will require approximately 40 hours of staff time to develop the rules. Additionally, the Department will solicit comments on the rulemaking from organizations that represent such stakeholders as local health departments, medical providers, health care facilities and laboratories.

Entities Affected by the Rule

The proposed rule may affect local health departments, medical providers, health care facilities and laboratories.

Comparison with Federal Regulations

There appear to be no existing or proposed federal regulations that address the activities to be regulated by the proposed rules.

Natural Resources

Subject

Chapters NR 10 pertaining to seasons and daily bag limits for migratory game bird hunting, NR 12 relating to wildlife damage and nuisance control, and NR 16 relating to captive wildlife.

Policy Analysis

This rule order will establish the 2007 migratory bird hunting seasons. In late July Department staff attend the Mississippi Flyway Council (MFC) Technical and Council meetings where they will receive proposed season framework options from the U.S. Fish and Wildlife Service (USFWS).

Staff will then work with other states in our Flyway to develop recommendations that are voted upon by the MFC. Proposals that are passed at the MFC meeting are forwarded to the FWS for consideration by the Service Regulations Committee (SRC) in late July. Department staff will contact the FWS following the SRC meeting to obtain the latest season recommendations.

Once the USFWS's final framework is available, Department staff can summarize waterfowl status and regulation information for Wisconsin citizens. This information is presented and public comments are received from the Migratory Committee of the Conservation Congress and a public meeting (Post-Flyway Meeting) of interest groups and individuals. The following week, public hearings will be held around the state to solicit additional input. The Department then promulgates a permanent and emergency rule simultaneously in order to open the waterfowl seasons in late September.

The rule may revise procedures for permitting nuisance and damage control practices that are directed towards Canada geese as a result of federal rule changes.

Finally, the rule may add mute swans to the list of harmful wild animals in NR 16. This rule change is necessary in order to regain authority that DNR previously had to require sterilization and pinioning of captive mute swans (DNR's authority over mute swans that occur in the wild was not affected). This loss of authority occurred when the U.S. Fish & Wildlife Service removed mute swans from its list of migratory birds, a list that Wisconsin statutes had incorporated by reference.

Statutory Authority

s. 29.014, 169.11, 29.885 and 29.889 Stats.

Staff Time Required

Approximately 500 hours will be needed by the Department to develop the rule prior to and following the hearings.

Entities Affected by the Rule

These rules will impact migratory game bird hunters and those who enjoy viewing waterfowl in the state of Wisconsin, people who possess captive mute swans, and people who respond to nuisance Canada goose problems.

Comparison with Federal Regulations

Under international treaty and Federal law, migratory game bird seasons are closed unless opened annually through the USFWS regulations process. As part of the federal rule process, the service proposes a duck harvest-management objective that balances hunting opportunities with the desire to achieve waterfowl population goals identified in the North American Waterfowl Management Plan (NAWMP). Under this harvest-management objective, the relative importance of hunting opportunity increases as duck populations approach the goals in the NAWMP. Thus, hunting opportunity is maximized when the population is at or above goals. Other factors such as habitat are also considered. The Regular Canada goose season is based on the allowable Mississippi Valley Population (MVP) harvest which will be determined based on the spring breeding population goal for that population and the spring population estimate obtained from an aerial survey of the MVP breeding range. All the proposed modifications included in this rule order are consistent with these parameters and guidelines which are annually established by the Fish and Wildlife Service in 50 CFR 20.

The USFWS has proposed simplifying their permitting process for some Canada goose nuisance control practices. If Wisconsin wishes to continue allowing and monitoring

nuisance control practices we may need to revise our own permitting process.

The USFWS has removed mute swans from its list of migratory birds in 50 CFR. Since Wisconsin had incorporated the federal list of migratory birds into its own captive wildlife laws by reference, mute swans must now be added to the list of harmful wild animals in NR 16 if we are to continue to enforce previously existing rules.

Agency Contact

Kent Van Horn

Migratory Birds Specialist
101 South Webster Street
PO Box 7921
Madison, WI 53707-7921
(608) 266-8841
Kent.Vanhorn@wisconsin.gov

Submittal of rules to legislative council clearinghouse

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

Insurance

In accordance with ss. 227.14 (4m) and 227.15, Stats., the Office of the Commissioner of Insurance submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on March 8, 2007.

Analysis

These changes will affect sections Ins 50.01, 50.08 (1), 50.10, Wis. Adm. Code, relating to annual audited financial reports, annual financial statements and examinations and affecting small business.

Agency Procedure for Promulgation

The date for the public hearing is May 18, 2007.

Contact Person

A copy of the proposed rule may be obtained from the Web site at:

<http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, Public Information and Communications, Office of the Commissioner of Insurance, at (608) 264-8110. For additional information, please contact James W. Harris at (608) 267-2833 or e-mail at James.Harris@oci.state.wi.us in the OCI Legal Unit.

Natural Resources

On March 12, 2007, the Department of Natural Resources submitted proposed rules to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect chs. NR 1, 45 and 51, relating to the use of department properties.

Agency Procedure for Promulgation

Public hearings are scheduled for April 16, 23 and 25, 2007.

Contact Person

Kate Fitzgerald
Bureau of Facilities and Lands

Natural Resources

On March 12, 2007, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 46, relating to the administration of the forest crop law and the managed forest law.

Agency Procedure for Promulgation

A public hearing will be scheduled.

Contact Person

Carol Nielsen
Bureau of Forest Land Management

Natural Resources

On March 12, 2007, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 809, relating to the IESWTR, LTI, DOBP, PN, CCR, radionuclide and total coliform rules and updating of analytical methods for public water systems.

Agency Procedure for Promulgation

A public hearing is scheduled for April 11, 2007.

Contact Person

Lee Boushon
Bureau of Drinking Water and Groundwater

Rule-making notices

Notice of Hearing

Insurance

[CR 07-023]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the proposed rulemaking order affecting ss. Ins 50.01, 50.08 (1), 50.10, Wis. Adm. Code, relating to annual audited financial reports, annual financial statements and examinations and affecting small business.

Hearing Information

Date: **May 18, 2007**

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

Place: OCI, Room 227, 125 South Webster St 2nd Floor
Madison, WI

Written comments can be mailed to:

James W. Harris
Legal Unit – OCI Rule Comment for Rule Ins 5000
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Written comments can be hand delivered to:

James W. Harris
Legal Unit – OCI Rule Comment for Rule Ins 5000
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53702

Comments can be emailed to:

James W. Harris
James.Harris@oci.state.wi.us

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in this Notice of Hearing.

Analysis Prepared by the Office of the Commissioner of Insurance (OCI)

1. Statutes interpreted: ss. 600.01 (2), 601.41 (3), 601.42 and 623.02, Stats.

2. Statutory authority: ss. 601.41 (3), 601.42 and 623.02, Stats.

3. Explanation of OCI's authority to promulgate the proposed rule under these statutes: OCI has set standards for accounting practices related to the preparation and submission of annual audited financial reports, annual financial statements and examinations required of insurers doing business in Wisconsin. The present rule has been in

existence since 1993, and this change is to clarify several aspects of the rule.

4. Related statutes or rules: See the statutes interpreted in paragraph 1, above.

5. The plain language analysis and summary of the proposed rule: This rule clarifies the requirements for qualification of an independent certified public accountant to be retained by an insurer for the purpose of expressing an opinion on financial statements in annual audited financial reports required to be filed with the commissioner. The rule establishes that an accountant or accounting firm is not qualified if an agreement of indemnity or release from liability has been entered into with an insurer with the intent or effect to shift or limit the liability of the accountant or accounting firm for failure to adhere to applicable auditing or professional standards. The rule requires that an independent certified public accountant consider procedures illustrated in the National Association of Insurance Commissioners (NAIC) financial condition examiner's handbook as the accountant deems necessary.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule: There are no federal regulations which address annual financial reports, annual financial statements and examinations to be prepared by insurers doing business in Wisconsin.

7. Comparison of similar rules in adjacent states as found by OCI:

Illinois: Il. Adm. Code Title 50, Part 925, Section 925.70, requires annual audited financial reports from insurers doing business in the state that are prepared by a qualified independent certified public accountant that has not either directly or indirectly entered into an agreement of indemnity or release from liability (collectively referred to as indemnification) with respect to the audit of the insurer. In conducting an audit consideration should also be given to procedures illustrated in the Financial Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the accountant deems necessary.

Iowa: Iowa Adm. Code 191-5.25, requires annual audited financial reports from insurers doing business in the state that are prepared by a qualified independent certified public accountant that has not either directly or indirectly entered into an agreement of indemnity or release from liability with respect to the audit of the insurer. In conducting an audit consideration should also be given to procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary.

Michigan: Mich. Comp. Laws, Ch. 500, requires annual audited financial reports from insurers authorized to do business in the state that are prepared by an independent certified public accountant.

Minnesota: Minn. Stat. Ch. 60A.129, Subd. 3, requires annual audited financial reports from insurers doing business in the state that are prepared by an independent certified public accountant. In conducting an examination of an insurer's financial statements consideration should be given to other procedures illustrated in the Financial Condition Examiner's Handbook issued by the National Association of

Insurance Commissioners as the independent certified public accountant considers necessary.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

Under the existing rule, certain qualifications of independent certified public accountants have been set forth, generally in accord with the National Association of Insurance Commissioners (NAIC) annual financial reporting model regulation. Indemnification agreements may provide an auditor an unacceptably broad opportunity to avoid responsibility for failure to find or disclose erroneous or false information put forth by management of an insurer. In the event of a receivership a regulator standing in place of management may be precluded by an indemnity agreement from taking appropriate action if professional negligence has occurred. The NAIC has revised the model to provide that an independent certified public accountant is not qualified if the accountant or firm has entered into an indemnification agreement with respect to an audit of the insurer. This rule amendment brings the Wisconsin rule in conformity with the model regulation.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114: This rule clarifies the level of independence required of a certified public accountant or firm in its engagement with an insurer, and there is no significant effect on small business.

10. If these changes may have a significant fiscal effect on the private sector, the anticipated costs that will be incurred by private sector in complying with the rule:

These changes will not have a significant fiscal effect on the private sector.

11. A description of the Effect on Small Business: Because this rule applies to all insurers doing business in the state, it may have an effect on the smallest insurers or accounting firms with respect to the engagement agreements utilized. However because the audit rule has been in effect since 1993, any effect should be negligible.

12. Agency contact person: A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at:
<http://oci.wi.gov/ocirules.htm>

or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110

Email: Inger.Williams@oci.state.wi.us

Address: 125 South Webster St – 2nd Floor,
Madison WI 53702

Mail: PO Box 7873, Madison, WI 53707-7873

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

The deadline for submitting comments is 4:00 p.m. on the 14th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

James W. Harris

Legal Unit – OCI Rule Comment for Rule Ins 5000

Office of the Commissioner of Insurance

PO Box 7873

Madison WI 53707-7873

Street address:

James W. Harris

Legal Unit – OCI Rule Comment for Rule Ins 5000

Office of the Commissioner of Insurance

125 South Webster St – 2nd Floor

Madison WI 53702

Email address:

James W. Harris

James.Harris@oci.state.wi.us

Web site: <http://oci.wi.gov/ocirules.htm>

Fiscal Effect

There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

Because this rule applies to all insurers doing business in the state, it may have an effect on the smallest insurers or accounting firms with respect to the engagement agreements utilized. However because the audit rule has been in effect since 1993, and this change clarifies the level of independence required of a certified public accountant or firm in its engagement with an insurer, any effect should be negligible.

OCI Small Business Regulatory Coordinator

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address Eileen.Mallow@oci.state.wi.us

Contact Person

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, OCI, at: Inger.Williams@oci.state.wi.us, (608) 264-8110, 125 South Webster Street – 2nd Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1—)

[CR 07-026]

NOTICE IS HEREBY GIVEN that pursuant to ss. 23.091, 23.09 (2) (intro.), 23.11 (1), 23.28 (3), 23.293, 27.01 (2) (j), 27.01 (10) (b) and (f) and 227.11 (2) (a), Stats., interpreting ss. 23.091, 23.09 (2) (intro.), 23.11 (4), 23.17, 23.175, 23.28 (3), 23.293, 27.01 (2) (i) and (j), 27.01 (10) (f) and 28.04 (2), Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 1, 45 and 51, Wis. Adm. Code, relating to use of department properties. The proposed rule contains a number of changes for the purpose of improving or clarifying existing rules, creating a few property specific rules and amending a number of rules affecting fees and reservations in state parks and forests.

Seven state parks are being proposed to be added to the list of parks that charge an additional \$3.00 per day for camping due to local market conditions and there is also a proposal that the fee be applied year round to all 15 parks that charge this differential. A state trail season pass fee increase of \$5.00 is being proposed to meet increasing costs of maintaining and managing the trails. This would increase the annual fee from \$15 to \$20. Other proposals are aimed at simplifying the fee system in response to requests by the users.

A change in facility reservations would allow reservations to be made 11 months in advance for picnic areas, shelters,

auditoriums, amphitheaters, tepees and yurts. The current rule allows reservations to be taken on the first business day in January.

Rules are being proposed for the newly established Lake Shore State Park that will establish hours and prohibit alcohol consumption outside or organized events.

Language has been included in ch. NR 1 to clarify the purpose and management of State Ice Age Trail areas, and to identify allowed uses and activities in order to provide consistency and improve management.

Other miscellaneous changes are proposed.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

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

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

<u>April 16, 2007</u> Monday at 4:00 p.m.	Gathering Waters Room, DNR South Central Region Hdqrs. 3911 Fish Hatchery Road Fitchburg
<u>April 23, 2007</u> Monday at 4:00 p.m.	Auditorium Havenwoods State Forest 6141 N. Hopkins Street Milwaukee
<u>April 25, 2007</u> Wednesday at 4:00 p.m.	Council Chambers Wausau City Hall 407 Grant Street Wausau

NOTICE IS HEREBY FURTHER GIVEN that the hearing record will be open until at least 6:00 p.m. at each hearing.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kate Fitzgerald at (608) 267-2764 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Effect

The department is proposing to add seven properties to the existing list of high-demand properties, and proposes the elimination of the seasonal limitation on this fee. In addition, the department is proposing to increase the state trail fee from its current price of \$15 per year to \$20 per year. The increased revenues are identified below.

Adding seven properties to the current list of eight high demand properties allows the department to charge an additional \$3 per night at the additional properties, and eliminating the seasonal aspect to this fee allows the

department to apply the fee year around. Based on visitation rates at the seven properties, these changes are expected to generate an additional \$112,000 annually beginning in FY 09.

Increasing the Trail pass from \$15 to \$20 per year is expected to generate an additional \$158,800 annually beginning in FY 09, based on estimated sales of 31,760 trail passes (31,760 x \$5 = \$158,800).

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Kate Fitzgerald, Bureau of Facilities and Lands, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until May 4, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Fitzgerald.

Notice of Hearing Natural Resources (Fish, Game, etc., Chs. NR 1—) [CR 07-024]

NOTICE IS HEREBY GIVEN that pursuant to ss. 77.06 (2), 77.82 (2m) and (4), 77.88 (2) (d) 2., 77.91 (1) and 227.11 (2) (a), Stats., interpreting s. 77.06 (2) and subch. VI of ch. 77, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 46, Wis. Adm. Code, relating to the administration of the Forest Crop Law and the Managed Forest Law. The proposed rule:

1. Revises the annual stumpage rates for the period between November 1, 2007 and October 31, 2008 as required in ss. 77.06(2) and 77.91(1), Stats. The average change for saw timber is a 0.32% increase over current rates. The pulpwood prices, on average, would increase 1.52%.

2. Amends the catastrophic loss provisions to more fairly assess the yield and severance taxes for timber harvested as a result of a catastrophic loss. Catastrophic loss (30% reduction in stumpage value) is granted when timber harvested meets requirements in s. NR 46.30(1). The proposal is to reduce the acreage requirement from 10 to 5 contiguous acres and to increase the reduction in stumpage value from 30% to 70% for catastrophic loss caused by fire mortality.

3. Amends the rule to comply with 2005 Wis. Act 299 changing the requirement that the contiguous acres must be in one municipality to be enrolled under the Managed Forest Law. Under the amended rule, all land under the same ownership will be included on one petition. If there is more than one county, the order of designation must be recorded in each county. The proposal requires an application fee of \$20 per county to cover the recording costs in each county.

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

a. Types of small businesses affected: Any business with land enrolled in either the Managed Forest Law or the Forest Crop Law or wishing to enroll land under the Managed Forest Law

b. Description of reporting or bookkeeping procedures required: No procedures not already required.

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

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

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

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

April 18, 2007 Rib Mountain Town Hall
Wednesday at 10:00 a.m. 3700 N. Mountain Road
Wausau

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Carol Nielsen at (608) 266-8019 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Effect

This proposed rule change addresses the annual stumpage rate changes used in the calculation of severance and yield tax collections under Forest Cop Law (FCL) and Managed Forest Law (MFL) when timber is harvested from the private lands enrolled in the programs. Other changes proposed include a revision to the qualifications for granting catastrophic loss reductions for yield/severance taxes, revising the stumpage value reduction for fire-caused catastrophic loss, and revising the application and transfer fee to cover recording costs.

There is no net state fiscal effect from the proposed changes.

There is an estimated net increase in local revenues of approximately \$16,400 due to the increase in stumpage rates.

The proposed 2008 stumpage rate schedule includes an average 0.32% increase in sawtimber prices and an average 1.53% increase in cordwood prices. The average combined severance and yield tax collection from CY 2002 through CY 2006 was \$1,600,000. Of this, about 42% of the gross revenue is from sawtimber harvests. Fifty-eight percent of the revenue was related to cordwood harvests. As a result, a 0.32% increase in sawtimber prices could generate an estimated additional \$2,150 in revenues. A 1.53% increase in cordwood prices could result in an estimated increase in revenue of \$14,200. The cumulative effect would be a net increase in revenues of \$16,350 — rounded to \$16,400.

Estimates are based on the average change in rates across species and zone for each product type (cordwood and sawtimber), the volumes reported and paid for in CY 2005, and the assumption that the volume and the ratio of the cordwood and sawtimber will remain the same.

The net fiscal impact of the stumpage rate changes in this rule change will be an increase of approximately \$16,400 to local revenues. Actual impact for a county and municipality will vary by harvests completed and actual species and products harvested.

The proposed rule and fiscal estimate may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. mail to Ms. Carol Nielsen, Forest Tax Section, Bureau of Forest Management,

P.O. Box 7921, Madison, WI 53707. Comments may be submitted until April 27, 2007. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Nielsen.

Notice of Hearing Natural Resources (Environmental Protection—Water Supply) [CR 07-025]

NOTICE IS HEREBY GIVEN that pursuant to ss. 280.11 and 281.17 (8), Stats., interpreting ss. 280.11 and 281.17 (8), Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 809, Wis. Adm. Code, relating to drinking water standards. On January 14, 2002, U.S. EPA published National Drinking Water Regulations for Long-Term 1 Enhanced Surface Water Treatment (LT1). These changes impact all public drinking water systems using surface water or groundwater under the direct influence of surface water (GWUDI) and serve fewer than 10,000 people. In order to maintain primacy, Wisconsin must adopt all federal requirements under the Safe Drinking Water Act (SDWA) or have requirements that are equal to or more stringent than the SDWA. The proposed rule will also include revisions to correct minor errors in and updates to the following: the existing interim enhanced surface water treatment rule; the stage 1 disinfection and disinfection byproducts rules; the lead and copper rule; the drinking water public notification rule; the radionuclide rule; and updating analytical methods. Additionally, language is to be clarified with regard to total coliform rule maximum contaminant level determinations impacting systems collecting less than 40 samples per month.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses since these regulations are already in effect at the federal level. The Department's Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

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

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

April 11, 2007 Video conference participation will be
Wednesday available at:
at 10:00 a.m. Room 138
Eau Claire State Office Building
718 W. Clairemont Avenue
Eau Claire

Room 618
Green Bay State Office Building
200 N. Jefferson Street
Green Bay

Room G11
GEF #2 State Office Building
101 South Webster Street
Madison

Room 98
Milwaukee State Office Building
819 North 6th Street
Milwaukee

Conference Room
DNR Northern Region Headquarters
810 W. Maple Street
Spooner

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Carol McCurry at (608) 267-2449 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Effect

There is no state or local fiscal impact.

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

Notice of Hearing Veterans Affairs [CR 07-022]

The Wisconsin Department of Veterans Affairs announces that a public hearing will be held on the **20th day of April, 2007**, at 9:45 a.m., at the Municipal Building, Council Chambers, 2nd Floor, 421 Michigan Street, Sturgeon Bay, Wisconsin on amendments to chapter VA 8, relating to the county veterans service officer grant program.

Analysis Prepared by the Department of Veterans Affairs

Statutory authority: ss. 45.03 (2) and 45.82, Stats.

Statute interpreted: s. 45.82, Stats.

Explanation of agency authority: The legislature has authorized the department to award grants to counties for the improvement of service to veterans residing in the State of Wisconsin. The board of veterans affairs is authorized to promulgate rules necessary to carry out the purposes of chapter 45 of the statutes. An essential element of the county

veterans service officer (CVSO) grant program is the establishment of the eligibility criteria for that program.

Related statute or rule: None.

Plain language analysis: The proposed order eliminates references to an obsolete pay schedule that had established a minimum pay level for CVSOs. The pay schedule was initiated in 1989, in an attempt to raise CVSO pay to an acceptable minimal level. The State Office of Employment Relations has repealed the referenced pay schedule. Data establish that the current salaries of CVSOs significantly exceed the current minimum levels. In fact, 43 out of 72 counties exceed the applicable pay schedule *maximums*. In consultation with the CVSO Association and the CVSO Advisory Council, the department determined that the obsolete pay schedule is not necessary nor is a new pay schedule required to assure the maintenance of the current CVSO salary structure.

Summary of, and comparison with, existing or proposed federal regulations: There are no current or pending federal regulations that address this issue.

Comparison with rules in adjacent states: There are no similar rules in adjacent states.

Summary of factual data and analytical methodologies: The department reviewed salary data from each county over the last several years. As indicated above, the analysis establishes that the salary levels significantly exceed the applicable pay schedule minimums.

Analysis and supporting documents used to determine the effect on small business or in preparation of an economic impact statement: The department has determined that the repeal of the salary schedule references would have no fiscal impact. Grant amounts are determined under a distinct statutory provision. The proposed order has no regulatory aspect to it, has no effect upon small business, nor any fiscal impact upon the private sector.

Effect on small business: None.

Agency Contact

John Rosinski, at (608) 266-7916 or at john.rosinski@dva.state.wi.us.

Place where comments are to be submitted and deadline for submission: To the agency contact person at Wisconsin Department of Veterans Affairs, 30 West Mifflin Street, P.O. Box 7843, Madison, WI 53707-7843 or at the above internet address, within 5 days after the public hearing, which is scheduled for April 20, 2007.

Initial Regulatory Flexibility Analysis

The proposed rule has no effect upon small businesses.

Fiscal Estimate

The proposed rule has no fiscal impact. A copy of the full fiscal estimate may be obtained by contacting the agency contact person, John Rosinski, as indicated above.

Text of Rule

SECTION 1. VA 8.01 is repealed.

SECTION 2. VA 8.03 (1) is repealed.

Submittal of proposed rules to the legislature

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

Commerce

(CR 06–119)

Ch. Comm 2 and others, relating to plan review processing times.

Natural Resources

(CR 06–110)

Chs. NR 460 and 463, relating to national emission standards for hazardous air pollutants for iron and steel foundries.

Insurance

(CR 07–001)

Ch. Ins 17, relating to peer review surcharge rates and affecting small business.

Natural Resources

(CR 06–131)

Ch. NR 10, relating to deer hunting season and permit issuance regulation changes.

Insurance

(CR 07–002)

Ch. Ins 17, relating to fiscal year 2008 fund fees and affecting small business.

Public Service Commission

(CR 06–106)

Ch. PSC 135, relating to natural gas safety rules – adoption of federal codes.

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.

Controlled Substances Board (CR 06-058)

An order affecting ch. CSB 2, relating to the scheduling of two schedule I controlled substances.
Effective 5-1-07.

Controlled Substances Board (CR 06-059)

An order affecting ch. CSB 2, relating to the scheduling of two schedule I controlled substances.
Effective 5-1-07.

Insurance (CR 06-118)

An order affecting ch. Ins 9, relating to preferred provider plan applicability dates.
Effective 5-1-07.

Natural Resources (CR 06-097)

An order affecting ch. NR 1, relating to the definition of

“generally accepted forestry management practices”.
Effective 5-1-07.

Natural Resources (CR 05-075)

An order affecting ch. NR 243, relating to animal feeding operations.
Effective 7-1-07.

Revenue (CR 06-107)

An order affecting ch. Tax 9, relating to cigarette and tobacco products tax bad debt deductions.
Effective 5-1-07.

Transportation (CR 06-101)

An order affecting ch. Trans 156, relating to the Automated Processing Partnership System Program; and to create ch. Trans 141, relating to requiring motor vehicle dealers to process vehicle titles and registrations electronically.
Effective 5-1-07.

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **January 31, 2007**, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

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

Financial Institutions – Corporate and Consumer Affairs (CR 06-122)

An order affecting ch. DFI-CCS 5, relating to UCC search requests. Effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Financial Institutions – Banking (CR 06-123)

An order affecting ch. DFI-Bkg 80, relating to non-judicial enforcement and surrender of collateral. Effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Financial Institutions – Banking (CR 06-124)

An order affecting ch. DFI-Bkg 77, relating to pawnbrokers. Effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Health and Family Services (CR 03-111)

An order affecting ch. HFS 117, relating to fees for copies of health care records. Effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

When an agency, such as the Department, proposes a rule that may have an effect on small businesses (defined as entities that are independently owned and operated and not dominant in their field, and employ fewer than 25 full-time employees or have gross annual sales of less than \$2.5 million), section 227.114, Stats., requires that agency to consider several methods for reducing the effect of the proposed rule on those small businesses. The revision of ch. HFS 117 will affect many small businesses, principally law firms that request health care records on behalf of clients, and small health provider offices that maintain and supply their patients' health care records to those authorized to request those records. The fee limits specified in ch. HFS 117 also will effect a small number of businesses that reproduce medical records on behalf of health care providers and transmit those records to authorized record requesters.

Chapter HFS 117 does not require compliance with any reporting, bookkeeping or other procedures. Nor does the proposed rule impose new requirements for professional skills that are not currently required to comply with requests for copies of health care records. Given that the proposed rules do not require reporting, bookkeeping or other procedures and skills, the question of exempting particular small businesses from some or all of HFS 117's provisions is moot.

The Department also cannot estimate the effect of the proposed rule on the above small businesses other than to note that the fee limits the Department proposes to specify in HFS 117 are both higher than those specified in the existing HFS 117 rules and applicable to a much greater variety of circumstances. Indeed, ch. HFS 117 will apply to all medical record requests that aren't covered by other applicable law or private contract. The Department believes that exempting certain law firms and health care providers from the rule's applicability would be contrary to the legislature's intent that, to the extent possible, the rule specify a fee limit for all parties. Similarly, the Department believes that specifying a lower fee limit for particular law firms (or a higher fee limit for particular health care providers) would also be contrary to legislative intent.

Summary of Comments by Legislative Review Committees

The Senate Committee on Health, Children, Families, Aging and Long Term Care requested modifications, and ultimately objected to proposed rules. The Assembly Committee on Health also requested modifications, but took no final action. The Joint Committee for Review of Administrative Rules upheld the objection by the Senate Committee and introduced Senate Bill 201 and Assembly Bill

404 to prohibit promulgation of proposed rules. Both bills failed to pass.

**Natural Resources
(CR 06-102)**

An order affecting ch. NR 660 to 666, relating to hazardous waste management. Effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

There are no new costs to the private sector or enforcement impacts to small business compared to the existing rules. Potential exists for cost savings.

Summary of Comments by Legislative Review Committees

No comments were received.

**Transportation
(CR 06-077)**

An order affecting ch. Trans 515, relating to contractual service procurement. Effective 4-1-07.

Summary of Final Regulatory Flexibility Analysis

The requirements of the rule will be implemented by department employees and will have no effect on external parties, including small business.

Summary of Comments by Legislative Review Committees

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **March 2007**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Financial Institutions – Banking

Ch. DFI–Bkg 77 (Entire chapter)

Ch. DFI–Bkg 80

S. DFI–Bkg 80.68

S. NR 662.032 (2)

S. NR 662.034 (13)

S. NR 662.054 (3) and (5)

S. NR 662.060 (3), (4) and (5)

S. NR 662.192 (5)

Ch. NR 663

S. NR 663.20 (1), (7) (a) and (b)

S. NR 663.21 (2)

Ch. NR 664

S. NR 664.0070

S. NR 664.0071

S. NR 664.0072

S. NR 664.0076

S. NR 664.1086 (3) (d) and (4) (d)

Ch. NR 665

S. NR 665.0071

S. NR 665.0072

S. NR 665.0076

S. NR 665.1087 (3) (d) and (4) (d)

Ch. NR 666

S. NR 666.905 (1) (f)

Financial Institutions – Corporate and Consumer Services

Ch. DFI–CCS 5

S. DFI–CCS 5.04

Health and Family Services

Ch. HFS 117 (Entire chapter)

Natural Resources

Ch. NR 660

S. NR 660.10 (21), (76) and (77)

Ch. NR 661

S. NR 661.07 (2) (a)

Ch. NR 662

S. NR 662.020 (1)

S. NR 662.021

S. NR 662.027

Transportation

Ch. Trans 515 (Entire chapter)

Editorial corrections

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

Health and Family Services

Ch. HFS 117

S. HFS 117.03 (3)

Natural Resources

Ch. NR 665

S. NR 665.0076 (1) (intro.)

Errata

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

Health and Family Services

Ch. HFS 107

S. HFS 107.073 (delete note)

Marriage & Family Therapy, Counseling & Social Work

Ch. MPSW 3 (repage)

Sections affected by revisor's corrections not published

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

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

Location of invalid cross-reference	Invalid cross-reference	Correction
EIBd 2.07 (1)	5.05 (3), Stats.	5.05, Stats.
EIBd 10.01, 10.04 (3) and (9), 10.05 (1)	5.05 (3), Stats.	5.05, Stats.

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 187. Relating to the proclamation of an energy emergency.

Executive Order 188. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Sergeant Chad Allen, of the United States Marine Corps who lost his life during Operation Iraqi Freedom.

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