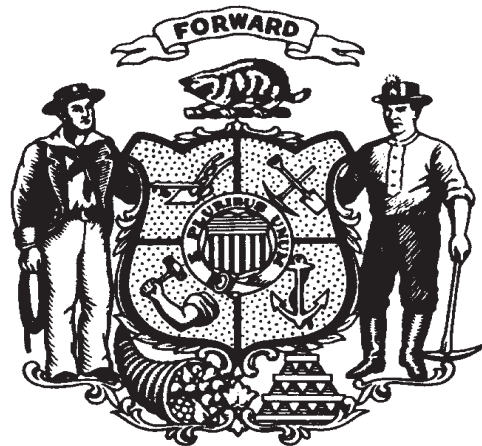


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Emergency rules now in effect

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

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

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

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

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

Agriculture, Trade & Consumer Protection

Rules adopted revising **ch. ATCP 80**, relating to pathogen-tests on ready-to-eat dairy products.

Finding of emergency

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

(1) DATCP licenses and inspects dairy plants under s. 97.20, Stats. Current DATCP rules, under s. ATCP 80.56 (4), Wis. Adm. Code, require dairy plant operators to report to DATCP the results of any microbiological test that confirms the presence of a pathogenic organism in a pasteurized or ready-to-eat dairy product.

(2) There has been a nationwide increase in food borne disease outbreaks associated with food and dairy products. Such outbreaks can occur when ready-to-eat foods enter food distribution channels without being tested for pathogenic bacteria.

(3) There is no national or state law requiring dairy plant operators to test ready-to-eat dairy products for pathogens prior to sale or distribution. Dairy plant operators have a natural incentive to test, in order to avoid liability and meet their customers' product safety demands. But the current test reporting requirement under s. ATCP 80.56 (4) discourages pathogen testing, because test reports become public records that may be open to public inspection even if the affected products are withheld from distribution.

(4) There is an urgent need to repeal this counterproductive reporting requirement, and to create alternative rules that will encourage pathogen testing and provide stronger public health protection. This emergency rule will encourage more pathogen testing, and provide stronger public health

protection, pending the adoption of "permanent" rule changes.

Publication Date: March 2, 2001
Effective Date: March 2, 2001
Expiration Date: July 30, 2001
Hearing Dates: June 14 & 15, 2001

Commerce

(Flammable and Combustible Liquids – Ch. Comm 10)

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

Finding of emergency

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

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

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

Publication Date: January 6, 2001
Effective Date: January 6, 2001
Expiration Date: June 4, 2001
Hearing Date: February 27, 2001
Extension Through: August 2, 2001

Commerce

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

Rules adopted revising **ch. Comm 113** relating to the allocation of volume cap on tax-exempt private activity bonds.

Finding of emergency

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

Pursuant to s. 560.032, Stats., the Department of Commerce (Commerce) is responsible for administering the allocation of volume cap. The emergency rule is being adopted to incorporate in the administrative code recent changes to the Internal Revenue Code (Section CFR 146) which increases state volume cap limits on tax-exempt private activity bonds. The year 2000 limit was \$50 per resident of the state. For the year 2001 the limit has been raised to \$62.50; for the year 2002, the limit will be \$75.00;

and thereafter, the limit will be indexed to inflation. The rule identifies a formula for the allocation of volume cap for the year 2001 and future years. This emergency rule outlines the distribution of the volume cap between the State Building Commission, the Wisconsin Housing and Economic Development Authority, and Commerce. The rules are also being revised to provide an allocation process that will allow Commerce to be more responsive to the needs of businesses as changes occur in the state's economy.

Publication Date: April 26, 2001
Effective Date: April 26, 2001
Expiration Date: September 23, 2001
Hearing Date: July 16, 2001
 [See Notice this Register]

Corrections

Rules adopted revising **ch. DOC 309**, relating to sexually explicit material at adult correctional institutions.

Finding of emergency

The Department of Corrections finds that an emergency exists and that rules are necessary for preservation of the public welfare. A statement of the facts constituting the emergency is: Effective December 1, 1998, the Department implemented rules restricting inmates' access to sexually explicit material. These rules were challenged in federal court in a class action suit brought by several inmates (*Aiello v. Litscher*, Case No. 98-C-791-C, Western District of Wisconsin). The defendants filed a motion for summary judgment, but it was denied by the court in language that suggested the rules were unconstitutional in their present form based on a number of federal appellate court decisions that were reported after the rules were implemented.

In light of these developments, the parties negotiated a settlement which includes an immediate revision of the present rules to conform to the latest decisional law regarding the extent to which inmates' access to sexually explicit material can be restricted for legitimate penological objectives. Adoption of the revised rules no later than February 23, 2001, is necessary to avoid a lapse of the settlement agreement and lengthy trial with the attendant possibility of having to pay a considerable amount in attorneys' fees.

This order:

- Revises the present rules restricting inmates' access to sexually explicit material by prohibiting access to published material that depicts nudity on a routine or regular basis or promotes itself based on nudity in the case of individual one-time issues.
- Revises the present rules by prohibiting access to written material when it meets the legal definition of obscenity.

Publication Date: February 23, 2001
Effective Date: February 23, 2001
Expiration Date: July 23, 2001
Hearing Date: May 3, 4 & 9, 2001

Employment Relations Commission

Rules were adopted amending **ch. ERC 33, Appendices A, B and C** relating to the calculation of a qualified economic offer in collective bargaining with professional school district employees.

Finding of emergency

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

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

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

Publication Date: January 22, 2001
Effective Date: January 22, 2001
Expiration Date: June 20, 2001

Financial Institutions – Securities

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

Finding of emergency

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

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

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

Rules make the necessary changes to the Division's investment adviser license filing provisions that are immediately needed to adopt the IARD for use in Wisconsin by investment advisers.

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

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

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

Publication Date: December 29, 2000
Effective Date: January 1, 2001
Expiration Date: May 31, 2001
Hearing Date: April 18, 2001
Extension Through: July 29, 2001

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

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

Finding of emergency

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

Summary

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

Lead Abatement Activities

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

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

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

Existing Wisconsin Law

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

Wisconsin met federal standards for a state-administered lead training accreditation and certification program and

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

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

New Federal Regulations

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

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

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

New Wisconsin Law

1999 Wisconsin Act 113 requires the Department to establish a process for issuing certificates of lead-free or lead-safe status and registering the properties for which certificates are issued. If a dwelling unit has a valid certificate of lead-free or lead-safe status when a person who resides in or visits the unit is lead poisoned, the property owner, and his or her agents and employees are generally immune from civil and criminal liability for their acts or omissions related to the lead poisoning or lead exposure. Act 113 also requires the Department to establish the requirements for a training course of up to 16 hours that property owners, their agents and employees may complete in order to receive certification. The Department must also specify the scope of the lead investigation and lead hazard reduction activities that may be performed following certification. Act 113 specifies that administrative rules to implement Act 113 must be submitted to the Legislative Council Rules Clearinghouse by December 1, 2000. The rules providing the standards for lead-free and lead-safe property, and the procedures for issuing certificates of lead-free status and lead-safe status, are being promulgated separately and are not expected to be published for several months.

Result of Changing Federal and State Requirements

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

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

Department Response

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

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

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

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

Publication Date: December 1, 2000

Effective Date: December 1, 2000

Expiration Date: April 30, 2001

Hearing Date: January 12, 16, 17, 18 and 19, 2001

Extension Through: June 28, 2001

Insurance

Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees.

Finding of emergency

The commissioner of insurance finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule No. 01-035, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2001.

The commissioner expects the permanent rule will be filed with the secretary of state in time to take effect October 1, 2001. Because the fund fee provisions of this rule first apply on July 1, 2001, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 16, 2001.

Publication Date: June 12, 2001

Effective Date: July 1, 2001

Expiration Date: November 28, 2001

Natural Resources – (2) (Fish, Game, etc., Chs. NR 1–)

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

Exemption from finding of emergency

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

Analysis prepared by the Dept. of Natural Resources:

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

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

The emergency rule:

- Implements a statutory change that requires the department to obtain county approval for acquisitions in counties where greater than 66% of the land is publicly owned.
- Moves three stewardship grant programs (local park aids, urban green space, and urban rivers) from ch. NR 50 to ch. NR 51. Improves grant administration by combining all stewardship grant programs into one chapter.
- Revises and expands program definitions, including definitions for nature-based outdoor recreation and middle kettle moraine, to clarify terms, reflect statutory changes and improve grant administration.
- Implements a statutory change that expands grant eligibility to include non 501 (c) (3) organizations.
- Reorganizes the structure of chapter 51 to incorporate new programs and local government programs.
- Implements statutory changes that identify priorities and expand the purposes for which nonprofit conservation organizations can receive grants. Makes minor revisions to improve grant administration.
- Makes minor revisions to bring the natural areas program in line with statutory changes.
- Establishes the administrative framework for the new bluff protection program. Defines "bluff" and sets program priorities.
- Makes minor revisions in the habitat areas and fisheries program to bring the program in line with statutory changes and improve grant administration.
- Establishes the administrative framework for acquisition of property by the department and nonprofit conservation organizations to preserve wild lakes. Defines "wild lake."
- Makes minor revisions to the stream bank program to bring the program in line with statutory changes.
- Makes minor revisions to the state trails program to improve grant administration.
- Implements a statutory change that makes nonprofit conservation organizations eligible for grants for state property development. Revises grant priorities and makes minor revisions to improve administration of the state property development grant program.
- Establishes the administrative framework and sets priorities for the new Baraboo Hills subprogram.
- Clarifies and streamlines the administration of local assistance grants to governmental units.
- Clarifies and streamlines the administration of the local park aids, urban green space, and urban rivers grant programs which provide grant funds for governmental units and nonprofit conservation organizations. Implements statutory changes that require that all grants issued under these programs be for

nature-based outdoor recreation. Lists eligible nature-based projects and sets grant priorities. Also implements a statutory change that allows "shoreline enhancements" to be funded under the urban rivers program and provides a list of typical shorelines enhancements that will qualify for the program.

- Establishes the administrative framework for the new acquisition of development rights program that provides grant funds to local governments and nonprofit conservation organizations. Sets priorities and identifies other factors that will be considered in awarding grants.
- Makes minor revisions to improve administration of the Heritage state park and forest trust program.

Publication Date: September 1, 2000

Effective Date: September 1, 2000

Expiration Date: See section 9136 (10g), 1999 Wis. Act 9

Hearing Dates: November 1 & 2, 2000

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

Finding of emergency

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

Publication Date: November 10, 2000

Effective Date: November 10, 2000

Expiration Date: April 9, 2001

Hearing Date: January 17, 2001

Extension Through: August 6, 2001

Natural Resources

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

Rules adopted creating **ch. NR 754** relating to environmental insurance requirements for liability exemptions for voluntary remediation.

Exemption from finding of emergency

This rule is being promulgated as an emergency rule because 1999 Wis. Act 9 (Section 9136 (3)) required the adoption of this rule as an emergency rule (following the procedures in s. 227.24, Stats.). 1999 Wis. Act 9 stated that the department is not required to provide evidence that this rule is necessary for the preservation of the public peace, health, safety or welfare and without having to provide a finding of emergency.

Analysis prepared by the Dept. of Natural Resources

Statutory authority: ss. 227.11 (2) and 227.24, Stats.

Statute interpreted: s. 292.15, Stats.

Section 292.15 (2) (ae) 3m., Stats., directs the department to promulgate rules to describe the requirements that must be

met by a voluntary party seeking a Certificate of Completion, where natural attenuation is employed as the remedial action. The 1999–2001 State Budget (1999 Wisconsin Act 9) created s. 292.15 (2) (ae), Stats., which allows parties to use natural attenuation as a remedy to obtain the voluntary party liability exemption. This section includes a provision where the DNR may require a voluntary party to obtain environmental insurance if the voluntary party wants to receive a Certificate of Completion before the groundwater enforcement standards are met through natural attenuation. This rule requires that all voluntary parties who apply for the liability exemption under this section obtain environmental insurance to cover the cost to cleanup the environment if natural attenuation fails.

Publication Date: March 6, 2001

Effective Date: March 6, 2001

Expiration Date: August 3, 2001

Hearing Date: April 16, 2001

Public Service Commission (3)

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

Exemption from finding of emergency

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

Analysis by the Public Service Commission

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

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

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

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

The Commission will make a determination on a confidentiality request within 30 days of receiving the additional information or within 30 days of the filing of the application if no additional information is needed. The

determination will specify what, if any, information is given confidential treatment and the basis for that determination.

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

Publication Date: October 23, 2000
Effective Date: October 23, 2000
Expiration Date: March 22, 2001
Extension Through: July 19, 2001

2. Rules adopted creating **ch. PSC 118**, relating to the use of renewable resource credits.

Exemption from finding of emergency

1999 Wis. Act 9, section 9141 (2zt) (a) allows the Commission to promulgate an emergency rule creating an RRC trading program without making a finding of emergency.

Analysis prepared by the Public Service Commission

Statutory authority: ss. 196.02 (3), 196.378 (3), and 227.11, Stats.

Statute interpreted: s. 196.378, Stats.

1999 Wis. Act 9 created a renewable portfolio standard, requiring electric providers to meet certain minimum percentages of their retail sales with renewable resources. The minimum percentage gradually increases as follows:

Year 2001: 0.5 percent of total retail electric sales.
 Year 2003: 0.85 percent of total retail electric sales.
 Year 2005: 1.2 percent of total retail electric sales.
 Year 2007: 1.55 percent of total retail electric sales.
 Year 2009: 1.9 percent of total retail electric sales.
 Year 2011: 2.2 percent of total retail electric sales.

In lieu of providing renewable energy to its customers, an electric provider can purchase a renewable resource credit. Under s. 196.378 (3) (a), Stats., the Commission must

“promulgate rules that establish requirements for the use of a renewable resource credit, including the amount of a renewable resource credit.” This rule addresses the requirements and procedures for the use of renewable resource credits, during the interim period before the date when an identical permanent rule takes effect.

This rule establishes a renewable resource credits trading program and describes the minimum criteria for renewable facilities to be eligible for creation of credits in the trading program. The rule also describes the duties of a program administrator, who supervises and implements the trading program. The program administrator is required to create a trading account for participating electric providers and to award renewable resource credits to the account of an electric provider of energy, from a certified renewable facility, that exceeds its minimum requirement. The program administrator must retire renewable resource credits upon their use to satisfy an electric provider’s minimum renewable energy requirement.

Publication Date: April 7, 2001
Effective Date: April 7, 2001
Expiration Date: September 4, 2001

3. Rules adopted amending **s. PSC 116.03 (4)** and creating **s. PSC 116.04 (6)** relating to the definition of fuel and permissible fuel costs.

Finding of emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend ch. PSC 116 Wis. Adm. Code. Amending the definition of “fuel” in s. PSC 116.03 (4) and creating s. PSC 116.04 (6) would allow investor-owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the summer of 2001 and beyond. This change would assist in implementing the requirement of 1999 Wis. Act 9, s. 196.192 (2) (a), Stats.

Publication Date: May 19, 2001
Effective Date: May 19, 2001
Expiration Date: October 16, 2001

Scope statements

Commerce

Subject

Objective of the Rule. The objective of the rule is to update chapter Comm 16 – Electrical Code, including the adoption by reference of the 2002 National Electrical Code (NEC) published by the National Fire Protection Association (NFPA) as NFPA standard No. 70.

Policy Analysis

The state electrical code has adopted the NEC by reference since 1972. Currently, the 1999 edition of the NEC is adopted in chapter Comm 16. This rule project will update the state code to the 2002 edition of the NEC, while evaluating the electrical requirements in chapter Comm 16 that add to and modify the requirements in the NEC. This rule project will also review the electrical inspection requirements in chapter Comm 16.

The alternative of not updating chapter Comm 16 would result in the state electrical code not being up-to-date with current nationally recognized standards for the design, installation and operation of electrical conductors and equipment in all buildings and structures.

Statutory Authority

The statutory authority for ch. Comm 16 is contained in ss. 101.63 (1), 101.73 (1), 101.82 (1) and 101.865, Stats.

Staff Time Required

The department estimates that it will take approximately 400 hours to develop this rule. This time includes forming and meeting with an advisory council, then drafting the rule and processing the rule through public hearings and legislative review. The department will assign existing staff to develop the rule. There are no other resources necessary to develop the rule.

Parole Commission

Subject

Rule amendment to update ch. PAC 1, relating to parole procedure, to conform to current law, terminology, prison population and requirements of parole commission operations.

Objective of the Rule. The administrative rules relating to parole procedures have not been evaluated and updated since they were created in 1993, despite minor amendments in 1995. With over 8 years of experience working with these rules, and given statutory changes, increased prison populations, and necessary parole procedures, the department proposes to update the rule.

Policy Analysis

Chapter PAC 1 relates to the structure of the parole procedure in Wisconsin, the functions of discretionary parole, eligibility for parole, parole consideration and parole commission recommendations. The department plans to review and revise these existing rules to ensure that they conform with existing law, technology, terminology, prison

populations and requirement of the parole commission operations. With over 8 years of experience with the rule, the department plans to revise the rule to provide the necessary flexibility and tools to allow parole commission members to meet statutory responsibilities of conducting parole interviews timely, legally, and effectively, thereby more adequately serving the needs of the inmates, the legislature, and society.

Statutory Authority

Sections 227.11 (2), 304.06 (1) (e) and (em), Stats.

Staff Time Required

It is anticipated that 100 hours of staff time may be necessary to review and revise the administrative rule, including drafting, cost estimates, public hearings and complying with rule making requirements. Other than staff time, it is anticipated that the resources to develop the rule will be minimal.

Pharmacy Examining Board

Subject

Requirements for the dispensing of prescription orders for schedule II controlled substances.

Objective of the Rule. Current requirements of s. Phar 8.05 (4) for the dispensing of prescription orders for schedule II controlled substances provide in part that a prescription order may not be dispensed unless the order is presented for dispensing within 7 days following the date of its issue, and may not be dispensed more than 60 days after the date of issue. The proposed rule modification would remove the 7 day and 60 day limitations. The objective of modifying the rule is to bring the rule into conformity with the federal controlled substances prescription rules.

Policy Analysis

Removal of the 7 day and 60 day limitations will address a problem that burdens patients. A prescription order presented past the 7 day limit currently will not be filled, which necessitates a return to the prescriber for a new prescription. This result occurs even when a legitimate reason exists for the late presentment. Similarly, a prescriber based upon patient need, professional judgment and medical necessity may desire for dispensing to occur past the 60 day limit. The result of the 7 day and 60 day limits therefore becomes at times an arbitrary brightline cutoff that doesn't allow for a pharmacist and a prescriber to take into account a patient's specific needs in a given situation. The modification of this rule will therefore allow pharmacists and prescribers to exercise their professional judgment in the dispensing of schedule II controlled substances.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2), 450.02 (3) (a), (d) and (e), and 961.31, Stats.

Staff Time Required

100 hours.

Transportation

Subject

Objective of the Rule. This rule making will amend Chapter Trans 28 to consider port facilities/improvements used by cruise ships to be eligible for funding consideration through the Harbor Assistance Program (HAP) under s. 85.095, Stats. It would allow communities that have HAP-funded facilities to use them for cruise ships.

Policy Analysis

It has been Department policy to consider publicly-owned facilities serving the ferry operations to Washington Island and Madeline Island not to be “recreational” because they operate year-round, carry vehicles as well as passengers, and most of the freight needed by the island communities, essentially serving as an extension of the state highway system to the islands.

There are no other programs within Wisconsin that finance the construction or repair of facilities used by cruise vessels. There are also no federal programs that finance the construction of these types of facilities if the routes are not designated on the National Highway System and the service doesn't serve a “commuter” function.

Affected Communities. The following twelve communities are likely to be affected by the requested change in policy: Milwaukee, Green Bay, Manitowoc, Sturgeon Bay, Sheboygan, Marinette, Northport, Washburn, Superior, Bayfield, LaCrosse and Prairie du Chien.

Potential Fiscal Impact. Six of these communities would likely seek an amendment to their current HAP agreement for

projects that have already been constructed (Green Bay, Northport, Superior, Marinette, Milwaukee and LaCrosse). Other than a few hours of HAP program staff time, there would be no cost associated with this change.

The communities most likely to seek HAP funding within the next 8–10 years to construct new facilities for cruise ships are Manitowoc, Sturgeon Bay, Milwaukee and possibly Bayfield. The current HAP budget is \$4 million for the biennium. If these projects are economically justified and compete favorably against applications to improve cargo-handling facilities, almost half of the current HAP budget could be spent for this type of project over the next 8–10 years.

Policy Alternatives

The two policy alternatives are either to amend Chapter Trans 28 to include cruise ship facilities to be eligible for HAP funding, or to maintain the existing policy that defines cruise ships as recreational vessels. The Department has received, and agreed with, requests from the Wisconsin Commercial Ports Association and several legislators for this policy change; therefore, it would appear inconsistent not to proceed with this rule change.

Statutory Authority

Section 85.095, Stats.

Staff Time Required

Approximately 40 hours, which represents the collective time expected to be spent by department staff.

Submittal of rules to legislative council clearinghouse

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

Commerce

Rule Submittal Date

On June 15, 2001, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. Comm 113, relating to allocation of volume cap on tax-exempt private activity bonds.

Agency Procedure for Promulgation

A public hearing will be held July 16, 2001.

Contact Information

If you have questions, please contact:
William Wheeler
(608) 267-2045

Natural Resources

Rule Submittal Date

On June 8, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 10, relating to the 2001 migratory game bird seasons.

Agency Procedure for Promulgation

Public hearings will be held August 6 – 9, 2001.

Contact Information

If you have questions, please contact:
Jon Bergquist
Bureau of Wildlife Management
(608) 266-8841

Natural Resources

Rule Submittal Date

On June 8, 2001, the Department of Natural Resources submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 809, relating to safe drinking water standards for radionuclides.

Agency Procedure for Promulgation

Public hearings will be held July 11 and 12, 2001.

Contact Information

If you have questions, please contact:
Don Swailes
Bureau of Drinking Water and Groundwater
(608) 266-7093

Regulation and Licensing

Rule Submittal Date

On June 11, 2001, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 227.11 (2), 440.07 and 449.17, Stats.

The proposed rule-making order relates to certification of optometrists to use diagnostic pharmaceutical agents.

Agency Procedure for Promulgation

A public hearing is required and will be held on July 13, 2001, at 10:15 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

If you have questions, please contact:
Pamela Haack, Paralegal
Administrative Rules Coordinator
Telephone (608) 266-0495

Rule-making notices

Notice of Hearing

Department of Commerce

(Financial Resources for Business & Communities, Chs.
Comm Chs. 105 – 128)

[CR 01–070]

NOTICE IS HEREBY GIVEN that pursuant to ss. 560.02 (4) and 560.032, Stats., the Department of Commerce will hold a public hearing on an emergency rule and a proposed permanent rule relating to allocation of volume cap on tax-exempt private activity bonds.

The public hearing will be held as follows:

Date and Time:	Location:
Monday, July 16, 2001 10:00 a.m.	Rm 3B, Thompson Commerce Ctr 201 W. Washington Avenue Madison

Interested persons are invited to appear at the hearing and present comments on the emergency rule and proposed permanent rule. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **July 20, 2001**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Richard Meyer, Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689. Comments may also be forwarded electronically via E-mail to Richard Meyer at rmeyer@commerce.state.wi.us.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

Analysis of Proposed Rules

Statutory authority: ss. 560.02 (4) and 560.032, Stats.

Statute interpreted: s. 560.032, Stats.

Pursuant to section 560.032, Stats., the Department of Commerce is responsible for administering the allocation of volume cap on tax-exempt private activity bonds. The proposed rule has been adopted as an emergency rule to incorporate into the administrative code recent changes to the Internal Revenue Code which increase state volume cap limits on tax-exempt private activity bonds. The year 2000 limit in the Internal Revenue Code was \$50 per resident of the state. For the year 2001 the limit has been raised to \$62.50; for the 2002 the limit will be \$75.00; and thereafter the limit will be indexed to inflation. The rule outlines the distribution of the volume cap between the State Building Commission, the Wisconsin Housing and Economic Development Authority, and the Department of Commerce. The current rules are also being revised to provide an allocation process that will allow

the Department of Commerce to be more responsive to the needs of businesses as changes occur in the state's economy.

Initial Regulatory Flexibility Fiscal Estimate

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

The proposed rules are not expected to have any impact on small businesses except for businesses located within the state that desire to obtain the economic benefit of industrial revenue bond financing using the volume cap allocated by the Department of Commerce.

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

No special reporting, bookkeeping or other procedures are required for compliance with the rules.

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

No professional skills are necessary for compliance with the rules.

This rule incorporates recent changes in the federal internal revenue code, which increases the state volume cap limits on tax-exempt private activity bonds, outlines the distribution of volume cap between the Building Commission, WHEDA and Commerce and revises the allocation process.

The rule eliminates the application fee and increases the bond-closing fee to cover the administration costs. The Department of Commerce anticipates that this rule will generate approximately \$144,000 in PR funds from the bond-closing fee to offset the administration of the program.

Copies of the emergency rule and proposed permanent rule may be obtained without cost from Ronald Acker, Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689, Email racker@commerce.state.wi.us, telephone (608) 267-7907 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Notice of Hearings

Natural Resources

(Fish, Game, etc., Chs. NR 1—)

[CR 01 – 066]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, 29.197 and 227.11 (2) (a), Stats., interpreting ss. 29.014, 29.041 and 29.197, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 10, Wis. Adm. Code, relating to the 2001 migratory game bird seasons. The proposed regulations include:

Ducks – The state is divided into two zones each with 60-day seasons beginning at noon September 29 and continuing through November 27. The daily bag limit in both zones is 6 ducks, including 4 mallards, of which only one may be a hen, and one canvasback for the entire 60 days.

Canada geese – The state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone – 73 days; Horicon Zone – 94 days; Exterior Zone – 94 days; and Mississippi River Subzone – 80 days. The Burnett County subzone is closed to Canada goose hunting.

Youth waterfowl hunt – A daily bag limit for Canada goose during the 2–day youth waterfowl hunt is created.

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

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

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

August 6, 2001 County Admin. Ctr, 400 N. 4th Street,
Monday La Crosse

at 7:00 p.m.

August 7, 2001 Conference Rm 1, DNR Service Center,
Tuesday 107 Sutliff Ave., Rhinelander

at 7:00 p.m.

August 8, 2001 Room 310, Green Bay City Hall, 100 N.
Wednesday Jefferson Street, Green Bay

at 7:00 p.m.

August 9, 2001 Comfort Suites, Hwy. J & I–94, Pewaukee
Thursday at 7:00 p.m.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Jon Bergquist at (608) 266–8841 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

There is no fiscal impact anticipated from this proposed rule.

Written comments on the proposed rule may be submitted to Mr. Jon Bergquist, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than August 10, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WM–21–01] and fiscal estimate may be obtained from Mr. Bergquist.

Notice of Hearings

Natural Resources

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

[CR 01 – 054]

NOTICE IS HEREBY GIVEN that pursuant to s. 227.11 (2) (a), Stats., interpreting ss. 30.01 (6e), 30.13 (1m), 30.12, 30.133 (1) and 30.134 (5), Stats., the Department of Natural Resources will hold public hearings on revisions to s. NR 326.03 and the creation of ss. NR 326.08 and 326.09, Wis. Adm. Code, relating to the regulation of swim rafts and the definition of “impoundment” and “similar conveyance”. The proposed rule creates a definition for the term “impoundment” because this term is not defined in the statutes. Section 30.134, Stats., gives individuals engaged in water–related recreational activities the right to use the shore

up to the ordinary high water mark on streams. This right does not exist on lakes and impoundments. Section NR 326.09 is created to state that the boundaries of the pool of an impoundment shall be determined at normal summer water levels.

The proposed rule also creates a definition for the term “similar conveyance”. Section 30.133, Stats., prohibits the conveyance of riparian rights by easement or similar conveyance. It seems unlikely that the Legislature intended to prohibit thousands of short–term leases of riparian space such as occurs at marinas. The proposed definition clarifies that any conveyance of riparian rights by lease may not exceed 2 years.

The proposed rule creates s. NR 326.08 for the regulation of swim rafts. Swim rafts are exempt from permit requirements provided the swim raft does not interfere with public rights in navigable waters, the rights of other riparians and is placed within 200 feet of shore. As swim rafts increase in size, they affect the general public's right to use near–shore waters and potentially harm the near–shore aquatic environment by shading aquatic vegetation. The proposed rule subjects swim rafts in excess of 100 square feet to the permit requirements of s. 30.12, Stats.

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

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

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

July 17, 2001 Circuit Courtroom, Sawyer Co.
Tuesday Courthouse, 10610 Main Street, Hayward
at 4:00 p.m.

July 23, 2001 Board Room, Minocqua Community
Monday Building, 415 Menomonie St., Minocqua
at 4:00 p.m.

July 27, 2001 Rm 027, GEF 2 Bldg, 101 S. Webster St.,
Friday Madison
at 10:00 a.m.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Dan Helsel at (608) 266–2997 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The Department expects that requiring a ch. 30 permit for swim rafts exceeding 100 sq. ft. will generate additional permit fee revenue that will be deposited to the water regulation and zoning fees program revenue appropriation. The department estimates that it will authorize approximately 25 new “swim raft” permits per year at \$300 per permit — or \$7500 annually. Because the fees are set to correspond with the number of hours anticipated to be spent on the permitting process, the department expects that the fee revenue will be sufficient to cover the costs of the permitting process, and the

additional workload will be absorbed by existing staff. Additionally, any increase in enforcement workload will be absorbed by existing staff. The department anticipates no fiscal impact associated with defining "similar conveyance" or "impoundment".

Written comments on the proposed rule may be submitted to Mr. Dan Helsel, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than July 31, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FH-19-01] and fiscal estimate may be obtained from Mr. Helsel.

Notice of Hearings

Natural Resources

(Environmental Protection – Water Supply, Chs. NR 800—) [CR 01 – 067]

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 public hearings on revisions to ch. NR 809, Wis. Adm. Code, relating to safe drinking water standards for radionuclides. The final radionuclide rule published by the U.S. Environmental Protection Agency establishes a new Maximum Contaminant Level (MCL) for uranium, and amends monitoring requirements for radionuclides while keeping the current MCL for combined radium 226 plus radium 228. This rule will affect all community water systems (about 1150 systems) statewide. With repromulgation of the radionuclide rule, the Department must now revise our rules to match the revisions U.S. EPA made to the federal regulations for drinking water.

The department is interested in having rules in place in time to allow all affected water systems to collect one combined radium sample from each entry point in the next 18 months. The Department can use the results of samples collected prior to December 8, 2003 to determine initial compliance. In most cases, this will eliminate quarterly monitoring required in the federal rule revisions. The Department does not desire to begin enforcement on the radium standard until new entry point monitoring is completed (as required under the new revisions).

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

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

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

July 11, 2001 Video conference participation will be available at:
Wednesday 2:00 p.m. Rm 021, GEF 2 Bldg., 101 S. Webster Street, Madison
Rm 139, State Office Building, 718 W. Clairemont Ave., Eau Claire
Rm 618, State Office Building, 200 N. Jefferson St., Green Bay

Rm B29, State Office Building,
3550 Mormon Coulee Road, La Crosse
Rm 542, State Office Building, 819 N. 6th Street, Milwaukee
Rm 3, DNR Regional Headquarters,
107 Sutliff Avenue, Rhinelander

July 12, 2001 Video conference participation available at:
Thursday 9:00 a.m. Rm 021, GEF 2 Bldg., 101 S. Webster St, Madison
Rm 139, State Office Bldg., 718 W. Clairemont Ave., Eau Claire
Rm 618, State Office Bldg., 200 N. Jefferson St., Green Bay
Rm B29, State Office Bldg., 3550 Mormon Coulee Road, La Crosse
Rm 542, State Office Bldg., 819 N. 6th St., Milwaukee
Rm 3, DNR Regional Headquarters, 107 Sutliff Avenue, Rhinelander

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Don Swailes at (608) 266-7093 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

Meeting the requirements of the new rule will have some fiscal impact on the state, but more significant impacts on the regulated community. The state will realize increased costs for information collection, recordkeeping and reporting. USEPA estimates that states will incur an average of 115 hours of additional work per year for the first 3 years of implementation at approximately \$38.50 per hour. Total labor cost is estimated at \$4427.00 per year for three years.

Public water systems are expected to incur an average of an additional 6 hours per year at a cost of \$29.50 per hour. Total labor cost is estimated at \$177.00 annually. Therefore all community water systems (1150) will incur an estimated additional cost of \$177.00 annually. However, the 530 other than municipal (OTM) systems are not included in the cost totals for purposes of this fiscal note. OTM systems are privately owned systems, e.g., those for condominiums, subdivisions, or mobile homes. This fiscal note is intended to total the estimated state and local government costs, as opposed to costs to private industry. The estimated local government fiscal impact is therefore: 1150 systems – 530 OTM systems = 620 systems x \$177.00 = \$109,740. (OTM costs are estimated at 530 x \$177.00 = \$93,810.)

In addition, about 50 systems will begin quarterly monitoring for radium for one year at a cost of \$800.00 annually (\$200.00/quarter/system.) Therefore the total estimated annual monitoring cost is \$40,000.00.

The gross alpha analysis is used as a screening test, and will include alpha-emitting uranium isotopes. Approximately 110 systems that have exceeded the gross alpha standard of 14 pCi/L will have to monitor for uranium (approx. \$48.00/sample). Of these systems, 31 are OTM systems and not included in this fiscal estimate total; therefore the local government fiscal impact is estimated at 110 – 31 = 79 x \$48.00 = \$3792.00. (OTM costs are estimated at 31 x \$48.00 = \$1488.00)

One-Time Capital Costs

Following the initial monitoring period, systems that exceed a radionuclide standard will be required to take

corrective action to reduce levels below the MCLs. Capital costs for installing treatment will vary according to system size. Based on plan and specifications approved by the Department, capital costs for treatment are estimated as follows:

System Size	Population
Small	25 – 3300
Med	3301 – 50,000
Large	>50,000
Estimated Cap. Costs	
	\$10,000 – \$100,000
	\$500,000 – \$2,000,000
	\$10,000,000 – \$25,000,000

Currently, there are 43 small systems that exceed the radium standard (however, 14 of these are OTM systems and therefore not included in the fiscal estimate total), 5 small systems that exceed the uranium standard, 17 medium systems that exceed the radium standard, and 2 large systems that exceed the radium standard. Total capital costs for treatment at these systems are estimated to vary from \$28.8 million to \$86.9 million as shown below:

System Size	# Systems	Total Estimated Cost
Small	29	\$290,000 – \$ 2,900,000
Med	17	\$8,500,000 – \$34,000,000
Large	2	\$20,000,000 – \$50,000,000
Totals	62	\$28,790,000 – \$86,900,000

(The range of capital costs for OTMs is estimated at \$140,000 to \$1,400,000).

For most systems (those with low levels of radionuclides), monitoring costs will be reduced by extending the sampling period from once every 4 years to once every 9 years. (e.g. Typical cost for a system will drop from \$12.50/yr to \$5.50/yr.)

Written comments on the proposed rule may be submitted by mail to Mr. Don Swailes, Bureau of Drinking Water and Groundwater, P.O. Box 7921, Madison, WI 53707 or by FAX to Mr. Swailes at (608) 267-7650 no later than July 13, 2001. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [DG-26-01] and fiscal estimate may be obtained from Mr. Swailes.

Notice of Hearing Regulation and Licensing [CR 01-068]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 440.07 and 449.17, Stats., and interpreting s. 449.17, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to repeal s. RL 10.04 (2) (b) (intro.); to renumber s. RL 10.04 (2) (b) 2.; to renumber and amend s. RL 10.04 (2) (b) 1.; and to amend ss. RL 10.03, 10.04 (2) (a) and the Note following s. RL 10.04 (3), relating to certification of optometrists to use diagnostic pharmaceutical agents.

Hearing Date, Time and Location

Date: **July 13, 2001**
Time: 10:15 a.m.
Location: 1400 East Washington Avenue
Room 179A

Madison, Wisconsin

Appearances at the Hearing:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by August 1, 2001, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 227.11 (2), 440.07 and 449.17.

Statute interpreted: s. 449.17

In this proposed rule-making order, the Department of Regulation and Licensing amends ch. RL 10, relating to the certification of optometrists to use diagnostic pharmaceutical agents.

The Note following s. RL 10.01 (1), is being amended to reflect the renumbering of ch. 161, Stats., to ch. 961, Stats.

Section RL 10.03 states, in part, that an application for a certificate shall be granted or denied within 15 business days after receipt of a completed application. The rule is being amended to omit this provision because the department has adopted a standard rule that specifies the number of business days within which the department must review and make a determination on an application. *s. 440.03 (1m), Stats., s. RL 4.03, Wis. Adm. Code.*

Section RL 10.04 (2), provides that in order to obtain a DPA certificate, an optometrist must submit evidence to the department showing that the optometrist has successfully completed one of the examinations identified in pars. (a) and (b). Depending upon when an application is filed with the department, before or after April 1, 1994, applicants must submit evidence of successful completion of the pharmacology examination administered prior to 1994 by the National Board of Examiners in Optometry; parts I and II of the examination administered after 1986 by the National Board of Examiners in Optometry or an examination approved by the Department of Regulation and Licensing and the Optometry Examining Board. The rule is being amended to delete the references to the April 1, 1994 date because the references are no longer applicable.

Text of Rule

SECTION 1. The Note following RL 10.01 (10) is amended to read:

Note: Section ~~161.39~~ 961.39, Stats., contains certain limitations relating to the prescribing and administering of controlled substances by optometrists certified under section 449.18, Stats.

SECTION 2. RL 10.03 is amended to read:

RL 10.03 Statement of approval required. A licensed optometrist may not use diagnostic pharmaceutical agents in the practice of optometry unless the optometrist has completed an application form and received a DPA certificate from the department. ~~An application for a certificate shall be granted or denied within 15 business days after receipt of a completed application.~~ A licensed optometrist may not use therapeutic pharmaceutical agents in the practice of optometry unless the optometrist has completed an application form, met the requirements under s. 449.18,

Stats., and received a TPA certificate from the optometry examining board.

SECTION 3. RL 10.04 (2) (a) is amended to read:

RL 10.04 (2) (a) ~~If application was made to the department prior to or on April 1, 1994, obtained~~ Obtained a score of not less than 75 on the pharmacology section of the examination administered ~~prior to 1994~~ by the national board of examiners in optometry.

SECTION 4. RL 10.04 (2) (b) (intro.) is repealed.

SECTION 5. RL 10.04 (2) (b) 1. is renumbered RL 10.04 (2) (b) and amended to read:

RL 10.04 (2) (b) Obtained passing scores on parts I and II of the examination administered after 1986 by the national board of examiners in optometry; ~~or~~.

SECTION 6. RL 10.04 (2) (b) 2. is renumbered RL 10.04 (2) (c).

SECTION 7. The Note following RL 10.04 (3) is amended to read:

Note: ~~The department of regulation and licensing does not administer the pharmacology examination. The required score of "not less than 75" relates only to the pharmacology section of the national examination. Therefore, if all sections of the national examination are~~ were taken at once, the 75

score minimum applies only to the pharmacology section and not to the other sections of the examination.

Fiscal Estimate

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

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

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

Initial Flexibility Analysis

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

Copies of Rule and Contact Person

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

Submission of proposed rules to the legislature

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

Agriculture, Trade and Consumer Protection

(CR 01-021)

Ch. ATCP 29 – Relating to pesticide license fee surcharges.

Agriculture, Trade and Consumer Protection

(CR 01-028)

Chs. ATCP 1, 29, 30, 57, 91, 92, 98, 101, 109, 110, 111, 116 and 121 – Relating to minor remedial changes to department rules.

Commerce

(CR 00-159)

Chs. Comm 2, 5 and 20 – Relating to uniform dwelling code inspection agencies.

Health and Family Services

(CR 00-056)

Ch. HFS 73 – Relating to criteria for county agency determination under the long-term support community options and community integration programs.

Hearing and Speech Examining Board

(CR 01-043)

Ch. HAS 6 – Relating to the licensure and regulation of speech-language pathologists, audiologists, temporary licensees and supervision of unlicensed individuals.

Insurance

(CR 01-056)

Ch. Ins 17 – Relating to annual patient compensation fund fees and mediation fund fees.

Medical Examining Board

(CR 01-031)

Ch. Med 10 – Relating to prescribing or dispensing schedule II amphetamines or schedule II anorectics.

Medical Examining Board

(CR 01-032)

Ch. Med 1 – Relating to United States Medical Licensing Examination (USMLE).

Natural Resources

(CR 00-111)

Chs. NR 716, 726, 749 and 812 – Relating to implementation of a GIS registry of closed remediation sites for properties with groundwater contamination.

Natural Resources

(CR 01-014)

Ch. NR 199 – Relating to establishing municipal flood control and riparian restoration grants.

Rule orders filed with the revisor of statutes bureau

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

**Agriculture, Trade and Consumer Protection
(CR 99-151)**

An order affecting ch. ATCP 81 relating to cheese grading, packaging and labeling.
Effective 8-1-01

**Agriculture, Trade and Consumer Protection
(CR 00-183)**

An order affecting ch. ATCP 97 relating to public warehouse keeper license fees.
Effective 8-1-01

**Agriculture, Trade and Consumer Protection
(CR 01-015)**

An order affecting ch. ATCP 161 relating to payments to ethanol producers.
Effective 8-1-01

**Corrections
(CR 00-079)**

An order affecting ch. DOC 306 relating to security.
Effective 8-1-01

**Financial Institutions-Securities
(CR 01-025)**

An order affecting chs. DFI-Sec 1 and 5 relating to adopting for use in Wisconsin the Investment Adviser Registration Depository.
Effective 8-1-01

**Professional Geologist, Hydrologists and Soil Scientists
(CR 00-139)**

An order to create ch. GHSS 1 relating to rules committee.
Effective 8-1-01

**Natural Resources
(CR 00-135)**

An order affecting chs. NR 1, 50 and 51 relating to stewardship program.
Effective 8-1-01

**Natural Resources
(CR 00-177)**

An order affecting ch. NR 47 relating to the federal cost sharing program to suppress gypsy moths.
Effective 8-1-01

**Public Instruction
(CR 00-186)**

An order affecting ch. PI 26 relating to the education for employment program.
Effective 1-1-04

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **June 30, 2001** Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

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

Chiropractic Examining Board (CR 00-124)

An order revising chs. Chir 3 and 5, relating to continuing education requirements.

Effective 7-1-01

Final Regulatory Flexibility Analysis

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

Dentistry Examining Board (CR 00-143)

An order revising ch. DE 2, relating to a system of remediation for applicants who have failed the clinical and laboratory examinations more than three times.

Effective 7-1-01

Final Regulatory Flexibility Analysis

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

Insurance (CR 00-10)

An order revising chs. Ins 13 and 50, relating to town mutual insurance.

Effective 1-1-02

Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

The legislative standing committees had no comments on this rule. Although there will be some corrective statutory changes as a result of issues raised during the review of this rule.

Insurance (CR 00-189)

An order to create ch. Ins 25, relating to privacy of personal nonpublic information.

Effective 7-1-01

Final Regulatory Flexibility Analysis

1. None of the methods specified under s. 227.14 (2), for reducing the rule's impact on small businesses were included because all must be treated equally and thus it is not possible to have different rules for one segment of the population.

2. No issues were raised by small businesses during the hearing on the proposed rule.

3. The proposed rule does not impose any additional reporting requirements on small businesses.

4. The proposed rule will require by small businesses to incorporate into their systems the required notices. Since much of the obligation to provide those notices is imposed on insurers, small businesses will largely be able to rely on the processes established by the insurers. To the extent that an insurer is a small business, or that a licensee small business is not associated with an insurer, the small business will incur costs to incorporate in their existing processes the preparation and delivery of privacy and opt out notices. These costs cannot be quantified.

5. No methods specified under s. 227.114 (2), Stats., are included in the proposed rule, except that agents are not required to comply to the extent that the insurer they represent complies on their behalf.

Summary of Comments of Legislative Standing Committees

The legislative standing committees had no comments on this rule.

Natural Resources (CR 00-178)

An order revising ch. NR 25, relating to licensing commercial fishers on Lake Michigan.

Effective 7-1-01

Final Regulatory Flexibility Analysis

No additional compliance or reporting requirements will be imposed as a result of these rule changes. The proposed rule will make it easier for a commercial fisher to qualify for relicensing in years when fish stocks are declining.

Summary of Comments of Legislative Standing Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources. There were no comments.

Psychology Examining Board (CR 00-170)

An order revising ch. Psy 4, relating to continuing education and temporary practice.

Effective 7-1-01

Final Regulatory Flexibility Analysis

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

Regulation and Licensing (CR 01-03)

An order revising chs. RL 110 to 114, relating to professional boxing.

Effective 7-1-01

Final Regulatory Flexibility Analysis

No additional compliance or reporting requirements will be imposed as a result of these rule changes. The proposed rule will make it easier for a commercial fisher to qualify for relicensing in years when fish stocks are declining.

Final Regulatory Flexibility Analysis

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

Workforce Development**(CR 01-05)**

An order revising ch. DWD 290, relating to annual adjustment of thresholds for application of prevailing wage rates.

Effective 7-1-01

Final Regulatory Flexibility Analysis

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

Summary of Comments of Legislative Standing Committees

There were no comments.

Sections affected by rule revisions and corrections

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

Revisions

Chiropractic Examining Board:

Ch. Chir 3

- S. Chir 3.02 (1) (d)
- S. Chir 3.09 (entire section)

Ch. Chir 5

- S. Chir 5.01 (1)

Dentistry Examining Board:

Ch. DE 2

- S. DE 2.01 (1) (g)
- S. DE 2.09 (entire section)

Insurance, Commissioner of:

Ch. Ins 13

- S. Ins 13.03 (3)
- S. Ins 13.05 (6)
- S. Ins 13.06 (3), (4), (5) and (6)
- S. Ins 13.08 (3) (d) and (e)
- S. Ins 13.09 (entire section)

Ch. Ins 25 (entire chapter)

Ch. Ins 50

- S. Ins 50.02 (3)

Natural Resources:

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

Ch. NR 25

- S. NR 25.03 (2) (b)

Psychology Examining Board:

Ch. Psy 2

- S. Psy 2.14 (entire section)

Ch. Psy 4

- S. Psy 4.02 (4) (b)

Regulation and Licensing:

Ch. RL 110

- S. RL 110.02 (10) and (11)
- S. RL 110.025 (entire section)
- S. RL 110.04 (2) and (4)

Ch. RL 111

- S. RL 111.04 (entire section)

Ch. RL 112

- S. RL 112.03 (1)
- S. RL 112.04 (1) and (3)
- S. RL 112.05 (3) and (4)
- S. RL 112.06 (entire section)
- S. RL 112.08 (3)

Ch. RL 113

- S. RL 113.01 (4)
- S. RL 113.05 (entire section)
- S. RL 113.06 (5)

Ch. RL 114

- S. RL 114.02 (6m) and (8)
- S. RL 114.03 (entire section)
- S. RL 114.05 (3), (7), (8) and (9)
- S. RL 114.06 (2)
- S. RL 114.065 (entire section)
- S. RL 114.07 (2)
- S. RL 114.09 (entire section)

Workforce Development:

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

Ch. DWD 290

- S. DWD 290.155 (1)

Editorial corrections

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

Commerce:

(Building and Heating, etc., Chs. Comm 50-64)

Ch. Comm 51

- S. Comm 51.07 (6) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 51.21 (6) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 51.23 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

(Historic Buildings, Ch. Comm 70)**Ch. Comm 70**

S. Comm 70.07 (3) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Health and Family Services:**(Management and Technology, etc., Chs. HFS 1---****Ch. HFS 1**

S. HFS 1.01 (2) (h) and (4) (b) had corrections made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 1.03 (13m) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 1.07 (2) (intro.) and (b), (6) (intro.), (a) and (c) and (10) had corrections made under s. 13.93 (2m) (b) 7., Stats.

(Community Services, Chs. HFS 30---**Ch. HFS 46**

S. HFS 46.12 (3) (b) and (c) and (7) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 52

S. HFS 52.41 (1) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 52.51 (2) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 52.55 (12) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 52.56 (7) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 53

S. HFS 53.04 (2) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 61

S. HFS 61.06 (8) had a correction made under s. 13.93 (2m) (b) 6., Stats.
 S. HFS 61.32 (2) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 61.92 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 62

S. HFS 62.01 (3) (a) and (c) each had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 62.03 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 75

S. HFS 75.03 (9) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

(Health, Chs. HFS 110---**Ch. HFS 111**

S. HFS 111.04 (5) (f) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 120

S. HFS 120.31 (4) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 139

S. HFS 139.06 (1) and (2) each had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 139.07 (1) and (2) each had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 190

S. HFS 190.04 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 192

S. HFS 192.03 (7) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 192.05 (1) and (2) had corrections made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 192.07 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. HFS 192.08 (5) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Insurance, Commissioner of:**Ch. Ins 50**

S. Ins 50.01 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Veterans Affairs:**Ch. VA 1**

S. VA 1.12 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.
 S. VA 1.15 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.

Errata

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

Agriculture, Trade and Consumer Protection:**Ch. ATCP 160**

S. ATCP 160.04 (1) was reprinted to correct printing error.

Sections affected by revisor's corrections not published

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

Subscriber's note: Please make corrections (manually) in your printed code. The affected sections are shown as corrected on the Revisor of Statutes Internet site, [Http://www.legis.state.wi.us/rsb/](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
Ins 4.01 (2) (c)	66.058 (1) (d)	66.0435 (1) (d)
Ins 5.03 (5)	619.15	149.15
Ins 5.33 (1) (j)	885.37 (3) (b) or (bm)	885.37 (3) (b)
Ins 5.45 (1) (b)	subch. II of ch. 619	ch. 149
Ins 6.54 (3) (c)	106.04 (9) (a) 4.	106.52 (3) (a) 4.
Ins 6.85 (5) (d)	609.15	632.83
Ins 8.11 (1)	59.07 (2) (c)	59.52 (11) (c)
Ins 8.40	619.12 (2) (e)	149.12 (2) (e)
Ins 8.42 (4) (a) and (b)	subch. II of ch. 619	ch. 149
Ins 8.42 (4) (a)	619.12 (2) (e) 2.	149.12 (2) (e)
Ins 8.42 (7) (c) 1.	subch. II of ch. 619 (twice)	ch. 149
Ins 8.42 (7) (c) 1.	619.12 (2) (e) 2.	149.12 (2) (e)
Ins 8.42 (13)	subch. II of ch. 619	ch. 149
Ins 8.46 (1)	635.07 (1) and (2)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.07, Stats.
Ins 8.46 (2)	635.17 (2) (c) 2.	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.48 (1) and (2)	635.11 (1) to (4)	635.11 (1m)
Ins 8.54 (3)	635.07	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.07, Stats.
Ins 8.54 (4) (a) (intro.), (b), (c)	635.07 (1) (d)	Note inserted: (same as above)
Ins 8.54 (4) (d)	635.07 (1) (a) to (c) or (e)	Note inserted: (same as above)
Ins 8.54 (5) (a), (b) (intro.), (d) (intro.)	635.07 (2)	Note inserted: (same as above)
Ins 8.59 (4)	subch. II of ch. 619	ch. 149
Ins 8.59 (4)	635.17 (1) (b)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.60 (1) (a), (d), and (e)	subch. II of ch. 619	ch. 149

Location of invalid cross-reference	Invalid cross-reference	Correction
Ins 8.60 (1) (e)	619.12 (2) (e) 2.	149.12 (2) (e)
Ins 8.61 (2) and (6)	subch. II of ch. 619	ch. 149
Ins 8.61 (2)	619.12 (2) (e) 2.	149.12 (2) (e)
Ins 8.61 (6)	635.17 (1) (b)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.62 (3) (c)	635.17 (1)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.63 (2)	635.17 (1)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.66 (1) (intro.) and (3)	635.17	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.66 (2)	635.17 (1) (b)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.66 (4)	635.17 (1) (b) 635.02 (5m) (a), (b), (c)	Note inserted: Note: 1995 Wis. Act 289 repealed ss. 635.02 (5m) and 635.17, Stats.
Ins 8.67	635.17 (3) (b)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.68 (1) (b)	635.26 (2m) or (4)	Note inserted: Note: 1997 Wis. Act 27 repealed s. 635.26, Stats.
Ins 8.68 (3) (b) and (c)	subch. II of ch. 619	ch. 149
Ins 8.68 (3) (b)	619.12 (2) (e)	149.12 (2) (e)
Ins 8.69 (4)	635.26 (3) (a)	Note inserted: Note: 1997 Wis. Act 27 repealed s. 635.26, Stats.
Ins 8.71	635.20	Note inserted: Note: 1997 Wis. Act 27 repealed s. 635.20, Stats.
Ins 8.72 (3)	49.45 (6r) (a) 1.	42 CFR 416.2
Ins 8.72 (6)	141.15	50.49
Ins 8.75 (1)	635.17 (1)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.17, Stats.
Ins 8.78 (1) (a)	635.20 (2)	Note inserted: Note: 1997 Wis. Act 27 repealed s. 635.20, Stats.
Ins 8.78 (1) (b)	635.02 (5m)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 635.02 (5m), Stats.

Location of invalid cross-reference	Invalid cross-reference	Correction
Ins 8.78 (4) (a) and (b)	635.20 (1m) 635.254 (1) 635.254 (2)	Note inserted: Note: 1997 Wis. Act 27 repealed ss. 635.20 and 635.254, Stats.
Ins 8.81 (1) and (2)	635.26 (2m) to (4)	Note inserted: Note: 1997 Wis. Act 27 repealed s. 635.26, Stats.
Ins 9.32 (1) (a)	609.15	632.83
Ins 9.33 (1) (a)	609.15 (1) (a)	632.83 (2) (a)
Ins 9.33 (5) (d)	609.15 (2) (b)	632.83 (3) (b)
Ins 9.33 (5) (g)	609.15 (2) (d)	632.83 (3) (d)
Ins 9.33 (7) (c) (intro.)	609.15 (1) (c)	632.83 (2) (c)
Ins 9.42 (1), (2) (a), (b), (3), (4) (intro.), (a), and (e)	609.15	632.83
Ins 26.05 (1) (f)	38.51	45.54
Ins 26.06 (1) (a)	38.51	45.54
Ins 28.06 (1) (a)	38.51	45.54

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 11. Relating to the proclamation that the flag of the United States and the flag of the state of Wisconsin be flown at half-staff on Memorial Day.

Executive Order 12. Relating to the creation of the Governor's Task Force on invasive species.

Executive Order 13. 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 the honorable Ernest C. Keppler, late judge of the circuit court of Sheboygan County.

Executive Order 14. Relating to a proclamation of a state emergency.

Executive Order 15. Relating to the amendment of executive order No. 14.

Public notice

Health and Family Services

For the Community Services Block Grant

State Plan for Federal Fiscal Years 2002 and 2003

Notice is hereby given that the Department of Health and Family Services will hold a public hearing to consider the proposed Federal State Plan for Federal Fiscal Years 2002–2003 for the Community Services Block Grant (CSBG) Program pursuant to 42 USC 9901 et seq. Section 676 (a) (2) (B) of the Coats Human Services Reauthorization Act of 1998 requires the State Agency to hold at least one public hearing in conjunction with the development of the State plan. The purpose of the hearing is to provide the public an opportunity to comment on the proposed use and distribution of funds to be provided through the grant for the period covered by the state plan.

Hearing Information

The public hearing will be held:

<u>Date & Time</u>	<u>Location</u>
July 17, 2001	Room 751
Tuesday	1 W. Wilson Street
1:00 p.m. – 4:00 p.m.	Milwaukee, WI

The hearing site is fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

The Community Services Block Grant State Plan document is a plan for the allocation of the Federal Fiscal Year 2002–2003 Community Services Block Grant as reauthorized under the Coats Human Services Reauthorization Act of 1998. The allocation for FY 2002 is estimated to be \$7,256,646. This estimate for FFY 2002 and FFY 2003 will be revised accordingly based upon actual grant award.

The overall objective of the CSBG Program is to empower communities and individuals to overcome the effects of poverty. The department distributes the funds by formula to sixteen community action agencies (CAAs), eleven Indian tribes, a migrant organization, the Wisconsin Community Action Program Association (WISCAP), two limited purpose agencies (LPAs) and uses the remainder of the funds to administer the block grant program.

As authorized by Congress, at least 90% of the funds made available to the State of Wisconsin must be used to make grants for the purposes of the CSBG subtitle. Wisconsin community action agencies will receive at least 86% of the total Wisconsin CSBG funding based on a formula incorporating the number of persons at or below 125% of the applicable poverty income level by county, according to the most recent census data. The formula further reflects a county per capita dollar allocation under the block grant. The per capita allocation is determined by multiplying 86% times the total state allocation and dividing by the total number of persons at or below the 125% income level in CSBG funded counties. These block grant funds are distributed in Wisconsin in the following manner:

- CAAs – 86%
- Tribal governments – 4%
- United Migrant Opportunity Services – 4%
- Limited Purpose Agencies and WISCAP – up to 1%
- State Administration – up to, but not more than 5%

A portion of the state administration allocation may be used to coordinate state level training and technical assistance to promote improved services and outcomes for low-income communities, support asset building programs for low-income individuals and support innovative programs and activities conducted by CAAs to eliminate poverty, promote self-sufficiency and promote community revitalization.

Any grantee funded under these block grants must be organized as a not-for-profit corporation or social development commission and must have a board of directors that includes a minimum of one-third representatives of the poor in the area to be served, one-third elected public officials or their designees, and the balance representing specific groups or geographic areas within the community.

Limited Purpose Agencies must be organizations with statewide impact and demonstrate that the agency's services promote self-sufficiency. The LPA's projects must focus on nutrition, housing or health. The two LPAs funded in 2001 were the Foundation for Rural Housing and the Coalition of Wisconsin Aging Groups. To qualify for block grant funding, LPAs and migrant organizations must have a board of directors consisting of at least 50% low-income persons or representatives of low-income groups.

Contact Person

To find out more about the hearing or to request a copy of the proposed CSBG State Plan write, phone or e-mail:

Moira Lafayette
Bureau of Programs and Policies
P.O. Box 8916
Madison, WI 53708-8916
(608) 267-5149
lafayma@dhfs.state.wi.us

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

Written comments received by mail or e-mail at the above address no later than 5:00 PM, July 24, 2001, will be given the same consideration as testimony presented at the public hearing.

Health and Family Services

(Medicaid Reimbursement of Hospitals)

The State of Wisconsin reimburses hospitals for medical services provided to low-income persons under the authority of Title XIX of the Federal Social Security Act and Chapter 49.43 to 49.47, Wisconsin Statutes. The Wisconsin Department of Health and Family Services administers this program that is called Medicaid or Medical Assistance (MA). Federal statutes and regulations require state plans, one for outpatient services and one for inpatient services, that provide the methods and standards for paying for hospital outpatient and inpatient services.

State plans are now in effect for the reimbursement of outpatient hospital services and inpatient hospital services. The Department is proposing to make changes to the provisions contained in these plans effective July 1, 2001 or at a later date to implement provisions of the 2001-2003 state budget act. These proposed changes are subject to change upon enactment of the 2001-2003 state budget act.

Outpatient Hospital Services

Proposed changes in the state plan for reimbursement of outpatient hospital services may include:

1. Recalculate the outpatient maximum rate per visit for each hospital based on a more current audited cost report as required to implement provisions of the 2001-2003 budget act
2. Adjustments to the Medicaid Utilization Supplemental Payment as required to implement provisions of the 2001-2003 budget act
3. Modification of supplemental payments to essential access city hospitals (EACH) in order to maintain compliance with federal payment limits and to implement provisions of the 2001-2003 budget act.
4. Revision of the rural hospital adjustment percentages in order to ensure that payments do not exceed authorized funds and to implement provisions of the 2001-2003 budget act.
5. For the indigent care allowance, adjustment of the maximum available funding, modification of the criteria for a hospital to qualify for an allowance, and modification of the methodology for distributing the available funds to qualifying hospitals in order to carry out provisions of the 2001-2003 budget act and to maintain compliance with federal payment limits.

Inpatient Hospital Services

Proposed changes in the state plan for reimbursement for inpatient services may include:

1. For the payment system based on diagnosis-related groups (DRGs), adjustment of DRG weighting factors, modification of the method of determining the cost of claims for determining DRG weighting factors and adjustment of DRG weighting factors, modification of the standard DRG base rates and area wage indices.
2. Revision of the rural hospital adjustment percentages to ensure that payments do not exceed authorized funds and to implement provisions of the 2001-2003 budget act.
3. Modification of the disproportionate share adjustment parameters to recognize a more current proportion of services provided by hospitals to Medicaid recipients and to implement provisions of the 2001-2003 budget act.
4. Modification of supplemental payments to essential access city hospitals (EACH) to maintain compliance with federal payment limits and to implement provisions of the 2001-2003 budget act.
5. Modification of the supplemental payment for major managed care hospitals to implement provisions of the 2001-2003 budget act.
6. For the indigent care allowance, adjustment of the maximum available funding, modification of the criteria for a hospital to qualify for an allowance, and modification of the methodology for distributing the available funds to qualifying hospitals in order to maintain compliance with federal payment limits and to implement provisions of the 2001-2003 budget act.
7. For the general assistance disproportionate share supplement, adjustment of the maximum available funding, modification of the criteria for a hospital to qualify for the supplement, and modification of the methodology for distributing the available funds

to qualifying hospitals in order to maintain compliance with federal payment limits and to implement provisions of the 2001–2003 budget act.

Implementation of the above changes to the State Plan for inpatient and outpatient services is currently expected to change the annual expenditures of the Wisconsin Medicaid program by \$15,901,800 for state fiscal year 2001–2002.

Copies of Proposed Changes and Proposed Payment Rates

Copies of the proposed changes will be sent to every county social services or human service department main office where they will be available for public review. For more information, interested persons may fax or write to:

Hospitals, Physicians and Clinics Unit
Division of Health Care Financing
P.O. Box 309
Madison, WI 53701–0309
Fax: (608) 266–1096

Written Comments

Written comments on the proposed changes are welcome and should be sent to the above address. The comments received on the changes will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. at:

Division of Health Care Financing
Room 350, State Office Building
One West Wilson Street
Madison, WI

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