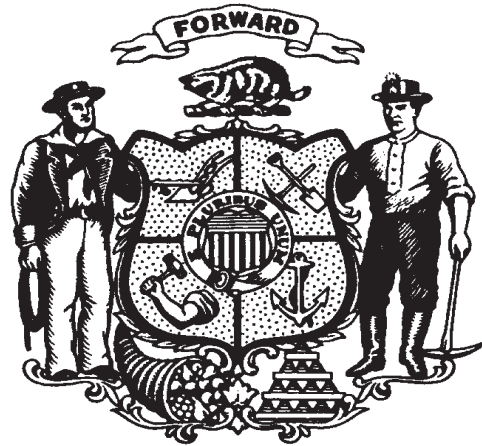


Wisconsin Administrative Register

No. 547



Publication Date: July 14, 2001

Effective Date: July 15, 2001



Revisor of Statutes Bureau
Suite 800, 131 West Wilson Street
Madison, Wisconsin 53703-3233

The 1999–2000 Wisconsin Statutes and Annotations can be ordered now in bound volumes or on the *WisLaw*[®] CD–ROM

Bound Volumes:

Prices for the 1999–2000 Wisconsin Statutes and Annotations bound volumes are detailed below. Any sales tax due must be added to these prices:

Hard Cover <u>With Postage</u> \$142.00	Hard Cover <u>Without Postage</u> \$135.00	Soft Cover <u>With Postage</u> \$117.00	Soft Cover <u>Without Postage</u> \$110.00
--	---	--	---

Send orders to the Document Sales and Distribution Section at the address below or call (608) 266–3358. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% stadium tax. Prepayment is required for all orders. Payments by check, money order, or credit card should be made payable to WI Department of Administration. Credit card orders using either VISA or MasterCard may be placed by calling (800) 362–7253 or (608) 264–9419. The bound volumes of the statutes will be available in late November 2000.

WisLaw[®] CD–ROM:

Up-to-date *WisLaw*[®] CD–ROMs are released quarterly by the Revisor of Statutes Bureau. *WisLaw*[®] contains:

- Wisconsin Statutes and Annotations with Index
- Table of Cross–References and Table of Sections Affected by Acts
- Wisconsin Administrative Code with Index, Administrative Register, and Emergency Rules
- Executive Orders
- Wisconsin Acts with Index
- Supreme Court Rules and Internal Operating Procedures
- Recent Opinions of the Attorney General with Index
- Wisconsin Constitution with Annotations and Index
- U.S. Constitution
- Wisconsin Town Law Forms
- Wisconsin Code of Military Justice

All of the above *WisLaw*[®] Infobases are substantially integrated with hypertext links. *WisLaw*[®] utilizes the Windows 95 versions of Folio Views search and retrieval software. Folio is used by 75 of the top 80 legal publishers. State agencies are using *WisLaw*[®] for their legal research. *WisLaw*[®] is distributed by the Document Sales and Distribution Section to requesting state agencies on a complimentary basis.

WisLaw[®] is available only by annual subscription. *WisLaw*[®] End–user license and subscription order forms are available at Document Sales or at <http://www.legis.state.wi.us/rsb>. CDs will be delivered only upon receipt of a signed license and subscription form and full payment. An annual subscription plus a license for no more than one simultaneous user costs \$99. Licenses for no more than 4 simultaneous users or for no more than 10 simultaneous users cost \$149 or \$199, respectively. Shipping is included. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% Wisconsin stadium sales tax.

Orders by FAX will **not** be accepted; call (608) 266–3358 or TTY (608) 264–8499 or write to:

The State of Wisconsin
Department of Administration
Bureau of Document Services
Document Sales and Distribution Section
P.O. Box 7840
Madison, WI 53707–7840

Table of contents

Emergency rules now in effect.	Pages 4 to 11
Agriculture, Trade and Consumer Protection:	Rules relating to pathogen-tests on ready-to-eat dairy products.
Commerce:	<u>Flammable and Combustible Liquids, Ch. Comm 10--</u> Rules relating to effective date of required upgrades to aboveground bulk tanks. <u>Financial Assistance for Businesses and Communities, Chs. Comm 105 to 128</u> Rules relating to the allocation of volume cap on tax-exempt private activity bonds.
Corrections:	Rules relating to sexually explicit material at adult correctional institutions.
Financial Institutions – Corporate and Consumer Institutions:	Rules adopted repealing ch. SS 3 and creating chs. DFI-CCS 1 to 6 , relating to the Uniform Commercial Code. [First Appearance]
Financial Institutions – Securities:	Rules relating to the investment adviser registration depository.
Health & Family Services:	<u>Community Services, Chs. HFS 30--</u> Rules amending s. HFS 94.20 (3) , relating to patients' rights. [First Appearance] <u>Health, Chs. HFS 110--</u> Rules relating to certification for removal of lead-based paint hazards.
Insurance:	Rules relating to annual patients compensation fund and mediation fund fees.
Natural Resources:	<u>Fish, Game, etc., Chs. NR 1--</u> Rules relating to the stewardship program. Rules relating to cost sharing program to suppress gypsy moths. Rules adopted amending chs. NR 20 and 25 relating to sport fishing and commercial fishing in Green Bay. [First Appearance] <u>Environmental Protection – Investigation and Remediation, Chs. NR 700--</u> Rules relating to environmental insurance requirements for liability exemptions for voluntary remediation.
Public Service Commission:	Rules relating to handling of confidential information. Rules relating to the use of renewable resource credits. Rules relating to the definition of fuel and the cost of fuel.
Scope statements.	Pages 12 to 14
Chiropractic Examining Board:	Clarifying the scope of practice of chiropractic.
Financial Institutions–Banking:	Amending s. DFI-Bkg 74.08, relating to procedures for return or cancellation of accounts.
Financial Institutions–Corporate and Consumer Services:	Repealing ch. SS 3 and creating chs. DFI-CCS 1 to 6, relating to the rules to implement the uniform commercial code and operate the statewide lien filing system.

Health and Family Services:	Amending s. HFS 94.20 (3) relating to patients' rights to make a reasonable number of private, personal telephone calls.
Natural Resources:	Revising ch. NR 25 addressing three issues related to commercial trap netting for whitefish in Lake Michigan. Amending ch. NR 811 to allow for the construction and operation of an aquifer storage recovery system by a municipal water system.
Occupational Therapists Affiliated Credentialing Board:	Requirements and standards for licensure and practice of occupational therapists and occupational therapy assistants.
Public Instruction:	Revising ch. PI 25, relating to children at risk of not graduating from high school.
Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board:	Creating a requirement relating to certification as an independent clinical social worker and certified as an advanced practice social worker or an independent social worker. Requiring holders of social work certificates to provide information regarding any convictions or pending charges as part of their biennial certificate renewal.
Workforce Development:	Repealing obsolete rules relating to the Aid to Families with Dependent Children program.
Submittal of rules to legislative council clearinghouse.	Pages 15 to 16
Agriculture, Trade and Consumer Protection	Relating to plant inspection and pest control.
Controlled Substances Board	Relating to the scheduling of Dihydroetorphine.
Health and Family Services:	Ch. HFS 119, relating to the operation of health insurance risk–sharing plan (HIRSP).
Higher Educational Aids Board:	Ch. HEA 13, relating to the administration of the Teacher Education Loan Program. Ch. HEA 14, relating to the administration of the Teacher of the Visually Impaired Loan Program.
Insurance:	Chs. Ins 6, 26 and 28, relating to revising Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer model. Ch. Ins 6, relating to agent transactions with customers.
Pharmacy Examining Board:	Relating to the requirements for an approved central fill system.
Public Instruction:	Amending ch. PI 16, relating to testing of pupils with limited–English proficiencies and disabilities.
Public Service Commission:	Relating to municipal rights–of–way issues.
Rule–making notices.	Pages 17 to 27
Administration:	Hearing to consider ch. Adm 46, relating to high–voltage transmission line fees.
Agriculture, Trade and Consumer Protection:	Hearing to amend ch. ATCP 21 and to clarify ch. ATCP 29, relating to plant inspection and pest control.
Controlled Substances Board:	Hearing to create s. CSB 2.26, relating to the scheduling of Dihydroetorphine.
Financial Institutions–Securities:	Hearing to consider adopting and amending ch. DFI–Sec 2, relating to certain securities registration exemptions involving capital formation by businesses.

	Hearing to consider revision of chs. DFI–Sec 2 and 4, relating to the operation of the Wisconsin Uniform Securities Law.
Health and Family Services:	Hearing to consider changes to ch. HFS 119, relating to operation of the Health Insurance Risk–Sharing Plan (HIRSP).
Higher Educational Aids Board:	Hearing to consider creation of ch. HEA 13, relating to the administration of the Teacher Education Loan Program. Hearing to consider creation of ch. HEA 14, relating to the administration of the Teacher of the Visually Impaired Loan Program.
Insurance:	Hearing to consider changes to s. Ins 6.59, relating to revising Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer mode. Hearing to consider changes to s. Ins 6.60, relating to agent transactions with customers.
Public Service Commission:	Hearing to consider creation of ch. PSC 130, relating to municipal rights–of–way issues.
Submission of proposed rules to the legislature.	Page 28
Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board:	(CR 01–034) – Ch. A–E 2
Commerce:	(CR 00–179) – Chs. Comm 4, 14, 15, 16, 50 to 64, 65, 66, 69 and 73
Insurance:	(CR 00–133) – Ch. Ins 3
Nursing:	(CR 01–046) – Chs. N 4 and 8 (CR 01–049) – Chs. N 2 and 3
Public Service Commission:	(CR 00–187) – Ch. PSC 2
Rule orders filed with the revisor of statutes bureau	Page 29
Employee Trust Funds:	(CR 00–021) – Ch. ETF 10 (CR 00–022) – Chs. ETF 10 and 20
Law Enforcement Standards Board:	(CR 99–115) – Chs. LES 1 and 3
Natural Resources:	(CR 00–163) – Ch. NR 1 (CR 00–174) – Ch. NR 422
Pharmacy Examining Board:	(CR 00–165) – Ch. Phar 7
Public Service Commission:	(CR 00–065) – Ch. PSC 118

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

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

Financial Institutions – Corporate and Consumer Services

Rules adopted repealing **ch. SS 3** and creating **chs. DFI-CCS 1 to 6**, relating to the Uniform Commercial Code.

Finding of emergency

2001 Act 10 repealed and recreated the Wisconsin Uniform Commercial Code ("UCC"), effective July 1, 2001. The act authorizes the Department of Financial Institutions to promulgate rules to implement the UCC. Without these rules, the department will be unable to operate either a state-wide lien filing system or give effect to the provisions of the UCC before permanent rules can be promulgated. The act is part of

an effort by the National Conference of Commissioners on Uniform State Laws and all member states to implement a revised model Uniform Commercial Code on July 1, 2001 to facilitate interstate commerce with nation-wide uniformity in lien filings. The rules address general provisions, acceptance and refusal of documents, the information management system, filing and data entry procedures, search requests and reports, and other notices of liens under the UCC.

Publication Date: July 2, 2001
Effective Date: July 2, 2001
Expiration Date: November 29, 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 (Community Services, Chs. HFS 30–)

A rule was adopted amending s. HFS 94.20 (3), relating to patients' rights.

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

The Department operates secure mental facilities for the treatment of ch. 980, Stats., sexually violent patients. Departmental investigations have indicated that a portion of the ch. 980 inpatient population has routinely abused their s. HFS 94.20 telephone rights by making inappropriate calls to members of the public, by fraudulently placing numerous long distance calls that are billed to innocent third–parties or by operating fraudulent schemes. Since the Department has previously had no means of monitoring patient telephone use, the extent of this activity is unknown, but given the experience of investigations triggered by citizen complaints, it is clear that these sorts of activities are not infrequent among this population. In addition, experience with telephone monitoring in other secure institutions indicates that call monitoring can and does help staff detect contraband and other security–related issues and activities. These abuses are clearly contrary to the therapeutic activities conducted at the secure mental health facilities.

Until recently, the Department has been unable to stop these abuses because the Department's facilities lacked secure telephone systems. Previous DHFS efforts to obtain secure telephone systems from the telephone system's vendor used by the Department of Corrections were not successful because the call volume at DHFS's secure mental health facilities were viewed as insufficient to support the telephone system.

In late 2000, the Department of Corrections selected a new vendor for its secure telephone system. In May 2001, the new vendor agreed to also install the system in DHFS's secure mental health facilities. The installation of the system at the facilities will be completed by June 20, 2001. The systems will allow the Department to establish and enforce calling lists for each inpatient and monitor inpatients' calls for counter–therapeutic activity. An inpatient's calling lists is a finite number of telephone numbers associated with persons the inpatient is approved to contact by telephone. Use of calling lists alone, however, is insufficient to discourage and minimize inpatient attempts to subvert the system. The Department must monitor phone calls made by ch. 980 inpatients to discourage and minimize the occurrence of inpatients calling persons on their calling list who, in turn, subvert the secure system by forwarding the inpatient's call for the prohibited purposes and activities previously described. The Department must be able to monitor the phone calls of ch. 980 inpatients both to protect the public and promote therapeutic activities at the secure mental health facilities.

The Department is issuing these rules on an emergency basis to protect the public's safety by minimizing the recurring fraudulent activity associated with telephone use. These rules also ensure the public's safety and welfare by promoting the effective treatment mission of the secure mental health facilities. The recording capability of the telephone system hardware that has been installed at the Wisconsin Resource Center and the Sand Ridge Secure Treatment Center cannot be turned off, i.e., when the system is functional, all features of the system are fully operational. If the secure telephone system is not operational, both the Wisconsin Resource Center and the Sand Ridge facility will lose the therapeutic and safety advantages afforded by the system. Since the Sand Ridge facility is accepting its first patients during the week of June 18th, there is not alternative telephone system for patients.

Publication Date: June 22, 2001
Effective Date: June 22, 2001
Expiration Date: November 19, 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: August 27, 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 – (3) (Fish, Game, etc., Chs. NR 1–)

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

Exemption from finding of emergency

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

Analysis prepared by the 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

3. Rules adopted amending **s. NR 20.20 (73) (j) 1. and 2.**, relating to sport fishing for yellow perch in Green Bay and its tributaries and **s. NR 25.06 (2) (b) 1.**, relating to commercial fishing for yellow perch in Green Bay.

Finding of emergency

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

Yellow perch contribute significantly to the welfare of Wisconsin citizens by supporting popular and economically valuable sport and commercial fisheries. The yellow perch population in Green Bay is rapidly declining. This decline reflects a number of years of very poor reproduction. The only recent year with reasonably good natural reproduction was 1998. The fish spawned that year contributed to the sport harvest in 2001 and will become vulnerable to commercial gear this summer. Sport and commercial harvests of adult yellow perch must be limited immediately in order to protect those fish and maximize the probability of good reproduction in the near future.

Publication Date: June 30, 2001

Effective Date: July 1, 2001

Expiration Date: November 28, 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

Chiropractic Examining Board

Subject

Further definition of the practice of chiropractic. *Objective of the Rule.* To clarify the scope of practice of chiropractic.

Policy Analysis

As evidenced by a recent opinion of the Attorney General regarding the practice of chiropractic, the definitions of chiropractic that appear in s. 446.01 (2), Stats., and ss. Chir 4.02 and 4.03, contain general language which does not provide specific guidance to chiropractors and to practitioners of other professions. The board wishes to create additional, more specific, language.

Statutory Authority

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

Staff Time Required

100 hours.

Financial Institutions–Banking

Subject

Section DFI–Bkg 74.08 relating to procedures for return or cancellation of accounts.

Objective of the Rule. To amend DFI–Bkg 74.08.

Policy Analysis

Currently a collection agency must cancel or return all accounts when a license is terminated for whatever reason. However, current rules do not contemplate the situation of a merger between department licensees. Corporate merger statutes allow for the transition of the duties and obligations of the merged entity to the surviving entity. Allowing the transfer of all accounts accomplishes this. The proposed amendments would allow the merger of collection agencies, but only upon approval of the division. Accounts would not need to be cancelled or returned in a merger transaction approved by the division.

Statutory Authority

Sections 218.04 (7) (d) and 227.11 (2), Stats.

Staff Time Required

Estimated time to be spent by state employees – 40 hours. No other resources are necessary.

Financial Institutions–Corporate and Consumer Services

Subject

Chapter SS 3 and Chs. DFI–CCS 1, 2, 3, 4, 5 and 6, relating to the rules to implement the Wisconsin Uniform Commercial Code and operate the statewide lien filing system.

Objective of the Rule. The objective of the rule is to repeal ch. SS 3 and create chs. DFI–CCS 1, 2, 3, 4, 5 and 6.

Policy Analysis

2001 Act 10 repealed and recreated the Wisconsin Uniform Commercial Code (“UCC”), effective July 1, 2001. The act authorizes the Department of Financial Institutions to promulgate rules to implement the UCC and operate the statewide lien filing system. The act is part of an effort by the

National Conference of Commissioners on Uniform State Laws and all member states to implement a revised model Uniform Commercial Code on July 1, 2001 to facilitate interstate commerce and uniformity in lien filings. The rules address general provisions, acceptance and refusal of documents, the information management system, filing and data entry procedures, search requests and reports, and other notices of liens under the UCC.

Statutory Authority

1995 Act 27 s. 9150 (2bt) (f), and ss. 227.24 (1), 227.11 (2) and 409.526, Stats.

Staff Time Required

Estimated time to be spent by state employees – 100 hours. No other resources are necessary.

Health and Family Services

Subject

The Department proposes to amend s. HFS 94.20 (3) relating to patients’ rights to make a reasonable number of private, personal telephone calls while receiving services at either the Wisconsin Resource Center or the Sand Ridge Secure Treatment Center under s. 980.065, Stats. The purpose of the amendment would be to allow the two Department facilities to record and monitor the telephone conversations of patients adjudged to be sexually violent who are receiving treatment at the facilities.

Policy Analysis

Administrative rules under subchapter II of ch. HFS 94 specify a variety of rights patients receiving services for mental illness, developmental disability, alcoholism or drug dependency. One of the rights, under s. HFS 94.20 (3), is for patients to make private telephone calls. In the past, some patients at the Department’s Wisconsin Resource Center have abused their telephone rights by harassing their former victims, initiating attempts to defraud the public and fraudulently using telephone credit cards. More importantly, monitoring the telephone use of sexually violent patients receiving treatment at the facility under s. 980.065, Stats., is an integral aspect of the patients’ treatment. The therapeutic need for the Wisconsin Resource Center and the newly–opened Sand Ridge Secure Treatment Center to monitor the telephone calls of patients receiving treatment under s. 980.065, Stats., is consequently, both a well–documented means of protecting the community and therapeutically justifiable as it is an essential part of the facilities’ treatment programs.

Statutory Authority

Section 51.61 (9), Stats., which authorizes the department to develop administrative rules to implement the patient rights section of s. 51.61, Stats.

Staff Time Required

The department anticipates expending less than 5 hours of time developing this rulemaking order.

Natural Resources

Subject

Chapter NR 25, Commercial fishing – outlying water.

Policy Analysis

The proposed rule package will address three issues related to commercial trap netting for whitefish in Lake Michigan. Specifically, it will address 1) the maximum depth at which trap nets may be set, 2) the use of trap nets in Whitefish Bay, and 3) the trap netting season in commercial fishing zone 3. Commercial and sport fishers will be interested in the issue. Commercial fishers will be directly affected by the rule changes. All three issues involve real or perceived conflicts with sport trolling, so sport fishers will also be interested.

Statutory Authority

Sections 29.014 (1), 29.041, 29.519 (1) (b) and 227.11 (2) (a), Stats.

Staff Time Required

42 hours.

Natural Resources

Subject

Amendment of ch. NR 811, to allow for the construction and operation of an aquifer storage recovery system by a municipal water system.

Policy Analysis

System development and design criteria: What process should be followed to develop an aquifer storage recovery (ASR) system? How will use of an ASR system affect water system design? Will groundwater modeling be required? System operating requirements: Are there limits to the amount of water that may be injected? How long may injected water be stored underground? Are there operational limitations that are needed to protect groundwater quality? System monitoring requirements: What kinds of monitoring will be required to ensure that drinking water quality is protected? What frequency of monitoring will be required? Will monitoring be required at the perimeter of each storage zone? What level of monitoring will be required to ensure that groundwater quality is protected? Compliance with state groundwater law and federal underground injection standards: What point of standards application will be used to ensure that various regulatory standards are enforced? Groups affected: Municipal water system operators and Wisconsin environmental organizations.

The DNR and its predecessor agencies have prohibited the direct injection of most substances into Wisconsin's aquifers for over sixty years. The only exceptions to this policy have been for: (1) department approved substances used to develop, operate, rehabilitate or abandon a water well or drillhole, (2) department approved activities necessary for the remediation of contaminated soil, bedrock or groundwater, (3) department approved groundwater studies, (4) control of subsidence during construction of Milwaukee's Deep Tunnel, and (5) a small number of geothermal heat pumps as authorized by the Wisconsin State Legislature.

The list of exceptions for certain beneficial activities indicates that past DNR policy has recognized that certain injection-related activities may be allowed; however, staff believe that approval of an aquifer storage recovery system should be viewed as a departure from existing policy due to the quantity of fluid that would be injected and the long term nature of this type of injection practice.

Statutory Authority

The authority to promulgate and enforce these rules is contained in ss. 280.11 (1) and 281.17 (8), Stats., in conformance with ch. 160, Stats.

Staff Time Required

252 hours.

Occupational Therapists Affiliated Credentialing Board

Subject

Requirements and standards for licensure and practice of occupational therapists and occupational therapy assistants.

Objective of the Rule. Specify the educational, examination, experience requirements for licensure, approved continuing education, and rules of professional conduct.

Policy Analysis

Implement the provisions of 1999 Wisconsin Act 180, which created the Occupational Therapists Affiliated Credentialing Board.

Statutory Authority

Sections 15.085 (5) (b) and 227.11 (2), Stats., and ss. 448.956, 448.961, 448.962, 448.96, 449.963, 448.965, 448.966, 448.967, 448.968, 448.969 and 448.970, Stats., as created by 1999 Wisconsin Act 180.

Staff Time Required

200 hours.

Public Instruction

Subject

Children at risk of not graduating from high school.

Policy Analysis

The children at risk rules under ch. PI 25 are being modified to correspond to changes made to the children at risk statutes under s. 118.153, as a result of 1999 Wisconsin Act 123. These changes include:

- Modifying the children at risk definition to include pupils who have failed the high school graduation examination and if certain criteria is met, pupils whose scores on the 8th grade Wisconsin concept knowledge exam are below the basic level in each subject area tested.

- Eliminating the requirement that school districts meeting certain criteria (50 or more dropouts and a dropout rate exceeding 5%) apply for children at risk aid.

- Allowing school districts with 30 or more dropouts or a dropout rate exceeding 5% of their total enrollment to apply for children at risk aid. Other minor modifications were made to the statute, but these modifications will not significantly change the way the program will be implemented or administered.

Statutory Authority

Sections 118.153 (7) and 227.11 (2) (a), Stats.

Staff Time Required

The amount of time needed for rule development by department staff and the amount of other resources necessary

are indeterminable. The time needed to create the rule language itself will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board

Subject

To create a requirement that persons who obtain supervised clinical social work practice in order to apply for certification as an independent clinical social worker be certified as an advanced practice social worker or an independent social worker.

Objective of the Rule. Applicants for certification as an independent clinical social worker must complete 2 years of full-time clinical social work practice. Current rules do not specify that the person being supervised be certified as a social worker. The Social Worker Section wishes to impose a requirement that the supervised practice be obtained while certified as an advanced practice social worker or independent social worker.

Policy Analysis

In order to ensure that an applicant for independent clinical social worker understand social work practice, the Social Worker Section wishes to require that the applicant be certified at an appropriate social work level while obtaining the necessary 2 years of supervised clinical practice.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2), 457.03 (1), Stats.

Staff Time Required

100 hours.

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board

Subject

To require holders of social work certificates to provide

information regarding any convictions or pending charges as part of their biennial certificate renewal.

Objective of the Rule. Applicants for initial certification must disclose convictions and pending charges. Social Worker certificates must be renewed every 2 years. Under present rules, no information is required regarding pending charges or convictions within the previous 2 years. The Social Worker Section wishes to impose a requirement that such information be provided.

Policy Analysis

In order to protect the public, the Social Worker Section needs to know if certificate holders have been convicted of a crime or have pending charges.

Statutory Authority

Sections 15.08 (5) (b), 227.11 (2), 457.03 (1), Stats.

Staff Time Required

100 hours.

Workforce Development

Subject

Repeal of obsolete rules relating to the Aid to Families with Dependent Children program.

Policy Analysis

Objective of the Rule. The objective of the rule is to repeal ch. DWD 11, relating to the Aid to Families with Dependent Children program. The AFDC program has been replaced by Wisconsin Works, ss. 49.141 to 49.141 to 49.161, Stats., and ch. DWD 12.

The Department of Health and Family Services has consented to repeal of this rule chapter. Although the determination of Medicaid eligibility remains connected to AFDC and s. 49.19, Stats., Medicaid statutes and rules do not refer to ch. DWD 11.

Statutory Authority

Sections 49.19 and 227.11, Stats.

Staff Time Required

15 hours.

Submittal of rules to legislative council clearinghouse

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

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On June 29, 2001, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: s. 227.15, Stats.

The proposed rule-making order relates to plant inspection and pest control.

Agency Procedure for Promulgation

The department will hold a public hearing on August 21, 2001, on this rule after the Rules Clearinghouse completes its review. The department's Agriculture Resource Management is primarily responsible for this rule.

Contact Information

If you have questions, you may contact:
Paula Noel
(608) 224-4574

Controlled Substances Board

Rule Submittal Date

On June 18, 2001, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 961.11 (1) and (2), 961.15, 961.17 and 961.19, Stats.

The proposed rule-making order related to the scheduling of Dihydroetorphine under ch. 961, Stats., the Uniform Controlled Substances Act.

Agency Procedure for Promulgation

A public hearing is required and will be held August 1, 2001 at 9:30 a.m. in Room 179A, 1400 East Washington Avenue, Madison, WI.

Contact Information

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

Health and Family Services

Rule Submittal Date

On June 18, 2001, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. HFS 119, relating to the operation of health insurance risk-sharing plan (HIRSP). The department through this rulemaking order proposes to amend ch. HFS 119 in order to update HIRSP premium

rates in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The department is required to set premium rates by rule. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles.

The department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the department reconciled total costs for the HIRSP program for calendar year 2000. The Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula.

Emergency rules that are identical to these proposed permanent rules will become effective July 1, 2001.

Agency Procedure for Promulgation

Public hearings will be held.

Contact Information

If you have questions, please contact:
Randy McElhose
Division of Health Care Financing
(608) 267-7127

Higher Educational Aids Board

Rule Submittal Date

On July 2, 2001, the Higher Educational Aids Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

These changes will affect ch. HEA 13, relating to the administration of the Teacher Education Loan Program.

Agency Procedure for Promulgation

A public hearing will be held on July 20, 2001.

Contact Information

Jim Buske, Higher Educational Aids Board
(608) 267-9865

Higher Educational Aids Board

Rule Submittal Date

On July 2, 2001, the Higher Educational Aids Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

These changes will affect ch. HEA 14, relating to the administration of the Teacher of the Visually Impaired Loan Program.

Agency Procedure for Promulgation

A public hearing will be held on July 20, 2001.

Contact Information

Jim Buske, Higher Educational Aids Board
(608) 267-9865

Insurance**Rule Submittal Date**

On June 22, 2001, the Office of the Commissioner of Insurance submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

These changes will affect chs. Ins 6, 26, and 28, relating to revising Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer model.

Agency Procedure for Promulgation

A public hearing will be held July 25, 2001.

Contact Information

A copy of the proposed rule may be obtained from the OCI internet Web site at:
<http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl at (608) 266-0110 in OCI Central Files. For additional information, please contact:
Robert Luck
(608) 266-0082 or
e-mail: Robert.Luck@oci.state.wi.us

Insurance**Rule Submittal Date**

On June 18, 2001, the Office of the Commissioner of Insurance submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

These changes will affect ch. Ins 6, relating to agent transactions with customers.

Agency Procedure for Promulgation

A public hearing will be held August 3, 2001.

Contact Information

A copy of the proposed rule may be obtained from the OCI internet Web site at:
<http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl at (608) 266-0110 in OCI Central Files. For additional information, please contact:
Stephen Mueller
(608) 267-2833 or
e-mail: Stephen.Mueller@oci.state.wi.us

Pharmacy Examining Board**Rule Submittal Date**

On June 27, 2001, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 961.11 (1) and (2), 961.15, 961.17 and 961.19, Stats.

The proposed rule-making order relates to the requirements for an approved central fill system.

Agency Procedure for Promulgation

A public hearing is required and will be held August 15, 2001 at 9:30 a.m. in Room 179A, 1400 East Washington Avenue, Madison, WI.

Contact Information

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

Public Instruction**Rule Submittal Date**

On June 12, 2001, the Department of Public Instruction submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. PI 16, relating to testing of pupils with limited-English proficiencies and disabilities.

Agency Procedure for Promulgation

Public hearings will be scheduled

Contact Information

If you have questions, please contact:
Barbara Bitters, Director,
Equity Mission
(608) 267-2276

Public Service Commission**Rule Submittal Date**

On June 29, 2001, the Public Service Commission submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule relates to municipal rights-of-way issues.

Agency Procedure for Promulgation

Public hearings will be held July 27, 2001.

Contact Information

If you have questions regarding the proposed rules, please contact:
Scot Cullen
Electric Division Assistant Administrator
(608) 267-9229

If you have questions regarding the Commission's internal processing of the proposed rules, please contact:

John Lorence
Assistant General Counsel
(608) 266-8128

Rule-making notices

Notice of Hearing

Administration

[CR 01-048]

NOTICE IS HEREBY GIVEN that pursuant to ss. 16.004 (1), 16.969 (2) and 227.11 (2) (a), Stats., and interpreting s. 16.969, Stats., the Department of Administration will hold a public hearing to consider the creation of Chapter Adm 46, Wis. Adm. Code, relating to High-Voltage Transmission Line Fees.

Hearing Date, Time and Location

Date: Monday, July 30, 2001
Time: 1:00 p.m.
Location: Room 136
 Administration Building
 101 East Wilson Street, 1st Floor
 Madison, WI 53702

The hearing is being held in an accessible facility. Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are also urged to submit facts, opinions and arguments in writing as well. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearings, should be directed to: Donna Sorenson, Department of Administration, P.O. Box 7864, Madison, WI 53707-7864. Written comments must be received by August 10, 2001, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Administration

Statutory authority: ss. 16.004 (1), 16.969 (2), and 227.11 (2) (a)

Statute interpreted: s. 16.969

Under 1999 Wisconsin Act 9, the Legislature required persons receiving a Certificate of Public Convenience and Necessity from the Public Service Commission for a high voltage transmission line designed for operation at a nominal voltage of 345 kilovolts or more, to pay to the Department of Administration an annual impact fee and a one time environmental impact fee. The Department of Administration is required to develop rules to collect those fees based on a statutory formula, and distribute them to the cities, towns, villages or counties as identified by the Public Service Commission, through which the high voltage transmission lines are routed. The distribution is allocated by the Public Service Commission according to the amount of investment associated with the high voltage transmission line to each such city, town, village and county. The rule will establish payment schedules and procedures as well as the means for distributing the fees collected to the appropriate county, town village or city.

Text of Rule

SECTION 1: Adm 46 is created to read.

Chapter Adm 46

High-Voltage Transmission Line Fee

Adm 46.01 Authority. Sections 16.004 (1), and 16.969 (2), Stats., authorize the department to promulgate rules for payment of annual and one-time environmental impact fees by persons issued a certificate for construction of high-voltage transmission lines.

Adm 46.02 Purpose. The purpose of this chapter is to establish a process for billing, collecting and distributing annual and one-time environmental impact fees to be paid to the department by persons issued a certificate by the commission for the construction of high voltage transmission lines.

Adm 46.03 Definitions. In this chapter:

- (1) "Certificate" means a certificate of public convenience and necessity issued under s. 196.491 (3) (a) Stats.
- (2) "Commission" means the public service commission.
- (3) "Department" means the department of administration.
- (4) "Eligible municipality" means a county, town, village or city through which a high-voltage transmission line is routed, as identified by the commission under s. 196.491 (3) (gm), Stats.
- (5) "High-voltage transmission line" has the meaning given in s. 16.969 (1) (b) Stats.
- (6) "Person" includes all individuals, partnerships, associations, limited liability companies and bodies politic or corporate.

Adm 46.04 Annual impact fee. (1) ASSESSMENT. (a) Within 60 days of receipt from the commission of the determination of the cost of construction for a high-voltage transmission line, identification of eligible municipalities, and allocation of the associated amount of investment, as required by s. 196.491 (3) (gm), Stats., the department shall invoice the annual impact fee to the person issued a certificate. The amount invoiced shall be equal to 0.3 % of the cost of the high-voltage transmission line as determined by the commission under s. 196.491 (3) (gm), Stats. The department shall prorate the annual impact fee in the initial year of assessment based upon the proportion of the year remaining after the date the certificate is issued.

(b) The department shall adjust any subsequent annual impact fees as necessary upon receipt from the commission of adjusted costs of construction after completion of the construction of a high-voltage transmission line.

(2) INITIAL YEAR INVOICE AND PAYMENT. In the initial year of assessment, the department shall invoice the person issued a certificate no more than 60 days after the commission transmits the required information to the department under sub. (1) (a). Payment of the fee in the initial year of assessment shall be due 45 days after the date the invoice was mailed by the department.

(3) SUBSEQUENT YEAR INVOICE AND PAYMENT. On or before March 1 in each calendar year after the initial year of assessment, the department shall invoice a person issued a certificate in an amount equal to 0.3 % of the cost of the high-voltage transmission line as determined by the commission under s. 196.491 (3) (gm), Stats. Payment of the

fee in subsequent years shall be due on or before May 1 of each year.

Adm 46.05 One-time environmental impact fee. A person issued a certificate shall pay a one-time environmental impact fee in the amount of 5 % of the cost of a high-voltage transmission line, as determined by the commission under s. 196.491 (3) (gm), Stats. The department shall invoice this fee no more than 60 days after the commission transmits the required information to the department under s. Adm 46.04. Payment of the fee shall be due 60 days after receipt of the invoice.

Adm 46.06 Distribution of fees. (1) ANNUAL IMPACT FEES. No more than 60 days after receipt of the fee under s. Adm 46.04, the department shall distribute the fee to each town, village and city that is an eligible municipality in proportion to the amount of investment allocated to each eligible municipality by the commission under s. 196.491 (3) (gm), Stats.

(2) ONE-TIME ENVIRONMENTAL IMPACT FEE. No more than 60 days after receipt of the fee under s. Adm 46.05, the department shall distribute 50 % of the fee to each county that is an eligible municipality, and 50% of the fee to each town, village and city that is an eligible municipality, in proportion to the amount of investment allocated to each by the commission under s. 196.491 (3) (gm) Stats.

Adm 46.07 Late payments. Annual impact fee payments received by the department more than 45 days after the date the invoice is mailed in the initial year of assessment, or after May 1 in subsequent years, shall be assessed interest at a rate, and in the same manner, as required by the commission for customer deposits for residential service as specified in s. PSC 113.0402 (9) (b).

Initial Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Fiscal Estimate

Under Adm 46, the Department of Administration (DOA) is responsible for billing, collecting and distributing annual and one-time environmental impact fees paid by persons issued a certificate by the Public Service Commission for the construction of high voltage transmission lines.

The annual cost to DOA depends on the number of new transmission lines each fiscal year and the number of communities those lines run through. DOA must process one invoice per transmission line per year and one compensation check per affected community per year. DOA estimates that there will be one new transmission line every three years and the number of communities affected will vary from one to fifteen or more per line. Although it is not possible to develop a concrete fiscal impact, DOA will experience additional work and, therefore, additional cost.

Contact Person

Donna Sorenson
Department of Administration
101 E. Wilson St., 10th Floor
P.O. Box 7864
Madison, WI 53707-7864
(608) 266-2887

Notice of Hearing

Agriculture, Trade and Consumer Protection

[CR 01-076]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a proposed rule to amend ch. ATCP 21, and to clarify statutory references in ch. ATCP 29, Wis. Adm. Code, related to plant inspection and pest control. The department will hold one hearing at the time and place shown below. The department invites the public to attend the hearing and comment on the proposed rule. Following the public hearing, the hearing record will remain open until August 24, 2001 for additional written comments.

You may obtain a free copy of this rule by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911, or by calling (608) 224-4574. Copies will also be available at the hearing.

Hearing impaired persons may request an interpreter for this hearing. Please make reservations for a hearing interpreter by **August 7, 2001** by writing to Paula Noel, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, (608) 224-4574. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearing.

Hearing Date, Time and Location

Tuesday, August 21, 2001 – 1:00 until 4:00 p.m.
Dept. of Agriculture, Trade and Consumer Protection
Board Room
2811 Agriculture Drive
Madison, WI 53704
Handicapped accessible

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

Statutory Authority: ss. 93.07 (1) and (12), 94.01 (1)

Statutes Interpreted: ss. 93.07 (12) and (13), 94.01, 94.76 (1) to (4)

This rule repeals current import controls designed to prevent the spread of Japanese beetles into this state. Despite the current import controls, Wisconsin is now infested with Japanese beetle. The current import controls therefore serve no purpose, and may unnecessarily impede interstate commerce. This rule also updates scientific terminology and statutory references in current rules.

Background

Japanese Beetle; Repeal of Import Controls

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers plant pest control rules under ch. ATCP 21, Wis. Adm. Code. Current rules include import controls designed to prevent the spread of Japanese beetles into Wisconsin. Persons who import certain plants, soil and other materials from areas infested with Japanese beetles must have those materials inspected and certified by a pest control official in the state or province of origin. The inspector must certify that the import shipment is free of Japanese beetle. The importer must pay for the inspection and certification.

Despite these import controls, the Japanese beetle has now infested Wisconsin and over half of all U.S. states. Because

Wisconsin is now infested, its current import controls may serve no useful purpose and may unnecessarily impede interstate commerce. Wisconsin's current import restrictions are not consistent with the U.S. Domestic Japanese Beetle Harmonization Plan adopted by the National Plant Board. That plan recommends regulation of imports to states that are not yet infested, but does *not* recommend regulation of imports to states (like Wisconsin) that are already infested.

Taxonomic Name Change

DATCP currently regulates honeybee shipments, under ch. ATCP 21, Wis. Adm. Code, to prevent the spread of honeybee pests in this state. Two of these pests have undergone taxonomic name changes.

State Pest Control Programs

Current DATCP rules under ch. ATCP 29, Wis. Adm. Code, regulate the use of pesticides in this state. DATCP and its agents are currently exempt from these rules when engaged in state pest control programs under s. 94.02, Stats. or ch. ATCP 21, Wis. Adm. Code.

Rule Contents

Japanese Beetle; Repeal of Import Controls

Consistent with the national harmonization plan, this rule repeals current Japanese beetle inspection and certification requirements for materials imported into Wisconsin. This repeal will not affect the natural spread of the Japanese beetle in Wisconsin. DATCP will continue to inspect and certify export shipments from Wisconsin to non-infested states that require such inspection and certification.

Taxonomic Name Change

The International Committee on Systematic Bacteriology (1993) has changed the scientific name of the pathogen, American foulbrood. The scientific journal, *Experimental and Applied Acarology* (2000), has changed the scientific name of the Varroa mite. This rule updates those pests names. The name changes will not change the regulation of honeybee shipments.

State Pest Control Programs

This rule clarifies in ATCP 29, Wis. Adm. Code, that DATCP and its agents are exempt when engaged in state pest control programs under s. 94.01, Stats.

Fiscal Estimate

This rule will have no fiscal impact on the department or other units of government. These rule changes eliminate the current Japanese beetle import restrictions. Wisconsin has become infested despite the import restrictions. Therefore, the rule no longer serves a useful purpose. The department currently inspects and certifies Wisconsin nurseries in infested areas, to facilitate export of items that may transport Japanese beetle. This practice of certification to permit Wisconsin nurseries to export to uninfested states will continue. There are no additional costs to local government.

Initial Regulatory Flexibility Analysis

Plant Inspection and Pest Control

The Department of Agriculture, Trade and Consumer Protection currently regulates the import of plants, soil and other materials for the presence of Japanese beetle under ch. 94, Stats. and s. ATCP 21.11, Wis. Adm. Code. Despite these import controls, Wisconsin is now infested with Japanese beetle, making continued import control meaningless. Under

the present rule, the costs for inspection and certification are born by the out-of-state business. In an unknown number of cases, the costs of these controls may have been passed through to nurseries in Wisconsin, most of which are small businesses.

The proposed rule changes repeal the import controls on Japanese beetle and will have no impact on nurseries in Wisconsin except as far as they will no longer be subject to any pass-through on inspection and certification costs. The repeal of the import controls on Japanese beetle have no reporting, recordkeeping or procedural impacts on the conduct of the Wisconsin nursery businesses.

Taxonomic Name Change and State Pest Control Programs

The proposed changes to scientific names of two honeybee pests and the clarification of the department's exemptions from its own rules on pesticide applications in particular situations will have no impact on small businesses in Wisconsin.

Small Businesses Affected by this Rule

This rule will have little or no effect on nurseries in Wisconsin, most of which are small businesses. Under current rules, out-of-state businesses shipping into Wisconsin have incurred costs for Japanese beetle inspection and certification. This rule eliminates those costs. To the extent that out-of-state importers passed on the costs to nurseries receiving import shipments in Wisconsin, this rule will decrease costs to Wisconsin nurseries.

Notice of Hearing Controlled Substances Board [CR 01-071]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Controlled Substances Board in ss. 961.11 (1) and (2), 961.15, 961.17 and 961.19, Stats., and interpreting s. ss. 961.16, 961.18 and 961.20, Stats., the Controlled Substances Board will hold a public hearing at the time and place indicated below to consider an order to create s. CSB 2.26, relating to the scheduling of Dihydroetorphine under ch. 961, Stats., the Uniform Controlled Substances Act.

Hearing Date, Time and Location

Date: **August 1, 2001**
Time: 9:30 a.m.
Location: 1400 East Washington Avenue
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 15, 2001, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 961.11 (1) and (2), 961.15, 961.17 and 961.19

Statutes interpreted: ss. 961.16, 961.18 and 961.20

By final rule of the Drug Enforcement Administration (DEA), adopted effective November 17, 2000,

Dihydroetorphine was classified as a schedule II controlled substance under the federal Controlled Substances Act (CSA). Dihydroetorphine has not been so scheduled under the Wisconsin Controlled Substances Act in Chapter 961, Stats. The objective of the rules is to bring the treatment of these drugs into conformity with that at the federal level.

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

Text of Rule

SECTION 1. CSB 2.26 is created to read:

CSB 2.26 Addition of dihydroetorphine to schedule II. (1) Section 961.16 (2) (a) 4r., Stats., is created to read:

Section 961.16 (2) (a) 4r. Dihydroetorphine.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearing

Financial Institutions – Securities

NOTICE IS HEREBY GIVEN that pursuant to sections 551.63 (1) and (2), 551.23 (8) (f), 551.23 (18) and 551.53 (1) (b), Stats., the Division of Securities of the Department of Financial Institutions will hold a public hearing at 345 West Washington Avenue, 4th Floor Conference Room, at **10:00 a.m. on Thursday, August 23, 2001** to consider the adoption and amendment of rules under the Wisconsin Uniform Securities Law relating to certain securities registration exemptions involving capital formation by businesses.

Written comments in lieu of public hearing testimony may be submitted which must be received no later than the hearing

date and should be addressed to the Administrator of the Division of Securities, 345 West Washington Avenue, PO Box 1768, Madison Wisconsin, 53701.

Statutory authority: 551.63 (1) and (2), 551.23 (8) (f), 551.23 (18) and 551.53 (1) (b)

Statutes interpreted: 551.23 (8) (f), 551.23 (18) and 551.53 (1) (b)

Analysis prepared by the Division of Securities

The rulemaking procedures under Chapter 227 of the Wisconsin Statutes are being implemented to propose for adoption a package of securities registration exemption rule provisions (and a related advertising filing exclusion) for use by businesses in raising investment capital. The registration exemption rule proposals are part of a series of recommendations stemming from the February 28, 2001 Governor’s Summit on Venture Capital which focused on ways to develop equity capital for businesses. Additional Securities Law–related capital formation proposals stemming from the Summit will be contained in statutory revisions to the securities registration exemptions in ss. 551.23 (8) (g), 551.23 (10) and 551.23 (11) of the Wisconsin Uniform Securities Law to be considered by the Wisconsin legislature during the 2001–2002 Session.

The proposed capital formation subject matter rules, together with a related advertising filing exemption rule, are set forth in four Sections that do the following:

1. Create a new securities transaction registration exemption rule in s. DFI–Sec 2.02 (9) (n) pursuant to the authority under s. 551.23 (18), Stats., based upon the Model Accredited Investor Exemption developed by the North American Securities Administrators Association (“NASAA”) that was adopted on April 27, 1997 by vote of the NASAA membership, including Wisconsin. To date, securities registration exemptions based on the Model Accredited Investor Exemption have been enacted in rule or statute form by a total of 26 states.

2. Increase to \$5 million (from the current \$1 million) the maximum offering amount that can be raised from investors under the existing Wisconsin–Issuer–Registration–Exemption–by–Filing provision in s. DFI–Sec 2.028 (4) under the exemption authority granted in s. 551.23 (18), Stats.

3. Expand the definition of “venture capital company” in s. DFI–Sec 2.02 (4) (a) 3.b. for purposes of the so–called “institutional investor” rule under s. 551.23 (8) (f), Stats., to include a limited liability company (which definition currently is limited to entities organized as corporations, partnerships or associations).

4. Add to the list in s. DFI–Sec 7.02 (1) (b) of exemptions from the advertising filing requirements of sec. 551.53 (1) (b), Wis. Stats., the disclosure and advertising materials separately filed by businesses and other issuers with the Division to claim use of the new proposed registration exemption in s. DFI–Sec 2.02 (9) (n) based on the NASAA Model Accredited Investor Exemption.

Each section that adopts or amends a rule is followed by a separate analysis which discusses the nature of the revision as well as the reason for it.

A copy of the entirety of the proposed rule revisions to be considered may be obtained upon request to the Division of Securities, Department of Financial Institutions, 345 West Washington Avenue, 4th Floor, P.O. Box 1768, Madison, Wisconsin 53701.

Fiscal Estimate

A summary of the fiscal effects of the proposed rule revisions is as follows: (i) No one-time revenue fluctuations; (ii) Estimated annual fiscal effects are an increase in securities registration exemption fee revenue of \$2400 per year; (iii) No long-range fiscal implications; (iv) No fiscal effect on local units of government.

Initial Regulatory Flexibility Analysis

1. Types of small businesses that could be affected by the rule revisions are:

Any small business looking to raise capital in a securities offering utilizing the new proposed registration exemption in s. DFI-Sec 2.02 (9) (n) based on the NASAA Model Accredited Investor Exemption.

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

Any small business seeking to raise capital in a securities offering utilizing the new proposed registration exemption in s. DFI-Sec 2.02 (9) (n) would need to make the required filing with the Division containing the necessary information and meeting the requirements set forth in the rule.

Contact Person

A copy of the full text of the proposed rule revisions and fiscal estimate may be obtained from:

Randall E. Schumann (608) 266-3414
Legal Counsel for the Division of Securities
Department of Financial Institutions
345 West Washington Avenue, 4th Floor
P. O. Box 1768
Madison, WI 53701

Notice of Hearing

Financial Institutions – Securities

NOTICE IS HEREBY GIVEN that pursuant to sections 551.63 (1) and (2), 551.29 (1) (c), 551.32 (4) and (7), 551.33 (1), (2) and (6), and 551.52 (3), Wis. Stats., the Division of Securities of the Department of Financial Institutions will hold a public hearing at 345 West Washington Avenue, 4th Floor Conference Room, at **10:00 a.m. on Thursday, August 23, 2001** to consider the adoption, amendment and repeal of rules in connection with its annual review of the administrative rules of the Division of Securities relating to the operation of Chapter 551, Stats., the Wisconsin Uniform Securities Law.

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

Statutory Authority: 551.63 (1) and (2), 551.29 (1) (c), 551.32 (4) and (7), 551.33 (1), (2) and (6), and 551.52 (3)

Statutes Interpreted: 551.29 (1) (c), 551.32 (4) and (7), 551.33 (1), (2) and (6), and 551.52 (3)

Analysis prepared by the Division of Securities

The rulemaking procedures under Chapter 227 of the Wisconsin Statutes are being implemented for the purpose of effectuating the Division's annual review of the Rules of the Division of Securities. The Division's annual rule revision process for 2001 is conducted for the following purposes: (1)

adopting new rules or amending existing rules applicable to the securities broker-dealer, agent, investment adviser, and investment adviser representative licensing provisions relating to certain limited agent examinations, designated supervisor requirements, and the filing of certain branch office information, to thereby effectively regulate new or changed securities licensing developments that have occurred in the securities industry and marketplace that require regulatory treatment; and (2) making modifications to certain existing federal covered security provisions to be consistent with federal securities law requirements.

Proposed revisions are being made in a total of 9 different Sections. A summary of the subject matter and nature of the more significant of the rule revisions follows:

1. Adding a new rule subsection under s. DFI-Sec 4.01 (3) providing for a new, additional type of limited securities agent examination recently adopted by the National Association of Securities Dealers (required as a result of mandated provisions in the federal Gramm-Leach-Bliley Banking Reform Act of 1999 for bank employees engaged in selling private placement securities offerings).

2. Clarifying and extending the filing deadline requirement under existing rules s. DFI-Sec 4.04 (8) (a) and 5.04 (5) (a) for broker-dealers and investment advisers to report to the Division regarding the opening or change of address of any branch office location in Wisconsin.

3. Repealing both the licensing requirement in s. DFI-Sec 4.05 (6) that every broker-dealer must appoint a designated supervisor, and the related examination requirement in DFI-Sec 4.01 (5).

4. Adding a new rule subsection under the existing Federal Covered Security rules in s. DFI-Sec 2.04 (1) to deal with filings seeking extension of the effectiveness period of notice filings previously made with the Division by unit investment trusts or closed-end investment companies.

Each section that adopts, amends or repeals a rule is followed by a separate analysis which discusses the nature of the revision as well as the reason for it.

A copy of the entirety of the proposed rule revisions to be considered may be obtained upon request to the Division of Securities, Department of Financial Institutions, 345 West Washington Avenue, 4th Floor, P.O. Box 1768, Madison, Wisconsin 53701.

Fiscal Estimate Summary

A summary of the fiscal effects of the proposed rule revisions is as follows: (i) No one-time revenue fluctuations; (ii) an estimated annual reduction of federal covered security notice filing fee revenue of \$9900 per year; (iii) No long-range fiscal implications; (iv) No fiscal effect on local units of government.

Initial Regulatory Flexibility Analysis

1. Types of small businesses that could be affected by certain of the rule revisions are:

Broker-dealer and investment adviser licensees under the Wisconsin Uniform Securities Law with fewer than 25 full-time employees who meet the other criteria of s. 227.114 (1) (a), Stats. The proposed revisions to the securities broker-dealer and investment adviser recordkeeping and rule of conduct provisions are applicable equally to all broker-dealers and investment advisers because the

requirements involved are for the protection and benefit of Wisconsin customers of those firms. All Wisconsin customers of securities broker–dealers and investment advisers are entitled to the public investor protection benefits of the licensing recordkeeping and rule of conduct requirements, irrespective of the size of the firm providing the securities services. Under the rule revision procedure of the Division of Securities, a copy of the proposed rule revisions is mailed to each broker–dealer licensed in Wisconsin, as well as to each investment adviser licensed or notice–filed in Wisconsin, notifying them of the proposed revisions and soliciting written comments or attendance at the public hearing regarding the proposed rules

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

No reporting, bookkeeping, or other procedures applicable to broker–dealers or investment advisers were added in this rulemaking package. Rather, several existing broker–dealer and investment adviser requirements were either repealed or relaxed in the following respects: (i) filing deadlines for broker–dealers and investment advisers to report branch office openings and changes of address were extended; and (ii) the licensing requirement that every broker–dealer must appoint a designated supervisor was repealed, together with the related examination requirement.

Contact Person

A copy of the full text of the proposed rule revisions and fiscal estimate may be obtained from:

Randall E. Schumann (608) 266–3414
Legal Counsel for the Division of Securities
Department of Financial Institutions
345 West Washington Avenue, 4th Floor
P. O. Box 1768
Madison, WI 53701

Notice of Hearing

Health & Family Services

(Health, ch. HFS 110–)

[CR 01–073]

NOTICE IS HEREBY GIVEN that, pursuant to s. 149.143 (2) (a) 2., 3., and 4. and (3), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of ss. HFS 119.07 (6) (b) (intro) and health care premium tables and 119.15, Wis. Adm. Code, relating to operation of the Health Insurance Risk–Sharing Plan (HIRSP), and the emergency administrative rules taking effect on the same subject on July 1, 2001.

Date & Time

July 31, 2001

Tuesday

Location

Conference Room 638 A

State Office Building

1:00 p.m.

1 West Wilson Street

Madison WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk–Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty–six percent of the 10,790 HIRSP policies in effect in March 2001 were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The average premium rate increase for Plan 1 contained in these updated HIRSP rules is 3.4%. Rate increases for specific policyholders range from 0.0% to 4.9%, depending on a policyholder’s age, gender, household income, deductible and zone of residence within Wisconsin. According to state law, HIRSP premiums must fund 60% of plan costs and cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market.

A second type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Fourteen percent of the 10,790 HIRSP policies in effect in March 2001 were of the Plan 2 type. The average premium rate increase for Plan 2 contained in these updated HIRSP rules is 3.4%. Rate increases for specific policyholders range from 0.0% to 4.9%, depending on a policyholder’s age, gender, household income, deductible and zone of residence within Wisconsin. These respective rate increases for Plan 1 and Plan 2 reflect industry–wide cost increases and adjust premiums to a level that more accurately reflects actual claim costs.

The department through these rules is amending two sections of the HIRSP program administrative rules:

1. The rules are updating HIRSP premium rates in ch. HFS 119 in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule. Rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP. The HIRSP premium rate tables in ch. HFS 119 are updated in accordance with these principles and requirements for the time–period beginning July 1, 2001.

2. The rules are also updating the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department of Health and Family Services approved a methodology that reconciles HIRSP program costs, policyholder premiums, insurance assessments and collected health care provider contributions for the most recent calendar year. The adjustments to the insurer assessments and the provider payment rates, contained in the updated HIRSP administrative rules for the time–period beginning July 1, 2001, are the result of this reconciliation process for calendar year 2000.

Identical HIRSP emergency rules will be published to take effect on July 1, 2001.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write or phone:

Randy McElhose

Division of Health Care Financing

P.O. Box 309, Room B274

Madison, WI 53701–0309

(608) 267-7127 or, if you are hearing impaired, (608) 266-1511 (TTY)

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

Written comments on the proposed rule received at the above address no later than August 7, 2001 will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

These rules update HIRSP policyholder premium rates effective July 1, 2001. They also update HIRSP insurer assessments and provider payment rates for the 12-month period beginning July 1, 2001. These updates are being performed to reflect changing HIRSP costs, and in accordance with a statute-specified methodology, in order to offset program costs. Annual fiscal updates to the HIRSP rules generally take effect in July each year. The fiscal updates contained in these rules were developed by an independent actuarial firm and reviewed and approved by the HIRSP Board of Governors. By law, the Board is a diverse body composed of consumers, insurers, health care providers, small business and other affected parties.

It is estimated that the proposed changes will increase HIRSP program revenues by \$21,016,500 in State Fiscal Year 2002, compared to State Fiscal Year 2001. This amount is the combined result of an increase of \$9,719,414 in insurer assessments, an increased adjustment (levy) of \$9,862,542 regarding provider payments, and an increase of \$1,434,544 in policyholder premiums. This increase in HIRSP program revenue is expected to pay for a corresponding increase in HIRSP program expenditures for the payment of services, provided in State Fiscal Year 2002. As a result, the net fiscal effect is projected to be zero. These rule changes will not, by themselves, affect the expenditures or revenues of local government. There is no local government involvement in the administration of HIRSP.

Initial Regulatory Flexibility Analysis

The rule changes will affect HIRSP policyholders, the Department of Health and Family Services and the Department's fiscal agent. The rule changes will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. Although the program statutes and rules provide for assessment of insurers to help finance HIRSP, no assessed insurer is a small business as defined in s. 227.114 (1) (a), Stats. Moreover, s. 149.143, Stats., prescribes how the amount of an insurer's assessment to help finance HIRSP is to be determined and, similarly, how the health care provider payment rate is to be calculated.

Notice of Hearing

Higher Educational Aids Board

[CR 01-078]

NOTICE IS HEREBY GIVEN That pursuant to s. 39.395, Stats, the Higher Educational Aids Board will hold a public hearing to consider the creation of ch. HEA 13, Wis. Adm. Code, relating to the administration of the Teacher Education Loan Program.

The Public Hearing will be held:

Date and Time	Location
July 20, 2001 9:00 a.m. to 9:30 a.m.	Senate Hearing Room #201SE State Capitol Madison, Wisconsin

The hearing is fully accessible to people with disabilities.

Analysis Prepared by the Higher Educational Aids Board

The 1997 Wisconsin Act 27 created s. 39.395, which provides for loans to Wisconsin residents enrolled in the teacher education program of the Milwaukee Teacher Education Center (MTEC). The Wisconsin Higher Educational Aids Board (HEAB) administers this program under s. 39.395. These would be the final administrative rules for this program. The student who receives the award must agree to teach in the Wisconsin school district operating under Chapter 119 of the Wisconsin State Statutes, First Class School System. For each year the student teaches in an eligible school district, 50% of the loan is forgiven. If the student does not teach in an eligible district, the loan must be repaid at an interest rate of 5%. There are provisions for a maximum and minimum award amount, an application process, loan forgiveness, terms of repayment, and deferment of loan repayment for borrowers. The proposed administrative rules will not affect expenditures of State funds for the Teacher Education Loan Program.

Statutory Authority

Section 39.395, Stats.

Fiscal Estimate

The proposed rules cause no alterations in the present allocation of funds so there is no fiscal impact.

Contact Person

To find out more about the hearing or request copies of the proposed rules, write, call or e-mail:

Jim Buske
Higher Educational Aids Board
131 West Wilson Street, P.O. Box 7885
Madison, WI 53707-7885
608) 267-9865
james.buske@heab.state.wi.us

Written Comments on the proposed rules received at the above address no later than July 13, 2001 will be given the same consideration as testimony present at the hearing.

Initial Regulatory Flexibility Analysis

The proposed rules concern a student financial aid program and have no affect upon small business in Wisconsin.

Notice of Hearing

Higher Educational Aids Board

[CR 01-079]

NOTICE IS HEREBY GIVEN That pursuant to s. 20.005, Stats, the Higher Educational Aids Board will hold a public hearing to consider the creation of ch. HEA 14, Wis. Adm. Code, relating to the administration of the Teacher of the Visually Impaired Loan Program.

The Public Hearing will be held:

Date and Time	Location
July 20, 2001 9:00 a.m. to 9:30 a.m.	Senate Hearing Room #201SE State Capitol Madison, Wisconsin

The hearing is fully accessible to people with disabilities.

Analysis Prepared by the Higher Educational Aids Board

The 1997 Wisconsin Act 27 created s. 20.005, which provides for loans to Wisconsin residents enrolled in an in-state or eligible out-of-state institution in a program that prepares them to be licensed as teachers of the visually impaired or orientation and mobility instructors. The Wisconsin Higher Educational Aids Board administers this program under s. 20.005. These would be the final administrative rules for this program. The student who receives the award must agree to be a licensed teacher of the visually impaired or an orientation and mobility instructor in a designated school or school district. For each of the first two years the student teaches and meets the eligibility criteria 25% of the loan is forgiven. For the third year, 50% is forgiven. If the student does not teach and/or meet the eligibility criteria, the loan must be repaid. There are provisions for an application process, loan forgiveness, terms or repayment and deferment of loan repayment. The proposed administrative rules will not affect expenditures of State funds for the Teacher of the Visually Impaired Loan Program.

Statutory Authority

Section 20.005, Stats.

Fiscal Estimate

The proposed rules cause no alterations in the present allocation of funds so there is no fiscal impact.

Contact Person

To find out more about the hearing or request copies of the proposed rules, write, call or e-mail:

Jim Buske

Higher Educational Aids Board

131 West Wilson Street, P.O. Box 7885

Madison, WI 53707-7885

(608) 267-9865

james.buske@heab.state.wi.us

Written Comments on the proposed rules received at the above address no later than July 13, 2001 will be given the same consideration as testimony present at the hearing.

Initial Regulatory Flexibility Analysis

The proposed rules concern a student financial aid program and have no affect upon small business in Wisconsin.

Notice of Hearing Commissioner of Insurance [CR 01-074]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting s. Ins 6.59, relating to revising Wisconsin agent licensing rules to be reciprocal and more uniform under Gramm Leach Bliley Act and the NAIC Producer model.

Hearing Date, Time and Location

Date: **July 25, 2001**

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

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

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI

within 14 days following the date of the hearing. Written comments should be addressed to: Robert Luck, OCI, PO Box 7873, Madison WI 53707

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 601.41 (3), 628.02 to 628.11, 628.40 and 628.34 (12), Stats.

Statutes interpreted: ss. 628.02 to 628.11 and 628.40, Stats.

Under the recently enacted federal Gramm Leach Bliley Act (the "GLBA"), Wisconsin and other states must become reciprocal or uniform. These changes would accomplish reciprocity.

The changes would also attempt to make insurance producer licensing more uniform and simplify multi-state licensing. If Wisconsin and at least 27 other states do not enact "reciprocal" or "uniform" rules regarding licensing, a federal licensing body similar to the "NASD" would be created to take over insurance agent licensing functions from the states. The National Association of Insurance Commissioners (the "NAIC") model Producer Act was developed by state insurance regulatory bodies to accomplish this and this rule adopts many provisions of the NAIC model. New limited lines licenses are created for rental car insurance and legal expense insurance. Certain modifications in the licensing procedures are required by new agent licensing software purchased and currently being installed by OCI. The following analysis discusses the specific changes.

The lines of intermediary licenses issued by Wisconsin have been changed to reflect the lines required for reciprocity and 2 new limited lines. Reciprocity requires Wisconsin to issue licenses for the same authority which a non resident applicant has in their home state. The NAIC model sets out the major lines required including the new "personal lines" license and this rule change conforms Wisconsin to these. In addition, to deal with the various limited line licenses issued by other states, the rules creates a Miscellaneous Limited line which grants the nonresident agent only the authority which the resident state granted under its limited line license.

New software purchased by OCI requires that insurers appoint agents by line of authority so that a cross check can be made to insure that both the agent and the insurer hold the authorities being requested. These revisions do not change the amount of fees required to be paid. Insurers will be billed for each appointment submitted for an agent. An additional appointment may have to be submitted if the insurer doesn't not specify all lines of authority in the initial appointment or the agent later is granted additional authority and thus the insurer would need to add this new authority with an additional appointment. Currently, this additional authority is granted without additional fees, but new software purchased for agent licensing will not accommodate this. The current term, "listing," used for these "appointments" is changed to conform to the description used by most other states. The effective date of the appointment is made to be 15 prior to the date it is entered on the OCI system to conform to the NAIC model. Also, in conformance with the NAIC model, insurers must appoint agents when they contract with the intermediary or when they receive an application from the intermediary.

The NAIC model changes the information that OCI currently collects regarding possible problems encountered by insurers with agents. The model only requires insurers to categorize terminations as "Not for Cause" or "For Cause." This change adopts that procedure but still requires insurers to inform OCI in writing of the same possible problems encountered by the insurer as currently reported.

OCI licenses intermediary corporations or other “unnatural” persons on a voluntary basis but requires the licensing of all individuals in the firm who solicit insurance. (This corporate licensing is done primarily so that Wisconsin firms can get licensed in other states which require licensing in the corporation’s resident state.) This rule broadens the definition of what entities can receive a “firm” license to conform to the NAIC model.

The GLBA requires that states accept either the NAIC model nonresident application (which OCI has done for many years) or the application that the nonresident originally submitted to their resident state. This rule conforms Wisconsin to this requirement. Specific NAIC standards for denial of licensure and defining “for cause” terminations by insurers are incorporated. A licensing requirement that an applicant is over age 18 is also added.

The definitions of some terms used to define when a license is required and exemptions to licensing are defined using the same language as the NAIC model. The exemptions to licensing in the model are very similar to the current exemptions contained in s. 628.02, Stats.

The reporting requirements of agents to inform OCI of administrative actions, criminal proceedings and lawsuits against the agent involving misrepresentation, fraud, theft etc., are conformed to the NAIC model and clarified to more clearly define the actions to be reported and what information must be submitted.

Since a new major line of authority called “Personal Lines” has been created in the NAIC model, preclicensing educational requirements are defined for this line. The continuing education requirements are defined for all the new major and limited lines of insurance created. Two new self study courses are listed as being recognized for continuing education. The requirements for crediting continuing education for courses taken to maintain an identified designation are clarified to allow this only for individuals who currently hold that designation.

Initial Regulatory Flexibility Analysis

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

Fiscal Estimate

There will be no state or local government fiscal effect.

Contact Person

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

Patrick Bass, Services Section, Office of the Commissioner of Insurance, at (608) 266-0110 or at 121 East Wilson Street, PO Box 7873, Madison WI 53707-7873.

Notice of Hearing **Commissioner of Insurance** **[CR 01-072]**

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting s. Ins 6.60, relating to agent transactions with customers.

Hearing Information

Date: **August 3, 2001**

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

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

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

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 227.11 (2) (a) & (c), 600.01 (2), 601.41 (3), 601.42, 628.34 (12), Stats.

Statutes interpreted: ss. 600.01, 618.39 (1), 628.04 (1), 628.10 (2) (b), 628.34 (12), Stats.

In general insurance agents occupy a position of trust and credibility with their customers. Customers permit these agents to enter their homes and to acquire financial and other personal information. Most agents merit this trust and respect the responsibility it engenders. Unfortunately a few agents abuse this confidence and engage in non-insurance transactions with customers that are not in the customer’s best interest.

There are recent examples of this type of abuse:

1. Out of state promoters of illegal “corporate promissory note” programs have specifically recruited insurance agents (most not licensed as securities agents) to illegally market millions of dollars in illiquid unregistered securities to their customers in Wisconsin. These programs resulted in devastating financial loss to Wisconsin citizens who placed their trust in the agents partly due to their credibility as licensed insurance agents.

2. Several insurance agents have sold investments in viatical settlements to their customers for commissions without exploring or understanding the risks and securities law implications of these sales.

3. Several agents borrowed money from customers or encouraged customers to invest in businesses controlled by the agents. Often the funds loaned or invested are derived from life insurance settlements or liquidated annuities.

Wisconsin and federal securities law prohibits certain personal financial transactions with customers by securities agents as “dishonest or unethical business practices” or “taking unfair advantage of a customer”. This conduct includes borrowing from a customer and acting as custodian for money or securities of a customer. Securities agents are required to disclose all securities transactions to their employing broker-dealers and obtain the broker-dealer’s written authorization for any “off the books” transactions. Some insurers also prohibit their listed insurance agents from borrowing from customers. The proposed rule incorporates normal standards of ethical behavior that prudent agents practice and their customers deserve and expect. This rule does not place an unnecessary burden on the legitimate business of insurance.

Section 628.10 (2) (b) Stats. allows the commissioner to “...revoke, suspend,...the license of any intermediary if the commissioner finds that the licensee is unqualified as an intermediary, is not of good character or has repeatedly or knowingly violated an insurance statute or rule... of the commissioner... , or if the intermediary’s methods and practices in the conduct of business endanger, or financial resources are inadequate to safeguard, the legitimate interests of customers and the public...”. The proposed rule will specifically prohibit conduct that falls within the

proscriptions of this statute without limiting the types of conduct that constitute grounds for license sanction. The rule will assist agents and others to determine when conduct with customers is prohibited and places an agent's insurance license at risk.

The rule defines personal financial transactions and prohibits agents from engaging in such transactions with persons with whom they have conducted insurance business within 3 years prior to the transaction. Transactions with relatives and bona fide business transactions with customers are allowed as long as there are sufficient safeguards to protect the customer's interests. The rule incorporates violations of state and federal securities and other related laws and prohibits misleading statements regarding an agent's training and qualifications.

This proposed rule incorporates specific guidelines concerning insurance agents who engage in sales of illegal multiple employer welfare trusts and other forms of group health insurance by unauthorized insurers. Typically conducted under the false guise of being "ERISA" or federally-governed and thus exempt from state regulation these plans frequently are self-funded and fail, leaving unpaid claims and lost premiums. OCI has held agents who participate in these programs to strict standards of accountability. This rule codifies the position of OCI that agents may not escape responsibility by citing their reliance on the pronouncements of the promoters that the program is "exempt from state regulation" under ERISA. This strict standard is in keeping with the professional standards that everyone expects from their insurance professionals. This rule makes it clear that an agent who participates in sales of these illegal plans commits an unfair trade practice in violation of s. 628.34 (12) Stats. and violates s. 618.39 Stats. by assisting an unauthorized insurer.

Section 628.34 Stats. defines and prohibits unfair marketing (trade) practices. Sub. (11) prohibits "other unfair trade practices" including "any other unfair or deceptive act or practice in the business of insurance, as defined in sub. (12)." Sub. (12) allows the commissioner to define additional "specific unfair trade practices by rule, after a finding that they are misleading, deceptive, unfairly discriminatory, provide an unfair inducement, or restrain competition unreasonably." This is the statutory authority for the proposed rule. While the conduct proscribed by this rule may involve misrepresentation or unfair inducement as described in sections 628.34 (1) & (2) Stats. it also constitutes unfair trade practices and unfair or deceptive acts or practices in the business of insurance within the meaning of s. 628.34 (11) Stats. The Commissioner finds that the conduct prohibited by this rule is misleading, deceptive, unfairly discriminatory, provides an unfair inducement and restrains competition unreasonably within the meaning of s. 628.34 (12) Stats. and finds further that sales of unauthorized insurance as ERISA-exempt in violation of s. 618.39 Stats. are harmful to the public and that agents who become involved in the marketing or placement of these plans must be held strictly accountable for their actions.

Initial Regulatory Flexibility Analysis

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

Fiscal Estimate

There will be no state or local government fiscal effect.

Contact Person

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Inger Williams, Services Section, Office of the Commissioner of Insurance, at (608) 266-0110 or at 121 East Wilson Street, PO Box 7873, Madison WI 53707-7873.

Notice of Hearing Public Service Commission [CR 01-077]

NOTICE IS GIVEN that pursuant to s. 227.16 (2) (b), Stats., a hearing will be held on **Friday, July 27, 2001, at 9:00 a.m.** in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, to consider the creation of ch. PSC 130, Wis. Adm. Code, relating to municipal rights-of-way issues before the Commission.

This building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the docket coordinator listed below.

Written Comments

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **Friday, July 20, 2001, at noon (Thursday, July 19, 2001, at noon, if filed by fax)**. All written comments must include a reference on the filing to docket 1-AC-188. **File by one mode only.**

If filing by mail, courier, or hand delivery: Address as shown in the box. Industry parties should submit **an original and 15 copies**. Members of the general public need **only file an original**.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet MUST state "**Official Filing**," the docket number (1-AC-188), and the number of pages (limited to 20 pages for fax comments).

Hearing Date:	Friday, July 27, 2001 at 9:00 a.m.
Hearing Location:	Public Service Commission 610 North Whitney Way Madison, WI

Comments Due: Friday July 20, 2001 – Noon	Address comments to: Lynda L. Dorr Secretary to the Commission Public Service Commission P.O. Box 7854 Madison, WI 53707-7854 FAX (608) 266-3957
FAX Due: Thursday July 19, 2001 – Noon	

Analysis prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02 (3) and 227.11 (2)

Statutes interpreted: ss. 196.499 (14) and 196.58 (4)

Upon complaint, the Commission has authority to determine the reasonableness of an ordinance, contract or resolution (ordinance) promulgated by a municipality that regulates the location of utility facilities in municipal rights-of-way (ROW). This rule creates several criteria the Commission will apply when considering a complaint involving utility access to and use of ROW within a municipality. These include the following:

Under the rules, the Commission will consider an ordinance to be unreasonable if it unduly discriminates between utilities seeking access to municipal ROW or if it denies a utility access to ROW without good cause.

The rules recognize that a municipality may require a utility to pay the actual cost of functions undertaken by a municipality to manage utility access to ROW, and identifies specific costs that may be collected through a pre-excavation permit fee.

The rules specify that it is unreasonable for a municipality to require a utility to install underground a 100 kilovolt or greater electric transmission line at the utility's expense, but such a requirement would be reasonable if the municipality or a third party agrees to pay the difference in construction costs between overhead and underground installation.

Similarly, it is unreasonable for a municipality to require special construction conditions to be followed at the utility's expense unless there is an adequate health or safety justification. Aesthetics alone is not a reasonable basis for requiring underground construction. Special construction conditions would be reasonable if the municipality or a third party agrees to pay the difference in construction costs between the standard and special construction conditions.

Under the rules it is unreasonable for a municipality to require a utility to restore a ROW to a condition that is better than the pre-excavation condition.

The rules specify that it is reasonable for a municipality to require a utility to provide adequate bonding and insurance if the municipality has reasonable grounds to question the utility's financial responsibility or compliance ability. The rules also identify advance workplan notification requirements and mapping requirements.

A Statement of Scope on this rule was approved by the Commission on June 2, 1999, and was published in the Wisconsin Administrative Register on June 30, 1999.

Text of Proposed Rule

SECTION 1. Chapter PSC 130 is created to read:

Chapter PSC 130 Municipal Regulation of Utility Rights-of-Way

PSC 130.01 Definitions. In this chapter:

- (1) "Actual cost" means identifiable costs that are reasonably incurred by a municipality, but does not include a contribution of surplus income to general revenues.
- (2) "Municipality" means a city, village, or town.
- (3) "Ordinance" includes any ordinance or resolution adopted by the governing body of a municipality relating to municipal rights-of-way or any contract entered into by a municipality relating to municipal rights-of-way.

(4) "Transmission and distribution facilities" includes any utility pipe, pipeline, wire, cable, duct, conduit, fiber optics or radio signal transmission equipment and associated utility plant and equipment, whether underground or above ground, in a municipal right-of-way.

(5) "Utility" means a public utility, as defined in s. 196.01 (5), Stats., and includes a telecommunications carrier, as defined in s. 196.01 (8m), Stats.

PSC 130.02 Scope. This chapter applies to complaints involving utility access to and use of rights-of-way within a municipality under ss. 196.499 (14) and 196.58 (4), Stats.

PSC 130.03 Undergrounding and special construction conditions. (1) (a) Except as provided in par. (b), an ordinance that requires a utility to install underground a 100 kilovolt or greater transmission line at the expense of the utility is unreasonable.

(b) Paragraph (a) does not apply if the municipality or a third party agrees to reimburse the utility for the difference in cost between above ground and underground construction.

(2) (a) Except as provided in par. (b), an ordinance that requires a utility to install, at the utility's expense, transmission or distribution facilities which are not consistent with the utility's practice for design or construction of utility facilities is unreasonable unless there is an adequate health, safety, or public welfare justification for the requirement. Aesthetics alone is not an adequate basis to justify an undergrounding requirement.

(b) Paragraph (a) does not apply if all of the following conditions are met:

1. The municipality or a third party agrees to reimburse the utility for the difference in cost or between the standard design or construction techniques of the utility and any special design or construction requirement sought by the municipality.

2. The special design or construction requirement is consistent with safe and reliable construction practices.

PSC 130.04 Discrimination. (1) It is unreasonable for a municipality to unduly discriminate between utilities seeking access to municipal rights-of-way.

(2) If space availability is limited, a municipality may permit a utility with an obligation to serve to receive access to a particular right-of-way before a utility that is not bound by an obligation to serve.

(3) It is unreasonable for a municipality to deny a utility any access to municipal rights-of-way without good cause.

PSC 130.05 Management function costs. (1) A municipality may require a utility to pay the actual cost of functions undertaken by the municipality to manage utility access to and use of rights-of-way. These management functions include all of the following:

(a) Registering utilities.

(b) Except as provided in sub. (2), issuing, processing, and verifying excavation or other utility permit applications, including supplemental applications.

(c) Inspecting utility job sites and restoration projects before, during, and after construction.

(d) Maintaining, supporting, protecting, or moving user equipment during work in the streets, highways, and other public places.

(e) Undertaking restoration work inadequately performed by a utility after providing notice and the opportunity to correct the work.

(f) Revoking utility permits.

(g) Maintenance of databases.

(h) Scheduling and coordinating highway, street, and right-of-way work relevant to a utility permit.

(2) A municipality shall be responsible for its costs incurred as a member of the one-call system under s. 182.0175, Stats.

(3) It is reasonable for a municipality to recover costs incurred under sub. (1) (a), (b), and (c) through a pre-excavation permit fee.

(4) A municipality may recover costs incurred under sub. (1) (d), (e), and (f) only from the utility that is responsible for causing the municipality to incur the costs.

PSC 130.06 Bonds and insurance. A municipality may impose reasonable bonding and insurance requirements on a utility seeking a permit to use a right-of-way, provided the municipality has reasonable grounds to question the financial responsibility or compliance ability of the utility.

PSC 130.07 Restoration. An ordinance is unreasonable if it requires a utility to restore a right-of-way to a condition that improves upon the pre-excavation condition. At the utility's option, a utility may undertake the restoration or pay the municipality a fee to cover the actual cost of restoration.

PSC 130.08 Compliance with existing law. An ordinance is unreasonable if it is not in substantial compliance with state statutes, including ss. 66.0831 and 80.32 (4), Stats.

PSC 130.09 Permanent relocation of utility facilities. (1) An ordinance that requires a utility to permanently relocate transmission or distribution facilities in a right-of-way at the expense of the utility is unreasonable unless there is an adequate health, safety, or public welfare justification for the requirement.

(2) An ordinance that requires a utility to permanently relocate transmission or distribution facilities in a right-of-way at the expense of the utility substantially for the benefit of a person other than the municipality is unreasonable.

PSC 130.10 Advanced excavation workplans. An ordinance that requires a utility to submit to a municipality its future construction or excavation workplans is reasonable in order for the municipality to coordinate work within a right-of-way. It is unreasonable for a municipality to deny a permit for a utility excavation not identified on a workplan if the excavation is needed by the utility to restore service to an existing customer, to provide service to a new customer, or for other good cause.

PSC 130.11 Facilities mapping. For purposes of acquiring a permit, a municipality may not require a utility to submit facilities mapping, other than utility right-of-way construction plans and field sketches in the format maintained by the utility, for facilities that are the subject of the permit.

PSC 130.12 Abandonment. An ordinance is not unreasonable if it requires a utility to notify the municipality of the utility's intent to abandon transmission or distribution facilities and requires the utility to provide a map, at the utility's expense, depicting the location of any facility within that municipality that the utility intends to abandon. The format of the map shall be mutually agreed upon by the municipality and the utility.

PSC 130.13 Ordinance challenges. An ordinance is unreasonable if it requires that, as a condition of obtaining a permit, the utility agree that the ordinance is valid and not subject to challenge.

Initial Regulatory Flexibility Analysis

The proposed rules would apply to complaints regarding municipal rights-of-way ordinances. Current law authorizes the Commission to investigate such complaints and to determine if an ordinance is reasonable. The Commission anticipates complaints would primarily come from utilities, which would include some small businesses, as defined in s. 227.114 (1), Stats. (There are approximately 76 small telecommunications utilities in Wisconsin.) The proposed rule does not create any new obligations or responsibilities for complainants, including small businesses. Therefore, the proposed rule does not have an effect on small businesses.

Fiscal Estimate

This rule has no fiscal impact.

Contact Person

Questions from the media may be directed to Jeffrey L. Butson, Public Affairs Director at (608) 267-0912. Other questions regarding this matter should be directed to docket coordinator Scot Cullen at (608) 267-9229. Hearing or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to obtain this document in a different format should contact the docket coordinator listed above.

Submittal of proposed rules to the legislature

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

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

(CR 01-034)

Section A-E 2.02 (7), relating to seals and stamps.

Commerce

(CR 00-179)

Chs. Comm 4, 14, 15, 16, 50 to 64, 65, 66, 69 and 73 – Relating to construction and fire prevention for public buildings and places of employment, including commercial buildings and structures and multifamily dwellings.

Insurance

(CR 00-133)

Ch. Ins 3 – Relating to medicare supplement and

replacement plans.

Nursing

(CR 01-046)

Chs. N 4 and 8 – Relating to the nurse licensure compact.

Nursing

(CR 01-049)

Chs. N 2 and 3 – Relating to board-approved schools, application procedures and licensure by endorsement.

Public Service Commission

(CR 00-187)

Ch. PSC 2 – Relating to practice and procedure before the commission.

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.

**Employee Trust Funds
(CR 00-021)**

An order affecting ch. ETF 10, relating to participation in the variable trust fund.
Effective 8-1-01

**Employee Trust Funds
(CR 00-022)**

An order affecting chs. ETF 10 and 20, relating to the department's interpretation of WRS creditable service.
Effective 8-1-01

**Law Enforcement Standards Board
(CR 99-115)**

An order affecting chs. LES 1 and 3, relating to model standards for law enforcement vehicular pursuits and for related training.
Effective 9-1-01

**Natural Resources
(CR 00-163)**

An order affecting ch. NR 1, relating to the Natural Resources Board policy on wetlands preservation, protection, restoration and management.
Effective 8-1-01

**Natural Resources
(CR 00-174)**

An order affecting ch. NR 422, relating to reducing ambient ozone concentrations in southeastern Wisconsin by controlling volatile organic compound (VOC) emissions.
Effective 9-1-01

**Pharmacy Examining Board
(CR 00-165)**

An order affecting ch. Phar 7, relating to transfer of prescriptions orders.
Effective 8-1-01

**Public Service Commission
(CR 00-065)**

An order creating ch. PSC 118, relating to the use of renewable resource credits.
Effective 8-1-01

**The State of Wisconsin
Department of Administration
Bureau of Document Services
Document Sales and Distribution Section
P.O. Box 7840
Madison, Wisconsin 53707-7840**

First Class
U.S. POSTAGE PAID
Madison, Wisconsin
Permit Number 1369

First Class Mail

*Wisconsin
Administrative
Register*

Dated Material. Please Do Not Delay!