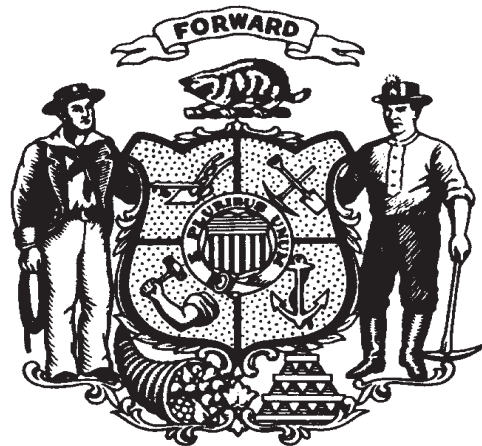


# Wisconsin Administrative Register

No. 550



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## Table of contents

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**Emergency rules now in effect.**

Commerce:

**Pages 3 to 7**Financial Assistance for Businesses and Communities, Chs. Comm 105 to 128

Rules relating to the allocation of volume cap on tax–exempt private activity bonds.

Financial Institutions – Corporate and Consumer Services:

Rules relating to the Uniform Commercial Code.

Health &amp; Family Services:

Community Services, Chs. HFS 30–

A rules relating to patients' rights.

Rules adopted revising **ch. HFS 90** relating to early intervention services for children birth to 3 with developmental needs. **[First Appearance]**Health, Chs. HFS 110–

Rules relating to the Health Insurance Risk–Sharing Plan (HIRSP).

Natural Resources:

Fish, Game, etc., Chs. NR 1–

Rules relating to sport fishing and commercial fishing for yellow perch in Green Bay.

Rules relating to deer hunting in selected deer management units.

Rules relating to the 2001 migratory game bird season.

Public Service Commission:

Rules relating to the definition of fuel and permissible fuel costs.

Volunteer Fire Fighter and Emergency Medical Technician Service Award Board:

Rules adopted creating **ch. VFF–EMT 1**, relating to the length of service award program. **[First Appearance]****Scope statements.****Pages 8 to 11**

Commerce:

Repealing s. Comm 7.35 (2) relating to compliance with local regulations when blasting in communities.

Revising ch. Comm 14 to specify the procedures and conditions that fire departments and municipalities must comply with to receive their fire dues distribution.

Revising ch. Comm 95 to specify a single fee to be assessed on manufactured home park owners/operators for the costs of administering the program.

Creating ch. Comm 107 for enhancing investment in high technology and creating high–skill, high–wage jobs by providing credits against income taxes for qualified businesses.

Amending chs. Comm 122 and 128 to provide loans and loan assistance to dentists and dental hygienists.

Insurance:

Amending ch. Ins 17 to establish the annual fees for the patients compensation fund.

Natural Resources:

Amending ch. NR 216, relating to storm water discharge permits and the permit fees.

Public Service Commission:

Amending ch. PSC 113, relating to customer satisfaction surveys discretionary with respect to municipal utilities.

Volunteer Fire Fighter and Emergency Medical Technician Service Award Board:

Creating ch. VFF–EMT 1, relating to a length of service award program for volunteer fire fighters and emergency medical technicians.

|   |   |
|---|---|
| Wisconsin Technical College System Board:                       | Amending chs. TCS 10 and 16, relating to residency, admissions and fees refunds and to grants to students.  |
| <b>Submittal of rules to legislative council clearinghouse.</b> | <b>Pages 12 to 13</b>   |
| Agriculture, Trade and Consumer Protection:                     | Ch. ATCP 30 – relating to Atrazine control.   |
| Commerce:   | Ch. Comm 18 – relating to elevators and mechanical lifting devices.<br>Ch. Comm 62 – relating to building construction accessibility requirements.<br>Ch. Comm 70 – relating to historic buildings.<br>Ch. Comm 108 – relating to Community Development Block Grant Program.  |
| Controlled Substances Board:                                    | Ch. CSB 2 – relating to the scheduling of certain drugs under the Uniform Controlled Substances Act.  |
| Financial Institutions–Banking:                                 | Ch. DFI–Bkg 74 – relating to allowing the transfer of all accounts in a corporation in order for a collection agency to terminate a license.  |
| Health and Family Services:                                     | Ch. HFS 157 – Relating to establishing a radioactive material licensing and inspection program.   |
| <b>Rule–making notices.</b>                                     | <b>Pages 14 to 20</b>   |
| Agriculture, Trade and Consumer Protection:                     | Hearing to consider revision to ch. ATCP 30, relating to use of Atrazine.   |
| Commerce:   | <u>Elevators, Ch. Comm 18</u><br>Hearing to consider changes to rules relating to elevators and mechanical lifting devices.<br><u>Building and Hearing, etc., Chs. Comm 50 – 64</u><br>Hearing to consider changes to rules relating to the building construction accessibility requirements.<br><u>Historic Buildings, Ch. Comm 70</u><br>Hearing to consider changes to rules relating to historic buildings.<br><u>Financial Resources for Businesses and Communities, Chs. Comm 105 to 128</u><br>Hearing to consider proposed rules relating to Community Development Block Grant Program. |
| Financial Institutions – Banking:                               | Hearing to create a rule regarding procedures for cancellation and return of accounts.  |
| <b>Submittal of proposed rules to the legislature.</b>          | <b>Page 21</b>  |
| Employee Trust Funds:   | (CR 01–096) – Ch. ETF 20  |
| Health and Family Services:                                     | (CR 01–045) – Ch. HFS 95  |
| Regulation and Licensing:                                       | (CR 01–068) – Ch. RL 10   |
| <b>Rule orders filed with the revisor of statutes bureau</b>    | <b>Page 22</b>  |
| Commerce:   | (CR 00–179) – Chs. Comm 4, 14, 15, 16.46, 50 to 64, 65, 66, 69 and 73<br>(CR 01–070) – Ch. Comm 113   |
| Funeral Directors Examining Board:                              | (CR 01–063) – Chs. FD 1 and 4   |
| Hearing and Speech Examining Board:                             | (CR 01–043) – Ch. HAS 6   |
| Natural Resources:  | (CR 01–030) – Ch. NR 1  |
| Veterinary Examining Board:                                     | (CR 01–061) – Ch. VE 7  |

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## Emergency rules now in effect

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

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

*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](http://www.legis.state.wi.us/rsb/code).*

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### 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  
**Extension Through:** November 21, 2001

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### 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

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### Health & Family Services (2)

#### (Community Services, Chs. HFS 30–)

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

#### Finding of emergency

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  
**Hearing Date:** September 12, 2001

- Rules adopted revising **ch. HFS 90**, relating to early intervention services for children birth to 3 with developmental needs.

#### **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 health and welfare of children receiving early intervention services under the Wisconsin

"Birth to 3 Program." The facts constituting the emergency are as follows:

Counties must, under s. 51.44 (3) and (4), Stats., and s. HFS 90.06 (2), provide or contract for the provision of early intervention services for children with developmental needs in the age group from birth to 3. Qualifying children in each county are entitled to receive needed services. While counties may assess parents of children receiving early intervention services a share of those service costs, counties ultimately are responsible for the costs of providing such services. Since counties' cost exposure for Birth to 3 program costs is unlimited, unanticipated increases in a county's costs may result in a county suspending program services due to a lack of funding. Even though such cessations are illegal, one county indeed suspended the provision of needed services within the past year. By the time the Department was able to reinstate services in the county, enrolled children were deprived of needed services for several months. Given the negative effect such service cessations could have on children with disabilities, the Department needs to immediately alleviate the cost burden on counties by increasing the share of service costs parents must bear. In doing so, the Department will preserve the continuity of early intervention services.

The Department is also proceeding with the promulgation of the body of rules contained in this order as proposed permanent rules that will remain in effect when this emergency order expires. The full basis for the changes made by these orders is explained below:

Section HFS 90.06 (2) (h) specifies that county administrative agencies must determine the amount of parental liability for the costs of the early intervention services in accordance with ch. HFS 1. Chapter HFS 1 contains the Department's cost liability determination and ability to pay standards and guidelines for services purchased or provided by the Department and counties. Section HFS 90.06 (2) (h) also states that parents may satisfy any liability not met by third party payers if parents pay the amount determined in accordance with the family support payment formula in s. HFS 65.05 (7).

The Department's ability to pay system currently ties the Birth to 3 program to s. HFS 65.05 (7) and ch. HFS 1. Chapter HFS 90's use of these other Department administrative rules has had several undesirable consequences. First, the methodology in s. HFS 65.05 (7), while appropriate for families with children having severe disabilities, is inappropriate for the Birth to 3 program because of the variability in applying the methodology and the significantly greater turnover of families in the Birth to 3 program. This turnover of families makes the chapter's complex calculations relatively onerous on counties to administer.

Sections HFS 90.06 (2) (h) and 90.11 (2) (a) 2. and 4. cross reference and incorporate ch. HFS 1. Section HFS 1.01 (4) (d) allows counties to request an exemption from applying the ability to pay system because the county can document that the imposition of a ch. HFS 1 family cost sharing charge is administratively unfeasible. Twenty-four counties have demonstrated to the Department that their cost of administering the ability to pay system amounts to more than the revenues the counties collect. The relatively high cost of administering the program under the current provisions of ch. HFS 90 combined with relatively low rates of cost-sharing by families permitted by counties' application of s. HFS 65.05 (7), has made the program burdensome on some counties.

Second, federal policies governing Birth to 3 programs require participating states to administer a statewide early intervention system and do not allow a county to bill a

family's insurance without the family's consent. Chapter HFS 1, however, requires that a family's insurance benefits be billed; a contradiction of federal law. Third, the current ability of counties to request and obtain exemption from participating in the ability to pay system also is contrary to federal policies requiring states to operate a uniform statewide early intervention system. While federal regulations are currently being revised, none of the regulations circulated by the U.S. Department of Education would have any bearing on the Department of Health and Family Service's promulgation of these administrative rules.

The Department's modifications to ch. HFS 90 have two results. First, since ch. HFS 90 no longer cross–references ch. HFS 1, counties could no longer request exemption from participating in Wisconsin's Birth to 3 program cost share. County participation in administering the Birth to 3 program cost share becomes mandatory. Second, the method of determining parents' share of the costs of needed services is simplified and standardized statewide and is based on the relationship of families' incomes to the federal poverty threshold.

The rules simplify the determination of parental cost share, thereby eliminating the current ability to pay system's inequities for families statewide and reducing counties' administrative costs associated with the program. The Department's use of the federal poverty threshold, as revised annually, is a benchmark against which families' adjusted incomes are compared to determine the parental cost share liabilities. Under this system, the Department projects that the number of families required to share in the early intervention service costs will roughly double. Since each family's cost share will be based on approximately 1% of their income (as adjusted by a standard deduction for each child with a disability in the family) rather than the previous basis of 3% of income minus a standard deduction and disability–related expenses, the cost share of some families may increase. Families with incomes above 200% of the federal poverty level will be billed for part of the early intervention services their children receive. Families with adjusted incomes below 200% of the federal poverty threshold will be exempt from cost sharing. The Department projects that about 2,000 families will be exempt from cost sharing under the proposed formula and about 3,100 families will have a liability for a cost share.

Under the simplified payment system the Department is setting forth, the Department expects counties' costs to administer the payment system to decline as the number of forms and required calculations should be significantly reduced. The Department projects that the rule changes will increase the revenues generated by counties, in total, due to the fact that more families will have a parental cost share and more counties will be participating in the parental cost share system. However, individual counties having relatively lower per capita incomes may not experience significant revenue increases.

**Publication Date:** September 26, 2001  
**Effective Date:** October 1, 2001  
**Expiration Date:** February 28, 2002

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## Health & Family Services

(Health, Chs. HFS 110—)

Rules adopted revising **ch. HFS 119**, relating to the Health Insurance Risk–Sharing Plan (HIRSP).

### Exemption from finding of emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats., by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. These are the emergency rules. Department staff consulted with the Health Insurance Risk–Sharing Plan (HIRSP) Board of Governors on April 25, 2001 on the rules, as required by s. 149.20, Stats.

### 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. HIRSP offers different types of medical care coverage plans for residents.

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 rate increases for Plan 1 contained in this rulemaking order increase an average of 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. This increase reflects industry–wide premium increases and takes into account the increase in costs associated with Plan 1 claims. 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 medical 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 rate increases for Plan 2 contained in this rulemaking order increase an average of 3.4%. Rate increases for specific policyholders range from 0.0% to 4.9%, depending on a policyholder's age, gender, household income and zone of residence within Wisconsin. These rate increases reflect industry–wide cost increases.

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.

By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2001. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$19,982,024. The total annual contribution to the HIRSP

budget provided by an assessment on insurers is \$19,617,772. On April 25, 2001, the HIRSP Board of Governors approved the calendar year 2000 reconciliation process and the HIRSP budget for the plan year July 1, 2001 through June 30, 2002.

The fiscal changes contained in this order also reflect the conversion of HIRSP from cash accounting to accrual accounting, as recommended by the Legislative Audit Bureau and the HIRSP Board of Governors. Cash accounting recognizes the costs of claims and expenses when paid. Accrual accounting recognizes the costs of claims and expenses in the time period when first incurred. Basically, HIRSP program liabilities have been understated under the cash accounting methodology. The net effect of the HIRSP conversion to accrual accounting is to provide a more accurate reflection of the program's financial condition.

**Publication Date:** June 29, 2001  
**Effective Date:** July 1, 2001  
**Expiration Date:** November 28, 2001

### Natural Resources – (3)

#### (Fish, Game, etc., Chs. NR 1–)

1. 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  
**Hearing Date:** August 13, 2001

2. Rules adopted revising ch. NR 10, pertaining to deer hunting in various deer management units.

#### Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and forest resources, and to minimize deer nuisance problems, thereby protecting the public peace, health, safety and welfare. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify the rules will result in excessively high deer

populations well above established goal levels, causing substantial deer damage to agricultural lands and forest resources, and potential for disease.

**Publication Date:** May 16, 2001  
**Effective Date:** September 1, 2001  
**Expiration Date:** January 29, 2002  
**Hearing Date:** June 11, 2001

3. Rules adopted revising ch. NR 10, relating to the 2001 migratory game bird season.

#### Finding of emergency

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

**Publication Date:** August 29, 2001  
**Effective Date:** September 1, 2001  
**Expiration Date:** January 29, 2002  
**Hearing Date:** October 11, 2001

### Public Service Commission

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

### Volunteer Fire Fighter and Emergency Medical Technician Service Award Board

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

#### Exemption from finding of emergency

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

#### Analysis prepared by the Department of Administration:

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



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

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

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

Section VFF–EMT 1.05 sets forth requirements and procedures for municipal contributions made on behalf of eligible volunteers, and for the state’s matching contribution (up to \$250 per eligible individual annually).

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

Section VFF–EMT 1.07 sets forth the Program’s vesting requirements and the various permutations possible between full and partial vesting periods and the minimum age requirement (age 60) for payout. Section VFF–EMT 1.07 (1) establishes that 20 years service is required to fully vest and, upon reaching age 60, the award must be paid. (This requirement insures that the benefit maintains its tax deferred status.) Section VFF–EMT 1.07 (2) provides that a fully vested individual age 60 or older may continue to provide service toward a new length of service award under a new account but, for IRS rule purposes, contributions must be paid immediately and cannot accumulate. Section VFF–EMT 1.07 (3) provides for partial vesting after 10 years’ service. Should the individual perform more than 10 but less than 20

years’ service, upon reaching age 60, he or she will receive only 50% of the net asset value of the benefit account for the first 10 years of service rendered, and an additional 5% for each year thereafter, up to 19 years. Section VFF–EMT 1.07 (7) allows an individual to provide simultaneous service to two or more separate municipalities but, in such cases, only one year of service credit may be earned.

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

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

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

Section VFF–EMT 1.17 provides for a two–step appeals process in which a VFF–EMT may first protest service credit issues to the participating municipality, which may consult with the program administrator. Any decision of the municipality may be reviewed at the Board’s discretion. An individual who has a substantial interest affected by a Board decision may appeal directly in writing to the Board. All Board decisions are final.

**Publication Date:** September 21, 2001

**Effective Date:** September 21, 2001

**Expiration Date:** February 18, 2001

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## Scope statements

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### Commerce

#### Subject

*Objective of the proposed rule.* To repeal section Comm 7.35 (2), relating to compliance with local regulations when blasting in communities.

#### Policy analysis

The current rule of section Comm 7.35 (2) indicates that blasting operations in communities shall comply with all local regulations. The current rule has the unintended effect of requiring the Department of Commerce to enforce local regulations relating to blasting. Chapter Comm 7 is a state minimum code; local regulations can be more restrictive than chapter Comm 7. All local regulations must be complied with regardless of a statement to that effect in the administrative code.

Avoiding this rule change will result in continued requests for the Department to enforce local regulations relating to blasting in communities.

#### Statutory authority

Section 101.15 (2) (e), Stats.

#### Staff time required

The Department estimates that it will take approximately 40 hours to develop this rule. This time includes drafting the rule and processing the rule through public hearings and legislative review. The Department will assign existing staff to develop the rule. There are no other resources necessary to develop the rule.

### Commerce

#### Subject

*Objective of the proposed rule.* The objective of the rule is to clarify the responsibilities of municipalities and fire departments relative to the fire dues program in ch. Comm 14.

Proposed rules will be developed to specify the procedures and conditions that fire departments and municipalities must comply with in order for them to receive their fire dues distribution.

#### Policy analysis

Existing policies for the fire dues entitlement program follow the mandates in ss. 101.14, 101.573 and 101.575, Stats, therefore policy alternatives are limited. Policy alternatives will be explored with two advisory groups. It is anticipated the advisory groups will make recommendations to the department and to the legislature regarding changes to the current fire dues process, administrative rules and state statutes.

#### Statutory authority

Fire Dues Program – Sections 101.14, 101.573 and 101.575, Stats.

#### Staff time required

The rules will be developed with the assistance of an advisory 2% Fire Dues Task Group with oversight by the advisory Fire Safety Code Council and the department. Time will be spent forming the Task Group, meeting with the

Council and Task Group, and then drafting and processing the rule package through public hearings, legislative review and adoption. An estimate of the amount of time that state employees will spend to develop the rule is as follows:

|   |                |
|---|----------------|
| Research & Council/Task Group mtgs time | 400 hrs        |
| Rule drafting time                      | 80 hrs         |
| Rule promulgation time                  | <u>240 hrs</u> |
|   | 720 hrs        |

### Commerce

#### Subject

*Objective of the proposed rule.* The objective of the rule is to specify a single fee to be assessed on manufactured home park owners/operators for the costs of administering the manufactured home park regulations set forth in chapters Comm 95 – Mobile Home Parks and PSC 186 – Water or Sewer Service in Mobile Home Parks.

#### Policy analysis

For the administration of the regulations set forth in chapter Comm 95, the Department of Commerce currently collects a fee and issues a 2–year license to owners/operators of manufactured home parks. This license expires, and requires renewal, on June 30 of every even year, the next of which would be June 30, 2002. To collect this fee, the Department traditionally issues the invoices in May for the year of renewal.

Effective September 1, 2001, 2001 Wis. Act 16 transferred the authority of administering the manufactured home park water or sewer service program, Wisconsin Administrative Code chapter PSC 186, from the Public Service Commission (PSC) to the Department of Commerce. For the administration of the chapter PSC 186 rules, the Public Service Commission has annually assessed a fee on manufactured home park owners/operators between July and September. For fiscal year 2001–02, 2001 Wis. Act 16 requires the Department to collect that same annual fee to cover the cost of administering the manufactured home park water and sewer provisions of chapter PSC 186. There is no provision in the law to allow the Department to assess a fee in the same manner as the PSC assessment beyond fiscal year 2001–02. The act also gives the Department the authority, beginning in fiscal year 2002–03, to increase the current chapter Comm 95 administration fees to cover the cost of administering chapter PSC 186.

An alternative is to absorb the cost of administering statute section 101.937, as created by 2001 Wis. Act 16. However, the Department does not receive enough revenue in the manufactured home program to absorb the costs of administering the manufactured home park water and sewer service program.

#### Statutory authority

Section 101.935 (2) (c) 2., Stats., as amended by 2001 Wis. Act 16.

#### Staff time required

The Department estimates that it will take approximately 100 hours to develop this rule.

## Commerce

### Subject

*Objective of the proposed rule.* On August 30, 2001, Governor McCallum signed the biennial budget, 2001 Wis. Act 16, which provides for Commerce to administer a program for enhancing investment in high technology and creating high–skill, high–wage jobs by providing credits against income taxes for qualified businesses.

Through the authority given in ss. 560.02 (4) and 560.96, Stats., Commerce is hereby proposing to create administrative rules, ch. Comm 107, Wisconsin Technology Zone Program. This chapter shall at least address the following:

- Enumerating the criteria for designating eight (8) areas as technology zones.
- Outlining a business' eligibility for certification.
- Developing the process for certifying a business.
- Establishing standards for limits on the amount of tax credits a business may claim.
- Outlining standards for extending business' certification in addition to what measures will be established for job creation, determining growth, and baselines for growth.
- Establishing reporting requirements for certified businesses.
- Providing a process for Commerce to report to the Department of Revenue.
- Providing a means for changing boundaries of designated technology zones.

### Policy analysis

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

- a) Existing policies. The department recognizes that there is a need to promote, retain and expand these types of high–tech businesses in the state.
- b) New policies. This is a new Wisconsin initiative to promote the development and expansion of high–technology businesses in Wisconsin.
- c) Policy alternatives. The alternative of not creating the code chapter will result negatively in the State's ability to retain and expand high–technology businesses and provide in up to 20 technology development zones throughout the state which will create new and high–skilled and high–paying jobs, create investment capital and attract related industries.

### Statutory authority

Sections 560.02 (4) and 560.96, Stats.

### Staff time required

250 hours.

## Commerce

### Subject

*Objective of the proposed rule.* Currently, Commerce administers loan programs for physicians and loan assistance programs for health care providers in accordance with the statutes and rules under chs. Comm 122 and 128. The recently passed budget bill, 2001 Wis. Act 216, requires that the Department also provide loans and loan assistance to dentists and dental hygienists.

### Policy analysis

Sections 560.183 and 560.184, Stats., adds dentists and dental hygienists to the loan and loan repayment program administered by the Commerce. Many of the provisions that have been added to the statutes are similar to those for physicians and other health care providers currently under the program. These rules will closely follow the current rules for providing loans to physicians and loan assistance to health care providers. However, because dental practice has distinct differences from medical practice, the rules will further specify practice requirements for dentists and dental hygienists as, for example, it pertains to volume of medical assistance and Badger Care patients. The rules will include qualifications for loans, as well as criteria for repayment of loans.

### Statutory authority

Sections 560.02 (4), 560.183, and 560.184, Stats.

### Staff time required

The Department estimates that it will take approximately 100 hours to develop this rule.

## Insurance

### Subject

Regarding Section Ins 17.01 (3), 17.25 (3) (d) and 17.28 (6), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for fiscal year starting July 1, 2002 and WHCLIP primary limits.

*Objective of the proposed rule.* To establish the annual fees which participating health care providers must pay to the patients compensation fund as required by statute for the fiscal year starting July 1, 2002 and to specify the statutory primary limits for Wisconsin health care liability coverage in s. Ins. 17.25 (3).

### Policy analysis

Existing policies are as set forth in the statutes cited in the next section and in the rules themselves; no new or alternate policies are contemplated at this time.

### Statutory authority

Sections 601.41 (3), 655.004, 655.23 (3) (b) (c) and (4) (b), 655.27 (3) and 655.61, Stats.

### Staff time required

40 hours estimated state employee time to promulgate these rules; other resources will include the review and recommendation of the board's actuarial committee based on the analysis and recommendations of the fund's actuaries and the director of state courts.

## Natural Resources

### Subject

Chapter NR 216 – Relating to amending the requirements to obtain a storm water discharge permit and to amending the fees paid by persons required to obtain a storm water discharge permit. The Department is required to conform to revised federal storm water regulations by March 2003 to retain its NPDES (WPDES) permit issuance delegation.

### Policy analysis

The department is proposing to revise ch. NR 216 to conform with federal regulations including defining which municipalities must apply for storm water permits, lowering the construction permit threshold to one acre of disturbance from five acres and establishing associated permit



requirements, establishing criteria to determine if municipalities that have municipal separate sewer systems that connect with those of regulated municipalities should obtain a WPDES permit, revising the municipal permit portion of the code to better reflect municipal permit requirements and other options such as combined permits, and establishing a system for industrial facilities to certify that they do not meet criteria that would require them to obtain a storm water permit. These revisions will significantly increase the number of permits issued to municipalities and construction sites. The current storm water permit fee system is expected to provide revenues in excess of those necessary to administer the program, so a revised fee structure will also be developed.

#### **Statutory authority**

2001 Wisconsin Act 16 that modified s. 283.33.

#### **Staff time required**

Up to 600 hours.

### **Public Service Commission**

#### **Subject**

Chapter PSC 113, Wis. Adm. Code, relating to service rules for electric utilities. *Objective of the proposed rule.* The objective of this rulemaking is making application of s. PSC 113.0609 Wis. Adm. Code, relating to customer satisfaction surveys discretionary with respect to municipal utilities and to incorporate technical corrections to ch. PSC 113. The repeal and recreation of ch. PSC 113 took effect on August 1, 2000.

The proposed amendment to s. PSC 113.0609, Wis. Adm. Code, is to recognize that municipal utilities focus solely on core electric utility services, are small in size, and have a close relationship with their customers. The intention of the surveys is to ensure that competition in non–core services does not adversely affect the quality and value of core utility services. The implementation of the surveys would be an unnecessary cost burden with less benefit from mandated surveys than would be gained from surveys of customers of investor owned utilities.

The proposed revisions to ss. PSC 113.0402 (3) (b) and 113.0403 (4) (b), Wis. Adm. Code, are made to modify the timing of notice requirements to be consistent with other sections in the chapter.

The proposed revision to ss. PSC 113.0607 (2) (b) 6; 113.0701 (1), (2), (4), (6), (7), (8); 113.0912 (1) (a), 113.0913 (1) (a) and 113.091 (1) (a), Wis. Adm. Code are to provide more accurate descriptive language in the various rule sections.

The proposed revision to s. PSC 113.0803 (1), Wis. Adm. Code would add the phrase “residential care apartment complex or similar facility” to follow Commission decisions incorporating such facilities as exempted from the separate metering requirement.

The proposed elimination of s. PSC 113.0811 (4), Wis. Adm. Code is because prepayment meters are not allowed.

#### **Statutory authority**

Sections 196.02 (3) and 227.11 (2), Stats.

#### **Staff time required**

The Commission estimates that approximately 50 hours of employee time will be required to develop the proposed revision. No additional recourses are likely to be needed in order to complete this project.

### **Volunteer Fire Fighter and Emergency Medical Technician Service Award Board**

#### **Subject**

To establish a length of service award program for volunteer firefighters and emergency medical technicians under which municipalities make annual contributions matched by the state in an amount of up to \$250 annually.

*Objective of the proposed rule.* The Board proposes to create a rule that establishes a length of service award program to allow municipalities to make contributions to its volunteer firefighters and emergency medical technicians that are matched by the state. These contributions will be made to private sector entities that will offer administrative services and investment plans through which contributions are to be treated as tax–deferred benefits under the Internal Revenue Code until vesting and payout.

#### **Policy analysis**

The proposed rule includes specific design features that allow for participation in the program by municipalities that will make annual contributions to individual volunteer firefighters and emergency medical technicians, to be matched by the state up to \$250 annually. The rule sets the minimum requirements and qualifications for private sector entities that will provide various benefit plans to municipalities choosing to participate in the program. It also provides various vesting permutations based on full or partial vesting in relation to age that will meet the tax–deferred benefit requirement of the program.

#### **Statutory authority**

Statutory authority for the rule: Section 16.25 (2) to (5), Stats.

#### **Staff time required**

100 hours.

### **Wisconsin Technical College System Board**

#### **Subject**

1. Ch. TCS 10—Relating to residency, admissions and fee refunds; AND

2. Ch. TCS 16—Relating to grants to students (a.k.a. technical and occupational program (TOP) grants).

#### *Objective of the proposed rule:*

1. The objective is to simplify the specified computational methodology for fee refunds and to update the current rule to conform to changes in federal law that govern the requirements related to students receiving financial aid.

2. The objective is to update the current rule to conform to recent statutory changes.

#### **Policy analysis**

1. Student fee refund policies and related procedures are contained in s. TCS 10.08, Wis. Adm. Code. The current policy specifies one computational methodology for traditional, semester long courses and another methodology for non–semester long and distance education courses. However, these methodologies are intended to arrive at equivalent refund amounts. The use of dual methodologies has been confusing to both staff and students. All references to refunds based on a specific number of days should be eliminated and any language that is based on the completion of specific percentages of potential hours of instructions should be expanded to include all courses, regardless of length or offering mode. Also, the rules on refunds should be clarified to indicate that the 100% transfer of fees applies only



to drops and adds that occur on the same day. The current rule should also be corrected so that it is limited to drops/adds that occur during the first 11% of the potential hours of instruction of the dropped courses. This will prevent students from dropping courses late in the term and adding open entry/open exit courses with 100% transfer of fees.

Current language in the administrative rules recognizes that federal law may supersede any state provision, either in law or rule, relating to refund policies and procedures. And, since the state legislature may also enact various refund provisions governing financial aid policies and procedures, all references to the detailed requirements of specific federal and state refund regulations should be eliminated with the current provision expanded to include state law.

The technical college system board intends to make additional technical and format changes to other provisions of ch. TCS 10 as necessary.

2. To implement the provisions of 2001 Wis. Act 16. The proposed revisions to ch. TCS 16 are necessary to implement the legislative changes reflected in the recent budget bill. First, these changes enlarge the population of students eligible to receive a TOP grant by including those technical college

students who enroll full–time in an approved technical or occupational program within three years of receiving a certificate of general educational development (GED). Second, the TOP grants will only be available to students for one year, for a total of \$500. There are no alternatives to these policies.

The technical college system board intends to make additional technical and format changes to other provisions of ch. TCS 16 as necessary.

#### **Statutory authority**

Section 38.24 (2), Stats., requires the technical college system board to establish policies regarding refunds of student fees.

Section 38.305 (4), Stats., mandates that the technical college system board promulgate administrative rules to implement and administer the TOP grants, which includes establishing criteria for repayment by students who become ineligible for the grant.

#### **Staff time required**

Estimated time to be spent by state employees: 174 hours. No other resources are necessary.

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## Submittal of rules to legislative council clearinghouse

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

### Agriculture, Trade and Consumer Protection

#### Rule Submittal Date

On September 28, 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 ch. ATCP 30, Appendix A.

#### Agency Procedure for Promulgation

The department will hold public hearings on this rule after the Rules Clearinghouse completes its review.

#### Contact Person

Bruce Rheineck, 224-4502.

### Commerce

#### Rule Submittal Date

On September 24, 2001, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

Statutory Authority: ss. 101.02 (1) and (15), 101.12 and 101.17, Stats.

The proposed rule-making order relates to chs. Comm 18 and 62, elevators and mechanical lifting devices.

#### Agency Procedure for Promulgation

A public hearing is scheduled for November 1, 2001.

#### Contact Person

Diane Meredith, 266-8982.

### Commerce

#### Rule Submittal Date

On September 24, 2001, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

Statutory Authority: ss. 101.13 and 101.132, Stats.

The proposed rule-making order relates to ch. Comm 62, building construction accessibility requirements.

#### Agency Procedure for Promulgation

A public hearing is scheduled for November 8, 2001.

#### Contact Person

Diane Meredith, 266-8982.

### Commerce

#### Rule Submittal Date

On September 24, 2001, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

Statutory Authority: ss. 101.02 (1) and (15) and 101.121, Stats.

The proposed rule-making order relates to ch. Comm 70, historic buildings.

#### Agency Procedure for Promulgation

A public hearing is scheduled for November 9, 2001.

#### Contact Person

Diane Meredith, 266-8982.

### Commerce

#### Rule Submittal Date

On September 28, 2001, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

Statutory Authority: ss. 16.358, 560.04, and 560.045, Stats.

The proposed rule-making order relates to ch. Comm 108, Community Development Block Grant Program.

#### Agency Procedure for Promulgation

A public hearing is scheduled for October 30, 2001.

#### Contact Person

Jean M. MacCubbin, 266-0955.

### Controlled Substances Board

#### Rule Submittal Date

On September 18, 2001, the Controlled Substances Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### Analysis

Statutory Authority: ss. 961.11 (1), 961.16 and 961.19, Stats.

The proposed rule-making order relates to the scheduling of certain drugs under chapter 961, Stats., the Uniform Controlled Substances Act.

#### Agency Procedure for Promulgation

A public hearing is required and will be held on December 4, 2001 at 9:15 a.m. in Room 179, 1400 East Washington Avenue, Madison, Wisconsin, 53702

#### Contact Person

Pamela Haack, Paralegal, Office of Administrative Rules, (608) 266-0495.

### Financial Institutions-Banking

#### Rule Submittal Date

On September 26, 2001, the Department of Financial Institutions–Banking submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### **Analysis**

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

Currently a collection agency must cancel and return all accounts when a license is terminated for whatever reason. However, current rules do not contemplate 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 rule also allows, under certain circumstances, a licensed collection agency to purchase the listed accounts of another agency. Accounts would not need to be cancelled and returned in these circumstances.

#### **Agency Procedure for Promulgation**

A public hearing is scheduled for October 30, 2001.

#### **Contact Person**

Michael Mach  
Administrator, Division of Banking  
266–0451

### **Health and Family Services**

#### **Rule Submittal Date**

On September 19, 2001, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

#### **Analysis**

Statutory Authority: Sections 254.34 (1) (a), 254.365 (4) to (6), 254.37 (3) and 254.38 (1), Stats.

Governor Thompson assigned the Department of Health and Family Services the responsibility of pursuing an agreement with the U.S. Nuclear Regulatory Commission (NRC) that will allow the state to assume regulatory (including judicial) authority over certain radioactive materials currently under federal

jurisdiction. Under this agreement, Wisconsin would become an “agreement state” with the NRC and assume responsibility for licensing, inspecting and regulating the use of radioactive materials at 253 facilities statewide, excluding nuclear power reactors and federal facilities. Among other requirements, the NRC requires a potential agreement state to update their state radiation protection rules with a compatible version of current federal radiation protection regulations prior to signing the agreement transferring regulatory authority. The state rules must also establish a radioactive material licensing and inspection program that is at least as stringent as that of the NRC. This is the reason for and purpose of this proposed rulemaking order.

The proposed chapter HFS 157 is based upon an agreement state rule template called the “Suggested State Regulations for the Control of Radiation” (SSRCR) developed by the Conference of Radiation Control Program Directors, Inc. (CRCPD). The CRCPD is a national organization of state radiation control staff that supports and represents state radiation control programs. The SSRCR is developed with the involvement of federal radiation agencies, such as the Nuclear Regulatory Commission, the Food and Drug Administration and the Environmental Protection Agency. The SSRCR is also continually updated and used by most of the 32 existing agreement states to help meet federal requirements. Chapter HFS 157 was also developed with the input of a 40–member rules advisory group representing a cross–section of the regulated user community.

#### **Agency Procedure for Promulgation**

Public hearings under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by the DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

#### **Contact Person**

Paul Schmidt  
Division of Public Health  
267–4792

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## Rule-making notices

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### Notice of Hearing

#### Agriculture, Trade and Consumer Protection [CR 01-114]

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a proposed amendment to chapter ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides. The hearing will be held at the time and place shown below. The department invites the public to attend the hearings and comment on the proposed rule. Following the public hearing, the hearing record will remain open until November 16, 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, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4502. Copies will also be available at the hearings.

Hearing impaired persons may request an interpreter for these hearing. Please make reservations for a hearing interpreter by **October 19, 2001**, by writing to Bruce Rheineck, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4502. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearings.

The hearings is scheduled on:

#### **Tuesday November 6, 2001**

afternoon session: 1:00 p.m. until 3:30 p.m.

evening session: 6:30 p.m. until 8:00p.m.

Great Wolf Lodge

I-90/94 & Hwy 12

Grey Wolf Room

Wisconsin Dells, WI 53965

Handicapped accessible

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

Statutory authority: ss. 93.07 (1), 94.69 (1), 160.19 (2), and 160.21 (1), Stats.

Statutes interpreted: ss. 94.69, 160.19 (2) and 160.21 (1), Stats.

In order to protect Wisconsin groundwater, current rules under ch. ATCP 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards. Based on new groundwater test data, this rule expands a current atrazine prohibition area and merges two others into a larger prohibition area.

#### **Atrazine Prohibition Areas**

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 103 designated areas, including major prohibition areas in the lower Wisconsin river valley and much of Dane and Columbia counties.

This rule enlarges one current prohibition area and merges two others into a larger prohibition area. This will increase the statewide acreage of atrazine prohibition areas by about 11,300 acres. This rule includes maps describing the revised prohibition areas.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface which complies with s. ATCP 29.45, Wis. Adm. Code.

#### **Fiscal Estimate**

The rule will be administered by the Agricultural Resource Management (ARM) Division of the Department of Agriculture, Trade and Consumer Protection (DATCP). The following estimate is based on enlarging 1 existing prohibition area (PA), and merging two other PAs into one larger PA.

Administration and enforcement of the proposal will involve new costs for the department. Specialist and field investigator staff time will be needed for inspections and enforcement in the new PAs (0.1 FTE, cost approximately \$4,000). Enforcement activities will be conducted in conjunction with current compliance inspections but at increased levels to ensure compliance with the additional prohibition areas. Compliance activities will be especially important in the first few years as growers, commercial applicators, dealers, and agricultural consultants in the PAs require education to comply with the new regulations.

Soil sampling conducted in the additional PAs to determine compliance with the rules will require an estimated \$750 in analytical services. In addition, a public information effort will be needed to achieve a high degree of voluntary compliance with the rule. Direct costs to produce and distribute the informational materials will be \$750.

Total Annual Costs: \$5,500

The Department anticipates no additional costs for other state agencies. Water sampling programs within the Department of Natural Resources and local health agencies may receive short term increased interest by individuals requesting samples.

The rule does not mandate that local government resources be expended on sample collection, rule administration or enforcement. The rule is therefore not expected to have any fiscal impact on local units of government. County agricultural agents will likely receive requests for information on provisions of the rule and on weed control strategies with reduced reliance on atrazine. This responsibility will probably be incorporated into current extension programs with no net fiscal impact.

#### **Initial Regulatory Flexibility Analysis**

Businesses Affected:

The amendments to ATCP 30 Appendix A will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine -- farmers who grow corn. The proposed prohibition area contains approximately 11,300 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 2,825 acres of corn will be affected. Between 10 and 30 producers would be affected, depending on their corn acreage and their reliance on atrazine products. These producers are small



businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

#### Reporting, Recordkeeping and Other Procedures Required for Compliance:

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10 Wis. Adm. Code.

#### Professional Skills Required to Comply:

The rule affects how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in the State, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past this type of assistance has been provided by University Extension personnel and farm chemical dealers. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

#### Draft Environmental Impact Statement

The Department has prepared a draft environmental impact statement (EIS) for proposed 2002 amendment to rules on the use of pesticides containing atrazine. Copies are available from the Department on request and will be available at the public hearings. Comments on the EIS should be directed to the Agricultural Resource Management Division, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI, 53708 in care of Jeff Postle. Phone 608/224-4503. Written comments on the EIS will be accepted until November 16, 2001.

### Notice of Hearing Commerce (Elevators, Ch. Comm 18) [CR 01-111]

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 (1) and (15), 101.12, and 101.17, Stats., the Department of

Commerce will hold a public hearing on proposed rules relating to elevators and mechanical lifting devices.

The public hearing will be held as follows:

| <b>Date, Time</b>       | <b>Location</b>  |
|-------------------------|--|
| <b>November 1, 2001</b> | Third Floor  |
| Thursday                | Conference Room #3C  |
| 10:00 a.m.              | Tommy G. Thompson Commerce Center<br>201 West Washington Avenue<br>Madison, WI |

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **November 16, 2001**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing. Written comments should be submitted to Diane Meredith, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701-2689.

#### Analysis Prepared by Department of Commerce

Statutory Authority: Sections 101.02 (1), 101.12 and 101.13, and 101.17

Statutes Interpreted: Sections 101.12, 101.13 and 101.17

The purpose of chapter Comm 18, Elevator Code, is to protect the safety of the general public and employees using elevators and other mechanical lifting devices in public buildings and places of employment.

The Department is in the process of repealing the requirements in chs. Comm 50 to 64 and promulgating rules in ch. Comm 61 to 66 (Clearinghouse Rule number 00-179) as the state Commercial Building Code. These changes include the adoption by reference of the 2000 edition of the International Building Code® (IBC), the International Energy Conservation Code™ (IECC), the International Mechanical Code® (IMC) and the International Fuel Gas Code® (IFGC). Chapter Comm 14, Fire Prevention Code, has been modified for fire code issues. The primary reason for revising the requirements in ch. Comm 18, Elevator Code, is to update cross-references to the Commercial Building Code, chs. Comm 61 to 65, including specific references to the adopted international codes. Changes are also proposed to eliminate duplicative and conflicting requirements and use terminology consistent with the IBC.

The following major changes are being proposed to the current ch. Comm 18:

1. The IBC sections 1108.6 and 1108.7 do not recognize the use of an ASME A17.1 Part 5 residential style elevator for use in a public building or place of employment. This will eliminate the rule permitting residential style elevators to be installed in existing churches and numerous rules within ch. Comm 18 that modified the technical requirements for residential elevators. [Comm 18.17 (1) (b) is repealed, and ch. Comm 18, subchapter V (ss. Comm 18.36 through 18.415 are repealed.)]

2. Currently, ch. Comm 18 requires stretcher-sized elevators in any building 4 or more stories in height and in hospitals, nursing homes, and medical clinics, regardless of the number of stories. The IBC section 3002.4 only requires a stretcher-sized elevator to be installed in any building 4 or more stories in height but not in hospitals, nursing homes, and medical clinics that are less than 4 stories in height. A Wisconsin-based requirement will be included to retain the requirement that a stretcher-sized elevator be provided in

hospitals, nursing homes, and medical clinics, regardless of the number of stories.[Comm 18.18 (1) (d) and (e) definitions and Comm 18.295]

3. The requirement that a drain or sump must be provided in all elevator pits is eliminated from Comm 18 and is included in IBC chapter 30 relating the construction requirements for elevators. [Comm 18.23 and Comm 62.3004 (2)]

4. Eliminate duplicative construction related accessibility requirements and cross–reference IBC chapter 11 and ICC/ANSI A117.1 standard for consistency. [Comm 18.295 (2), Comm 18.35, Comm 18.74, Comm 18.755 and Comm 18.88 are repealed; See Comm 18.69 (1) (d), (2), and (3) for cross–references]

5. Eliminate the plan review and inspection functions and the technical requirements for hand dumbwaiters. [Comm 18.43 (1)]

The proposed rules have been developed with the assistance of the Elevator Code Council. The members of that citizen advisory are as follows:

| Names          | Representing                                 |
|----------------|--|
| Warren Bauer   | American Institute of Architects, WI Society |
| Ken Bavery     | WI State Fire Chiefs' Association            |
| David Koch     | National Assn. of Elevator Contractors       |
| Bruce Lammi    | WI Society of Professional Engineers         |
| Steve Lex      | WI AFL–CIO                                   |
| Jeff Lund      | Waupaca Elevator                             |
| William Page   | Accessibility Equip. Manufacturers Assn.     |
| David Rakowski | Public                                       |
| John Zalewski  | City of Milwaukee                            |
| Andrew Zielke  | National Elevator Industry, Inc.             |

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

#### Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules. Any small business involved with the installation or manufacturing of elevators or mechanical lifting devices will be affected by the rules.

2. Reporting, bookkeeping and other procedures required for compliance with the rules. There are no reporting, bookkeeping or other procedures necessary for compliance with the rules.

3. Types of professional skills necessary for compliance with the rules. None known.

#### Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing chapters Comm 18 and 62. The proposed rules do not contain any changes in the Division's fees charged for administering and enforcing chapters Comm 18 and 62. The proposed rule changes will not generate any additional workload costs and do not propose any changes in fees paid to the Department. Therefore, the proposed rules will not have any fiscal effect on the Division.

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

[www.commerce.state.wi.us/SB/SB–HomePage](http://www.commerce.state.wi.us/SB/SB–HomePage)

Paper copies may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701–2689, Email [rwward@commerce.state.wi.us](mailto:rwward@commerce.state.wi.us), telephone (608) 266–8741 or (608) 264–8777 (TTY). Copies will also be available at the public hearings.

### Notice of Hearing

#### Commerce

#### (Building and Heating, etc., Chs. Comm 50–64) [CR 01–109]

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.13 and 101.132, Stats., the Department of Commerce will hold a public hearing on proposed rules relating to the building construction accessibility requirements.

The public hearing will be held as follows:

| Date, Time              | Location   |
|-------------------------|--|
| <b>November 8, 2001</b> | Third Floor  |
| Thursday                | Conference Room #3C  |
| 10:00 a.m.              | Tommy G. Thompson Commerce Center<br>201 West Washington Avenue<br>Madison, WI |

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **November 23, 2001**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing. Written comments should be submitted to Diane Meredith, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701–2689.

#### Analysis Prepared by Department of Commerce

Statutory Authority: Sections 101.02 (1) and (15), 101.13, and 101.132, Stats.

Statutes Interpreted: Sections 101.13 and 101.132, Stats.

The Department is currently promulgating a revised state Commercial Building Code, chapters Comm 61 to 65, under Clearinghouse Rule 00–179. That code includes the adoption by reference of the 2000 editions of the *International Building Code*<sup>®</sup> (IBC), the *International Energy Conservation Code*<sup>™</sup> (IECC), the *International Mechanical Code*<sup>®</sup> (IMC) and the *International Fuel Gas Code*<sup>®</sup> (IFGC).

The 2000 edition of the IBC contains barrier–free accessibility requirements for buildings and facilities; however, those accessibility requirements have been substantially changed in a 2001 IBC Supplement, to ensure the IBC provides an equivalency or “safe harbor” with federal fair housing design regulations. The Department feels it is important to also adopt the 2001 IBC accessibility changes so designers and owners will be complying with rules that are substantially equivalent to the federal regulations, as well as the state fair housing regulations relating to accessibility in multifamily housing. This proposed rule package on accessibility issues has a projected effective date of July 1, 2002, which will coincide with the projected effective date of the revised Commercial Building Code.

This rule package includes new Wisconsin–based accessibility requirements, along with those that were previously proposed under Clearinghouse Rule 00–179, and includes all of the requirements in the 2000 IBC and in the 2001 IBC Supplement that relate to accessibility in multifamily housing and commercial facilities. This puts all

the accessibility requirements in Wisconsin into one document, which should make the requirements easier to use.

A. The following is a summary of the new Wisconsin–based requirements that are being proposed subsequent to including the IBC in chapters Comm 61 to 65:

1. A Wisconsin–based requirement is included for the 2001 IBC Supplement, chapter 10, that clarifies stairways at exterior areas of rescue assistance must be at least 48–inches wide, and these areas must be identified with signs in accordance with IBC section 1003.2.13.5.5. [Comm 62.1003 (2) (b)]

2. The IBC requires in assembly areas that at least one wheelchair space be provided for every 200 seats over 500 seats, which conflicts with the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG). A Wisconsin–based requirement is proposed to require one wheelchair space for every 100 seats over 500 seats in assembly areas, which is consistent with ADAAG 4.1.3 (19). [Table Comm 62.1108–1]

3. The IBC requires a unisex toilet room to be provided in assembly and mercantile occupancies where 6 or more male and female water closet fixtures are required. However, under s. 101.13 (1m) (b), Stats., the Department is prohibited from promulgating a rule requiring the use of a unisex toilet room in any public building. The proposed rules will permit a unisex toilet room to be provided in assembly and mercantile areas, but will not require it. [Comm 62.1109 (2) (c)]

4. Requirements from the 2001 IBC Supplement are being modified to clarify the accessibility requirements for existing buildings, when a change in occupancy occurs. [Comm 62.3408 (3) and (5)]

B. The following requirements, which were all also included in Clearinghouse Rule 00–179, are based on the fair housing language specified in section 101.132, Stats:

1. The renter of a multifamily dwelling may request, at no cost to the renter, lever door handles on all doors, and single lever controls on all plumbing fixtures. [Comm 62.1101 (2) (a) Note]

2. Circuit controls that are installed for use by tenants must be accessible. [Comm 62.1101 (2) (b)]

3. All exits must be accessible and, to the maximum extent feasible, all entrances must be accessible. [Comm 62.1105 and Comm 62.1107 (7) (a) 1.]

4. Accessibility rules apply to buildings with 3 or more dwelling units. [Comm 62.1107 (5) (a) 2., (b) 2., and (c) 2.; and (6) (a) 2., (b) 2., (c), and (d) 2.]

5. A petition for variance must be submitted to justify site impracticality or unusual characteristics of the site, and the minimum number of accessible dwelling units must be not less than 50% of the total number of dwelling units. [Comm 62.1107 (7) (d) and (e)]

6. Accessibility must be provided in existing housing, based on the percentage of remodeling. [Comm 62.3408 (3) and (5)]

C. The following is a summary of the differences between Wisconsin’s current fair housing requirements and the IBC fair housing requirements:

1. The IBC requires that at least 2% of the dwelling units in facilities with more than 20 dwelling units must include accessibility features similar to those specified for commercial facilities. These units are designated as Type A units. The accessibility features in Type A units also include maneuverability at doors within dwelling units, which will require turnaround space within each bathroom in Type A units. The other dwelling or sleeping units on accessible

floors must be Type B units. Type B units are those units that comply with the accessibility features specified in the fair housing regulations. [Comm 62.1107 (5) and (6)]

2. Currently, Wisconsin requires at least one bathroom in each dwelling unit to be designed to a higher level of usability as specified in the federal fair housing regulations. This requirement will be replaced with the IBC requirement that 2% of the dwelling units in a facility with more than 20 dwelling units must be Type A units.

3. The current Wisconsin–based rule that requires additional space at the faucet end of a bathtub, to accommodate toe clearances, will be replaced with the IBC requirement that 2% of the dwelling units in a facility with more than 20 dwelling units must be Type A units.

4. The IBC requires that accessible routes to accessible parking spaces for Type A dwelling units must be interior if the general circulation path is interior. This requirement does not apply to Type B units, which is consistent with the federal fair housing regulations. [Comm 62.1104 (5)]

5. In addition to specifying the percentage of accessible dwelling units or sleeping units in health care facilities, the IBC requires that all other dwelling units or sleeping units which are intended to be occupied as a residence must be Type B units. [Comm 62.1107 (5)]

6. The IBC requires a vertical clearance of at least 98 inches at accessible parking spaces and along the vehicular route to these spaces. This will require overhead doors for underground parking facilities to have a minimum clearance of 98 inches. [Comm 62.1106 (2) and ICC/ANSI A117.1 section 502.5]

D. The following are Wisconsin–based accessibility requirements for commercial buildings that were previously included in Clearinghouse Rule 00–179:

1. The IBC requires vertical access to floor levels that are above or below the accessible level and that have an aggregate area more than 3,000 square feet. Under the IBC, vertical access must be provided between all floor levels in Group M (mercantile) occupancies with five or more tenant spaces, in Group B (business) or Group I (institutional) occupancies with offices of health care providers, in passenger transportation facilities and airports regardless of the size of the building. The Wisconsin–based requirement will be maintained that includes government–owned facilities in this category to be consistent with the federal Americans with Disabilities Act. [Comm 62.1104 (4)]

2. The Wisconsin–based exemption will be maintained that allows omitting an accessible route to floor levels that are above or below the accessible floor level in government–owned or –operated facilities, where the raised or lowered floor level is less than 500 square feet and has a maximum capacity of 5 people or less. [Comm 62.1104 (4) (b) 3.]

3. The Wisconsin–based requirement is being maintained that requires accessible parking spaces to have a parking sign complying with s. Trans 200.07. [Comm 62.1110 (1) (b)]

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

#### **Initial Regulatory Flexibility Analysis**

1. Types of small businesses that will be affected by the rules. All newly constructed or altered public buildings and



places of employment will be affected by these rules. Similar accessibility rules have been in effect in the state since December 1994 and the federal accessibility laws have been in effect for over 10 years, so the impact of these rules should be minimal.

2. Reporting, bookkeeping and other procedures required for compliance with the rules. None known

3. Types of professional skills necessary for compliance with the rules. None known

#### **Fiscal Estimate**

The Safety and Buildings Division is responsible for administering and enforcing chapters Comm 61 to 65, Wisconsin Commercial Building Code. The proposed rules are updating rules relating to accessibility issues and do not contain any changes in the Division's fees charged for administering and enforcing the Wisconsin Commercial Building Code. The proposed rules will not generate any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

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

www.commerce.state.wi.us/SB/SB–HomePage

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

### **Notice of Hearing Commerce (Historic Buildings, Ch. Comm 70) [CR 01–110]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 101.02 (1) and (15) and 101.121, Stats., the Department of Commerce will hold a public hearing on proposed rules relating to historic buildings.

The public hearing will be held as follows:

| <b>Date, Time</b>       | <b>Location</b>  |
|-------------------------|--|
| <b>November 9, 2001</b> | Third Floor  |
| Friday                  | Conference Room #3C  |
| 10:00 a.m.              | Tommy G. Thompson Commerce Center<br>201 West Washington Avenue<br>Madison, WI |

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **November 23, 2001**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing. Written comments should be submitted to Diane Meredith, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, WI 53701–2689.

#### **Analysis Prepared by Department of Commerce**

Statutory Authority: Sections 101.02 (1) and (15), and 101.121, Stats.

Statutes Interpreted: Section 101.121, Stats.

The Department is currently promulgating a revised state Commercial Building Code, chapters Comm 61 to 65, under Clearinghouse Rule 00–179. That code includes the adoption

by reference of the 2000 editions of the *International Building Code*<sup>®</sup> (IBC), the *International Energy Conservation Code*<sup>™</sup> (IECC), the *International Mechanical Code*<sup>®</sup> (IMC) and the *International Fuel Gas Code*<sup>®</sup> (IFGC).

The primary reason for revising the requirements in chapter Comm 70, Historic Building Code is to update cross–references to the Commercial Building Code, chapters Comm 61 to 65, including specific references to the adopted international codes. Changes are also proposed to eliminate duplicative and conflicting requirements by using terminology consistent with the IBC, and to clarify existing requirements relating to the building evaluation method. This proposed rule package on historic buildings has a projected effective date of July 1, 2002, which will coincide with the projected effective date of the revised Commercial Building Code.

The following major changes are being proposed to the current chapter Comm 70:

1. Revised the requirements relating to the application of other codes to qualified historic buildings to coincide with the requirements in 101.121 (4), Stats. [Comm 70.04]

2. Modified plan examination and plan submittal requirements to be consistent with proposed chapter Comm 61 relating to administration and enforcement of the Commercial Building Code. [Comm 70.07 (1) and (3)]

3. Consolidated requirements relating to approval application forms and types of approvals given by the Department by cross–referencing chapter Comm 61 and to clarify submittal requirements. [Comm 70.07 (5) and Comm 70.08]

4. Modified the building safety parameters specified in sections Comm 70.22 (1) to (17) to cross–reference the applicable IBC code sections and to clarify language for use with the IBC. The code text was changed to require the comparison to the “prevailing code”, which is the IBC, and to list the appropriate IBC sections in informational notes. The following major changes are being proposed:

a. Modified several sections to use terminology that is consistent with the IBC. (Changing “class of construction” to “type of construction”, “building setback” to “building fire separation distance”, and “firestopping” to “fireblocking and draftstopping”.) [Comm 70.22 (1) and (3)]

b. Eliminated a duplicative requirement allowing an increase in building area when a building is sprinklered. This increase is already covered in the IBC. [Comm 70.22 (2)]

c. Changed the attic compartmentalization area from 3200 square feet to 3000 square feet to be consistent with the IBC. [Comm 70.22 (4)]

d. Eliminated the requirement that dead ends could not be created since the IBC would permit certain dead ends. [Comm 70.22 (13)]

e. Eliminated the reference in Table 70.22–17 to “unseparated hazardous areas” since these areas are considered “incidental use areas” and are considered within the context of code compliance under the IBC. [Comm Table 70.22–17, line 6]

5. Changed the methods for determining the fire–resistance rating of materials by using IBC chapter 7 and coordinated the cross–references to specific IBC sections, such as IBC section 703.3 for methods for determining fire resistance of materials. The IBC chapter 7 requirements include very detailed prescriptive fire–resistance ratings for materials such as clay, shale, slate and limestone units. If the fire–resistance could not be determined using these Tables, other methods or standards recognized by the Department could still be used. [Comm 70.40 (3) (a)]



6. Modified various code sections to cross-reference the correct code requirements in the IBC. [Comm 70.02 (2), definitions under 70.17, 70.27, 70.28, 70.29 (3), 70.37 (1) and (2) (a), 70.38 (1) (a) and (b), 70.39 (1) (a) 2., and 70.42]

7. Modified the alternate atrium requirements relating to smoke removal to comply with the mechanical smoke exhaust requirements in the IBC. [Comm 70.26 (3) (d)]

### Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules. Small design firms working on qualified historic buildings, or small businesses located in qualified historic buildings that are altered or changed in occupancy will be affected by these rules. The primary reason for the rule change is update cross-references to chapters Comm 61 to 65, Wisconsin Commercial Building Code and the International Building Code, and to clarify existing requirements relating to the building evaluation method. The impact on small businesses should be minimal.

2. Reporting, bookkeeping and other procedures required for compliance with the rules. There are no reporting, bookkeeping or other procedures necessary for compliance with the rules.

3. Types of professional skills necessary for compliance with the rules. None known.

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

### Fiscal Estimate

The proposed rule changes to ch. Comm 70 are updating cross-references and clarifying code language, which do not contain any changes in the Division's fees charged for administering and enforcing the Wisconsin Commercial Building Code. The proposed rules will not generate any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

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

[www.commerce.state.wi.us/SB/SB-HomePage](http://www.commerce.state.wi.us/SB/SB-HomePage)

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

## Notice of Hearing

### Commerce

### (Financial Resources for Businesses & Communities, Chs. Comm 105-128)

### [CR 01-113]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.14 (4m) and 227.17, Stats., the Department of Commerce will hold public hearings on proposed rules relating to Community Development Block Grant Program.

| <b>Date, Time</b>       | <b>Location</b>   |
|-------------------------|---|
| <b>October 30, 2001</b> | Third Floor   |
| Tuesday                 | Room #3B, 3rd Floor   |
| 10:00 a.m.              | T.G. Thompson Commerce Center<br>(WHEDA Bldg.)<br>201 West Washington Avenue<br>Madison, WI |

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **November 15, 2001**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

Written comments should be submitted to:

Jean M. MacCubbin, Department of Commerce  
Administrative Services Division  
P.O. Box 2689  
Madison, WI 53701-2689

### Analysis Prepared by Department of Commerce

Statutory authority: ss. 16.358, 560.04 and 560.045

Statutes interpreted: s. 560.045, Stats.

Under s. 560.045, Stats., the Department of Commerce has the responsibility of accepting and evaluating applications, and awarding grants. One mechanism of the Department in fulfilling this responsibility has been the promulgation of rules for the state community development block grant program, ch. Comm 108.

This rule revision relates to changes in definitions which occurred in the 1999 Wisc. Act 9; additional program funds now available from U.S. Housing and Urban Development (HUD); revising the application schedule on a continuing basis; and updating the process of scoring applications.

Currently public facility grants to eligible communities are awarded annually. Under this proposal, grants can be awarded throughout the year making it easier for communities to prepare and submit their proposals.

A number of definitions have been updated to reflect changes in Statutory citations, to include the complete definition as a Note for the user, and to clarify terms that may have been used inter-changeably in the previous edition of the code.

The rule revisions reflect the expansion of funding programs for public facilities planning to issue grants to eligible local governments for public facilities planning up to \$12,500 per plan.

Some sections relating to the scoring of applications are being to reflect the intent of the issue as and staff experience with ranking applications.

Other minor revisions throughout the chapter relate to code clarification, Statutory notes, and rule format.

### Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules. The proposed rule revisions are subject to eligible local governmental units only.

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

The reporting, bookkeeping and other procedures required for applicants or eligible local governmental units are expected to be more user-friendly, in that applications may be made throughout the year and that specific grant award

requirements, scoring and award amounts are more clearly communicated in the rule and application materials.

The ability for an eligible local governmental unit to apply for CDGB funding throughout the year should serve as a valuable benefit for local government planning.

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

The rule revisions includes the ability to apply for various planning grants; no additional professional skills are expected to be required by applicants or eligible local governmental units.

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

#### **Fiscal Estimate**

The proposed rule revisions are specific to the processes and procedures in administration the federal funds, U.S. Housing and Urban Development (HUD). Eligible local units of government may be recipients of these funds.

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

[www.commerce.state.wi.us/SB/SB-HomePage](http://www.commerce.state.wi.us/SB/SB-HomePage).

Paper copies may be obtained without cost from Jean M. MacCubbin, Department of Commerce, Administrative Services Division, P.O. Box 2689, Madison, WI 53701-2689, Email: [jmaccubbin@commerce.state.wi.us](mailto:jmaccubbin@commerce.state.wi.us), telephone (608) 266-0955 or (608) 264-8777 (TTY). Copies will also be available at the public hearings and on the Commerce webpage at:

<http://www.commerce.state.wi.us/COM/Com-Community.html>

## **Notice of Hearing**

### **Financial Institutions – Banking**

**[CR 01-112]**

Pursuant to s. 227.17, Stats., notice is hereby given that the Department of Financial Institutions, Division of Banking will hold a public hearing at the time and place indicated below to consider creating a rule regarding procedures for cancellation and return of accounts.

#### **Date, Time and Place of Hearing**

|                         |                                      |
|-------------------------|--------------------------------------|
| <b>October 30, 2001</b> | Tommy G. Thompson Conf. Room         |
| Tuesday                 | 5th Floor                            |
| 9:00 a.m.               | Department of Financial Institutions |
|                         | 345 West Washington Avenue           |
|                         | Madison, WI 53703                    |

This facility is accessible to individuals with disabilities

through levels A, B or the first floor lobby. If you require reasonable accommodation to access any meeting, please call Lisa Bauer at (608) 264-7877 or TTY (608) 266-8818 for the hearing impaired at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided by the Americans with Disabilities Act.

Written comments in lieu of public hearing testimony must be received not later than the hearing date and should be addressed to Michael J. Mach, Administrator, Department of Financial Institutions, Division of Banking, P.O. Box 7876, Madison, WI 53707-7876.

#### **Analysis Prepared by Department of Financial Institutions, Division of Banking**

To amend s. DFI-Bkg 74.08 (2), and create ss. DFI-Bkg 74.001 (3) and DFI-Bkg 74.08 (4). Statutory authority: ss. 218.04 (7) (d) and 227.11 (2), Stats. Summary: Currently a collection agency must cancel and return all accounts when a license is terminated for whatever reason. However, current rules do not contemplate 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. This rule also allows, under certain circumstances, a licensed collection agency to purchase the listed accounts of another agency. Accounts would not need to be cancelled and returned in these circumstances.

#### **Statutory Authority:**

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

#### **Fiscal Estimate**

There is no state fiscal effect, and there are no local government costs. No funding sources or ch. 20 appropriations are affected. There are no long-range fiscal implications.

#### **Initial Regulatory Flexibility Analysis:**

The rule may have an impact on small business. Types of small business that will be affected by the rule: collection agencies. Description of the proposed reporting, bookkeeping and other procedures required for compliance: application and payment of fee to the division, and notice to persons having accounts listed. Types of professional skills necessary for compliance: no new skills.

#### **Contact Person**

A copy of the full text of the proposed rules and fiscal estimate may be obtained through the following:

Michael J. Mach, Administrator  
Department of Financial Institutions  
Division of Banking  
P.O. Box 7876, Madison  
WI 53707-7876  
tel. (608) 261-7578

A copy of the full text of the proposed rules may also be obtained at the department's website, [www.wdfi.org](http://www.wdfi.org).

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## Submittal of proposed rules to the legislature

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

### **Employee Trust Funds**

(CR 01-096)

Ch. ETF 20 – Relating to joint and survivor annuity reduced 25% upon death of annuitant or named survivor.

### **Health and Family Services**

(CR 01-045)

Ch. HFS 95 – Relating to the use of force to prevent

escapes, pursue and capture escaped persons detained or committed under ch. 980, Stats., and to provide security at facilities housing such persons.

### **Regulation and Licensing**

(CR 01-068)

Ch. RL 10 – Relating to certification of optometrists to use diagnostic pharmaceutical agents.

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## Rule orders filed with the revisor of statutes bureau

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*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.*

**Commerce  
(CR 00-179)**

An order affecting chs. Comm 4, 14, 15, 16.46, 50 to 64, 65, 66, 69 and 73, relating to commercial buildings and structures and multifamily dwellings.

Effective 7-1-02

**Commerce  
(CR 01-070)**

An order affecting ch. Comm 113, relating to allocation of volume cap on tax-exempt private activity bonds.

Effective 12-1-01

**Funeral Directors Examining Board  
(CR 01-063)**

An order affecting chs. FD 1 and 4, relating to apprenticeship credit and continuing education.

Effective 12-1-01

**Hearing and Speech Examining Board  
(CR 01-043)**

An order affecting ch. HAS 6, relating to the licensure and regulation of speech-language pathologists, audiologists, temporary licensees and supervision of unlicensed individuals.

Effective 11-1-01

**Natural Resources  
(CR 01-030)**

An order affecting ch. NR 1, relating to the cooperating forester program and private forestry priorities for assistance.

Effective 12-1-01

**Veterinary Examining Board  
(CR 01-061)**

An order affecting ch. VE 7, relating to the definition of unprofessional conduct of the practice of veterinary medicine.

Effective 12-1-01





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