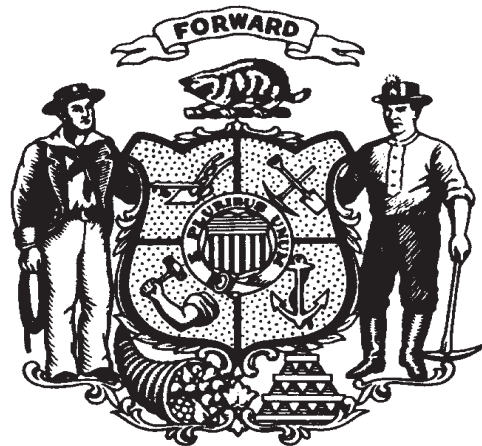


Wisconsin Administrative Register

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Emergency rules now in effect

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

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

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

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

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

Agriculture, Trade and Consumer Protection

Rules adopted revising **ch. ATCP 77**, relating to certification of drug residue screening laboratories and approval of laboratory analysts to perform drug residue screening tests on milk.

Finding of emergency

The Department of Agriculture, Trade and Consumer Protection ("department") finds that an emergency exists and that the following emergency rule is necessary to protect the public welfare. This emergency rule will bring Wisconsin into compliance with federal requirements. Wisconsin must comply with the federal requirements in order for Wisconsin dairy plants to continue shipping milk in interstate commerce. Interstate milk shipments are critical for the state's dairy industry, and for the overall economy and well being of the state. The facts constituting the emergency are as follows:

(1) Grade A milk shipments are governed by the Interstate Pasteurized Milk Ordinance (PMO), jointly administered by the United States Food and Drug Administration (FDA) and the National Conference of Interstate Milk Shippers (representing participating states). In order for Wisconsin dairy plants to ship milk in interstate, Wisconsin must comply with the PMO and FDA mandates related to the PMO. Under s. 97.24, Stats., the Wisconsin Legislature has directed the department to adopt rules that conform to the PMO.

(2) Under the PMO and current state rules, all raw milk received by a dairy plant must be tested for certain drug residues (antibiotics from the penicillin family of drugs).

(3) FDA approves tests used for drug residue testing. There are 15 different tests that are approved for use. Some of these tests use a mechanical reader that determines the test result and then records it on a printer tape or directly to a computer. But other approved tests are "visually read", and involve no mechanical reader. In these tests, an individual analyst

interprets a color change to determine whether drug residues are present.

(4) The department currently certifies laboratories and analysts that conduct confirmatory drug residue tests on raw milk samples. The department certifies these laboratories and analysts under ch. ATCP 77, Wis. Adm. Code. The department does not currently certify laboratories or analysts that perform only preliminary screening tests for drug residues, although it does provide training. Some preliminary screening tests use mechanical readers, while others are "visually read."

(5) On July 2, 2001, FDA issued a new directive requiring states to approve laboratories that conduct screening tests (not just confirmatory tests) for drug residues in milk. A state must conduct an on-site evaluation before approving a laboratory or analyst to conduct "visual read" screening tests. According to the FDA, the department must complete its evaluations and issue its approvals by March 1, 2002. FDA may de-certify Wisconsin milk shippers if the department fails to carry out this directive, or if milk shipments are not tested by approved laboratories and analysts. De-certification could prevent the movement of Wisconsin milk in interstate commerce.

(6) In order to ensure the continued movement of Wisconsin milk in interstate commerce, the department must adopt rules expanding the current lab certification program under ch. ATCP 77, Wis. Adm. Code. The rules will require certification of laboratories conducting drug residue screening tests. The rules will also require on-site evaluation and approval of individual analysts conducting "visual read" screening tests. The rules will create new lab certification fees to pay for the expanded program, including the cost to perform the required on-site evaluations. The department must adopt these rules as soon as possible, in order to complete the required evaluations and issue the required approvals by March 1, 2002.

(7) The department cannot create this new program, by normal rulemaking procedures, in time to meet the March 1, 2002 deadline. The department is therefore adopting this temporary emergency rule under s. 227.24, Stats., pending the adoption of "permanent" rules by normal procedures. This emergency rule is needed to ensure the continued movement of Wisconsin milk in interstate commerce, and to prevent the economic disruption that would occur if that movement were interrupted.

Publication Date: November 15, 2001

Effective Date: November 15, 2001

Expiration Date: April 14, 2002

Hearing Dates: November 29, December 4, 5 & 6, 2001

Commerce (3)

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

1. Rules adopted revising **ch. Comm 110** relating to brownfields redevelopment grants.

Finding of emergency

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

The facts constituting the emergency are as follows. Under section 3628 of 2001 Wis. Act 16, the Department must begin

accepting applications from trustees and nonprofit organizations, for brownfields redevelopment grants. And, under section 3630 of the Act, the Department must begin disallowing use of the grant funds to pay either delinquent real estate taxes or lien claims of the Department of Natural Resources or the federal Environmental Protection Agency.

The Department's rules for administering the brownfields grant program are currently contained in ch. Comm 110 Wis. Adm. Code. These current rules do not recognize trustees and nonprofit organizations as eligible applicants, and do not include disallowing grant funds for payments on either back taxes, or on state or federal lien claims.

In November, the Department expects to begin promulgating permanent rules for making ch. Comm 110 consistent with Act 16. Due to the mandatory rulemaking procedures under ch. 227, Stats., the permanent rules are not expected to become effective until July 1, 2002. In order to comply with Act 16 by accepting applications and issuing grants for trustees and nonprofit organizations prior to then, emergency rules reflecting these changes are needed, as included herein. These emergency rules also address the above disallowance for grant proceeds, and include some minor updating of the ch. Comm 110 criteria for submitting grant applications and for filing subsequent financial and program reports.

Pursuant to s. 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

Publication Date: October 27, 2001
Effective Date: October 27, 2001
Expiration Date: March 26, 2002
Hearing Date: January 11, 2002
 [See notice this register]

2. Rules adopted revising **ch. Comm 108**, relating to community development block grant program.

Finding of emergency

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

The facts constituting the emergency are as follows:

- Under the state's Consolidated Plan for the expenditure of U.S. Department of Housing and Urban Development Funds (HUD), the department has available Community Development Block Grant Funds specifically for community and economic development projects that typically are planned and designed during the winter months for commencement when the ground thaws.

- Having the ability to make these grants available at this time would assist eligible local governmental units with their project planning, obtain bids during a time when bids can be as much as 20 percent less than bids obtained in late winter or early spring, and allow for construction start-up early in the spring.

- Project readiness is a consideration in awarding grants under this program.

- Bid letting and contract approvals made prior to the construction season may allow for the completion of construction projects within one construction season.

- The acceptance and funding of applications at this time will provide an economic stimulus at the local government level in the form of planning, engineering and particularly construction contracts which offer high paying jobs.

This rule revision relates to changes in definitions which occurred in the 1999 Wis. 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.

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.

Publication Date: December 1, 2001
Effective Date: December 1, 2001
Expiration Date: April 30, 2002
Hearing Date: January 16, 2002

3. Rules adopted creating **ch. Comm 107**, relating to Wisconsin Technology Zone Program.

Finding of emergency

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

Facts constituting the emergency are as follows:

- In accordance with s. 560.02 (4), Stats., the department of Commerce has the responsibility to promulgate rules to provide for the attraction, promotion and expansion of high-technology business in the state.

- Section 560.96, Stats., makes available certain tax benefits for certified businesses within the 8 designated technology zones. Tax benefits are available to certified businesses if their tax year begins on or after January 1, 2002.

- In response to a downturn in the economy and recent economic forecasts, Governor McCallum has prioritized the need to promulgate these rules as part of his economic stimulus package.

- The technology zone program will address several action items identified by the 2000 Wisconsin Economic Summit to ensure Wisconsin's short- and long-term economic vitality and success, including:

1. Combating the state's 'brain drain' by increasing high tech jobs.

2. Linking Wisconsin's research expertise with Wisconsin firms to grow clusters of high-tech jobs.

3. Linking economic strategies across regions for power through collaboration.

- This emergency rule is being created in order that the process of designating the 8 technology zones be commenced as soon as possible and that such eligible businesses may become certified and participate in the tax benefits through the Wisconsin Technology Zone Program.

Publication Date: December 5, 2001
Effective Date: December 5, 2001
Expiration Date: May 4, 2002

Financial Institutions – Banking

A rule was adopted creating **s. DFI-Bkg 80.90**, relating to registration fees under the Wisconsin Consumer Act.

Finding of emergency

2001 Wis. Act 16 authorizes the Department of Financial Institutions to adopt rules pertaining to registration fees under the Wisconsin Consumer Act. The proposed rule revises the formula for calculating these fees. Without this rule, the department is unable to effectuate the legislature's

requirement that registrations be completed by February 28, 2002.

Publication Date: December 3, 2001
Effective Date: December 3, 2001
Expiration Date: May 2, 2002

Financial Institutions – Corporate and Consumer Services

Rules adopted repealing **ch. SS 3** and repealing and recreating **chs. DFI–CCS 1 to 6**, created as emergency rules, 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: October 24, 2001
Effective Date: October 24, 2001
Expiration Date: March 23, 2002
Hearing Date: December 3, 2001

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
Extension Through: January 17, 2002

2. 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

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
Hearing Date: July 31, 2001
Extension Through: January 26, 2002

Insurance

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

Finding of emergency

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

This rule accomplishes changes required for new agent licensing software and other changes required for Gramm Leach Bliley Act and conformance to the NAIC model licensing law. This rule has already been sent to the legislature for review and the review period is completed. The only modification pending is related to the exemption for Rental Car insurance. The germane amendment has been sent to the appropriate committees and should be acceptable. The remainder of the rule is exactly as sent to the legislature and will be promulgated and published. The publication of the rule will not be effective until February of 2002 at the earliest and many of these provisions need to be effective immediately.

OCI has entered into a contract with a vendor for its agent's licensing software. This software is used by about 15 states. The software requires that certain modifications be made to existing rules in order for it to work. OCI has converted to the new system and requires the changes immediately.

In addition, in order for OCI to be considered reciprocal certain changes relating to the licensing of nonresidents need to be made.

Publication Date: November 9, 2001
Effective Dates: November 9, 2001 and January 1, 2002
Expiration Dates: April 8 and May 31, 2002

Natural Resources (2)

(Fish, Game, etc., Chs. NR 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
Extension Through: January 26, 2002

2. Rules adopted revising **ch. NR 20**, relating to sturgeon spearing on the Lake Winnebago system.

Finding of emergency

The department of natural resources finds that an emergency exists and the foregoing rule is necessary for the immediate preservation of the public health, safety or welfare. The facts constituting this emergency are:

Winter spear harvest of sturgeon has continued to exceed the total allowable harvest goals due to an increase in spearing pressure and the current format of the season, which allows continued spearing for 1 day following the announcement of the season closure (when 80% of the total allowable harvest is reached). Harvest on the final day of the 2001 season resulted in a final harvest that exceeded the total allowable harvest by 52%. An emergency order is needed to protect the sturgeon population by preventing continued overharvest of female sturgeon during the 2002 season while permanent rules are being developed. The early closure should reduce spearing effort by 40%, which should decrease the daily harvest and reduce the risk of exceeding the total allowable harvest on the final day of the season.

Publication Date: December 14, 2001
Effective Date: December 14, 2001
Expiration Date: May 13, 2002
Hearing Date: January 14, 2002

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
Hearing Date: December 27, 2001

Scope statements

Agriculture, Trade and Consumer Protection

Subject

Commercial Weighing and Measuring Devices; Inspection Standards for Municipal Inspection Programs and Private Service Companies; License Fee Revisions.

Policy analysis

Objective of the rule. Improve statewide consistency in the application of the state's weights and measures laws by establishing uniform inspection program standards for municipal weights and measures programs and uniform standards for private service companies to use when installing, repairing and calibrating commercial weighing and measuring devices.

Increase annual license fees for private service companies and vehicle scale operators to cover the department's costs to administer the licensing programs.

Uniform Standards

DATCP enforces Wisconsin's weights and measures laws. DATCP and municipal inspectors inspect weighing and measuring devices and check commodities and price scanners to ensure that commercial devices are correct.

Municipalities with a population of 5,000 or more must establish their own weights and measures departments or must contract with DATCP to furnish weights and measures services. Currently, 18 municipalities operate their own weights and measures programs and 102 municipalities contract with DATCP for inspection services.

In addition, there are private service companies licensed by the department that install, service, test and calibrate commercial weighing and measuring devices. Currently, the department licenses 290 private service companies in the state.

Although these three different entities (DATCP, municipalities and private service companies) all apply state weights and measures laws, there are few uniform standards or procedures governing the activities of municipal inspection programs and private service companies. The absence of uniform procedures and standards causes inconsistent inspection results, which harms consumers and competing businesses.

DATCP proposes to establish uniform weights and measures standards and procedures by rule, including:

- Uniform procedures for installing, servicing, calibrating and testing commercial weighing and measuring devices.
- Uniform sealing requirements.
- Uniform program standards for inspecting commodities and price scanners.
- Uniform record-keeping and reporting requirements.
- Periodic audits and evaluations of municipal programs.
- Certification of private service company technicians.

License Fees for Private Service Companies and Vehicle Scale Operators

DATCP licenses 290 private service companies and 2,047 vehicle scales. The cost of the license fees is set by state law as follows: (a) For private service companies that service only their own weighing and measuring devices, the license fee costs \$100.00 per year. For private service companies that service weighing and measuring devices for other companies, the license fee costs \$200.00 per year plus \$50.00 per year for each additional business location. (b) Vehicle scale operators must license each scale the company operates. The license costs \$60.00 per year for each scale.

These statutory fees were established in 1997 and have not changed since that time, although the statutes specifically authorize the department to establish different fees by rule. The department needs to increase the license fees for private service companies and vehicle scale operators to maintain the current level of program operations and to cover the costs of administering these two licensing programs.

Policy alternatives

- Do nothing. This will perpetuate inconsistent application of state weights and measures laws and will not provide sufficient funds to maintain current program operations. Lack of uniformity in applying the laws hurts consumers and competing businesses.
- Allow each municipality and private service company to establish its own testing and inspection standards. This will also encourage inconsistent application of state weights and measures laws and will harm consumers and competing businesses.

Statutory authority

DATCP proposes to develop this rule under authority of ss. 93.07 (1), 98.04 (1), 98.16 (2), 98.18 (1h) and (2), and 100.20 (2), Stats.

Staff time required

DATCP estimates that it will use approximately .5 FTE staff time to develop this rule. This includes researching, drafting, preparing related documents, holding public hearings, coordinating advisory group discussions, and communicating with affected persons and groups. DATCP plans to develop this rule in consultation with municipalities, private service companies and other affected groups. DATCP will assign existing staff to develop this rule.

DATCP Board authorization

The Board previously authorized DATCP to begin drafting a rule on most of these issues, but the department needs Board approval of this revised scope statement to permit the department to include fee increases in the rule-making process.

The DATCP Board may not approve this revised scope statement sooner than 10 days after this revised scope statement is published in the Wisconsin Administrative Register. If the DATCP Board takes no action on the revised

scope statement within 30 days after the department presents the revised scope statement to the Board at a Board meeting, the revised scope statement is deemed to be approved. Before the department holds public hearings on this rule, the DATCP Board must approve the hearing draft. The Board must also approve the final draft rule before the department adopts the rule.

Commerce

Subject

Fees and certifications relating to storage tanks for flammable, combustible and hazardous liquids.

Policy analysis

Objective of the rule. The purpose of ch. Comm 2 – Fee Schedule, is to set fees at a level that complies with s. 101.19, Stats., which requires the department to fix and collect fees which, as closely as possible, equal the cost of providing services.

The purpose of ch. Comm 5 – Licenses, Certifications and Registrations, is to establish minimum standards for the qualifications and responsibilities of persons or businesses that are required or allowed to obtain credentials under chs. 101, 145 and 167, Stats.

The purpose of the rule revision is to revise and simplify the fee schedule for storage tank plan review contained in ch. Comm 2 and to update the certification categories related to storage tanks in ch. Comm 5.

2. 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.

Section Comm 2.43, Table 2.43, which fixes fees for plan examination and inspection of storage tanks, has not been completely revised since 1992. Since that time, the cost of providing plan review and inspection services has increased. Also, the table is set up in a tier system that many customers find confusing. As a result, they often overpay which requires the department to issue refunds.

In ch. Comm 5, the department intends to modify a requirement for the certification of site assessors and add a requirement for the certification of corrosion protection testers.

The only policy alternative available would be to do nothing and leave the code as it is. This would result in revenues falling progressively further behind the cost of providing services. The department would also continue to administer a less important credential and exercise no oversight over a more essential phase of groundwater protection.

Statutory authority

Sections. 101.02 (1) and (15), 101.09 (3), 101.12, and 101.19 (1), Stats.

Staff time required

The time to make the changes will entail developing and publishing the scope statement, developing the rule draft, adding the changes to the ch. Comm 10 project that is currently underway and making any additional changes as a result of public hearings.

Estimated Commerce staff hours: 40

Controlled Substances Board

Subject

Classify as a schedule IV controlled substance under state law dichloralphenazone, which has been classified as a schedule IV controlled substance under federal law.

Policy analysis

Objective of the rule. By final rule of the Drug Enforcement Administration (DEA), adopted effective August 16, 2001, dichloralphenazone was classified as a schedule IV controlled substance under the federal Controlled Substances Act (CSA). Dichloralphenazone has not been so scheduled under the Wisconsin Controlled Substances Act in Chapter 961, Stats. The objective of the rule is to bring the treatment of this drug into conformity with that at the federal level.

Drugs that are classified as “controlled substances” under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use. Health care providers are also subject to greater record keeping requirements respecting their obtaining, prescribing and dispensing of such drugs. This is due to the fact that certain drugs have a greater likelihood of abuse, addition and adverse consequences to patient health if utilized inappropriately, than do other drugs. The DEA administers the CSA. In doing so, it is empowered to schedule a drug as a controlled substance. Schedule IV controlled substances are listed in 21 CFR 1308.14. Section 1308.14 (c) lists chloral hydrate as a depressant. The first sentence of 21 CFR 1308.14 (c) states that the category of schedule IV depressants includes “any material, compound, mixture, or preparation which contains any quantity of” the substances listed in the section. Since dichloralphenazone is a compound containing chloral hydrate, it is likewise a schedule IV depressant. This forms basis for the DEA action.

Statutory authority

Sections 961.11, 961.16 and 961.19, Stats.

Staff time required

It is estimated that 20 hours will be needed to promulgate the rule.

Financial Institutions – Savings Banks

Subject

Section DFI–SB 16.03 (8) relating to acquiring and holding stock in bank–owned banks.

Policy analysis

The objective of the rule is to create s. DFI–SB 16.03 (8). The rule would allow state–chartered savings banks, with the prior written approval of the division of savings institutions, to acquire and hold stock in any of the following: a bank chartered under s. 221.1202, Stats.; a national bank chartered under 12 USC 27(b)(1); a bank holding company wholly owning a bank chartered under s. 221.1202; or a bank holding company wholly owning a bank chartered under 12 USC 27(b)(1). Section 221.1201 permits state–chartered banks to acquire stock in bank–owned banks. The rule would be the implementing provision under state law authorizing state–chartered savings banks to acquire and hold stock in bank–owned banks. The rule would ensure that state–chartered savings banks will not be at a competitive disadvantage with other financial institutions that have received similar authority under state or federal laws.

Statutory authority

Sections 214.03 and 214.49 (15), Stats.

Staff time required

40 hours.

Financial Institutions – Savings and Loan**Subject**

Section DFI–SL 16.06 relating to acquiring and holding stock in bank–owned banks.

Policy analysis

The objective of the rule is to create s. DFI–SL 16.06. The rule would allow state–chartered savings and loan associations, with the prior written approval of the division of savings institutions, to acquire and hold stock in any of the following: a bank chartered under s. 221.1202, Stats.; a national bank chartered under 12 USC 27(b)(1); a bank holding company wholly owning a bank chartered under s. 221.1202; or a bank holding company wholly owning a bank chartered under 12 USC 27(b)(1). Section 221.1201 permits state–chartered banks to acquire stock in bank–owned banks. The rule would be the implementing provision under state law authorizing state–chartered savings and loan associations to acquire and hold stock in bank–owned banks. The rule would ensure that state–chartered savings and loan associations will not be at a competitive disadvantage with other financial institutions that have received similar authority under state or federal laws.

Statutory authority

Sections 215.135 and 215.13 (26) (f), Stats.

Staff time required

40 hours.

Public Service Commission**Subject**

The proposed rule revisions adopt for state purposes changes to the federal pipeline safety code that have been enacted since the last revisions to the state pipeline safety code were enacted. The state has adopted federal pipeline safety provisions in ch. PSC 135, Wis. Adm. Code.

Policy analysis

Objective of the rule. Under an agreement between the federal Department of Transportation, Office of Pipeline Safety, the Commission is authorized to enforce federal natural gas pipeline safety requirements as set out in the Code of Federal Regulations, 49 CFR Parts 192, 193 and 199. As part of the agreement, the Commission agrees to adopt those parts of the federal code that apply to pipeline safety. The state adopts the federal pipeline safety code in s. PSC 135.019, Wis. Adm. Code. The Commission last promulgated revisions to ch. PSC 135 in 1999. Since then, the federal DOT has adopted several final rules which revise the pipeline safety code. These changes include:

Federal Amendment 192–86, relating to qualification of pipeline personnel. This rule took effect August 27, 1999.

Federal Amendment 192–87, relating to determining the extent of corrosion on gas pipelines. This rule took effect on November 22, 1999.

Federal Amendment 192–88, relating to pipeline safety: gas and hazardous liquid pipeline repair. This rule took effect on January 13, 2000.

Federal Amendment 192–89, relating to underwater abandoned pipeline facilities. This rule took effect on October 20, 2000.

Federal Amendment 192–90, relating to qualification of pipeline personnel corrections. This rule took effect on August 20, 2001.

Federal Amendment 193–17, relating to incorporation of standard NFPA 59A in the liquefied natural gas regulations. This rule took effect March 31, 2000.

In this proceeding, the Commission will consider rule revisions designed to codify for state purposes these recently–enacted federal changes. The Commission may also consider revisions to its additions to the pipeline safety provisions. Currently, the Commission has promulgated several additions to the code. These additions are permitted under the federal agreement, as long as the additions do not adversely impact the federal requirements.

Statutory authority

Sections 196.02 (1) and (3), 196.745 and 227.11, Stats.

Staff time required

The Commission estimates that fewer than 200 hours of employee time will be required to develop the rules. No additional resources are likely to be needed in order to complete this project.

Revenue**Subject**

Sections Tax 6.40, 11.11 and 12.40 – Relating to application procedures for property tax exemptions for waste treatment facilities.

Objectives of the Rule. To comply with the changes made to s. 70.11 (21), Stats., that eliminate the exemption application requirement for waste treatment property taxed under chapter 70 and to update statutory cross–references.

Policy analysis

Section Tax 12.40 (2) specifies the application and approval process for the industrial waste treatment property tax exemption. Sections Tax 11.11 (2) and (5) (c) specify that industrial waste treatment property qualifies for sales and use tax exemptions if it has been approved as exempt from the property tax.

Under 2001 Wis. Act 16, owners of industrial waste treatment facilities will no longer be required to apply to the Department of Revenue (DOR) for property tax exemptions; the application process would continue to be required for property taxed under ch. 76, Stats. This change requires that ss. Tax 12.40 and Tax 11.11 be amended to eliminate reference to the DOR approval process for industrial property taxed under ch. 70, Stats.

Renumbering of the statutes in 1995 Act 227 and 1997 Act 35 and a change of address necessitate an update to s. Tax 6.40 which guides the exemption for waste treatment facilities owned by public utilities.

No new policies are being proposed other than to reflect changes made in 1995 Act 227, 1997 Act 35 and 2001 Wis. Act 16. The standards and uses required for the property and the sales and use tax exemptions for industrial waste treatment property are unchanged.

Statutory authority

Sections 77.61 (9) and 227.11 (2), Stats.

Staff time required

The department estimates it will take approximately 80 hours to develop this rule order.

Transportation

Subject

Objective of the rule. This rule making proposes to amend s. Trans 102.15 (3) (a) 8. to require additional proof of identification documents from person using a “parolee” or “refugee” version of the federal I–94 arrival departure record. The “parolee” or “refugee” version of the federal I–94 document is a standard I–94 document that is hand–stamped to indicate the possessor’s parolee or refugee status. The document is not secure identification and can be easily forged.

Policy analysis

Under the current regulation, such an I–94 document is accorded the same veracity as proof of identity as a passport or certified birth certificate. Refugees and parolees often leave their countries without passports or other identification documents, making it difficult for them to document their identities to the satisfaction of driver licensing agencies. The Department proposes to require persons having these types of I–94 documents as their sole source of identification to also provide the Department with a letter from their immigration sponsor and a copy of their Reception and Replacement Program Assurance Form, which bears a photograph of the person. Applicants who are unable to provide a copy of this form may be issued an ID or driver license, but only after the U.S. Immigration and Naturalization Service verifies their identity, which can take up to 60 days.

These rules are proposed in response to the September 11, 2001, terrorist hijackings in the United States, and are intended to help uncover any possible terrorist attempting to obtain identification documents through the Wisconsin Department of Transportation.

Statutory authority

Section s. 343.14 (2) (f), Stats.

Staff time required

50 hours.

Transportation

Subject

Objective of the rule. This rule making will amend ch. Trans 201, relating to outdoor advertising sign control, to address the broad range of issues related to signs controlled under the Highway Beautification Act and Wisconsin sign control law. The changes will address topics that have led to confusion and misunderstandings, appeals of Departmental decisions, and concern about the effectiveness of the program to achieve its objectives. The broad based amendment will include a comprehensive view of the rule to deal with the rule structure, inconsistencies and clarity.

Policy analysis

The existing rule establishes requirements and limitations for signs to carry out the federal and state law. Criteria established are in need of clarification to aid in the

administration of the program. The clarification is needed to assist those that may be seeking a sign to understand the requirements, as well as be useful in reducing the likelihood of appeals based on differing interpretations of the current law or rule. Much of the rule has remained unchanged for nearly 20 years, and changes are needed to reflect experience with the rule and current drafting standards. Policy issues to be addressed include, but are not limited to: directional sign criteria; nonconforming signs; co–location of signs for on–premise activities; seasonal and temporary signs; fees; and electronic signs.

Statutory authority

Sections 84.30 and 86.19, Stats.

Staff time required

Approximately 1000 hours, which represents the collective time anticipated to be spent by the Outdoor Advertising Program Coordinator, district sign coordinators, the Office of General Counsel, and the Bureau Director of the Highway Operations.

Transportation

Subject

Objective of the rule. This rule making will explain and clarify motor carrier weighing procedures at permanent weighing facilities operated by the Department of Transportation, Division of State Patrol (DSP) and private scales.

Policy analysis

Chapter Trans 276, relating to size and weight of vehicles and vehicle combinations, identifies and designates highways where overlength vehicles and combinations of vehicles can be operated and clarifies state and federal rules affecting the weight, width and length of vehicles and combinations of vehicles and the number of vehicles in combination.

The proposed amendment to ch. Trans 276 will explain and clarify weighing procedures referenced in s. 348.15 (5), Stats., as being “performed in accordance with and under conditions accepted as good weighing technique and practice” by incorporating the weighing techniques identified in the DSP “Weight Enforcement Manual.” These techniques are currently incorporated into DSP motor carrier weighing procedures and are taught by the Wisconsin State Patrol Academy to State Patrol and non–State Patrol law enforcement officers who also enforce motor carrier weight limitations specified in Wisconsin statutes and federal rules.

Statutory authority

Sections. 85.16 (1) and 227.11 (2) (a), Stats.

The statutes to be interpreted by this rule making are ss. 348.01 (2) (am) and 348.15 (5), Stats., relating to weighing motor carriers and general terms of enforcement of weight limitations for motor carriers.

Staff time required

100 hours.

Submittal of rules to legislative council clearinghouse

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

Commerce

Rule Submittal Date

On December 11, 2001, the Wisconsin Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule revises ch. Comm 107, relating to Wisconsin Technology Zone Program.

Agency Procedure for Promulgation

A public hearing on the proposed rule is scheduled for January 11, 2002.

Contact Information

If you have questions, please contact:

Jean M. MacCubbin
Telephone (608) 266-0955

Commerce

Rule Submittal Date

On December 14, 2001, the Wisconsin Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule revises ch. Comm 7, relating to blasting in communities.

Agency Procedure for Promulgation

A public hearing on the proposed rule is scheduled for January 18, 2002.

Contact Information

If you have questions, please contact:

Eric Hands
Telephone (608) 267-4434

Health and Family Services

Rule Submittal Date

On December 13, 2001, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Subject: To establish a separate prescription drug coinsurance benefit relating to the Health Insurance Risk-Sharing Plan (HIRSP) with limits on HIRSP policyholder out-of-pocket expenses for covered prescription drugs.

Statutory Authority: Section 149.14 (5) (e), Stats., as amended by 2001 Wis. Act 16, and s. 149.146 (2) (am) 5., Stats., as created by 2001 Wis. Act 16 and s. 227.11 (2), Stats.

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan for the purpose of making health insurance coverage available to medically uninsured residents of the state. HIRSP health insurance coverage includes prescription drug coverage. Currently, two major issues affect HIRSP prescription drug coverage. The first issue is that pharmacies have difficulty determining the financial liability of HIRSP policyholders. The second issue is that the current system of HIRSP reimbursement to policyholders for prescription drug costs is financially burdensome to HIRSP policyholders. To resolve these issues, the department proposes to implement effective January 1, 2002, new coinsurance provisions for HIRSP's drug benefit that will clarify the financial liability of HIRSP policyholders for covered prescription drug costs and eliminate the process of reimbursing policyholders for prescription drug expenses by establishing policyholders' minimum and maximum out-of-pocket costs for covered prescription drugs.

The proposed rules will affect approximately 12,000 HIRSP policyholders statewide.

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., and emergency rule promulgation under s. 227.24, Stats.

Contact Information

Randy McElhose
Division of Health Care Financing
608-267-7127

Natural Resources

Rule Submittal Date

On December 6, 2001, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule revises s. NR 25.05 (1) (d), relating to commercial fishing for chubs in Lake Michigan.

Agency Procedure for Promulgation

A public hearing on the proposed rule is scheduled for January 16, 2002.

Contact Information

If you have questions, please contact:

Bill Horns
Bureau of Fisheries Management and Habitat Protection
Telephone (608) 266-8782

Natural Resources**Rule Submittal Date**

On December 6, 2001, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule revises ch. NR 47, relating to forest fire protection grants and sustainable forestry grants for county forests.

Agency Procedure for Promulgation

Public hearings on the proposed rule are scheduled for January 14 and 15, 2002.

Contact Information

If you have questions, please contact:

Jeffrey Barkley
Bureau of Forestry
Telephone (608) 264-9217

Natural Resources**Rule Submittal Date**

On December 6, 2001, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule revises ch. NR 353, relating to wetland conservation activities.

Agency Procedure for Promulgation

A public hearing will be scheduled in February 2002.

Contact Information

If you have questions, please contact:

Scott Hausmann
Bureau of Fisheries Management and Habitat Protection
Telephone (608) 267-7498

Revenue**Rule Submittal Date**

On December 4, 2001, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule revises s. Tax 2.08, relating to returns of persons other than corporations that relate to income, and s. Tax 11.01, relating to sales and use tax returns.

Agency Procedure for Promulgation

A public hearing on the proposed rule will be scheduled.

The Office of the Secretary is primarily responsible for the promulgation of the proposed rule.

Contact Information

If you have questions, please contact:
Mark Wipperfurth
Income, Sales, and Excise Tax Division
Telephone (608) 266-8253
E-mail mwipperf@dor.state.wi.us

Transportation**Rule Submittal Date**

On December 13, 2001, the Wisconsin Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule revises ch. Trans 276, relating to allowing bottoms and certain other vehicles on specified highways.

Agency Procedure for Promulgation

A public hearing on the proposed rule is scheduled for January 18, 2002.

The Division of Transportation Infrastructure Development, Bureau of Highway Operations is primarily responsible for the promulgation of the proposed rule.

Contact Information

If you have questions, please contact:
Julie A. Johnson, Paralegal
Telephone (608) 266-8810

Rule-making notices

Notice of Hearing Commerce (Explosive Materials, Ch. Comm 7) [CR 01-150]

NOTICE IS HEREBY GIVEN that pursuant to s. 101.15 (2) (e), Stats., the Department of Commerce will hold a public hearing on a proposed rule relating to blasting in communities.

The public hearing will be held as follows:

Date and Time:	Location:
Friday, January 18, 2002 10:00 a.m.	Room 3C, Thompson Commerce Center 201 West Washington Avenue Madison

Analysis prepared by the Department of Commerce

Interested persons are invited to appear at the hearing and present comments on the proposed rule. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until February 1, 2002, 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 Ronald Acker, Department of Commerce, P.O. Box 2689, Madison, WI 53701-2689.

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

Environmental Analysis

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Initial Regulatory Flexibility Analysis

Blasting in Communities

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

There are no small businesses that will be affected by the rule.

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

There are no reporting or bookkeeping procedures required for compliance with the rule.

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

There are no types of professional skills necessary for compliance with the rule.

Fiscal Estimate

The proposed rule has no effect on revenues or costs in the administration and enforcement of ch. Comm 7.

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

www.commerce.state.wi.us/SB/SB-HomePage.html. 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 (Financial Resources for Businesses and Communities, Chs. Comm 105 to 128) [CR 01-142]

NOTICE IS HEREBY GIVEN that pursuant to s. 560.13 (6), Stats., the Department of Commerce will hold a public hearing on ch. Comm 110, previously adopted emergency rules and proposed permanent rules relating to brownfields redevelopment grants.

The public hearing will be held as follows:

Date and Time:	Location:
January 11, 2002 Friday 9:30 a.m.	Thompson Commerce Center Third Floor, Room 3B 201 West Washington Avenue Madison, Wisconsin

Analysis prepared by the Department of Commerce

Statutory Authority: section 560.13 (6), Stats.

Statutes Interpreted: section 560.13 (1) to (7), Stats.

Under the statutes cited, the Department awards grants for redevelopment of abandoned, idle, or underused industrial or commercial facilities or sites that are adversely affected by actual or perceived environmental contamination. Pursuant to s. 560.13 (6), Stats., these grants are applied for and administered in accordance with criteria that are contained in ch. Comm 110, Wis. Adm. Code.

2001 Wisconsin Act 16 modified s. 560.13, Stats., by (1) expanding the listing of eligible grant applicants to include trustees and nonprofit organizations, and (2) prohibiting use of any grant funds to pay either delinquent real estate taxes, or lien claims of the Department of Natural Resources or the federal Environmental Protection Agency.

The proposed changes to ch. Comm 110 would (1) modify the definitions to match the statutory listing of eligible applicants, (2) expand the limitations on use of grant funds to include the statutory prohibition relating to delinquent taxes or lien claims, and (3) update several aspects of the

application procedure that have evolved since the chapter was initially created as an emergency rule in 1997.

Environmental Analysis

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Initial Regulatory Flexibility Analysis

Comm 110, relating to: Brownfields Redevelopment Grants.

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

Owners of abandoned, idle, or underused industrial or commercial facilities or sites that are adversely affected by actual or perceived environmental contamination.

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

No significant new procedures.

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

No significant additional skills.

Fiscal Estimate

The Department currently administers brownfields redevelopment grants. The proposed rule replaces current requirements with requirements that are not expected to result in significant additional costs.

Copies of Rule and Contact Person

Interested persons are invited to appear at the hearing and present comments on the 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 rulemaking will remain open until January 23, 2002, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing. Written comments should be submitted to Sam Rockweiler at the Department of Commerce, Bureau of Budget and Policy Development, P.O. Box 2689, Madison, WI 53701-2689.

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-0797 or (608) 264-8777 (TTY) at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon a request from a person with a disability.

The emergency rules, which are identical to the proposed permanent rules, are available on the Internet at the Revisor of Statutes' web site at www.legis.state.wi.us/rsb/code. Paper copies of the rules may be obtained without cost from Sam Rockweiler at the Department of Commerce, Bureau of Budget and Policy Development, P.O. Box 2689, Madison, WI 53701-2689; or by E-mail at:

srockweiler@commerce.state.wi.us and at telephone (608) 266-0797 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Notice of Hearing

Commerce

(Financial Resources for Businesses and Communities, Chs. Comm 105 to 128)

[CR 01-147]

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

The public hearing will be held as follows:

Friday, January 11, 2002 T.G. Thompson Commerce Ctr.
8:30 a.m. (WHEDA Bldg), Conf. Rm. 3C
201 West Washington Ave.
Madison, WI

Analysis prepared by the Department of Commerce

Statutory authority: ss. 560.96 and 560.96 (5), Stats.

Statutes interpreted: s. 560.96, Stats.

Under s. 560.96 (5), Stats., the Department of Commerce has the responsibility of promulgating rules for the operation of the Wisconsin Technology Zone Program.

This rule is being created in response to 2001 Wis. Act 16, which provides authority for administering such a program, the designation of 8 technology zones, certification of high technology businesses, and the tax benefits available.

The following listing highlights the major items contained in this new chapter:

- Creates the process for application and designation of the 8 technology zones.
- Provides a means for modification of the boundary of a technology zone.
- Creates the process for application and certification of high tech businesses.
- Establishes criteria for eligibility to certify high tech business.
- Creates the process to determine and claim tax benefits and notify the Department of Revenue.

Environmental Analysis

The proposed administrative code revision is categorized in ch. Comm 1, WEPA, Table 1.11-2 and determined to be a Type II action.

The proposed action is administrative in nature and has no potential direct effect on the quality of the human environment. The Department considers this action to have no potential for significant adverse impact.

The Department acknowledges that some projects receiving tax benefits under this chapter may result in new construction or expansion of existing structures or facilities. These actions may involve new development or rehabilitation and an application for zoning and/or a conditional use permit may be required at the local level. The department acknowledges that these actions are under local jurisdiction and generally include provisions for the compliance with local, state or federal environmental review.

Initial Regulatory Flexibility Analysis

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

The subject of the rules is to provide tax benefits for new and expanding high-technology businesses in 8 technology zones in the state. The expectation is that the creation of these zones will not only attract, promote and expand high-technology business in the area, create new jobs and investment, but also provide economic stimulus to other businesses in the area and throughout the state.

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

High-technology businesses certified in a technology zone shall on an annual basis report to the department and may file tax claim verification with the Department of Revenue.

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

No professional skills are expected to be required by high-technology business applicants.

Fiscal Estimate

Section 560.96, Stats., as passed in the 2001/03 biennial budget, establishes the Wisconsin Technology Zone Program. Commerce is provided the authority to develop rules concerning the designation of technology zones and the certification of businesses within those zones. Chapter Comm 107 thus relates mainly to establishing that process and defining key terms.

1. State Fiscal Effect

By instituting a rigorous application process, the proposed rule will increase the workload for the Department of Commerce by requiring staff to review applications and make preliminary determinations as to designation of technology zones. Commerce can absorb this new work by using existing staff.

2. Local Fiscal Effect

Under the proposed rules, towns, villages, cities, tribes, and counties, either separately or in concert, may submit technology zone applications. These applications are expected to be lengthy documents requiring a significant investment of time. Costs arising from the rules are, however, permissive since communities are not required to apply for participation in the program.

Copies of Rule and Contact Person

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 Monday, January 28, 2002, 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

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.

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 Jean M. MacCubbin, Department of Commerce, Administrative Services Division, P.O. Box 2689, Madison, WI 53701-2689, Email: jmaccubbin@commerce.state.wi.us, Phone (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 Employment Relations [CR 01-140]

NOTICE IS HEREBY GIVEN that pursuant to ss. 230.05 (5), Stats., and interpreting s. 230.05 (1), Stats., the Department of Employment Relations will hold a Public Hearing at the time and place shown below to consider the creation of permanent rules relating to career executive employment and various technical changes to bring the rules into consistency with the statutes and compensation plan.

Date, Time and Location:

January 22, 2002

1:00 p.m. to 2:00 p.m.

3rd Floor Training Room

Department of Employment Relations

345 West Washington Avenue

Madison, WI 53703

The hearing site is accessible to persons with disabilities. If you need an interpreter, materials in alternate format or other accommodations for this meeting, please inform the contact person listed at the end of this notice before the hearing.

Written comments on the rules may be sent to the contact person by January 27, 2002. Written comments will receive the same consideration as written or oral testimony presented at the hearing.

A copy of the rule is printed below.

Analysis Prepared by the Department of Employment Relations

On June 9, 1999, the Joint Committee on Employment Relations (JCOER) approved the consolidation of certain positions assigned to former pay range 17 and all positions in former pay ranges 18 and 19 into compensation broadband 81-02 for non-represented positions in these ranges. Before this consolidation many non-represented pay range 18 positions were granted career executive status along with positions in the compensation broadband 81-01. Positions in pay range 17 were not eligible to be included in the career executive program under the provisions of the Wisconsin Administrative Code. Prior to March 12, 2000, there were approximate 900 positions in the career executive program. These positions performed general management duties. With the consolidation of broadband 81-02, the number of career executive positions expanded to 1500 including management positions responsible for highly technical programs and positions requiring various professional certifications or expertise.

These rule changes update the pay range references consistent with the compensation plan approved by JCOER. The changes eliminate references to compensation provisions that no longer apply. ER 30.085 is amended to make career executive temporary assignments regulations consistent with those for interchange of non career executive employees.

1. Section 230.04 (5), Stats, grants the Secretary of Employment Relations authority to promulgate rules on all matters relating to the administration of the department and the performance of the duties assigned to the secretary.

2. Section 230.24, Stats., grants the Secretary of Employment Relations authority to develop a career executive program.

Text of Proposed Rule**Chapter ER 29, COMPENSATION ADMINISTRATION PROVISIONS**

Section 1. ER 29.04 (10) is amended to read:

ER 29.04 (10) Career executive reassignment or voluntary movement to a class ~~assignment~~assigned to the same pay range.

Chapter ER 30, CAREER EXECUTIVE EMPLOYMENT

Section 1. ER 30.01 is created to read:

ER 30.01 Included classifications. Designation of a classification as a career executive classification by the secretary is authorized under s. 230.24 (1), Stats. All permanent positions in classifications assigned to pay range 81-01 or 81-02 shall be designated as career executive positions and shall be governed by the provisions of the career executive program.

Section 2. ER 30.02 is repealed and recreated to read:

ER 30.02 Included positions. The secretary may include a permanent position in any classification, other than one designated as a career executive classification, in the career executive program after consulting with the appointing authority for the position, and after an analysis to determine if the position satisfies all of the following career executive program requirements:

1. The position meets the definition of management under s. 111.81 (13), Stats.
2. The position is predominately administrative in nature.
3. The position is assigned to a classification that is assigned to a nonrepresented pay range that the secretary has determined to be comparable to pay ranges 81-01 or 81-02.

Section 3. ER 30.03 is created to read:

ER 30.03 Eligible employees. Career executive status is limited to permanent classified appointments.

Section 4. ER 30.065 is repealed.

Section 5. ER 30.085 is amended to read:

ER 30.085 Career executive temporary assignment. A career executive employee may be assigned to a position for employee development purposes or to complete a special project for a duration not to exceed ~~2~~4 years. The employee's classification and pay status shall not be affected.~~An intra-agency temporary assignment requires the written agreement of the employe and the appointing authority. An inter-agency temporary assignment requires the written agreement of the employe, and the appointing authorities of both the sending and receiving agencies. The appointing authority in an intra-agency temporary assignment or the appointing authority of the receiving agency in an inter-agency temporary assignment shall send a copy of the written agreement to the secretary prior to the effective date of the assignment.~~

If the employee is expected to return to the sending agency upon completion of the temporary assignment, the employee and the appointing authority of the sending agency shall develop a formal leave agreement under s. ER 18.14 (2) (a).

Section 6. ER 30.09 is repealed and recreated to read:

ER 30.09 Pay adjustments resulting from career executive reassignment or voluntary movement. Upon reassignment as defined under s. ER-MRS 30.07 (1) or voluntary movement to a position allocated to a classification assigned to the same, to a higher, or to a lower pay range, the career executive employee's pay shall be determined in accordance with the provisions of the compensation plan.

Fiscal Estimate

Flexible certification for career executive vacancies will simplify and speed the hiring process for vacant positions and so save time for state agencies. Revised layoff rules for career executives will result in retaining for the state service its most effective and efficient personnel. Allowing permissible transfers of career executives between agencies will speed staffing vacant positions as well as increase opportunities for career executive incumbents. Increasing the trial or probationary period from three months to six months on a career executive move between agencies will give hiring officials the extra time needed to evaluate the performance of employees in these critically important jobs. Eliminating the career executive opt in/out provision upon placement of a position in the career executive program will eliminate wasted administrative effort which currently adds no value. These changes will have no direct fiscal effect other than administrative efficiency.

Contact Person

Elizabeth Reinwald
Department of Employment Relations
345 West Washington Avenue
Madison, WI 53703
Elizabeth.Reinwald@der.state.wi.us
608-266-5316

Notice of Hearing
Employment Relations
(Merit Recruitment and Selection)
[CR 01-141]

NOTICE IS HEREBY GIVEN that pursuant to ss. 230.05 (5), Stats., and interpreting s. 230.05 (1), Stats., the Division of Merit Recruitment and Selection in the Department of Employment Relations will hold a Public Hearing at the time and place shown below to consider the creation of permanent rules relating to certification for employment consideration, probationary periods, transfers of career executive employees and various technical changes to bring the rules into consistency with the statutes and compensation plan.

Date: **January 22, 2002**
Time: 1:00 P.M. to 2:00 P.M.
Location: 3rd Floor Training Room
Department of Employment Relations
345 West Washington Avenue
Madison, WI 53703

The hearing site is accessible to persons with disabilities. If you need an interpreter, materials in alternate format or other accommodations for this meeting, please inform the contact person listed at the end of this notice before the hearing.

Written comments on the rules may be sent to the contact person by January 27, 2002. Written comments will receive the same consideration as written or oral testimony presented at the hearing.

A copy of the rule is printed below.

Analysis Prepared by the Department of Employment Relations

On June 9, 1999, the Joint Committee on Employment Relations (JCOER) approved the consolidation of certain positions assigned to former pay range 17 and all positions in former pay range 18 and 19 into compensation broadband 81-02 for non-represented positions in these ranges. Before

this consolidation many non-represented pay range 18 positions were granted career executive status along with positions in the compensation broadband 81-01. Positions in pay range 17 were not eligible to be included in the career executive program under the provisions of the Wisconsin Administrative Code. Prior to March 12, 2000, there were approximately 900 positions in the career executive program. These positions performed general management duties. With the consolidation of broadband 81-02, the number of career executive positions expanded to 1500 including management positions responsible for highly technical programs and positions requiring various professional certifications or expertise.

When the pool of career executive employees was smaller and their expertise was always of a general administrative nature, rules were developed to treat this pool as one, and separate from other employees, for purposes of certification for employment consideration, probationary periods, transfers and layoff consideration.

These rule changes make certification for employment consideration, probation and transfer for career executive employees consistent with non-career executive employees. For layoff consideration, career executive employees are to be grouped with employees in the same area of expertise and pay range instead of with all career executive employees. The amendment to ER-MRS 30.99 removes the option of incumbents of positions placed within the career executive programs to remain outside the program. This provision was established when the career executive program was new and many existing positions were being placed in it. No position has been placed in the career executive program in years, without the incumbent opting in.

1. S. 230.05 (5), Stats., grants the Administrator of the Division of Merit Recruitment and Selection authority to promulgate rules on all matters relating to Subchapter II of Chapter 230, Stats., for administration of the civil service.

2. S. 230.24, Stats., grants the Administrator authority to create rules to accomplish the purposes of a career executive program.

Text of Proposed Rule

Section 1. ER-MRS 30.03 (3) is repealed:

Section 2. ER-MRS 30.05 (1) and (2) are amended to read:

ER-MRS 30.05 Certification. (1) ~~The highest ranking candidates shall be determined through a comparison of their qualifications, including technical or professional qualifications, where applicable, with the qualifications requirements for the position as determined through position analysis. All such candidates shall meet the standard for the position as established by the administrator. Except as provided in ss. ER-MRS 30.07, 30.08, and 30.11(2), certification for appointment to a vacant career executive position shall be according to s.230.25, Stats. limited to no more than the 10 highest ranking candidates on the internal register and no more than 10 highest ranking candidates on the external register.~~

(2) Certification from the external register when such a register is established, may occur simultaneously with the certification from the internal register. Certification from the external register may also be provided at any time after candidates from the internal register have been certified, but prior to the time an appointment is made. No candidate from the external register who has earned a score lower than the candidate with the lowest score certified from the internal register shall be certified, except when the latter register contains fewer than 10 candidates.

Section 3. ER-MRS 30.06(3) is amended to read:

ER-MRS 30.06(3) At the discretion of the appointing authority in the receiving agency, a career executive employee may be required to serve up to a ~~3 6~~ month trial period upon movement between agencies. ~~Upon agreement with the sending agency and notification to the employee, the appointing authority in the receiving agency may extend such trial period for 3 additional months.~~ At any time, during the trial period, the receiving agency may terminate the employee. Upon termination, the employee shall be returned to the sending agency and be restored to the employment status that existed at the time of movement to the receiving agency.

Section 4. ER-MRS 30.08 is repealed and recreated to read:

ER-MRS 30.08 Career executive transfer. For purposes of this chapter, "transfer" has the same meaning as defined in s. ER-MRS 1.02(33). Transfer of career executive employees shall be in accordance with ch. ER-MRS 15, except that where such rules conflict with this chapter, the provisions of this chapter shall apply. Career executive employment reinstatement and restoration shall be in accordance with s. ER-MRS 30.11.

Section 5. ER-MRS 30.10(3) is amended to read:

Removal of an employee with permanent status in the career executive program from the career executive program which results in the placement of the employee in a position allocated to a classification assigned to a lower non-career executive pay range ~~17 or below~~ is defined as a demotion, and may be appealed.

Section 6. ER-MRS 30.105 is repealed and recreated to read:

ER-MRS 30.105 Layoff of career executive employees. For purposes of this chapter, "layoff" has the same meaning as defined in s. ER-MRS 1.02(11). Layoff of career executive employees shall be in accordance with ch. ER-MRS 22, except that where such rules conflict with this chapter, the provisions of this chapter shall apply. Restoration from layoffs shall be in accordance with s. ER-MRS 22.10.

Section 7. ER-MRS 30.99 (1) and (2) are amended to read:

ER-MRS 30.99 Incumbents of positions placed in the career executive program. (1) ~~Each incumbent shall be given the option of being whose position is~~ placed in the career executive program ~~without certification, in accordance with s. ER-MRS 30.05, or of remaining in his or her existing position shall immediately come under the non-career career executive employment provisions. This option shall remain in effect for one year after the incumbent's position is placed in the program. Any subsequent entrance by the employee to the program shall require voluntary movement to a different career executive position under the provisions of s. ER-MRS 30.01(3) and other applicable provisions.~~

(2) ~~Incumbents who exercise their option to be whose positions are~~ placed in the career executive program shall earn permanent status immediately upon entering the program. However, incumbents serving a probationary period at the time of entry shall not earn permanent status until they successfully complete the probationary period specified in the appointment letter.

Fiscal Estimate

Flexible certification for career executive vacancies will simplify and speed the hiring process for vacant positions and so save time for state agencies. Revised layoff rules for career executives will result in retaining for the state service its most effective and efficient personnel. Allowing permissible transfers of career executives between agencies will speed staffing vacant positions as well as increase opportunities for

career executive incumbents. Increasing the trial or probationary period from three months to six months on a career executive move between agencies will give hiring officials the extra time needed to evaluate the performance of employees in these critically important jobs. Eliminating the career executive opt in/out provision upon placement of a position in the career executive program will eliminate wasted administrative effort which currently adds no value. These changes will have no direct fiscal effect other than administrative efficiency.

Contact Person

Elizabeth Reinwald
Department of Employment Relations
345 West Washington Avenue
Madison, WI 53703
Elizabeth.Reinwald@der.state.wi.us
608-266-5316

Notice of Hearings

Natural Resources (Fish, Game, etc., Chs. NR 1—) [CR 01-145]

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 29.014 (1), 29.041, 29.519 (1) (b) and 227.11 (2) (a), Stats., interpreting ss. 29.014 (1), 29.041 and 29.519 (1) (b), Stats., the Department of Natural Resources will hold public hearings on the amendment of s. NR 25.05 (1) (d), Wis. Adm. Code, relating to commercial fishing for chubs in Lake Michigan. The proposed rule would change the minimum depth of commercial fishing for chubs in Lake Michigan. In the northern chub fishing zone, it reduces the minimum depth from 55 fathoms to 45 fathoms during January 16 through the end of February and establishes a minimum depth of 45 fathoms during March 1 through April 25. In the southern chub fishing zone, it reduces the minimum depth from 60 fathoms to 45 fathoms during January 16 through the end of February and (south of 44 degrees 32 minutes north latitude) establishes a minimum depth of 45 fathoms during March 1 through April 25.

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

January 16, 2002 County Board Room
Wednesday Kewaunee Co. Courthouse
1:00 p.m. 613 Dodge St., Kewaunee

January 16, 2002 Room 141
Wednesday DNR Southeast Region Headquarters
7:00 p.m. 2300 N. Martin L. King Jr., Drive
Milwaukee

Initial Regulatory Flexibility Analysis

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses.

a. Types of small businesses affected: Lake Michigan commercial chub fishers.

b. Description of reporting and bookkeeping procedures required: No new procedures.

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

NOTICE IS HEREBY FURTHER GIVEN that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental

analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Contact Person

Written comments on the proposed rule may be submitted to Mr. William Horns, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than January 18, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FH-34-01] and fiscal estimate may be obtained from Mr. Horns.

Notice of Hearings

Natural Resources (Fish, Game, etc., Chs. NR 1—) [CR 01-146]

NOTICE IS HEREBY GIVEN that pursuant to ss. 26.145, 28.11 (5r) and 227.11 (2) (a), Stats., interpreting ss. 26.145 and 28.11 (5r), Stats., the Department of Natural Resources will hold public hearings on amendments to ss. NR 47.008 (1) and 47.903, Wis. Adm. Code, relating to forest fire protection grants and the creation of s. NR 47.75, Wis. Adm. Code, relating to sustainable forestry grants for county forests. In the past it has been difficult for fire departments and municipalities to budget effectively given the application deadline of October 1 for forest fire protection grants. Grant awards were made so late in the calendar year fire departments had difficulty incorporating the awards in their budget process. The application deadline is moved to July 1 to best accommodate the January to December fiscal year that most municipalities employ. The second rule change to this grant concerns the current requirement that the municipality or fire department sign the grant agreement prior to initiating a purchase or conducting work. This is inconsistent with other grants the department administers and retards the process. The department's approval is sufficient to authorize the municipality or fire department's action. The money is not actually encumbered until the signed agreement is returned.

A \$200,000 continuing appropriation, to be provided annually, was approved in the last budget to promote sustainable forestry on county forest lands. Rules to administer the sustainable forestry grants to county forests will address the purpose, eligibility, application procedures, selection criteria, audit procedures and general provisions for this grant.

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

Environmental Analysis

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

Department's consideration of the impacts of the proposal and reasonable alternatives.

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

January 14, 2002 Room 027, GEF #2
Monday 101 South Webster Street
Madison
at 1:00 p.m.

January 15, 2002 Conference Room
Tuesday DNR Service Center
5301 Rib Mountain Dr.,
Wausau
at 10:00 a.m.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Jeffrey Barkley at (608) 264-9217 with specific information on your request at least 10 days before the date of the scheduled hearing.

Contact Person

Written comments on the proposed rule may be submitted to Mr. Jeffrey Barkley, Bureau of Forestry, P.O. Box 7921, Madison, WI 53707 no later than January 18, 2002. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FR-9-02] and fiscal estimate may be obtained from Mr. Barkley.

Notice of Hearing

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

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 29.014 (1), 29.041, 227.11 (2) and 227.24, Stats., interpreting ss. 29.014 (1) and 29.041, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. FH-35-01(E) pertaining to sturgeon spearing on the Lake Winnebago System. This emergency order will take effect on December 14, 2001. This order closes sturgeon spearing on the Lake Winnebago system during each day of the sturgeon spearing season from 12:30 p.m. to 6:30 a.m. of the following day, and amends the registration deadline for sturgeon speared from the Lake Winnebago system from 6:00 p.m. on the day speared to 1:30 p.m. on the day speared.

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

Monday, January 14, 2002, beginning at 6:00 p.m. at the Winnebago County Coughlin Building, Meeting Room A, 625 E. County Road Y, Oshkosh, WI.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Steve Hewett at (608) 267-7501 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The Department expects no state or local fiscal impact associated with this order.

Written comments on the emergency rule may be submitted to Mr. Steve Hewett, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707, no later than January 18, 2001. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [FH-35-01 (E)] may be obtained from Mr. Hewett.

Notice of Hearing

Public Instruction [CR 01-119]

NOTICE IS HEREBY GIVEN That pursuant to ss. 118.153 (7) and 227.11 (2) (a), Stats., and interpreting s. 118.153, Stats., the Department of Public Instruction will hold a public hearing as follows to consider the amending of ch. PI 25, relating to the children-at-risk program.

The hearing will be held as follows:

Date and Time	Location
January 15, 2002 9:00 – 11 a.m.	Madison GEF 3 Building 125 South Webster St. Room 041

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Lori Slauson at (608) 267-9127 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Person

The administrative rule is available on the internet at <http://www.dpi.state.wi.us/dpi/dfm/pb/rulespg.html>. A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to lori.slauson@dpi.state.wi.us or by writing to:

Lori Slauson
Administrative Rules and Federal Grants Coordinator
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above email or street address no later than January 18, 2002, will be given the same consideration as testimony presented at the hearing.

Analysis by the Department of Public Instruction

Statutory authority: ss. 118.153 (7) and 227.11 (2) (a), Stats.

Statute interpreted: s. 118.153, Stats.

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

- Modifying the children-at-risk definition to include pupils who have failed the high school graduation examination and if certain criteria are met, pupils whose scores on the 8th grade Wisconsin concept knowledge exam are below the basic level in each subject area tested.
- Eliminating the requirement that school districts meeting certain criteria (50 or more dropouts and a dropout rate exceeding 5%) must apply for children-at-risk aid.

- Allowing school districts with 30 or more dropouts or a dropout rate exceeding 5% of their total enrollment to apply for children-at-risk aid.

- Modifying the allowable size of the Milwaukee programs to require at least 30 pupils (rather than 40) and no more than 250 pupils (rather than 200).

- Modifying the statutory objectives to be met to receive an additional 10 percent of the district's average per pupil aid. Currently, such aid can be received if:

- A pupil who is a high school senior received a high school diploma. Additional language allows this criteria to be met if the pupil passed the high school graduation examination.

- A pupil demonstrated, on standardized tests or other appropriate measures, at least one month's gain in reading and mathematics for each month of enrollment. This language has been modified to provide that the pupil has demonstrated on standardized tests or other appropriate measures a gain in reading and mathematics commensurate with the duration of his or her enrollment in the program.

Other minor modifications are being made to the rule, but these modifications will not significantly change the way the program will be implemented or administered.

Fiscal Estimate

The proposed changes to ch. PI 25, rules relating to children at risk, are made as a result of statutory changes under 1999 Wis. Act 123. Therefore, the rules will not have a fiscal effect separate from the statutory changes made under the Act. The Act refocuses the current funding of the children-at-risk program on children at risk of not graduating from high school.

The funding for the children-at-risk program remains at \$3.5 million annually. Under previous law, any school that had 50 or more dropouts and a dropout rate exceeding 5% of its total enrollment was required to apply for children-at-risk aid. The Act made participation by a school district permissive for any school district that had 30 or more dropouts or a dropout rate that exceeds 5% of its total enrollment in the previous year. By expanding the eligibility criteria, more school districts are eligible to receive children-at-risk aid, potentially dropping the proration rate further. The payment issued in May 2001 was prorated at 65% of the claims made by districts.

School districts have incurred costs and staff time associated with reprogramming information systems to make changes in tracking data and in measuring achievement of objectives based on the new children at risk of not graduating from high school criteria under the Act. Actual costs are unknown.

Notice of Hearing

Social Workers, Marriage and Family Therapists and Professional Counselors [CR 01 – 153]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.03, Wis. Stats., and interpreting s. 457.08, Wis. Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to amend ss. SFC 3.07 (3) and 3.09 (3), relating to pre-certification supervised practice.

Hearing Date, Time and Location

Date: **January 17, 2002**

Time: 9:30 a.m.

Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by January 31, 2002, to be included in the record of rule-making proceedings. Analysis prepared by the Department of Regulation and Licensing.

Analysis by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 457.03, Wis. Stats.

Statute interpreted: s. 457.08, Stats.

In this proposed rule-making order the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors creates a requirement that persons who obtain supervised clinical social work practice in order to apply for certification as an independent clinical social worker be certified as an advanced practice social worker or an independent social worker. Applicants for certification as an independent clinical social worker must complete 2 years of full-time clinical social work practice. Current rules do not specify that the person being supervised be certified as a social worker. The Social Worker Section wishes to impose a requirement that the supervised practice be obtained while certified as an advanced practice social worker or independent social worker. In order to ensure that an applicant for independent clinical worker understand social work practice, the section wishes to require that the applicant be certified at an appropriate social work level while obtaining the necessary 2 years of supervised clinical practice.

TEXT OF RULE

SECTION 1. SFC 3.07 (3) is amended to read:

SFC 3.07 (3) An affidavit that the applicant, after receiving a master's or doctoral degree and after receiving certification as an advanced practice social worker, has completed the equivalent of 2 years of full-time practice of social work under the supervision of a supervisor approved by the social worker section after receiving a master's or doctoral degree. Pre-certification supervised practice shall meet the criteria under s. SFC 4.01.

SECTION 2. SFC 3.09 (3) is amended to read:

SFC 3.09 (3) An affidavit that the applicant, after receiving a master's or doctoral degree and after receiving certification as an advanced practice social worker or an independent social worker, has completed the equivalent of 2 years of full-time practice of social work under the supervision of a supervisor approved by the social worker section after receiving a master's or doctoral degree. Pre-certification supervised practice shall meet the criteria under s. SFC 4.01.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearing

Social Workers, Marriage and Family Therapists and Professional Counselors

[CR 01 – 152]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.03 (1), Wis. Stats., and interpreting s. 457.03, Wis. Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to amend s. SFC 1.03 (2), relating to a rules committee.

Hearing Date, Time and Location

Date: **January 17, 2002**
Time: 9:30 a.m.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by January 31, 2002, to be included in the record of rule-making proceedings.

Analysis by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 457.03, Stats.

Statute interpreted: s. 457.03, Stats.

In this proposed rule-making order the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors amends the process by which rule changes are proposed, developed and approved by the three sections of the board. Current rules are intended to ensure uniformity across the three sections, but since the expertise for individual rule changes lies with each section, the responsibility for the earlier stages of the rule-making process should lie with each section.

TEXT OF RULE

SECTION 1. SFC 1.03 (2) is amended to read:

SFC 1.03 (2) RULES COMMITTEE. (a) Composition. The rules committee of the board is comprised of one professional member from each section, and 2 the three public members. The board chair shall appoint the public members from any of the sections of the board.

(b) Authority and responsibility. Except for final approval under sub. (1), each section shall be responsible for proposing and drafting rules applying to its profession, and for holding public hearings on those rules. The rules committee shall act for the board in rule-making proceedings except for review all rule changes proposed and drafted by the sections prior to final approval under sub. (1) by the board.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearing

Social Workers, Marriage and Family Therapists and Professional Counselors

[CR 01 – 151]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.03 (1), Stats., and interpreting s. 457.10 (3), Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to amend s. SFC 16.03, relating to supervised clinical practice.

Hearing Date, Time and Location

Date: **January 17, 2002**
Time: 9:30 a.m.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by January 31, 2002, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 457.03 (1), Stats.

Statute interpreted: s. 457.10 (3), Stats.

In this proposed rule-making order the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors amends the supervision requirement for persons obtaining supervised clinical practice prior to applying for certification as a marriage and family therapist. Current rules require a minimum annual number of hours of supervision during a period of pre-certification supervised practice. The minimum number of hours may be excessive if a person is working part-time. This rule change will eliminate a logical inconsistency in the supervision requirement.

TEXT OF RULE

SECTION 1. SFC 16.03 is amended to read:

SFC 16.03 Supervised clinical practice. For purposes of meeting the postgraduate supervised practice requirement, 2 years of clinical practice of marriage and family therapy consists of 1,000 hours of client contact over a period of not less than 24 months. The person whose practice is being supervised shall receive a minimum of 50 hours one hour of face-to-face supervision within each 12 month period for each 10 hours of supervised practice. Practice of marriage and family therapy which occurs as part of the requirements for obtaining a master's or doctoral degree in marriage and family therapy or a substantially related field shall not be considered to fulfill any part of the postgraduate supervised practice requirement.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

Notice of Hearing

Transportation [CR 01-097]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16 (1) and 348.07 (4), Stats., interpreting s. 348.07 (4), Stats., the Department of Transportation will hold a public hearing at the following location to consider the amendment of ch. Trans 276, Wis. Adm. Code, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways:

The public hearing will be held as follows:

January 18, 2002

Marathon County Highway Department
Office of Highway Commissioner
1430 West Street
Wausau, WI
11:00 a.m.

(Parking is available for persons with disabilities)

The public record on this proposed rule making will be held open until close of business on the date of the hearing to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to Ashwani K. Sharma, Traffic Operations Engineer, Bureau of Highway Operations, Room 501, P. O. Box 7986, Madison, Wisconsin, 53707-7986.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16 (1) and 348.07 (4), Stats.

STATUTE INTERPRETED: s. 348.07(4), Stats.

General Summary of Proposed Rule. This proposed rule amends Trans 276.07 (34m), and creates Trans 276.07 (38g), Wis. Adm. Code, to add five segments of highway to the designated highway system established under s. 348.07 (4), Stats. The actual highway segments that this proposed rule adds to the designated highway system are:

Hwy.	From	To
CTH "A"	STH 13 in Stetsonville	Marathon Co Line
CTH "F"	West County Line	CTH "M"
CTH "M"	CTH "F"	STH 97 in Athens
CTH "A"	STH 13 E. of Dorchester	STH 97 S. of Athens
	Corlad Road CTH "A"	CTH "M" W. of Athens

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, double bottoms and the vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit: A single vehicle with an overall length in excess of 40 feet, a combination of vehicles with an overall length in excess of 65 feet, a semitrailer longer than 48 feet, an automobile haulaway longer than 66 feet plus allowed overhangs, or a double bottom. Certain exceptions are provided under s. 348.07 (2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

The effect of this proposed rule will be to extend the provisions of s. 348.07 (2) (f), (fm), (gm) and (gr), and s. 348.08 (1) (e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the federal National Network in Wisconsin will also be allowed to operate on the newly-designated highways. Specifically, this means there will be no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulaway on the affected highway segments. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulaway. Double bottoms will be allowed to operate on the affected highway segments provided neither trailer is longer than 28 feet, 6 inches. Semitrailers up to 53 feet long may also be operated on these highway segments provided the kingpin to rear axle distance does not exceed 43 feet. This distance is

measured from the kingpin to the center of the rear axle or, if the semitrailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semitrailers, including semitrailers which are part of an automobile haulaway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 5 miles or less from the designated highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

Fiscal Estimate

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

Initial Regulatory Flexibility Analysis

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Contact Person

Copies of Rule and Contact Person. Copies of this proposed rule are available without cost upon request to the office of the State Traffic Engineer, P. O. Box 7986, Room 501, Madison, Wisconsin, 53707-7986, telephone (608) 266-1273. For questions about this rule making, please call Ashwani Sharma, Traffic Operations Engineer at (608) 266-1273. Alternate formats of the proposed rule will be provided to individuals at their request.

Submittal of proposed rules to the legislature

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

Financial Institutions

(CR 01-122)

Chs. DFI-CCS 1 to 7, relating to the Uniform Commercial Code.

Health and Family Services

(CR 01-106)

Ch. HFS 90, relating to early intervention services for children with developmental needs in the age group birth to 3.

Health and Family Services

(CR 01-116)

Ch. HFS 111, relating to licensing of emergency medical technicians-intermediate and approval of emergency medical technical-intermediate operational plans.

Transportation

(CR 01-117)

Ch. Trans 28, relating to the Harbor Assistance Program.

Rule orders filed with the revisor of statutes bureau

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

**Administration
(CR 01-048)**

An order creating ch. Adm 46, relating to high-voltage transmission line fee.
Effective 2-1-02

**Agriculture, Trade and Consumer Protection
(CR 01-004)**

An order affecting ch. ATPC 48, relating to drainage district finances and grants to county drainage boards.
Effective 2-1-02

**Corrections
(CR 00-140)**

An order affecting ch. DOC 302, relating to classification, assessment and evaluation, and program review.
Effective 2-1-02

**Health and Family Services
(CR 00-151)**

An order amending HFS 94, relating to the rights of patients to make telephone calls.
Effective 2-1-02

**Insurance
(CR 01-072)**

An order affecting ch. Ins 6, relating to regulations concerning agent transactions with customers.
Effective 2-1-02

**Natural Resources
(CR 00-154)**

An order affecting chs. NR 1, 10, 12 and 19, relating to deer hunting and the wildlife damage abatement and claims program.
Effective 2-1-02

**Natural Resources
(CR 00-164)**

An order affecting chs. NR 103 and 350, relating to wetland compensatory mitigation.
Effective 2-1-02

**Natural Resources
(CR 01-055)**

An order affecting ch. NR 410, relating to asbestos inspection fees.
Effective 2-1-02

**Transportation
(CR 01-097)**

An order affecting ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.
Effective 2-1-02

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **December 31, 2001**, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

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

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors (CR 01-034)

An order affecting ch. A-E 2, relating to seals and stamps.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

This rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114, Stats.

Summary of Comments of Legislative Standing Committees

No comments received.

Commerce (CR 00-179)

An order affecting chs. Comm 4, 14, 15, 16, 50 to 64, 65, 66, 69 and 73, relating to commercial buildings and structures and multifamily dwellings.

Effective 7-1-02

Summary of Final Regulatory Flexibility Analysis

Sections 101.02 (1) and (15), 101.14 (1) and (4), and 101.973 (1), Stats., authorize the Department to promulgate rules prescribing minimum construction and operation standards and fire prevention standards for public buildings and places of employment, including multifamily dwellings. The rules in Clearinghouse Rule No. 00-179 are minimum requirements to meet the directive of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees

No comments received.

Commerce (CR 01-044)

An order affecting ch. Comm 30, relating to fire department safety and health.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

The proposed rules will not affect any small businesses as defined in s. 227.114 (1) (a), Stats. The proposed rules apply to public sector employers and employees.

Summary of Comments of Legislative Standing Committees

No comments received.

Employee Trust Funds (CR 01-096)

An order affecting ch. ETF 20, relating to joint and survivor annuity reduced 25% upon death of annuitant or named survivor.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

The Department anticipates that the provisions of this proposed rule will have no direct adverse effect on small businesses.

Summary of Comments of Legislative Standing Committees

No comments received.

Financial Institutions-Division of Securities (CR 01-082)

An order affecting chs. DFI-Sec 4, 5 and 7, relating to securities broker-dealer, agent, investment adviser and investment adviser representative licensing procedures, examination requirements, and rule of conduct provisions.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

No final regulatory flexibility analysis is included on the basis that the Division of Securities has determined, after complying with s. 227.016 (1) to (5), Stats., that the rules will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments of Legislative Standing Committees

No comments received.

Financial Institutions-Division of Securities (CR 01-083)

An order affecting chs. DFI-Sec 2, 7 and 9, relating to securities registration exemptions involving capital formation by businesses.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

No final regulatory flexibility analysis is included on the basis that the Division of Securities has determined, after complying with s. 227.016 (1) to (5), Stats., that the rules will

not have a significant economic impact on a substantial number of small businesses.

Summary of Comments of Legislative Standing Committees

No comments received.

Natural Resources (CR 01-053)

An order affecting ch. NR 166, relating to safe drinking water loan program financial assistance.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not regulate small businesses; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environmental Resources. On September 20, 2001, the Senate Committee on Environmental Resources held a public hearing. The Committee did not request any modifications as a result of this hearing.

Optometry Examining Board (CR 01-060)

An order affecting ch. Opt 5, relating to contact lens prescription release by optometrists.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

This rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114, Stats.

Summary of Comments of Legislative Standing Committees

No comments received.

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board (CR 01-020)

An order affecting ch. SFC 4, relating to supervision of precertification supervised practice of social work.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

This rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114, Stats.

Summary of Comments of Legislative Standing Committees

No comments received.

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board (CR 01-026)

An order affecting chs. SFC 7, 12, 13, 14 and 20, relating to conforming existing rules to present practices and to other rules.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

This rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114, Stats.

Summary of Comments of Legislative Standing Committees

No comments received.

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board (CR 01-027)

An order affecting ch. SFC 11, relating to professional counselor training certificates.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

This rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114, Stats.

Summary of Comments of Legislative Standing Committees

No comments received.

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board (CR 01-064)

An order affecting ch. SFC 1, relating to the state jurisprudence examination.

Effective 1-1-02

Summary of Final Regulatory Flexibility Analysis

This rule will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114, Stats.

Summary of Comments of Legislative Standing Committees

No comments received.

Sections affected by rule revisions and corrections

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

Revisions

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

Ch. A-E 2

S. A-E 2.02 (7)

Commerce:

(Signs for Smoking Areas, Ch. Comm 4)

Ch. Comm 4 (entire chapter)

(Fire Prevention, Ch. Comm 14)

Ch. Comm 14 (entire chapter)

(Cleaning and Dyeing, Ch. Comm 15)

Ch. Comm 15 (entire chapter)

(Electrical, Ch. Comm 16)

Ch. Comm 16

S. Comm 16.46 (entire section)

(Fire Department Safety and Health, Ch. Comm 30)

Ch. Comm 30

SS. Comm 30.001 to 30.003 (entire sections)

S. Comm 30.01 (6h), (6m) and (22)

S. Comm 30.012 (entire section)

S. Comm 30.02 (entire section)

S. Comm 30.03 (1) (b)

S. Comm 30.11 (2) and (3) (a)

S. Comm 30.12 (1) (c), (5) and (7)

S. Comm 30.13 (3) (a) and (c)

S. Comm 30.14 (2) (b) and (3) (a)

S. Comm 30.145 (entire section)

S. Comm 30.15 (entire section)

SS. Comm 30.20 to 30.23 (entire sections)

(Building and Heating, Chs. Comm 50 to 64)

Chs. Comm 50 to 64 (entire code)

(Wisconsin Commercial Building Code, Chs. Comm 61 to 65)

Chs. Comm 61 to 65 (entire code)

(Uniform Multifamily Dwellings, Ch. Comm 66)

Ch. Comm 66 (entire chapter)

(Barrier-Free Design, Ch. Comm 69)

Ch. Comm 69 (entire chapter)

(Illumination, Ch. Comm 73)

Ch. Comm 73 (entire chapter)

Employee Trust Funds:

Ch. ETF 20

S. ETF 20.03 (3)

S. ETF 20.04 (2) (a) to (e) and (g) and (3)

S. ETF 20.05 (1) and (2)

Financial Institutions--Securities:

Ch. DFI-Sec 2

S. DFI-Sec 2.02 (4) (a) and (9) (n)

S. DFI-Sec 2.028 (4)

S. DFI-Sec 2.04 (1) (c)

Ch. DFI-Sec 4

S. DFI-Sec 4.01 (3) (intro.) and (h) and (5) to (10)

S. DFI-Sec 4.04 (8) (a)

S. DFI-Sec 4.05 (6)

Ch. DFI-Sec 5

S. DFI-Sec 5.04 (5) (a)

Ch. DFI-Sec 7

S. DFI-Sec 7.01 (1) (d) and (4) (c)

S. DFI-Sec 7.02 (1) (b)

Ch. DFI-Sec 9

S. DFI-Sec 9.01 (1) (e)

Natural Resources:

Ch. NR 166 (entire chapter)

Optometry Examining Board:

Ch. Opt 5

S. Opt 5.02 (1) to (4)

S. Opt 5.10 (3)

S. Opt 5.16 (entire section)

**Social Workers, Marriage & Family
Therapists and Professional Counselors
Examining Board:**

Ch. SFC 1

S. SFC 1.05 (7)

Ch. SFC 4

S. SFC 4.01 (1) (b)

Ch. SFC 7

S. SFC 7.01 (1) (intro.) and (a), (3) and (4)

Ch. SFC 11

S. SFC 11.015 (entire section)

Ch. SFC 12

S. SFC 12.02 (2)

Ch. SFC 13

S. SFC 13.01 (1) (intro.) and (a)

Ch. SFC 14

S. SFC 14.01 (4)

Ch. SFC 20

S. SFC 20.02 (13)

Editorial corrections

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

Commerce:

(Cleaning and Dyeing, Ch. Comm 15)

Ch. Comm 15

S. Comm 15.003 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 15.02 (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 15.18 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 15.21 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 15.22 (1) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 15.33 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Financial Institutions—Securities:

Ch. DFI—Sec 5

S. DFI—Sec 5.01 (1) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Errata

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

Elections Board:

Ch. ElBd 2

S. ElBd 2.07 (2) (b) was reprinted to restore dropped copy.

Sections affected by revisor's corrections not published

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

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

Location of invalid cross-reference	Invalid cross-reference	Correction
Ins 3.37 (3) (b)	HFS 61.81	Note inserted: Note: Section HFS 61.81 was repealed eff. 9-1-96 and replaced by ch. HFS 40.
Ins 3.37 (3) (d)	HFS 61.60	Note inserted: Note: Sections HFS 61.50 to 61.68 were repealed eff. 8-1-00 and replaced by ch. HFS 75.
Ins 3.37 (3) (e)	HFS 61.61	Note inserted: Note: Sections HFS 61.50 to 61.68 were repealed eff. 8-1-00 and replaced by ch. HFS 75.
NR 630.15 (2) (d)	NR 633.14, NR 665.11	Delete the citations
NR 630.31 (1) (h)	NR 633.14, NR 665.11	Delete the citations
Tax 21.01	66.77	59.605
Tax 21.03 (1)	66.77 (3)	59.605 (3)
DWD 11.03 (11m) DWD 11.045 (1), (2), (3) (g), (4) (b) 1. to 3. DWD 11.14 (3) (f) DWD 11.198 (11) (c) 1. b. DWD 11.30 (1) DWD 11.305 (4) (b) 1. c.	49.193 citations	Note inserted: Note: 1999 Wis. Act 9 repealed s. 49.193, Stats.
DWD 11.045 (3) (f) DWD 11.135 (1) DWD 11.19 (1) (g), (2m) and (3)	Ch. HSS 206 citations	Note inserted: Note: Ch. HSS 206 was repealed eff. 3-1-01.
DWD 11.045 (7) (b) 4. DWD 11.198 (1), (3) (e), (4) (a), (8) (a) (intro.) DWD 11.303 (5) (a) 5. DWD 11.305 (6) (d)	49.25 citations	Note inserted: Note: 1999 Wis. Act 9 repealed s. 49.25, Stats.
DWD 11.045 (7) (b) 5.	49.27	Note inserted: Note: 1999 Wis. Act 9 repealed s. 49.27, Stats.
DWD 11.05 (5)	49.13	Note inserted: Note: 1997 Wis. Act 27 repealed s. 49.13, Stats.

Location of invalid cross-reference	Invalid cross-reference	Correction
DWD 11.10 (2i) (g) 8. DWD 11.195 (10) (b)	49.50 (8)	Note inserted: Note: 1995 Wis. Act 27 repealed s. 49.50 (8), Stats. to be s. 49.21 (1), Stats. 1999 Wis. Act 9 repealed s. 49.21, Stats.
DWD 11.10 (4) (c) 2. b.	49.12	49.95
DWD 11.135 (2) (a)	HSS 207.11 (1) (a)	Note inserted: Note: Ch. HSS 207 was repealed eff. 3-1-01.
DWD 11.14 (3) (e) 1. b.	56.065	303.065
DWD 11.18 (2)	HSS 215.03	DWD 15.03
DWD 11.195 (1), (2) (c), (3) (g) and (i)	49.26 (1) (j)	Note inserted: Note: 1995 Wis. Act 289 repealed s. 49.26 (1) (j), Stats.
DWD 11.195 (5) (f)	49.50 (7) (e)	49.26 (1) (e)
DWD 11.195 (7) (a) (intro.)	49.50 (7) (g)	49.26 (1) (g)
DWD 11.195 (7) (a) 4. DWD 11.36 (5) (b) and (c), (7) (a) 2., (8) (b)	46.98 (4) citations	Note inserted: Note: 1995 Wis. Act 404 renumbered s. 46.98, Stats., to be s. 49.132, Stats. 1997 Wis. Act 252 repealed s. 49.132.
DWD 11.198 (3) (d), (4) (b), (5) (b)	767.078 (1) (d) citations	Note inserted: Note: 1999 Wis. Act 9 repealed s. 767.078 (1) (d), Stats.
DWD 11.28 (4)	DWD 11.055	Note inserted: Note: Section DWD 11.055 was repealed eff. 12-1-99.
DWD 11.36 (1) and (3) (c)	49.50 (6g)	Note inserted: Note: 1995 Wis. Act 27 renumbered s. 49.50 (6g), Stats., to be s. 49.191 (2), Stats. 1999 Wis. Act 9 repealed s. 49.191, Stats.
DWD 11.36 (5) (b) and (8) (b)	HFS 55.75	Note inserted: Note: Section HFS 55.75 was repealed 3-1-97.
DWD 11.36 (5) (c)	HFS 55.72 (2) and (7)	Note inserted: Note: Section HFS 55.72 was repealed 3-1-97.
DWD 11.36 (7) (a) 2.	49.50 (1)	49.001 (1)
DWD 12.03 (19), 12.09 (2) (n) (twice)	49.193	Note inserted: Note: 1999 Wis. Act 9 repealed s. 49.193, Stats.
DWD 12.22 (3)	49.21 (1)	Note inserted: Note: 1999 Wis. Act 9 repealed s. 49.21, Stats.
DWD 15.01	46.03 (8)	103.005 (17)
DWD 15.01	59.07 (97)	59.53 (5)

Location of invalid cross-reference	Invalid cross-reference	Correction
DWD 15.02 (1)	59.07 (97)	59.53 (5)
DWD 15.03 (4) (a) and (9) (a)	49.51	Delete the citations
DWD 40.01 (1)	46.25 (9) (a)	49.22 (9)
DWD 40.02 (7) (a)	767.51 (5)	Delete the citation
DWD 40.02 (7) (b)	767.25 (1n) (b) and 767.51 (5d) (b)	767.25 (1n)
DWD 41.01 (2)	59.07 (97)	59.53 (5)
DWD 41.02 (4)	59.07 (97)	59.53 (5)
DWD 43.06 (5) (c)	767.51 (5p), 767.62 (4) (g)	Delete the citations
DWD 43.11 (10) (a) 2.	767.62 (3) (e)	Delete the citation
DWD 55.01 (1)	46.03 (21)	Note inserted: Note: 1997 Wis. Act 27 repealed s. 46.03 (21), Stats.
DWD 55.04 (4) and (7) (b) 2. e.	48.651 (2)	Note inserted: Note: 1997 Wis. Act 27 repealed s. 48.651 (2), Stats.
DWD 56.02 (10) and Note	48.141 (1) (s)	49.141 (1) (s)
DWD 58.01 (1) and 58.02 (5)	49.132 (5) (e)	Note inserted: Note: 1997 Wis. Act 252 repealed s. 49.132, Stats.
DWD 60.09 (1) (b) 2.	47.08	47.03 (4)
DWD 80.41	66.191 (4 instances)	Note inserted: Note: 1983 Wis. Act 191 repealed s. 66.191, Stats.
DWD 80.44	885.05 (1) (bn)	814.67 (1) (b)
DWD 82.08 (1)	227.13	227.50
DWD 127.01 (2) (b)	108.04 (7) (i)	Note inserted: Note: 1999 Wis. Act 15 repealed s. 108.04 (7) (i), Stats., and amended s. 108.04 (7) (b), Stats., to include sexual harassment.
DWD 130.03 (1) (a)	DWD 110.05 (9)	Citation changed to ILHR 110.05 (9) with Note inserted: Note: ILHR 110.05 (9) was repealed eff. 7-1-90.
DWD 296.10	DWD 269.13	DWD 296.13

Public notice

Agriculture, Trade and Consumer Protection

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

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

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

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

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

Under s. 779.41 (1), mechanic's liens generally, \$1,695.

Under s. 779.41 (1) (a), mechanic's liens on a trailer or semi-trailer designed for use with a road tractor, \$5,085.

Under s. 779.41 (1) (b), mechanic's liens on road machinery, including mobile cranes, trench hoes, farm tractors, machines of husbandry, or off-highway construction vehicles and equipment, \$8,475.

Under ss. 779.41 (1) (c) 1. to 4., Stats., mechanic's liens on vehicles:

1. More than 10,000 and less than 20,000 pounds, \$3,390.
2. 20,000 pounds or more, but less than 40,000 pounds, \$6,695.
3. 40,000 pounds or more, but less than 60,000 pounds, \$10,175.
4. 60,000 pounds or more, \$13,560.

These revised dollar amounts under the mechanic's lien law shall apply to work commenced on or after January 1, 2002 for which a lien is claimed. These revised dollar amounts shall remain in effect until the first day of the first month following publication of new adjusted dollar amounts in the Wisconsin Administrative Register.

Contact Information:

Paul Dingee, Section Chief
Trade Practices Bureau
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-492

Health & Family Services

Medicaid Reimbursement of Outpatient Hospital Services Annual Rate Update

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

The Department is proposing to update payment rates based on current methodologies and to reflect more recent hospital cost reports and/or other information relevant to hospital reimbursement. The final rates will apply to Medicaid payments for outpatient hospital visits in the state fiscal year beginning July 1, 2001.

Provisions of 2001 Wisconsin Act 16 direct the Department of Health and Family Services to submit a plan for 14-day passive review to the Wisconsin Legislature Joint Committee on Finance to distribute Medicaid and BadgerCare funds for outpatient hospital services provided through fee-for-service and through managed care. The Joint Committee on Finance has approved the Department's plan.

As required by federal statute and regulations, the proposed payment rates are restricted by the federal Medicare upper limit requirement and target a share of funding to hospitals that serve a disproportionate number of low-income patients.

Outpatient Hospital Services

Wisconsin Medicaid reimburses hospitals for outpatient services in accordance with all current and future applicable Federal and State laws and regulations.

Under the Wisconsin Medicaid Outpatient State Plan, outpatient hospital services are paid at an interim rate per visit with a retrospective final settlement for the fiscal year based on the hospital's audited cost report.

Provisions of 2001 Wisconsin Act 16 (the 2001–2003 state budget) authorized funding to increase payments to hospitals and managed care providers for acute care outpatient hospital services. The Department's plan provides a 12 percent increase to total statewide outpatient hospital payments and a 12% increase to the outpatient hospital portion of the monthly HMO (managed care) capitation payment. The Act included a hold harmless clause that establishes that if a hospital's outpatient rate per visit is lower than their outpatient rate per visit for the previous rate year, the hospital shall be paid at the previous rate year's outpatient rate per visit. Therefore, under this methodology, a hospital's rate will not be less than the same hospital's June 30, 2001 rate.

Interim Rate. The Wisconsin Medicaid outpatient rate per visit is calculated as follows:

The Wisconsin Medicaid costs and visits for the most recent audited cost report available to the department as of the 31st of May prior to the start of the rate year are used to calculate the Wisconsin Medicaid outpatient rate per visit.

For each hospital, using the audited cost report, the total outpatient costs are divided by the total outpatient visits to calculate the hospital's specific cost per visit.

The hospital specific cost per visit is inflated to the end of the rate year using the DRI inflation index.

The inflated hospital specific cost per visit is multiplied by the budget neutrality factor. The budget neutrality factor is established by dividing the total dollars budgeted for hospital outpatient services by the total estimated inflated hospital outpatient costs for the budget year. The total estimated inflated outpatient costs for the budget year is the sum of all of the individual hospitals' Hospital Specific Cost per Visit times the Medicaid outpatient visits for the previous calendar year. The result of this calculation is the hospital specific outpatient rate per visit for the rate year.

Final Settlement. Final settlement of outpatient reimbursement for the settlement year shall be a hospital's allowable audited outpatient costs in the final settlement year as determined according to applicable Medicare and Medicaid standards and principles of reimbursement. The resulting amount is limited by the lesser of the following amounts:

1. Customary outpatient charges in the final settlement year;
2. The sum of the rate per outpatient visit effective for the final settlement year multiplied by the number of Medicaid outpatient visits for the period; or
3. The sum of the interim clinical diagnostic laboratory reimbursement plus the lower of cost or charges for other services.

Major and Minor Border Status Hospitals. Outpatient hospital services provided at major and minor border status hospitals, and all other out-of-state hospitals, are reimbursed at 50% of allowable charges.

Hospitals Paid for Critical Access Hospital Outpatient Services

Critical Access Hospitals. Critical access hospitals (CAH) located in Wisconsin will be reimbursed according to a determination of the hospital's allowable audited costs for Medicaid outpatient services.

Interim Payment Rate Per Visit. Critical access hospitals may request an adjustment to be paid for allowable costs for outpatient services. Hospitals that receive such an adjustment under this section are not eligible to receive a rural hospital adjustment for outpatient services. The interim payment rate per visit will be determined based on a hospital's most recent audited cost report and additional information provided by the hospital to the Department to provide a reasonable estimate of the final settlement.

Final Settlement. The rate per visit limitation will not include any "Critical Access Hospital Interim Cost Payment Adjustment." The critical access hospital will be reimbursed any additional reimbursement that results from the following calculations.

Calculation of Reimbursable Critical Access Hospital Cost. The reimbursable critical access hospital cost of providing outpatient hospital services for Medicaid recipients will be determined as the lesser of:

1. Customary outpatient charges in the final settlement year; or
2. The sum of the interim clinical diagnostic laboratory reimbursement plus the lesser of the following for the other services (other than the above laboratory services):
 - (a) Total outpatient charges for other services in the final settlement year; or
 - (b) Total audited costs for other services in the final settlement year.

Limits on Final Settlement:

If the final settlement results in an amount due to the WMAP, this amount may be applied to any amount owed to the hospital under the critical access hospital inpatient reimbursement provisions.

If the reimbursable critical access hospital costs exceed the total final settlement amount, the Department will reimburse the hospital the amount by which costs exceed payments after such amount is reduced by the amount, if any, by which payments exceed costs under section 5900 of the Inpatient Hospital Plan relating to critical access hospital outpatient reimbursement.

If payments exceed costs, the Department will not recover excess payments from the hospital. However, excess payments may be applied to any amount owed to the hospital under the critical access hospital outpatient reimbursement provisions.

If the reimbursable critical access hospital costs exceed the total final settlement amount, the Department will reimburse the hospital the amount by which costs exceed payments after such amount is reduced by the amount, if any, by which payments exceed costs under the Inpatient Hospital Services provisions relating to critical access hospital inpatient reimbursement.

Proposed Outpatient Hospital Rates for the 2001–2002 Rate Year

Attachment A: Outpatient rate per visit for each hospital.

The Wisconsin Medicaid Outpatient Hospital State Plans include a complete description of hospital payment methodology.

Copies of Proposed Changes and Proposed Payment Rates

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

Hospitals, Physicians and Clinics Section

FAX (608) 266–1096

Bureau of Fee–for–Service Health Care Benefits

Division of Health Care Financing

P. O. Box 309

Madison, WI 53701–0309

Written Comments

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

Division of Health Care Financing

Room 350, State Office Building

One West Wilson Street

Madison, WI

Attachment A

Outpatient Hospital Rates Effective 7/1/01

Name	City	Provider Number	Rates per Visit	% of Charges
FOND DU LAC MENTAL HEALTH	FOND DU LAC	10062400		50%
MILWAUKEE PSYCHIATRIC	WAUWATOSA	10062800	36.04	
MILWAUKEE CO MENTAL HEALTH	MILWAUKEE	10062900	210.29	
WINNEBAGO	WINNEBAGO	10063000		50%
WAUKESHA CO M H	WAUKESHA	10063300		50%
MENDOTA	MADISON	10063400	31.87	
NORTH CENTRAL H C	WAUSAU	10063700	81.18	
ROGERS MEMORIAL	OCONOMOWOC	10063800	50%	
NORWOOD H C	MARSHFIELD	10063900		50%
BROWN CO MENTAL HEALTH	GREEN BAY	10064500	71.62	
LIBERTAS	GREEN BAY	10065600	66.58	
BELLIN PSYCH	GREEN BAY	10065900	73.14	
ROGERS MEMORIAL	WEST ALLIS	10066300	24.58	
FROEDTERT	MILWAUKEE	11000400	224.22	
CHIPPEWA VALLEY	DURAND	11000500	147.59	
SOUTHWEST HEALTH CTR	PLATTEVILLE	11000600	125.03	
ST MARY'S	RHINELANDER	11000700	120.28	
SACRED HEART	TOMAHAWK	11000800	168.44	
BAY AREA	MARINETTE	11001400	131.98	
REEDSBURG MEM	REEDSBURG	11001500	94.89	
HAYWARD AREA	HAYWARD	11001600	108.29	
MERITER	MADISON	11001700	167.93	
ST MICHAEL'S	STEVENS POINT	11006100	135.57	
MYRTLE WERTH	MENOMONIE	11006200	75.86	
FRANCISCAN SKEMP MED. CTR	LA CROSSE	11006300	78.34	
TAYLOR CO	MEDFORD	11006400	141.51	
VICTORY MEM	STANLEY	11006500	158.58	
WAUKESHA MEM	WAUKESHA	11006600	103.19	
ST ELIZABETH	APPLETON	11006700	113.58	
RIVER FALLS AREA	RIVER FALLS	11006800	115.06	
LAKEVIEW MED CTR	RICE LAKE	11006900	177.27	
SACRED HEART	EAU CLAIRE	11007100	88.94	
STOUGHTON	STOUGHTON	11007200	101.50	
GOOD SAMARITAN	MERRILL	11007300	90.43	
ST JOSEPH'S	HILLSBORO	11007400	157.04	
ST JOSEPH'S	CHIPPEWA FALLS	11007500	87.01	
APPLE RIVER HOSPITAL	AMERY	11007600	167.85	
KENOSHA MEMORIAL	KENOSHA	11007800	86.91	
VERNON MEM	VIROQUA	11008000	106.21	
WAUPUN MEM	WAUPUN	11008100	143.28	
HOLY FAMILY	NEW RICHMOND	11008200	103.06	
ST MARY'S	MEQUON	11008300	139.63	
ST CLARE	MONROE	11008400	132.03	
WAUSAU	WAUSAU	11008500	161.80	
COMMUNITY MEMORIAL	EDGERTON	11008600	132.62	
MEMORIAL HOSP OF IOWA CO	DODGEVILLE	11008700	100.03	
RIVERVIEW	WIS. RAPIDS	11008800	155.76	
AURORA MEDICAL CENTER	TWO RIVERS	11008900	144.78	
SHEBOYGAN MEM	SHEBOYGAN	11009000	118.85	
ST JOSEPH'S	MARSHFIELD	11009100	214.57	
HARTFORD MEMORIAL	HARTFORD	11009200	143.00	
RUSK CO MEMORIAL	LADYSMITH	11009300	94.37	
ST MICHAEL	MILWAUKEE	11009400	107.86	
DIVINE SAVIOR	PORTAGE	11009500	93.88	
ST NICHOLAS	SHEBOYGAN	11009800	182.59	
THEDA CLARK	NEENAH	11009900	93.01	
COMMUNITY MEMORIAL	SPOONER	11010000	121.93	
MERCY MEDICAL	OSHKOSH	11010100	113.23	
BELLIN	GREEN BAY	11010200	56.02	
ST MARY'S	MILWAUKEE	11010300	144.82	
NEW LONDON	NEW LONDON	11010400	106.76	
MEMORIAL OF NEILLSVILLE	NEILLSVILLE	11010500	63.96	
BURLINGTON MEM	BURLINGTON	11010900	203.03	
BERLIN MEMORIAL	BERLIN	11011000	114.93	
OCONOMOWOC MEMORIAL	OCONOMOWOC	11011100	116.81	
ST JOSEPH'S	WEST BEND	11011200	118.63	
MERCY	JANESVILLE	11011400	142.89	
CUMBERLAND MEM	CUMBERLAND	11011600	96.48	
LUTHER	EAU CLAIRE	11011800	99.24	

FT ATKINSON MEMORIAL	FT ATKINSON	11011900	103.00	
ADAMS CO MEM	FRIENDSHIP	11012000	209.08	
ST VINCENT	GREEN BAY	11012100	113.64	
BEAVER DAM	BEAVER DAM	11012200	144.32	
OCONTO MEMORIAL	OCONTO	11012300	136.16	
ST FRANCIS	MILWAUKEE	11012400	173.03	
COLUMBUS COMMUNITY	COLUMBUS	11012800	108.70	
GUNDERSON LUTHERAN	LA CROSSE	11012900	146.10	
ST AGNES	FOND DU LAC	11013000	126.40	
RIPON MEM	RIPON	11013200	133.46	
HOWARD YOUNG	WOODRUFF	11013300	160.70	
SHAWANO	SHAWANO	11013400	151.65	
ST LUKE'S	RACINE	11013500	113.04	
SAUK PRAIRIE MEM	PRAIRIE DU SAC	11013600	120.09	
ST MARY'S	RACINE	11013700	109.42	
ST MARY'S	GREEN BAY	11013800	100.90	
BELOIT MEMORIAL	BELOIT	11014000	104.84	
OCONTO FALLS COM MEM	OCONTO FALLS	11014100	125.04	
COMMUNITY MEMORIAL	MENOMONEE FALLS	11014300	128.89	
HOLY FAMILY	MANITOWOC	11014600	108.46	
HESS MEMORIAL	MAUSTON	11014700	79.04	
MEMORIAL HOSP OF LAFAYETTE CO	DARLINGTON	11014800	171.80	
ST CROIX VALLEY MEM	ST CROIX FALLS	11015000	186.84	
AREA HEALTH CARE	BOSCOBEL	11015200	79.36	
CALUMET MED CTR	CHILTON	11015300	122.79	
WATERTOWN MEM	WATERTOWN	11015400	117.26	
RICHLAND	RICHLAND CTR	11015500	132.16	
OSSEO AREA	OSSEO	11015600	117.40	
FRANCIS SKEMP MED CTR	SPARTA	11015900	168.27	
TRI CO MEM	WHITEHALL	11016000	70.51	
COMMUNITY MEMORIAL	BALDWIN	11016100	143.20	
MEMORIAL MEDICAL CNTR	BARRON	11016200	126.57	
BURNETT GENERAL	GRANTSBURG	11016600	128.18	
FLAMBEAU MED CTR	PARK FALLS	11016700	132.16	
PRAIRIE DU CHIEN MEM	PRAIRIE DU CHIEN	11016900	108.77	
ST JOSEPH'S	MILWAUKEE	11017100	141.81	
ST LUKE'S	MILWAUKEE	11017200	135.52	
WEST ALLIS MEM	WEST ALLIS	11017300	108.59	
COLUMBIA	MILWAUKEE	11017400	131.89	
FRANCIS SKEMP MEDICAL CENTER	ARCADIA	11017600	126.86	
TOMAH MEMORIAL	TOMAH	11017800	132.26	
GRANT REGIONAL MEMORIAL	LANCASTER	11018000	100.75	
LANGLADE MEMORIAL	ANTIGO	11018100	149.80	
WILD ROSE	WILD ROSE	11018200	130.24	
BLACK RIVER MEM	BLACK RIVER FALLS	11018300	159.67	
DOOR CO MEMORIAL	STURGEON BAY	11018400	117.77	
BLOOMER COMMUNITY MEMORIAL	BLOOMER	11018500	112.86	
RIVERSIDE	WAUPACA	11018600	109.51	
HUDSON MEMORIAL	HUDSON	11018700	186.96	
LADD MEMORIAL	OSCEOLA	11018800	130.63	
EAGLE RIVER MEM	EAGLE RIVER	11018900	177.19	
APPLETON MEDICAL CENTER	APPLETON	11019000	111.52	
ELMBROOK MEM	BROOKFIELD	11019400	163.83	
MEMORIAL MEDICAL CENTER	ASHLAND	11019500	123.36	
CHILDREN'S OF WISCONSIN	MILWAUKEE	11019700	189.85	
SACRED HEART	MILWAUKEE	11020000	120.03	
SINAI SAMARITAN	MILWAUKEE	11020400	151.18	
INDIANHEAD MED CTR	SHELL LAKE	11020700	114.63	
KINDRED	GREENFIELD	11021400		50%
LAKELAND	ELKHORN	11021600	98.57	
VALLEY VIEW	PLYMOUTH	11021700	135.20	
UNIVERSITY OF WISCONSIN	MADISON	11022000	138.00	
LAKEVIEW REHABILITATION	WATERFORD	11022100	150.25	
ST. MARY'S	SUPERIOR	11022400	115.31	
AURORA HEALTH CARE	KENOSHA	11022500		50%
ST. CLARE	BARABOO	11022800	112.06	
ST. MARY'S	MADISON	11022900	176.20	
CHILDREN'S HOSPITAL	KENOSHA	11023000		50%
SELECT SPECIALTIES	WEST ALLIS	11023200		50%
NEXTCARE SPECIALTY HOSPITAL	MILWAUKEE	11023300		50%
CHILDREN'S HOSPITAL	NEENAH	11023400		50%
OUT OF STATE HOSPITALS				50%

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