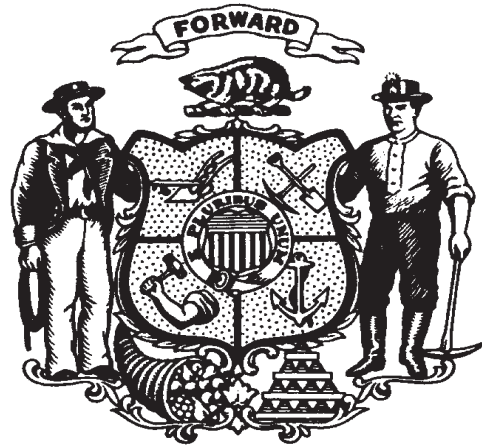


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Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health,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

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

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

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

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

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

Agriculture, Trade & Consumer Protection

Rules adopted revising **chs. ATCP 10 and 11** relating to chronic wasting disease in cervids.

Finding of emergency

(1) Chronic wasting disease is a contagious disease known to affect several species of the cervid family, including elk, white-tailed deer, black-tailed deer, red deer and mule deer. The disease is always fatal. At the present time, there is no scientific evidence to suggest that chronic wasting disease is transmitted to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(2) The cause of chronic wasting disease is not fully understood. The disease appears to be related to aberrant protein molecules called prions. By an unknown mechanism, prions apparently cause other protein molecules in the cervid brain to take aberrant forms. The disease causes microscopic vacuoles (holes) in the brain. Diseased cervids become emaciated, display abnormal behavior patterns, and experience loss of bodily functions.

(3) Science does not understand how chronic wasting disease is spread. It is thought that infected cervids can transmit the disease to other cervids, either directly or by contaminating their environment. It appears that cervid-to-cervid contact facilitates the spread of the disease.

(4) On February 27, 2002, the national veterinary services laboratory informed Wisconsin that it had confirmed chronic wasting disease for the first time in this state. The laboratory confirmed the disease in test samples collected from 3 free-ranging white-tailed deer killed by hunters during the

November 2001 gun deer season. The Wisconsin Department of Natural Resources (DNR) collected these samples as part of a statewide disease surveillance program. With the voluntary cooperation of hunters, DNR collected test samples from deer killed and registered by hunters at selected hunting registration sites around the state. DNR collected a total of 345 samples statewide, including 82 samples at the Mt. Horeb registration station. The 3 deer that tested positive for chronic wasting disease were all registered at the Mt. Horeb station. The 3 deer were shot in close proximity to each other in Vermont Township in Dane County. We do not know how the 3 deer were exposed to chronic wasting disease, nor do we know the extent of infection in the free-ranging herd.

(5) We do not know whether any captive cervids in Wisconsin are infected with chronic wasting disease (there are no findings to date). If captive cervids are infected, the close proximity of cervids within a captive herd may facilitate the spread of disease within the herd. The movement of infected cervids between herds may spread the disease to other herds. Contact between free-ranging and captive cervids may also spread the disease.

(6) Persons importing captive cervids to Wisconsin must obtain an import permit from the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). Importers must identify the herd of origin and the herd of destination. A veterinarian must certify that the cervids appear to be in good health, and that they have been tested for tuberculosis and brucellosis. There is no chronic wasting disease testing requirement, because there is no way to test live cervids for the disease.

(7) Since 1995, a total of 2,604 captive cervids have been legally imported into Wisconsin. This includes 2,020 elk, 191 whitetail deer, 12 mule deer and 387 other cervids. Chronic wasting disease has been found in free-ranging herds or in some captive herds in Colorado, Nebraska, Oklahoma, Kansas, Montana, South Dakota, and Wyoming. Since 1995, a total of 410 captive cervids have been legally imported to Wisconsin from these states. Most other states lack active chronic wasting disease surveillance programs, so the full extent of the disease is not known with certainty.

(8) DATCP currently registers captive cervid herds, other than white-tail deer herds. DNR currently licenses captive white-tail deer herds. Since 1998, DATCP has sponsored a voluntary program to monitor for chronic wasting disease among the captive herds that it registers. Approximately 50 herd owners currently participate in this program.

(9) Since chronic wasting disease was confirmed in this state, there has been widespread public concern about the disease. The public has expressed concern about the health of free-ranging deer and elk, and about potential threats to humans, livestock and deer-related businesses. Hunters and consumers have expressed food safety concerns. There is currently no scientific evidence to suggest that chronic wasting disease is transmissible to non-cervids or to humans. But there is limited scientific knowledge about the disease, and this lack of knowledge has contributed to public concerns.

(10) In order to protect the public peace, health, safety and welfare, it is necessary to take immediate steps to prevent and control the spread of chronic wasting disease in this state. Among other things, it is necessary to impose further controls on the import and movement of captive cervids and to implement a mandatory monitoring program. DATCP may adopt rules to implement these measures.

(11) Normal rulemaking procedures require up to a year or more to complete. A temporary emergency rule is needed to protect the public peace, health, safety and welfare, pending the adoption of longer-term rules. This emergency rule will implement essential prevention and control measures on an immediate, interim basis.

Publication Date: April 9, 2002
Effective Date: April 9, 2002
Expiration Date: September 6, 2002
Hearing Date: May 22, 2002
Extension Through: May 31, 2003

Corrections

Rules adopted amending **ch. DOC 316**, relating to medical, dental and nursing copayment charges.

Exemption from finding of emergency

The department of corrections adopts this emergency rule pursuant to the statutory requirements of 2001 Wis. Act 109. The Act provides, in relevant part:

“Using the procedure under section 227.24 of the statutes, the department of corrections shall promulgate the rules that are required under section 302.386 (4) (a) of the statutes relating to the deductible, coinsurance, copayment, or similar charge that must be imposed under section 302.386 (3) (b) of the statutes.”

and,

“Notwithstanding section 302.386 (3) (b) of the statutes, the rules shall require the department to require that, subject to the exception and waiver provisions under section 302.386 (3) (c) of the statutes, each person to whom section 302.386 (1) of the statutes applies pay a deductible, coinsurance, copayment, or similar charge of at least \$7.50 for each request that the person makes for medical or dental services.”

Currently, the department’s administrative rules provide for a \$2.50 copayment under such circumstances as described above. This emergency rule raises the copayment to \$7.50 as directed by 2001 Wis. Act 109.

In addition, pursuant to 2001 Wis. Act 109 the department makes no finding of emergency in promulgating this rule. 2001 Wis. Act 109 expressly exempts the department from the statutory requirements to do so.

Publication Date: September 3, 2002
Effective Date: September 3, 2002
Expiration Date: January 31, 2003
Hearing Date: November 18, 2002
Extension Through: March 31, 2003

Employee Trust Funds

Rules adopted amending **s. ETF 20.25 (1) (a) and (2)** regarding the date as of which annual post-retirement annuity adjustments under ss. 40.27 (2) and 40.28 (2), Stats., will occur.

Finding of emergency

The Department of Employee Trust Funds, Employee Trust Fund Board, Teachers Retirement Board and Wisconsin Retirement Board find that an emergency exists and that an administrative rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

Without emergency rule-making it will not be possible to avoid short-term harm to individual WRS annuitants who will already bear the effects of the market downturn though a zero percent fixed annuity dividend and a double-digit negative variable change.

The first annuity dividends actually affected by the 2002 rule-making (CR #02-049) are the dividends otherwise payable on March 1, 2003. Projections indicate that the fixed division dividend will likely be 0%, largely because of the effect of three years of market declines. The annual change to variable division annuities, which is more volatile because it reflects only the past year’s market performance, will be negative and in the range of -26% to -30%. This means that the portion of an annuitant’s annuity payable from the fixed division will not increase during 2003, while, if the annuitant receives a portion of his or her annuity from the variable annuity division, that portion of the annuity will be markedly reduced. Annuitants are concerned about the short-term effect of cuts to their annuities being made effective a month earlier this year than was the case in previous years.

The change from April 1 to March 1 was initiated with the best of intentions, primarily to get the additional money from dividend increases into the hands of annuitants as quickly as possible. In retrospect, the timing is unfortunate. When drafting of the rule began in early 2002, the year-end market earnings were unknown and a third consecutive year of market losses could not be predicted. The continued deterioration of investment returns in the latter part of 2002 has magnified the adverse, short-term effect of this change in the timing of dividends; that is, the size of the negative variable adjustment is larger.

Publication Date: February 27, 2003
Effective Date: February 28, 2003
Expiration Date: July 28, 2003

Health and Family Services (2) (Medical Assistance, Chs. HFS 100—)

1. Rules adopted creating **ch. HFS 109**, relating to SeniorCare.

Finding of emergency

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

The high cost of prescription drugs in Wisconsin and nationwide are especially burdensome on the elderly, many of whom live on a fixed income. Through 2001 Act 16, Wisconsin has addressed the problem those increasingly high costs pose to the elderly by creating section 49.688 of the statutes. Section 49.688 directs the Department to develop and administer the program of prescription drug benefits for the elderly that has come to be known as “SeniorCare.” The statute also directs the Department to develop administrative rules for implementing SeniorCare, which the Department has done by creating a new chapter of administrative rules, HFS 109. The rules address a variety of issues associated with operating the program in accordance with section 49.688, Stats., including specifying:

- what prescription drugs are covered;
- who is eligible for benefits and services;
- how the Department determines household income for the program’s eligibility determination;
- how the Department monitors compliance by pharmacists and pharmacies; and
- mechanisms for preventing fraud and abuse.

The Department drafted these rules to parallel the prescription drug provisions of the existing Medicaid rules in chs. HFS 101 to 108. The Department developed the program's administrative elements in consultation with an advisory committee composed of representatives of physicians, counties, seniors and pharmacies.

While the Department is currently in the process of promulgating ch. HFS 109 as permanent rules, s. 49.688 (5) (a) and (7) (a), Stats., mandate the initiation of some SeniorCare program elements beginning on September 1, 2002. To meet this deadline, the Department is issuing ch. HFS 109 as emergency rules to preserve the public welfare.

Publication Date: September 1, 2002
Effective Date: September 1, 2002
Expiration Date: January 29, 2003
Hearing Date: October 10, 2002
Extension Through: March 29, 2003

- Rules adopted revising **chs. HFS 101 to 107**, relating to the Medicaid Family Planning Demonstration Project.

Finding of emergency

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

On June 25, 1999, the Department submitted a request for a waiver of federal law to the Centers for Medicare and Medicaid Services (CMS), the agency within the United States Department of Health and Human Services that controls states' use of Medicaid funds. On June 14, 2002, the Centers for Medicaid and Medicare granted the waiver, effective January 1, 2003. The waiver allows the state to expand Medicaid services by providing coverage of family planning services for females of child-bearing age who would not otherwise be eligible for Medicaid coverage. Under the waiver, a woman of child-bearing age whose income does not exceed 185% of the federal poverty line will be eligible for most of the family planning services currently available under Medicaid, as described in s. HFS 107.21. Through this expansion of coverage, the Department hopes to reduce the number of unwanted pregnancies in Wisconsin.

Department rules for the operation of the Family Planning Demonstration Project must be in effect before the program begins. The program statute, section 49.45 (24r) of the statutes, became effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement the Family Planning Demonstration Project not later than July 1, 1998, or the effective date of the waiver, whichever date was later. After CMS granted the waiver, the Department determined that the Family Planning Demonstration Project could not be implemented prior to January 1, 2003, and CMS approved this starting date. Upon approval of the waiver, the Department began developing policies for the project and subsequently the rules, which are in this order. The Department is publishing the rules by emergency order so the rules take effect in February 2003, rather than at the later date required by promulgating permanent rules. In so doing, the Department can provide health care coverage already authorized by CMS as quickly as possible to women currently not receiving family planning services and unable to pay for them. The Department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: January 31, 2003
Effective Date: January 31, 2003
Expiration Date: June 30, 2003

Health and Family Services (2) (Health, Chs. HFS 110—)

- Rules adopted amending **chs. HFS 110 to 113**, relating to licensing of EMT's and certification of first responders, incorporating responding to acts of terrorism as a training component.

Finding of emergency

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

2001 Wisconsin Act 109 amended section 146.50 (6) (a) 2., (b) 2. and (8) (b) 3. by adding the requirement that as of January 1, 2003, to receive an initial or renewed EMS license or first responder certification, the applicant must have received training in response to acts of terrorism. Section 146.50 (6) (b) 2. of the statutes specifically directs the Department, in conjunction with the technical college system board, to promulgate rules specifying training, education, or examination requirements for training in response to acts of terrorism. The training must be completed by all persons desiring to receive an initial or renewed license or certification after January 1, 2003. To enforce and administer this statutory requirement, the Department must revise the administrative rules associated with the licensing of Emergency Medical Technicians (EMTs) – Basic and EMTs – Basic IV (found in ch. HFS 110), EMTs – Intermediate (found in ch. HFS 111), EMTs – Paramedic (found in ch. HFS 112) and First Responders (found in ch. HFS 113.)

The required rule changes will remove any question of whether the department had the authority to require persons to receive training for acts of terrorism. Such training is needed to promote the public's health and safety and due to the statutory effective date of January 1, 2003, the department is promulgating these rule changes through an emergency order. The department is also proceeding with promulgating these rule changes on a permanent basis through a proposed permanent rulemaking order.

Publication Date: December 31, 2002
Effective Date: December 31, 2002
Expiration Date: May 30, 2003
Hearing Date: February 17, 2003

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

Finding of emergency

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

The presence of lead in paint and soil is believed to contribute to the level of lead found in the blood of persons, particularly children, living in the area. The federal Environmental Protection Agency (EPA) maintains regulations intended to reduce environmental lead hazards principally by:

- Specifying the thresholds for an environment to be considered as presenting a lead-based paint hazard; and

- Requiring training and certification of persons who perform lead hazard reduction activities or lead investigation activities so those persons are best able to prevent exposure of building occupants to hazardous levels of lead.

The federal government may authorize a state to administer its own lead training and certification program if the state has regulations governing certification of persons for the identification, removal and reduction of lead-based paint hazards that are as protective as those specified in the EPA regulations.

In Wisconsin, the Department of Health and Family Services administers the lead training and certification program. The Department has established administrative rules under chapter HFS 163 to guide its administration of the program. In 2000, the Department began work to extensively revise ch. HFS 163 to implement 1999 Wisconsin Act 113, which established a program for registering lead-free and lead-safe properties. The proposed rule was released for public review and comment on December 12, 2000. On January 5, 2001, in volume 66, number 4 of the Federal Register (66 FR 1206-1239), the EPA published regulations that established standards for lead-based paint hazards under 40 CFR Part 745, Subparts D and L, and required states with authorized lead training and certification programs under 40 CFR Part 745, Subpart Q, to implement the regulations by February 5, 2003. Because the proposed rule had already been released for public review and comment and the EPA standards for lead-based paint hazards would affect the lead-safe property standards under ch. HFS 163, the Department decided to educate the public about the new EPA standards for lead-based paint hazards before revising the rule to reflect the new EPA standards. If Wisconsin is to continue administering its program of training and certification of persons performing lead abatement and lead investigation activities (in lieu of a program operated by the EPA), the Department must revise ch. HFS 163 by February 3, 2003 to comply with those most recent and final federal regulations at 40 CFR Part 745, Subparts D, L and Q.

If the Department does not make these changes to ch. HFS 163, Wisconsin could lose some or all of its Federal lead grant funding and EPA's authorization for the Department's lead program. Since the federal regulation provides the first measurable definition of a lead-based paint hazard, the Department needs to adopt this definition in order to protect the state's citizens.

The most significant modification to the rules pertains to the permissible level of residual lead dust in window troughs. The current lead-safe property standards expressed under s. HFS 163.42 allow a higher level of lead dust in window troughs than is permissible in corresponding EPA regulations and also do not require properties to be free of soil-lead hazards. Making the changes to s. HFS 163.42 through this order will mean that persons removing lead-based paint hazards may need to clean window troughs more thoroughly to reduce the dust-lead levels and also may need to cover bare soil. Most lead investigation professionals in Wisconsin already perform lead investigation work in conformance with the more stringent lead levels specified in EPA's regulations to ensure a more protective environment for residents, especially when conducting clearance following abatement activities. Conformance with the more stringent EPA regulations is also currently required when lead hazard reduction work is performed using federal funds. Since most lead investigation professionals already use the more protective EPA standards, the rule changes should have little effect on persons conducting lead investigation or abatement activities.

Among the changes the Department is making through this order, the most significant are the following:

1. Prior to this order, section HFS 163.14 (5) (c) 8. required that, following lead abatement, a window well or trough may contain no more than 800 micrograms of lead dust per square foot. The revised EPA regulations specify a maximum level of 400 micrograms per square foot. To comply with federal regulations, the Department is reducing the permissible threshold to 400 micrograms per square foot.

2. Prior to this order, section HFS 163.15 (2) specified that a lead hazard is present in soil when the arithmetic mean for laboratory results for samples of bare soil is equal to or greater than 2,000 parts per million. The EPA revised regulations state that a lead hazard is present in soil when bare soil in a play area contains total lead content equal to or exceeding 400 parts per million or when bare soil in the rest of the yard contains an average of 1,200 parts per million of lead. To comply with the federal regulations, the Department is reducing the permissible threshold to that specified by the EPA.

3. The Department is adding standards, as section HFS 163.15 (3), for determining when a lead-based paint hazard exists.

4. The Department is modifying section HFS 163.42 (1) (b) and (c) to require that all exterior painted components, regardless of their height above the ground, be free of deteriorated paint unless the paint is proved to be lead-free.

5. The Department is revising its standards for lead-safe property under s. HFS 163.42 (1) (f) and (j) to reflect these lower levels for lead in dust and soil.

6. Finally, the Department is revising section HFS 163.42 (1) (j) to require that there be no soil-lead hazard on registered lead-safe property.

Publication Date: January 3, 2003

Effective Date: January 3, 2003

Expiration Date: June 2, 2003

Hearing Date: April 2, 2003

Insurance

Rules adopted amending s. **Ins 3.39**, relating to Medicare Supplement insurance policies.

Finding of emergency

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

These changes clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC model act implementing the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act ("BIPA"), by January 1, 2003. In order to provide more certainty and provide guaranteed issue to the appropriate persons in Wisconsin, it is necessary that the changes be put into effect as soon as possible. In addition, since insurers are required to be in compliance with the Federal law, implementing this rule effective on the same date will allow insurers to modify their policies one time rather than two.

The Commissioner is sending contemporaneously with this Emergency Rule, the permanent rule, Clearinghouse No. 02-118, to the Legislature for review. A hearing on the permanent rule, pursuant to published notice thereof, was held on November 7, 2002. The Office has received comment and revised the rule as necessary to incorporate comments from the public and as contained within the Clearinghouse Report.

Publication Date: December 16, 2002
Effective Date: December 16, 2002
Expiration Date: May 14, 2003

Natural Resources (5)
(Fish, Game, etc., Chs. NR 1–)

1. Rules adopted revising **chs. NR 10 and 45**, relating to the control and management of chronic wasting disease.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The state legislature has delegated to the department rule-making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses.

Publication Date: July 3, 2002
Effective Date: July 3, 2002
Expiration Date: November 30, 2002
Hearing Date: August 12, 2002
Extension Through: April 1, 2003

2. Rules adopted repealing and recreating **s. NR 20.20 (49) (d) and (61) (c)**, relating to the closure of carp fishing on Cedar Lake and connected waters in Polk and St. Croix counties.

Finding of emergency

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

Spring viremia of carp virus is of international animal health concern. The virus affects fishes in the minnow family in nature. Minnows are extremely important forage fish for many important sport fishes in Wisconsin and are also important to the bait and aquaculture industries. Assuring the health of minnow populations and preventing the spread to other waters is important in preserving the welfare of Wisconsin citizens by protecting popular and economically valuable sport and bait fisheries. Little is currently known about the extent of the virus and until we can increase our knowledge, this closure will limit the potential spread from transport of fish and/or their parts and fluids.

Publication Date: October 3, 2002
Effective Date: October 3, 2002
Expiration Date: March 2, 2003
Hearing Date: November 11, 2002
Extension Through: April 30, 2003

3. Rules adopted amending **s. NR 25.06 (1) (a) 1. to 3.**, relating to commercial fishing in Lake Superior.

Finding of emergency

The waters of Lake Superior were not part of the extensive off-reservation treaty rights litigation known as the Voigt case. The parties stipulated that the Lake Superior rights would be dealt with, to the extent possible, by agreement rather than litigation. This rule represents the implementation of the most recent negotiated amendments to the agreement

between the State and the Red Cliff and Bad River Bands. These amendments incorporate the results of a new population estimate that was not available previously. In order to comply with the terms of the agreement, the State must change its quotas and commercial fishing regulations at the earliest possible date. Failure of the State to do so will not only deprive state fishers of increased harvest opportunities available under the agreement, but could also jeopardize the agreement, putting the entire Lake Superior fishery at risk of litigation.

Publication Date: November 1, 2002
Effective Date: November 1, 2002
Expiration Date: March 31, 2003
Hearing Date: December 13, 2002

4. Rules adopted revising **chs. NR 16 and 19** and creating **ch. NR 14**, relating to captive wildlife.

Finding of emergency

2001 Wis. Act 56 was not enacted until April of 2002. It required standards for captive animals held under licenses issued under ch. 169, Stats., to be in place by January 1, 2003, the effective date of the change from licensing under ch. 29, Stats., to ch. 169, Stats. As the use of the permanent rule process would not allow these standards to be in place by January 1, 2003, the Department had no choice but to use the emergency rule procedures. Failure to have standards in place would result in the lack of humane care standards for wild animals held in captivity and the lack of pen standards necessary to prevent the interactions between captive and wild animals.

Publication Date: December 20, 2002
Effective Date: January 1, 2003
Expiration Date: May 31, 2003
Hearing Date: January 16, 2003

5. Rules adopted revising **ss. NR 10.07 (2), 12.06 and 19.60**, relating to the control and management of chronic wasting disease.

Finding of emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public health, safety and welfare. The state legislature has delegated to the department rule-making authority in 2001 Wisconsin Act 108 to control the spread of Chronic Wasting Disease (CWD) in Wisconsin. CWD poses a risk to the health of the state's deer herd and citizens and is a threat to the economic infrastructure of the department, the state, its citizens and businesses. This rule is needed to reduce the deer herd in the CWD eradication zone further than accomplished through the hunting seasons to help prevent the spread of CWD.

Initial Applicability. This emergency rule repeals and recreates portions of the original CWD emergency rule order (WM-32-02 (E)) which was adopted by the Natural Resources Board in June 2002. The effective period of this emergency rule will coincide with the effective period of the original CWD emergency rule order which has been extended by the Legislative Joint Committee on the Review of Administrative Rules until April 1, 2003, pursuant to 2001, Wisconsin Act 108.

Publication Date: January 11, 2003
Effective Date: January 11, 2003
Expiration Date: April 1, 2003
Hearing Date: February 11, 2003

Nursing

Rules adopted creating s. N 4.10, relating to malpractice insurance coverage for nurse–midwives.

Exemption from finding of emergency

Under Section 13 of 2001 Wisconsin Act 52, the Board of Nursing is directed to use the procedure under s. 227.24, Stats., in promulgating the rules required under s. 441.15 (5) (b) of the statutes. Under that procedure, the Board of Nursing may promulgate this rule for the period before permanent rules become effective. The Board of Nursing need not provide evidence of the necessity of preservation of the public peace, health, safety, or welfare in promulgating this rule.

Analysis prepared by the Department of Regulation

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2), Stats., and ss. 441.15 (2) (c), 441.15 (3) (a) 3. and 441.15 (5), as created by 2001 Wisconsin Act 52, and s. 441.15 (3) (bm), as amended by 2001 Wisconsin Act 52.

Statutes interpreted: s. 441.15 (2) (c), 441.15 (3) (a) 3., 441.15 (3) (bm) and 441.15 (5) (b), Stats.

2001 Wisconsin Act 52 makes a number of changes to the provisions affecting nurse–midwives, including that licensed nurse–midwives carry malpractice insurance in an amount determined by rules to be promulgated by the Board of Nursing. This rule establishes those requirements relating to malpractice coverage for nurse–midwives.

Using the procedure under s. 227.24, Stats., the Board of Nursing will promulgate the rules as created by 2001 Wisconsin Act 52, for the period before permanent rules become effective.

Publication Date: November 5, 2002

Effective Date: November 5, 2002

Expiration Date: April 4, 2003

Hearing Date: March 7, 2003

Veterans Affairs

Rules adopted amending s. VA 12.02 (7) and (16), relating to the maximum loan amount under the personal loan program.

Finding of Emergency

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

The Department administers a personal loan program that may be used by veterans and their dependents for various statutory purposes. The purposes include debt consolidation, payment of delinquent child support, education expenses, and medical and funeral expenses, and the purchase of a mobile home or business property. The current maximum loan amount, set by the Department at sec. VA 12.02 (7), Wis. Adm. Code, is \$10,000. The permissible statutory maximum loan amount may be \$15,000, as set by the Department by administrative rule.

The Department proposes to raise the amount to the statutory maximum for several compelling reasons. Raising the maximum loan amount will help stimulate the economy by providing additional resources for veterans and their families. Due to the state of the economy, veterans and their families have a significant need for financial assistance in the form of below market interest rate loans. Additionally, the

personal loan program is the primary source of revenue for the veterans trust fund. Immediate infusion of additional assets in the form of personal loans will provide significant financial support for the trust fund. It is expected that increasing the maximum loan amount will result in approximately \$4,000,000 of new loan assets over the 8–month period in which it would take to promulgate this rule change using the regular promulgation procedure.

Publication Date: August 5, 2002

Effective Date: August 5, 2002

Expiration Date: January 2, 2003

Hearing Date: December 6, 2002

Extension Through: May 1, 2003

Workforce Development (Public Works Const. Contracts, Chs. DWD 290–294)

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

Finding of Emergency

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

The Department of Workforce Development is acting under its statutory authority to annually adjust thresholds for the application of prevailing wage laws on public works projects. The thresholds are adjusted in accordance with any change in construction costs since the last adjustment. The last adjustment was initially by emergency rule in January 2002 based on changes in the construction cost index in 2001. The Department uses the construction cost index in the December issue of the *Engineering News–Record*, a national construction trade publication, to determine the change in construction costs over the previous year. The current construction cost index indicates a 2.7% increase in construction costs in 2002. This increase in construction costs results in an increase in the threshold for application of the prevailing wage laws from \$36,000 to \$37,000 for single–trade projects and from \$175,000 to \$180,000 for multi–trade projects.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately 7 months, until the conclusion of the permanent rule–making process. Between January 1, 2003, and August 1, 2003, a single–trade project with a minimum estimated project cost of more than \$36,000 but less than \$37,000 or a multi–trade project with an estimated cost of more than \$175,000 but less than \$180,000 would not be exempt from the prevailing wage laws, as they would be if the emergency rule were promulgated. The threshold adjustments for application of the prevailing wage laws are based on national construction cost statistics and are unlikely to be changed by the permanent rule–making process. The Department is proceeding with this emergency rule to avoid imposing an additional administrative burden on local governments and state agencies.

Publication Date: December 27, 2002

Effective Date: January 1, 2003

Expiration Date: May 31, 2003

Hearing Date: February 27, 2003

Scope statements

Athletic Trainers

Subject

To modify Wis. Adm. Code s. AT 4.02 to clarify the duties of a licensee in the clinical context and when working on behalf of a primary employer in the instance of receiving a referral of a patient for treatment.

Objective of the rule. Currently, the mandatory protocol requirements for the treatment of an athletic injury do not explicitly provide guidelines delineating the consultation duty and protocol disclosure duty of a licensee who receives a referral of a patient from a person who is not the licensee's consulting physician.

Policy analysis

Modifying Wis. Admin. Code s. AT 4.02 will assist licensees by clarifying the type of disclosures and professional consultations that must be made with consulting physicians and primary care practitioners in the instance of treatment of referred patients. This will enable both the consulting physician and primary care practitioner to better review and manage the referred patient's treatment by the licensee.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), and s. 448.9525 (2), Stats.

Staff time required

50 hours.

Health and Family Services

Subject

The Department proposes to amend chs. HFS 62 and 75. Chapter HFS 62 is the administrative rule for local and state operation of the Department's Intoxicated Driver Program. First promulgated in 1984, the chapter applies to those public treatment facilities approved by the department under s. 51.45 (8), Stats., that provide assessment or driver safety plan services by order of either a court or the state department of transportation to motor vehicle drivers who are suspected of having, or are found to have, an alcohol or controlled substance problem. The chapter applies also to providers of programs included in driver safety plans. The chapter sets standards for state and county government administration, assessor qualifications, uniform assessment protocols, driver safety plan programs, reporting requirements, and policies regarding conflict of interest.

Chapter HFS 75 is the Department's administrative rule concerning community substance abuse service standards. It was created in the year 2000 to replace then-existing ss. HFS 61.50 to 61.68. The chapter applies to each substance abuse service that receives funds under ch. 51, Stats., is approved by the state methadone authority, is funded through the department as the federally designated single state agency for substance abuse services, receives substance abuse prevention and treatment funding or other funding specifically designated for providing services under ss. HFS 75.04 to 75.15, or is a service operated by a private agency that requests certification.

Policy analysis

The Department modified ch. HFS 62 in 1996 as a result of temporary fiscal and staffing constraints that reduced the Department's ability to fulfill its role under the Intoxicated Driver Program. The modifications resulted in the Department's transfer of some responsibilities and costs to county governments, including driver safety plan program certification, fiscal and administrative oversight of counties and oversight of persons responsible for assessing drivers under the program.

The Department's creation and implementation of ch. HFS 75 in 2000 inadvertently adversely affected many intoxicated driver assessment facilities. At least 20 of the 68 intoxicated driver assessment agencies previously approved by the Department experienced one or more of the following: loss of Department approval status; staffing deemed not to be qualified; increased costs; and major disruption of services to the state's annual 35,000 intoxicated drivers.

The proposed rule changes have several purposes. They will restore important Department program certification responsibilities, improve ch. HFS 62's integration with the recently promulgated ch. HFS 75, and update critical provisions such as program certification requirements, the intensive supervision program and use of the Wisconsin Assessment of the Impaired Driver assessment tool. Revisions to ch. HFS 62 will specify minimum standards that assessment facilities must meet to be approved or certified, set fair and effective qualifications for assessors, and foster the cooperative state and county administration of the Intoxicated Driver Program. The rule revisions draw upon the recommendations of a workgroup of private, state and county program providers, which, in 2002, addressed issues associated with approving and certifying assessment facilities, including the use of Uniform Placement Criteria, state certification of assessment facilities, and qualifications and training of assessors. The revisions will incorporate previous Division of Supportive Living Numbered Memo Series policies pertaining to local appeal steps, grievance process, use of Alcoholics Anonymous, and occupational license suspension or denial criteria and others.

Anticipated amendments to ch. HFS 75 will add an "intervention" service level (similar to those currently under ss. HFS 75.04 to 75.15) involving assessment and referral to appropriate treatment modalities of persons referred to the Intoxicated Driver Program. Appropriate cross references to ch. HFS 62, as revised, will also be made. These modifications will improve the uniformity and quality of care for persons receiving substance abuse services and will foster cooperation among public and private service providers. Counties will benefit from a less costly, but effective level of service to intervene with clients prior to a clients' referral to treatment services. These revisions should reduce agency costs, increase uniformity across counties and establish more effective procedures.

Statutory authority

The Department's authority for ch. HFS 62 is under ss. 343.30 (1q) (c) 2. and 343.305 (10) (c) 2., Stats. The Department's authority for establishing minimum standards for treatment facilities in ch. HFS 75 is under s. 51.45 (8), Stats.

Staff time required

A committee comprised of representatives from county, public and private treatment and assessment agencies, the University of Wisconsin–Extension, the Wisconsin Department of Transportation, traffic safety schools and consumers will draft the rule revisions. The Department will arrange and staff twelve face-to-face and teleconference meetings.

The Department estimates that 240 hours of staff time will be devoted to developing the initial proposed rules over two years.

Natural Resources**Subject**

Modification to s. NR 428.04 (2) (NOx Emission Reduction Rule for New Sources).

Policy analysis

The Bureau of Air Management proposes to incorporate into the Department's NOx emission reduction rule, ch. NR 428, an emission limit for new combustion turbines burning biologically derived gaseous fuels. The rule was adopted in 2000 as part of Wisconsin's Attainment Demonstration for the 1-hour ozone standard. Included in the rule is an emission limit for new combustion turbines burning gaseous fuels without distinction as to fuel type. Natural gas is the typical fuel for this application and was used for determining the emission rate limitation.

Discussions with affected sources have revealed an emerging trend of burning landfill gas in small combustion turbines that generate electricity and heat/steam for production processes. Emission test results and investigation has revealed that the combustion properties of landfill gas are likely incompatible with techniques and control equipment that are available to natural gas fired units. In addition, gaseous fuels derived from other biological processes such as wastewater treatment plants and digestors are expected to have similar properties and limitations. These fuel sources will also be addressed under the proposed modification.

Although firing biologically derived fuels in combustion turbines results in slightly higher NOx emissions than NR 428 currently allows, this level is significantly lower and produces energy more efficiently than existing alternatives such as a reciprocating engine. A combustion turbine is also expected to be the preferred technology in cases that are not compatible with the use of reciprocating engines or other combustion technologies. The use of combustion turbines burning biologically-derived gaseous fuels is also expected replace electricity and heat generated from coal combustion.

Statutory authority

Sections 110, 182, 185–Federal Clean Air Act [42 USC 7410, 7511(a), 7515] and s. 285.11 (6), Stats.

Staff time required

Approximately 310 hours will be needed by the Department.

Natural Resources**Subject**

Eliminate the lifetime certification provision in ch. NR 114

for septage operators, which is due to become effective on 10/01/2004. Also consider adjusting fees and modifying the structure of the septage operator program in ch. NR 114 and the licensing fee structure in ch. NR 113.

Policy analysis

The department would like to initiate discussions within the septage industry to determine the viability of this section. Early indications from the Wisconsin Liquid Waste Carriers Association are favorable.

The provision to allow lifetime certification for septage operators was adopted in 1995 with an initial implementation date nine years later. At that time, prevailing department policy was to eliminate certification requirements if one operated in good standing for a period of nine years. The revenue generated from certification would also diminish accordingly. It is now recognized that continuing education is a cornerstone of the industry. Without a requirement for continuing education, a sharp decline in attendance at invaluable training sessions is anticipated. Eliminating any source of revenue must be carefully re-examined in the current fiscal landscape and is viewed as unwise policy. Moreover, consistent oversight and enforcement of the septage program is essential for program viability and further revenue source reduction may impact already inadequate staffing levels for this critical program.

Statutory authority

Sections 281.17 (3) and 281.48 (4s), Stats.

Staff time required

Approximately 100 hours will be needed by the Department.

Nursing**Subject**

Section N 2.04 (6), Wis. Admin. Code, presently requires that an applicant for licensure as a registered nurse who has graduated from a school of professional nursing outside the United States or its territories must submit with the application a valid certificate issued by the Commission on Graduates of Foreign Nursing Schools (CGFNS). There is not a similar requirement for an applicant for licensure as a licensed practical nurse because CGFNS did not previously have a certification program for practical nurses. There is now a program for practical nurses in place, and it is appropriate to include the certification requirement for practical nurses as well as for professional nurses.

Objective of the rule. To eliminate the inconsistency in the rule relating to the duration of temporary permits.

Policy analysis

Because the licensing examination is now computer assisted, an applicant may schedule the examination at his or her convenience. There is therefore no reason to renew a temporary permit beyond its three month duration except in unusual circumstances.

Statutory authority

Sections 15.08, 227.11 and 441.08, Stats.

Staff time required

50 hours.

Submittal of rules to legislative council clearinghouse

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

Hearing and Speech Examining Board

Rule Submittal Date

On March 5, 2003, the Hearing and Speech Examining Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule relates to definitions, grounds for discipline and minor and technical changes.

Agency Procedure for Promulgation

A public hearing is required and will be held March 28, 2003, at 9:00 a.m. in Room 179A, 1400 East Washington Avenue, Madison, WI 53702.

Contact

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

Bureau of Wildlife Management

Natural Resources

Rule Submittal Date

On March 5, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule relates to wildlife rehabilitation licenses and activities.

Agency Procedure for Promulgation

Public hearings are scheduled for June 17 – 19, 2003

Contact

Kurt Thiede
Bureau of Wildlife Management

Natural Resources

Rule Submittal Date

On March 5, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule relates to regulation of game farms, fur farms and other holders of live captive wildlife.

Agency Procedure for Promulgation

Public hearings are scheduled for April 21, 24 and 25, 2003.

Contact

Tom Van Haren
Bureau of Law Enforcement

Natural Resources

Rule Submittal Date

On March 5, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule relates to Clean Water Fund small loans.

Agency Procedure for Promulgation

Hearings are scheduled for April 16, 2003.

Contact

David Calhoon
Bureau of Community Financial Assistance

Natural Resources

Rule Submittal Date

On March 5, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule relates to dog training, dog trialing and dog clubs.

Agency Procedure for Promulgation

Public hearings are scheduled for April 21, 24 and 25, 2003.

Contact

Keith Warnke

Natural Resources

Rule Submittal Date

On March 5, 2003, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule relates to storm water discharge permits.

Agency Procedure for Promulgation

Hearings will be scheduled at a later date.

Contact

Eric Rortved
Bureau of Watershed Management

Rule-making notices

Notice of Hearings

Natural Resources (Fish, Game, etc.) [CR 03-030]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.039 (1), 90.21 (6), 169.11 (1) (a), 169.15 (5), 169.18 (5), 169.19 (6), 169.23 (3), 169.25 (6), 169.26 (4), 169.27 (4), 169.36 (7), 169.39 (2) and (3) and 227.11 (2) (a), Stats., interpreting ss. 90.21 (2) and (5), 169.11 (1), 169.12 (1) and (4), 169.14 (2), 169.15 (4), 169.18 (2) and (3), 169.19 (2) and (3), 169.23 (2), 169.25 (1), (2), (3), (4) and (5), 169.26 (1), (2) and (3), 169.27 (1), (2) and (3), 169.31 (1) (a) and 169.36, Stats., the Department of Natural Resources will hold public hearings on repealing and renumbering the current ch. NR 16, revisions to ch. NR 19 and the creation of a new ch. NR 16, Wis. Adm. Code, relating to the regulation of game farms, fur farms and other holders of live captive wildlife. The new license requirements and requirements of operations include:

Captive wild animal farms and exhibits: Requirements for holding animals are established. Bears and cougars are designated as harmful wild animals as mandated by s. 169.11, Stats.

Reptiles and amphibians: The movement of rules regulating the possession and sale of reptiles and amphibians from ch. NR 19 to ch. NR 16, with the exception of turtles taken during established seasons.

Fur farms: Standards are created for determining lands that qualify for a single wild fur farm license. The ability to possess live muskrat, beaver, coyote, raccoon and mink is limited to temporary possession for the purpose of sale. An annual quota for wild fur farm otters is also established.

Bird hunting preserves: Standards are created for lands to qualify as a bird hunting preserve including a prohibition on bird hunting preserves within 1/4 mile of a public hunting ground managed for pheasants. This prohibition will not apply if the management begins after the bird hunting preserve is licensed.

Humane care & housing: General humane care standards are established for licensees holding captive wild animals, including cage sizes and requirements for food, water, shelter and environmental enrichment.

White-tailed deer fence specifications: Height of new fences is increased from 8 feet to 10 feet with a phased in requirement for double or solid fences if not enrolled in a herd monitoring program and notice of fence expansions or replacement is established.

Records & reporting: Deadlines and methods for submission of records are also established. The Department may refuse to renew a license when a licensee fails to submit reports without good cause.

Stocking: Ring-neck pheasants and gray partridge will not require a license when stocked on private lands.

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

a. Types of small businesses affected: Captive wild animal farms, bird hunting preserves, wild fur farms, wild animal

exhibits, white-tailed deer farms and biological supply businesses dealing in native reptiles and amphibians.

b. Description of reporting and bookkeeping procedures required: Due dates are established for submission of any required quarterly reports. Written proof of origin is required for the possession of any carcass of a captive wild animal obtained from a person who is required to possess a license under ch. 169, Wis. Stats. Written proof of origin shall include the name address and license number of the person from whom the carcass was obtained along with the date, species and number of animal carcasses obtained. For the taking of live native reptiles and amphibians additional record keeping requirements are established by these rules which includes date, species and amount of animals harvested, sold and purchased. For Bird Hunting Preserve Licensees, daily records must be kept which shall include the number of birds stocked and harvested. Wild Fur Farms shall record information related to the taking of authorized fur-bearing animals before the live animals or carcasses leave the licensed premises and shall include the date, number, species and who harvested the animals and to whom they were transferred. Nonresident temporary exhibitors will need to record the dates during which captive wild animals are brought into and held in this state, the purpose and location of the exhibit along with the number and species of animals being exhibited. A period of 72 hours is established for persons to file a report of any stocking or releases, if one is requested, with the local municipality.

c. Description of professional skills required: None

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:

Date, Time and Location

Monday, April 21, 2003 at 4:00 p.m. and 6:00 p.m.

Council Chambers, Wausau City Hall
407 Grant Street
Wausau

Note: The 4:00 p.m. hearing will run until all present have had an opportunity to speak. The 6:00 p.m. hearing will run until 8:00 p.m. or until all present have had an opportunity to speak, whichever is later. Both Wausau hearings will run concurrent with hearings on rules regulating dog training, dog trialing and dog clubs.

Thursday, April 24, 2003 at 1:30 p.m.

Room 139, State Office Building
718 W. Clairemont Ave.
Eau Claire

Note: This hearing is by video conference participation.

Friday, April 25, 2003 at 1:30 p.m.

Room 027, GEF #2
101 South Webster Street
Madison

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 Tom Van Haren at (608) 266-3244 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

While there are expected to be minor additional expenses associated with the implementation and enforcement of these rules, most additional cost would be a result of the statutory changes and not these rules. It is expected that any additional costs can be absorbed within the bureau of Wildlife and the bureau of Law Enforcement's current allocations.

Written comments on the proposed rules may be submitted to Mr. Tom Van Haren, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707 no later than April 30, 2003. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rules (Wm-07-03) and fiscal estimate may be obtained from Mr. Van Haren.

Notice of Hearings

**Natural Resources
(Fish, Game, etc.)
[CR 03-031]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 169.19 (6), 169.20 (4), 169.21 (3), 169.36 (7), 169.39 (2) and (3) and 227.11 (2) (a), Stats., interpreting ss. 169.12 (2) and (3), 169.20 (1), (2) and (3), 169.21 (1) and (2) and 169.36 (4), Stats., the Department of Natural Resources will hold public hearings on the repeal and recreation of ch. NR 17, Wis. Adm. Code, relating to dog training, dog trials and dog clubs. As of January 1, 2003, dog trainers, dog trials and those who possess live captive wildlife under the authority of a dog training or trialing license were subject to regulation under ch. 169, Stats. The proposed rule establishes conditions that apply to holders of bird dog and hound dog training licenses, dog club training licenses, bird dog and hound dog trial licenses and others training dogs on free-roaming wild animals. Conditions include:

1. The requirement to possess and display a license to a department agent upon request, except that dog clubs can maintain license at the club house,
2. Training and trialing is only allowed on lands specified on the license and the license holder must possess a receipt showing the captive animals were legally obtained.
3. Humane care and treatment requirements are established for training or trialing activities and when animals are held in their primary enclosures.

This rule maintains requirements for identification of animals that are released, but only requires marking birds other than mallards that are released to be killed. Conditions are established for training or trialing on free-roaming wild animals, when leashes are required and prohibits the killing of free-roaming animals unless otherwise authorized. This rule also allows for training and trialing on free-roaming raccoons and rabbits in the northern restricted zone during May and June when training or trials on other wild animals, including

bears is prohibited. If dogs are found to be running wild free-roaming bears, the license may be revoked. Class A and B dog training and trialing ground classifications, application requirements and deadlines are established. The information required on receipts or invoices for captive wild animals possessed for dog training and trialing is also identified.

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

- a. Types of small businesses affected: Dog trainers and dog trialers
- b. Description of reporting and bookkeeping procedures required: Annual or quarterly reports, depending on the license, must be submitted to the department. Daily records and receipts must be kept and be available for review by the department if requested.
- c. Description of professional skills required: None

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:

Monday, April 21, 2003 at 4:00 p.m. and 6:00 p.m.

Council Chambers, Wausau City Hall
407 Grant Street
Wausau

Note: The 4:00 p.m. hearing will run until all present have had an opportunity to speak. The 6:00 p.m. hearing will run until 8:00 p.m. or until all present have had an opportunity to speak, whichever is later. Both Wausau hearings will run concurrently with hearings on rules regulating the possession of live captive wildlife, fur farms and standards for deer farm fencing.

Thursday, April 24, 2003 at 10:00 a.m.

Room 139, State Office Building
718 W. Clairemont Ave.
Eau Claire

Note: This hearing is by video conference participation.

Friday, April 25, 2003 at 10:00 a.m.

Room 027, GEF #2
101 South Webster Street
Madison

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 Keith Warnke at (608) 264-6023 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

While there are expected to be minor additional expenses associated with the implementation and enforcement of these rules, most additional cost would be a result of the statutory

changes and not these rules. It is expected that any additional costs can be absorbed within the bureau of Wildlife and the bureau of Law Enforcement's current allocations.

Written comments on the proposed rule may be submitted to Mr. Keith Warnke, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than April 30, 2003. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule (Wm-06-03) and fiscal estimate may be obtained from Mr. Warnke.

Notice of Hearing
Natural Resources
(Environmental Protection-General)
[CR 03-027]

NOTICE IS HERE BY GIVEN that pursuant to ss. 227.11, 281.58 and 281.59, Stats., interpreting ss. 281.58, 281.59 and 283.01, Stats., the Department of Natural Resources will hold a public hearing on the repeal of ch. NR 165 and the repeal and recreation of ch. NR 162, Wis. Adm. Code, relating to the Clean Water Fund program financial assistance. Currently ch. NR 162 contains four subchapters with requirements for general Clean Water Fund Program loans, hardship financial assistance, and priority scoring. Chapter NR 165 contains the requirements for obtaining interest rate subsidy from the Clean Water Fund Program on loans made by the Board of Commissioners of Public Lands. Incorporating the requirements of ch. NR 165 as a subchapter in ch. NR 162 completes the Clean Water Fund Program's administrative chapter, enhancing clarity and convenience in locating the requirements for all types of Clean Water Fund Program financial assistance.

The proposed revisions to the interest rate subsidy language include: 1) an increase of the dollar limit on projects eligible for interest rate subsidy from \$750,000 to \$1,000,000; and 2) general improvements in the code language for greater clarity and consistency with language in the existing subchapters of ch. NR 162.

Changes made to the existing subchapters of ch. NR 162 include: 1) adding and modifying definitions as needed for clarification and inclusion of interest rate subsidy in the chapter; 2) adding eligibility items that have been program policy but not previously codified; 3) modifying existing notice of intent to apply requirements for clarity; 4) addition of a joint treatment works score for projects that meet criteria specified in s. 281.58 (8e) (cm), Stats.; and 5) general language changes for clarity and consistency between subchapters.

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

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

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

Wednesday, April 16, 2003 at 9:00 a.m.

Video conference participation will be available at:

Room 021, GEF #2
101 South Webster St.
Madison

Room 139, State Office Building
718 Clairemont Ave.
Eau Claire

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

Room 3, DNR Regional Headquarters
107 Sutliff Avenue
Rhinelander

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call David Calhoun at (608) 264-8844 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

Under the Small Loan Program, municipalities receive subsidy from the Environmental Improvement Fund on the interest costs of loans they have received from the State Trust Fund for eligible wastewater treatment projects. The small Loan Program offers municipalities an application process that is streamlined, compared to the regular Clean Water fund Program application process, for small loans secured through a general obligation pledge. This streamlined process saves administrative costs for both the Department and municipalities. One of the proposed revisions to the Small Loan Program is to increase the dollar limit on eligible projects from \$750,000 to \$1,000,000. This would make more projects eligible to use the streamlined Small Loan Program process, thereby increasing the administrative cost savings for the Department and municipalities. It would be difficult to estimate the amount of these cost savings, since the impact on staff time and the number of applications we will receive are unknown. Since the amount of subsidy awarded may not exceed the amount a municipality would receive through a regular Clean Water Fund Program loan, it is unlikely that there will be an increase in the amount of subsidy costs the Environmental Improvement Fund incurs.

The other proposed revisions to ch. NR 162 should have no fiscal impact.

Written comments on the proposed rule may be submitted to Ms. Jeanne Cargill, Bureau of Community Financial Assistance, P.O. Box 7921, Madison, WI 53707 no later than April 25, 2003. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule (CF-10-03) and fiscal estimate may be obtained from Ms. Cargill.

Notice of Hearing
Veterans Affairs
[CR 03-024]

Notice is hereby given that the Department of Veterans Affairs will hold a public hearing on the **11th day of April, 2003**, at 9:30 a.m., in the 8th floor board room at 30 West Mifflin Street in Madison, Wisconsin.

Analysis Prepared by the Department of Veterans Affairs

Statutory authority: ss. 45.35 (3), Stats.

Statute interpreted: ss. 45.351 (1j), Stats.

The amendment of s. VA 2.01 (2) (b) 2. will enable the Wisconsin department of veterans affairs to expend additional funds for dentures under the health care aid grant program. Increasing the expenditure limitation from the current 25% of appropriation authority to 50% will allow the department to address the increasing demand dentures.

Initial Regulatory Flexibility Analysis

This rule is not expected to have any adverse impact upon small businesses.

Fiscal Estimate

It is estimated that the Department will spend an additional

\$300,000 on dentures from the current annual appropriation authority of \$1,200,000.

A copy of the proposed rules and the full fiscal estimate may be obtained by contacting:

John Rosinski

Wisconsin Department of Veterans Affairs

PO Box 7843

Madison, WI 53707-7843

Contact Person

John Rosinski (608) 266-7916

Submittal of proposed rules to the legislature

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

**Accounting Examining Board
(CR 02-119)**

Ch. Accy 9, relating to peer reviews.

**Pharmacy Examining Board
(CR 02-140)**

Ch. Phar 2, relating to filing completed applications for examinations.

**Pharmacy Examining Board
(CR 02-150)**

Ch. Phar 2, relating to notarized photographs.

**Pharmacy Examining Board
(CR 03-005)**

Ch. Phar 2, relating to admission requirements for all required professional examinations.

**Revenue
(CR 02-128)**

Ch. Tax 11, relating to sales and use tax definitions, direct pay, exemption certificates and aircraft.

**Transportation
(CR 02-153)**

Ch. Trans 114, relating to uniform traffic citation.

**Workforce Development
(CR 03-008)**

Ch. DWD 290, relating to adjustment of thresholds for application of prevailing wage rates.

Rule orders filed with the revisor of statutes bureau

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

Agriculture, Trade and Consumer Protection (CR 02-054)

An order affecting chs. ATCP 10 and 11, relating to animal diseases, animal imports and livestock markets.
Effective 5-1-03.

Agriculture, Trade and Consumer Protection (CR 02-113)

An order affecting chs. ATCP 98 to 101, relating to agricultural producer security.
Effective 5-1-03.

Commerce (CR 02-077)

An order affecting chs. Comm 20-25, relating to the Uniform Dwelling Code.
Effective 8-1-03.

Corrections (CR 02-123)

An order affecting ch. DOC 316, relating to medical, dental and nursing copayment charge.
Effective 5-1-03.

Employee Trust Funds (CR 02-126)

An order affecting ch. ETF 10, relating to participation in the variable division of the trust fund.
Effective 5-1-03.

Insurance (CR 02-118)

An order affecting ch. Ins 3, relating to Medicare supplement insurance policies.
Effective 5-1-03.

Transportation (CR 02-080)

An order affecting ch. Trans 327, relating to motor carrier safety requirements.
Effective 5-1-03.

Transportation (CR 02-131)

An order affecting ch. Trans 102, relating to customer identifying information.
Effective 5-1-03.

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **March 31, 2003**, 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.

Commerce (CR 02-116)

An order creating ch. Comm 118, relating to the Agricultural Development Zone Program. Effective 4-1-03.

Summary of Final Regulatory Flexibility Analysis

This rule should not materially impact the cost of report preparation by small business as most of the reporting requirements contained in this rule are currently as required by the Department of Revenue.

Summary of Comments of Legislative Standing Committees

No comments were received.

Health and Family Services (CR 02-112)

An order affecting ch. HFS 95, relating to the custody and control of sexually violent persons placed at facilities. Effective 4-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed permanent rule will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

Summary of Comments of Legislative Standing Committees

No comments were received.

Health and Family Services (CR 02-117)

An order affecting ch. HFS 116, relating to a birth defect prevention and surveillance system. Effective 4-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed permanent rule will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

Summary of Comments of Legislative Standing Committees

No comments were received.

Health and Family Services (CR 02-136)

An order affecting ch. HFS 115, relating to screening of newborns' blood for congenital and metabolic disorders. Effective 4-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed permanent rule will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

Summary of Comments of Legislative Standing Committees

No comments were received.

Natural Resources (CR 02-060)

An order affecting ch. NR 549, relating to recycling efficiency incentive grants. Effective 4-1-03.

Summary of Final Regulatory Flexibility Analysis

The proposed ch. NR 549 will not have a significant impact on a substantial number of small businesses. However, small businesses do play a significant role in many municipal recycling program.

Summary of Comments of Legislative Standing Committees

The proposed rules were initially reviewed by the Assembly Committee on Environment and the Senate Committee on Environmental Resources. The Senate Committee on Environmental Resources met with the Department to discuss the proposed rules, but did not have any objection to the rule as it was proposed. The Assembly Committee on Environment held a public hearing on October 22, 2002. Following the public hearing the Committee asked the Department to consider modifications to s. NR 549.08 (4) (a) 4. The Committee had concerns regarding the requirements that a responsible unit that is not a county must have a population of at least 50,000. In addition, the Committee had concerns about the lack of standards or criteria to evaluate the efficiency of a recycling program operated by a responsible unit that is not a county in order to determine grant eligibility.

On January 22, 2003, the Natural Resources Board adopted changes to address the Committee's concerns. The modifications were submitted to the Assembly Committee on Urban and Local Affairs and the Senate Committee on Environment and Natural Resources. On February 6, 2003, the Senate Committee on Environment and Natural Resources objected to s. NR 549.08 (3) (a) 2. and (4) (a) 4. and 5. on the grounds that the rules were arbitrary and capricious. The remaining portions of ch. NR 549 are being implemented by the Department.

Workforce Development (CR 02-104)

An order affecting ch. DWD 56, relating to the administration of child care funds. Effective 4-1-03 (corrected).

Summary of Final Regulatory Flexibility Analysis

A final regulatory flexibility analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses. The rule affects

child care providers, some of which are small businesses as defined in s. 227.114, Stats. There is no significant change in the procedures they must follow to participate in the program beyond what is in statute.

Summary of Comments of Legislative Standing Committees

The Senate Committee on Human Services and Aging requested the department to modify the rule by deleting the section giving the department authority to adjust various

policies if child care funds were insufficient to meet the needs of all eligible families and the section in which the department proposed that a provider would not be eligible to receive a subsidy if any of the care were done by a legally responsible parent. In addition, the committee requested a review and explanation of the provisions of the rule relating to monitoring of child care funds. The department complied with all of these requests.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **March 2003**, 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

Commerce:

Ch. Comm 118 (Entire chapter)

Natural Resources:

Ch. NR 549 (Entire chapter)

Health and Family Services:

Ch. HFS 95

S. HFS 95.01
S. HFS 95.03 (11), (13) and (15m)
S. HFS 95.06 (1) (b) and (3) (d)
S. HFS 95.08 (3) (b)
S. HFS 95.10

Ch. HFS 115

S. HFS 115.04 (9) to (13)

Ch. HFS 116 (Entire chapter)

Workforce Development:

Ch. DWD 56

S. DWD 56.01
S. DWD 56.02 (3), (4), (7), (8), (11) to (15), (20) to (26)
S. DWD 56.04
S. DWD 56.045
S. DWD 56.05 (1), (2), (4) and (5)
S. DWD 56.06 (1) (b) and (c), (2) (a), (b) and (d)
S. DWD 56.07
S. DWD 56.08 (3) (a)

Editorial corrections

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

Health and Family Services:

Ch. HFS 95

S. HFS 95.03 (12 and (13)

Natural Resources:

Ch. NR 500

S. NR 500.02 (1)
S. NR 500.03 (23), (187) and (188)

Ch. NR 503

S. NR 503.10 (5) (d)

Ch. NR 504

S. NR 504.02 (2)

Ch. NR 506

S. NR 506.07 (1) (q)
S. NR 506.095 (5) and (6)

Ch. NR 508

S. NR 508.02 (1)

Ch. NR 512

S. NR 512.17

Ch. NR 520

S. NR 520.06 (6) (b)
S. NR 520.14 (2)

Ch. NR 526

S. NR 526.02 (6)
S. NR 526.09 (5) (d)

Ch. NR 555

S. NR 555.03 (11)

Ch. NR 590

S. NR 590.04 (2) (c)

Workforce Development:

Ch. DWD 56

S. DWD 56.02 (10)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 4. Relating to a special election for the eighteenth assembly district, the seventh senate district, and the twenty-fourth senate district.

Executive Order 5. Relating to issuance of general obligation bonds for the veterans home loan program and appointments of hearing officer.

Executive Order 6. Relating to a proclamation that the flag of the United States and the flag of the state of Wisconsin be flown at half-staff as a mark of respect for the late depute Michael Shannon of the Adams County Sheriff's Department.

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