Wisconsin Administrative Register

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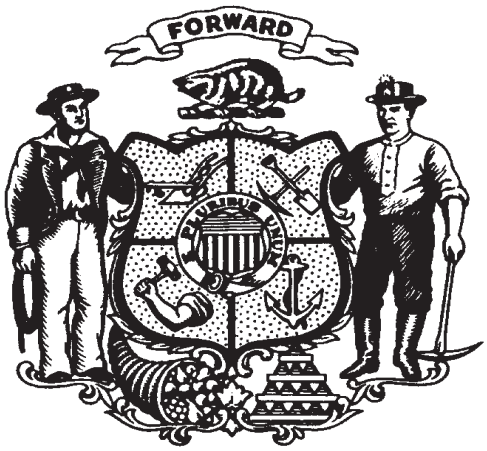

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Emergency rules now in effect

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.

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 and Consumer Protection

Rules adopted creating **ss. ATCP 99.13, 99.25, 100.13 and 101.25**, relating to the partial refund of certain agricultural producer security assessments required of grain dealers, grain warehouse keepers, milk contractors and vegetable contractors.

Finding of emergency

(1) The Wisconsin department of agriculture, trade and consumer protection currently administers an agricultural producer security program under ch. 126, Stats. ("producer security law"). This program is designed to protect agricultural producers from catastrophic financial defaults by contractors who procure agricultural commodities from producers.

(2) Under the producer security law, contractors pay annual assessments to an agricultural producer security fund ("the fund"). If a contractor defaults in payments to producers, the department may compensate producers from the fund. A contractor's annual fund assessment is based, in large part, on the contractor's annual financial statement. The producer security law spells out a formula for calculating assessments. However, the department may modify assessments by rule.

(3) The fund assessment formula is designed to require higher assessments of contractors who have weak financial statements (and may thus present greater default risks). But the statutory formula may generate unexpectedly high assessments in some cases, where a contractor's strong financial condition is *temporarily* affected by financial transactions related to a merger or acquisition. This may cause unfair hardship, and may unfairly penalize some mergers or acquisitions that actually strengthen security for agricultural producers. This may have an unnecessarily adverse impact on contractors, producers and Wisconsin economic development.

(4) The department may adjust assessments by rule, in order to ameliorate unintended results. But the normal rulemaking process will require at least a year to complete. The temporary emergency rule is needed to address this matter in the short term, and to provide relief for contractors already affected.

Publication Date:	**January 29, 2004**
Effective Date:	**January 29, 2004**
Expiration Date:	**June 27, 2004**
Hearing Dates:	**April 26 and 27, 2004**
	[See Notice this Register]

Employment Relations Commission

Rules adopted amending **ss. ERC 1.06 (1) to (3), 10.21 (1) to (5) and 20.21 (1) to (4)**, relating to increased filing fees.

Finding of emergency

The Employment Relations Commission 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:

1. The Employment Relations Commission has a statutory responsibility in the private, municipal and state sectors for timely and peaceful resolution of collective bargaining disputes and for serving as an expeditious and impartial labor relations tribunal.

2. Effective July 26, 2003, 2003 Wisconsin Act 33 reduced the Employment Relations Commission's annual budget by $400,000 in General Program Revenue (GPR) and eliminated 4.0 GPR supported positions. These reductions lowered the Employment Relations Commission's annual base GPR funding level and the number of GPR supported positions by more than 16%.

Act 33 also abolished the Personnel Commission and transferred certain of the Personnel Commission's dispute resolution responsibilities to the Employment Relations Commission.

3. 2003 Wisconsin Act 33 increased the Employment Relations Commission's Program Revenue (PR) funding and positions by $237,800 and 2.0 PR positions respectively. The revenue to support these increases will be provided by increasing existing filing fees for certain dispute resolution services.

4. Unless the emergency rule making procedures of s. 227.24, Stats., are utilized by the Employment Relations Commission to provide the increased filing fee revenue needed to support the 2.0 PR positions, the Commission's ability to provide timely and expeditious dispute resolution services will be significantly harmed.

The emergency rules increase existing filing fees for Commission dispute resolution services in amounts necessary to fund 2.0 Program Revenue positions as authorized by 2003 Wisconsin Act 33.

Sections 111.09, 111.71, 111.94, 227.11 and 227.24., Stats., authorize promulgation of these emergency rules.

Publication Date:	**August 25, 2003**
Effective Date:	**September 15, 2003**
Expiration Date:	**February 12, 2004**
Hearing Date:	**November 20, 2003**
Extension Through:	**April 30, 2004**

Gaming

Rules adopting repealing **s. Game 23.02 (2)** of the Wisconsin Administrative Code, relating to the computation of purses.

Finding of emergency

The Wisconsin Department of Administration finds that an emergency exists and that a rule is necessary in order to repeal an existing rule for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

Section Game 23.02 (2) was created in the Department's rulemaking order (03−070). The Department is repealing this section due to the unforeseen hardship that it has created on the Wisconsin racetracks. This financial hardship presents itself in multiple ways. The racetracks rely on an outside vendor to compute the purses earned by all individuals. The vendor produces a similar system for most greyhound racetracks in the country. The purses are generated by the amount of money wagered on all races over a period of time. The current system does not provide for bonus purses to be paid out based upon the residency of certain owners. The current system would have to be reprogrammed at a significant cost to the racetracks. Although the bonus purses could be calculated and paid without a computer, it would create excessive clerical work that would also be costly to the racetracks.

Additionally, Geneva Lakes Greyhound Track committed to paying a minimum payout of purses to the greyhound and kennel owners that race in Delavan. Geneva Lakes Greyhound Track will supplement out of their own money any purse amount that does not exceed the minimum payout. As a result of paying the bonus purse to Wisconsin owned greyhounds, the variance between the actual purse and the minimum purse is increased and the financial liability to the racetrack is increased. Since this supplement is voluntary, the racetrack has indicated that it will probably have to cease the supplemental purses to the participants. This would result in reduced payments to the vast majority of the kennel owners and greyhound owners participating at the racetrack.

In creating this rule, the Department did not intend to create the disadvantages caused by this rule.

Publication Date:	**January 8, 2004**
Effective Date:	**January 8, 2004**
Expiration Date:	**June 6, 2004**
Hearing Date:	**March 16, 2004**

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

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, s. 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**
Hearing Dates:	**April 25 & 28, 2003**

***** The Joint Committee for Review of Administrative Rules suspended this emergency rule on April 30, 2003

Insurance

The office of the commissioner of insurance adopts an order to create **s. Ins 8.49**, Wis. Adm. Code, relating to Small Employer Uniform Group Health Application.

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:

The rule and the uniform small employer application are required by statute to be available by August 1, 2003. Due to implementation of 45 CFR 164 of HIPAA privacy provisions for covered entities, including health plans, and the commissioner's efforts to obtain clarification regarding authorization for release of personally identifiable health information provisions from the Office of Civil Rights a Division of Centers Medicare & Medicaid Services charged with enforcement of the privacy portions of HIPAA, it is not possible to complete the permanent rule process in time to meet the statutory requirement.

The first emergency rule was submitted and published on July 31, 2003, to meet the statutorily imposed deadline. However, subsequent to submission of the permanent rule by the Office, the legislative committees having jurisdiction over the rule requested the Office to modify the permanent rule. The notice requesting modification was received by the Office on December 18, 2003, less than 30 days from the date the emergency rule was set to expire.

Since it will not be possible to have the permanent rule finalized by December 29, 2003, and JCRAR was unable to grant an extension on the emergency rule, this rule is necessary for the immediate preservation of the public peace, health, safety, or welfare.

A hearing on the permanent rule was held on July 11, 2003, in accordance with s. 227.17, Stats., and the commissioner has had benefit of reviewing public comments and the clearinghouse report prior to issuing this emergency rule. A hearing on this emergency rule will be noticed and held within 45 days in accordance with ch. 227, Stats.

Publication Date: **January 7, 2004**
Effective Date: **January 7, 2004**
Expiration Date: **June 5, 2004**

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

Rules were adopted revising **ch. NR 10,** relating to Chronic Wasting Disease (CWD) in Wisconsin.

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, bovine tuberculosis and other forms of transmissible diseases pose 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, it's citizens and businesses. These restrictions on deer baiting and feeding need to be implemented through the emergency rule procedure to help control and prevent the spread of CWD, bovine tuberculosis and other forms of transmissible diseases in Wisconsin's deer herd.

Publication Date: **September 11, 2003**
Effective Date: **September 11, 2003**
Expiration Date: **February 8, 2004**
Hearing Date: **October 13, 2003**
Extension Through: **June 6, 2004**

Public Instruction

Rules were adopted revising **ch. PI 5**, relating to high school equivalency diplomas and certificates of general educational development.

Finding of emergency

The Department of Public Instruction finds 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:

1. The GED Testing Service modified the GED test content and the standard score scale used to determine passing scores dramatically from the previous test series causing an inconsistency with the current scoring requirements under ch. PI 5. The emergency rule reflects the current national GED test score of not less than 410 on each of the five tests, with an average of 450 on the five tests in the battery.

2. 2003 Wisconsin Act 33, the 2003−2005 biennial budget, eliminated general purpose revenue (GPR) used to support GED program administration and created a provision allowing the state superintendent to promulgate rules establishing fees for issuing a GED certificate or HSED. Act 33 presumed that GED program costs previously funded by GPR would be paid for by revenue fees generated as of January 1, 2004.

The department is issuing this emergency rule in order to ensure compliance with the more rigorous score standards and to ensure adequate funding for the program.

A corresponding permanent rule, Clearinghouse Rule 03−102, was developed with public hearings held on December 11 and 15, 2003. The department has had the benefit of reviewing public comments and the Clearinghouse Report prior to issuing this emergency rule.

Publication Date: **January 2, 2004**
Effective Date: **January 2, 2004**
Expiration Date: **May 31, 2004**
Hearing Date: **February 13, 2004**

Workforce Development
(Labor Standards, Chs. DWD 270−279)

Rules adopted revising **ss. DWD 274.015 and 274.03** and creating **s. DWD 274.035,** relating to overtime pay for employees performing companionship services.

Finding of emergency

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

On January 21, 2004, pursuant to s. 227.26(2)(b), Stats., the Joint Committee for Review of Administrative Rules directed the Department of Workforce Development to promulgate an emergency rule regarding their overtime policy for nonmedical home care companion employees of an agency as part of ch. DWD 274.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 103.005, 103.02, and 227.11, Stats.

Statutes interpreted: Sections 103.01 and 103.02, Stats.

Section 103.02, Stats., provides that "no person may be employed or be permitted to work in any place of employment or at any employment for such period of time during any day, night or week, as is prejudicial to the person's life, health, safety or welfare." Section 103.01 (3), Stats., defines "place of employment" as "any manufactory, mechanical or mercantile establishment, beauty parlor, laundry, restaurant, confectionary store, or telegraph or telecommunications office or exchange, or any express or transportation establishment or any hotel."

Chapter DWD 274 governs hours of work and overtime. Section DWD 274.015, the applicability section of the chapter, incorporates the statutory definition of "place of employment" and limits coverage of the chapter to the places of employment delineated in s. 103.01 (3), Stats., and various governmental bodies. Section DWD 274.015 also provides that the chapter does not apply to employees employed in domestic service in a household by a household.

Section 103.02, Stats., directs that the "department shall, by rule, classify such periods of time into periods to be paid for at the rate of at least one and one−half times the regular rates." Under s. DWD 274.03, "each employer subject to this chapter shall pay to each employee time and one−half the regular rate of pay for all hours worked in excess of 40 hours per week." Section DWD 274.04 lists 15 types of employees who are exempt from this general rule and s. DWD 274.08 provides that the section is inapplicable to public employees.

Nonmedical home care companion employees who are employed by a third−party, commercial agency are covered by the overtime provision in s. DWD 274.03. Section DWD 274.03 applies to all employees who are subject to the chapter and not exempt under ss. DWD 274.04 or 274.08. The chapter applies to companion employees of a commercial agency because under s. DWD 274.015 a commercial agency is considered a mercantile establishment. Section DWD 270.01 (5) defines a mercantile establishment as a commercial, for−profit business. The chapter does not apply to companion employees of a nonprofit agency or a private household. In addition, none of the exemptions to the overtime section in ss. DWD 274.04 or 274.08 apply to companion employees of a commercial agency.

The Joint Committee for the Review of Administrative Rules has directed DWD to promulgate an emergency rule regarding the overtime policy for nonmedical home care companion employees of an agency. This provision is created at s. DWD 274.035 to say that employees who are employed by a mercantile establishment to perform companionship services shall be subject to the overtime pay requirement in s. DWD 274.03. "Companionship services" is defined as those services which provide fellowship, care, and protection for a person who because of advanced age, physical infirmity, or mental infirmity cannot care for his or her own needs. Such services may include general household work and work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. The term "companionship services" does not include services relating to the care and protection of the aged or infirm person that require and are performed by trained personnel, such as registered or practical nurses.

This order also repeals and recreates the applicability of the chapter section and the overtime section to write these rules in a clearer format. There is no substantive change in these sections.

Publication Date: **March 1, 2004**
Effective Date: **March 1, 2004**
Expiration Date: **July 29, 2004**

Workforce Development (Public Works Construction, Chs. DWD 290−294)

Rules adopted amending **ss. DWD 290.155 (1), 293.02 (1), and 293.02 (2)**, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements.

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 adjust thresholds for the application of prevailing wage laws on state or local public works projects and the application of payment and performance assurance requirements for a public improvement or public work. The thresholds are adjusted in proportion to any change in the construction cost index since the last adjustment.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six to seven months, until the conclusion of the permanent rule−making process. The thresholds 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 adjust the thresholds of the application of the prevailing wage rates to avoid imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. The department is proceeding with this emergency rule to adjust the thresholds of the application of the payment and performance assurance requirements in s. 779.14, Stats., to avoid imposing an additional administrative burden on contractors for the same reason. Adjusting the thresholds by emergency rule will also ensure that the adjustments are effective on a date certain that is prior to the time of year that the relevant determinations are generally made.

Publication Date: **December 18, 2003**
Effective Date: **January 1, 2004**
Expiration Date: **May 30, 2004**
Hearing Date: **February 19, 2004**

Scope statements

Commerce

Subject

Fire prevention and stop−use procedures.

Objective of the rule. This rulemaking would primarily update various elements of the Wisconsin *Fire Prevention Code*, so that this code remains consistent with dynamic, contemporary regional and national practices and standards, and with applicable statutory requirements, relating to fire prevention.

The rulemaking would also establish stop−use enforcement procedures for fire−prevention programs regulated by the Division of Environmental and Regulatory Services.

Policy analysis

The *Fire Prevention Code* contains (1) requirements for the maintenance and inspection of public buildings and places of employment, (2) duties for fire departments, and (3) requirements for fire departments that receive dues payments from the Department. This code, which was adopted in 2001 and became effective on July 1, 2002, replaced previous requirements for fire prevention at public buildings and places of employment with model−code requirements that are substantially in use elsewhere in this country. Those model−code requirements of the National Fire Protection Association (NFPA) were published in 2000, and were then substantially updated and republished in 2003.

The primary purpose of the *Fire Prevention Code* is to protect public health, safety, and welfare. Periodic review and update of the Code is necessary to ensure that the Code still achieves that purpose. In addition, the review and update allows the opportunity to recognize new products and practices, and to maintain consistency with recent changes in applicable statutory requirements. This update activity may include minor modifications to other Comm codes, in order to update any references in those codes to the corresponding changes to chapter Comm 14.

The Division of Environmental and Regulatory Services currently has effective stop−use procedures in section Comm 10.18 (3), for shutting down storage tanks or tank systems that either are an immediate danger or are releasing regulated substances to the environment, or for which there are long−standing violations of significant code requirements. Having similar stop−use procedures in chapter Comm 14 would significantly improve the Department's ability to abate any aspects of public buildings or places of employment that similarly are an immediate danger to life, safety, or health, or for which there are long−standing violations of significant code requirements. In addition, some objects that are currently regulated under chapter Comm 10 are expected to soon be regulated instead under chapter Comm 14, through other rulemaking by the Department, and the Department prefers to retain stop−use procedures for those objects as well.

The only feasible alternative to not reviewing the 2003 NFPA fire prevention requirements at this time would be a temporary delay in the rule−review process. This delay would reduce the public benefits that would otherwise occur by beginning this review now. The alternative of not developing the stop−use rules would continue the Department's current difficulty in abating some conditions that either are an immediate danger to life, safety, or health, or are long−standing violations of significant code requirements.

Comparison to federal regulations

An Internet−based search for "fire prevention" in the *Code of Federal Regulations* identified the following existing federal regulations that potentially address fire prevention at places of employment in Wisconsin: 29CFR1910–Occupational Safety and Health Standards, 29CFR1926–Safety and Health Regulations for Construction, 30CFR56–Safety and Health Standards–Surface Metal and Nonmetal Mines, 30CFR57–Safety and Health Standards–Underground Metal and Nonmetal Mines, 33CFR127–Waterfront Facilities Handling Liquefied Natural Gas and Liquified Hazardous Gas, 46CFR28–Requirements for Commercial Fishing Industry Vessels, 46CFR34–Firefighting Equipment (on tankships), 46CFR76–Fire Protection Equipment (on shipping vessels), and 41CFR102–Safety and Environmental Management (for federally owned and leased buildings). No changes to Comm 14 are expected to supercede those federal requirements, so no comparison is made here to those requirements.

An Internet−based search for "fire prevention" in the 2003 and 2004 issues of the *Federal Register* did not identify any proposed federal regulations that address fire prevention at public buildings or places of employment in Wisconsin.

Statutory authority

Sections 101.02 (1) and (15), and 101.14 (1), (2), and (4) of the statutes.

Staff time required

The Department estimates approximately 1000 hours will be needed to perform the review and develop any needed rule changes. This time includes drafting the changes – in consultation with the Department's chapter Comm 14 code advisory committee – and processing the changes through public hearings, legislative review, and adoption. The Department will assign existing staff to perform the review and develop the rule changes, and no other resources will be needed.

Dentistry Examining Board

Subject

Oral conscious sedation.

Objective of the rule. To define the meaning of oral conscious sedation and to set limits as to how oral conscious sedation should be administered by dentists, including professional training.

Policy analysis

The proposed change addresses the manner in which dentists would be permitted to utilize oral medications for the purpose of achieving conscious sedation in patients, including professional training,

Comparison to federal regulations

No proposed or existing federal regulation intended to address oral conscious sedation currently exists.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2) and 447.02 (2), Stats.

Staff time required

150 hours.

Dentistry Examining Board

Subject

Definition of dental school.

Objective of the rule. The board intends to define dental school to specify accreditation, curriculum, and academic year length requirements, in addition to degrees that shall be conferred by qualifying institutions. The purpose of the definition is to prevent the establishment of any institution that purports to provide education to dentists in training but does not meet the standards necessary for instruction which insure adequate protection of patient health and safety.

Comparison to federal regulations

No proposed or existing federal regulation related to the definition of "dental school" exists.

Statutory authority.

Sections 15.08 (5) (b), 227.11 (2) and 447.06 (2) (c)., Stats.

Staff time required

100 hours.

Elections Board

Subject

Create s. ElBd 1.46 (3), regarding complete disclosure on campaign finance reports of contributor information required by s. 11.06 (1) (b), Stats.

Objective of the rule. To amend the Elections Board's existing rule to add subsection (3) providing that contributor information on campaign finance reports must be completed not later than 45 days after the due date for the report or the recipient committee must divest itself of the contribution.

Policy analysis

Subsection 11.06 (1) (b), Stats., requires that for each registrant shall report, on the form prescribed by the board, the occupation and name and address of the principal place of employment, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of $100. The Board finds that some of its registrants have submitted reports on which contributor information is not complete. Efforts to obtain that information have extended over substantial periods of time, and, in some cases, have failed. To achieve the statutory objective that all campaign finance reports are complete and prompt and that full disclosure of contributor information is accomplished in good faith, the Board will require that all contributor information must be submitted within 45 days of the date due for the report or the contribution must be returned.

Comparison to federal regulations

None.

Statutory authority

Sections 5.05 (1) (f) and s. 227.11 (2) (a), Stats.

Staff time required

15 hours.

Financial Institutions—Banking

Subject

Section DFI−Bkg 74.14 (16) and (17), relating to authorizations for collecting returned check fees.

Policy analysis

The objective of the rule is to create s. DFI—Bkg 74.14 (16) and (17). The purpose of the rule is to prohibit as oppressive and deceptive practices the collection of returned check fees through an automated clearing house transaction or through a paper draft without customer authorization. The rule requires documentation of authorization and incorporates certain National Automated Clearing House Association standards.

Comparison to federal regulations

Federal regulations do not prohibit the authorizations proposed.

Statutory authority

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

Staff time required

80 hours.

Health and Family Services

Subject

The Department will propose modifying ch. HFS 157, the rules governing radiation protection requirements for radiation producing machines and radioactive materials. The proposed rule modification would accomplish the following:

1. Incorporate newest federal radioactive material regulations in Title 10, Code of Federal Regulations (10 CFR), into ch. HFS 157. Incorporating radioactive material regulations into ch. HFS 157 is required for the federal government to continue recognizing Wisconsin as an "agreement state." An "agreement state" is a state that enters into an agreement with the Nuclear Regulatory Commission that transfers regulatory authority over certain radioactive materials to the state. Wisconsin became the 33rd agreement state on August 11, 2003.

2. Revise both the radioactive material fee categories and the fees in those categories to reflect the Department's operating experience.

3. Update the x−ray requirements in ch. HFS 157 to reflect changes in Title 21, Code of Federal Regulations (21 CFR).

4. Increase the annual x−ray registration fees to support the continued operation of the x−ray registration and inspection program.

5. Remove the agreement state transitional language in ch. HFS 157, including Subchapter XV, because Wisconsin completed its transition to being designated as an agreement state in 2003 and therefore, the transitional language in the rule is no longer needed.

6. Revise Appendix B of ch. HFS 157 to include additional isotope exempt quantities.

Policy analysis

Under section 254.34 (1) (a) of the Wisconsin statutes, the Department of Health and Family Services is responsible for developing and enforcing rules, including registration and licensing of sources of ionizing radiation to prohibit and

prevent unnecessary radiation exposure. The Department is also responsible for maintaining compliance with an agreement between Wisconsin and the Nuclear Regulatory Commission (NRC) that transfers regulatory authority over certain radioactive materials from the NRC to the state. One of the requirements of this agreement is Wisconsin's assurance that it will revise the radioactive material portions of ch. HFS 157 within three years of any applicable changes in Title 10, Code of Federal Regulations. 10 CFR has been revised since the Department last revised ch. HFS 157 in 2002. Therefore, the Department must modify the radioactive material requirements in ch. HFS 157.

The Department will also propose revising the portions of ch. HFS 157 pertaining to x−rays to reflect new diagnostic and therapeutic technologies, experience with implementing the current rule, changes in comparable federal regulations in 21 CFR, and input provided to the Department by an advisory group.

Finally, the Department will propose increasing the annual x−ray registration fees established under s. 254.35 (3), Stats. The Department needs the increased revenue to address a projected radiation program operating deficit by the end of state fiscal year 2004. The Department will propose the following fee increases:

• For every site in this state that has an ionizing radiation installation that is not exempted under s. 254.35, Stats., and that registers the ionizing installation with the Department, the Department will propose increasing the fee to $50 from its current $36.

• For all sites other than dental sites, the Department will propose increasing the fee for each x−ray tube to $50 from its current $44.

• The Department will propose increasing the fee for x−ray tubes at dental sites to $35 from its current $30.

The Department last increased x−ray registration fees over a two−year period in 1995/1996.

Comparison to federal regulation

The radiation protection requirements in ch. HFS 157 are based on or identical to the following federal regulations:

a. Title 10, Code of Federal Regulations, Parts 19, 20, 31, 33−36, 39, 40, 70, 71 and 150 for radioactive materials.

b. Title 21, Code of Federal Regulations, Part 900 for mammography and Parts 1020 − 1040 for diagnostic, therapeutic and cabinet x−ray devices.

Statutory authority

Sections 254.34 (1) (a), 254.35 (3) (g), 254.365 (4) to (6) and 254.37 (3), Stats.

Staff time required

The Department will require approximately 250 hours of staff time to develop the rules. The Department will form an ad hoc advisory group consisting of representative users of radioactive materials and x−ray devices to provide input on the technical content of the rules and any proposed fee increases. The Department anticipates that advisory group input to the development of the rules may minimize needed revisions to the rules subsequently in the promulgation process.

Natural Resources

Subject

Amendment of ch. NR 47, subchapter IX to bring it into agreement with 2003 Wisconsin Act 57 and incorporate housekeeping changes.

Policy analysis

Wisconsin Act 57 of 2003 requires changes to the rule governing the gypsy moth suppression program regarding characteristics of eligible spray blocks and the notification of residents within proposed spray blocks. Act 57 defines eligible spray blocks as being of at least 20 compact and contiguous acres. This replaces the earlier definition requiring at least 40 acres except in cases where the property was public and surrounded by ineligible land where the minimum was 20 acres. This reduction in the minimum acreage is likely to make it easier for applicants to develop spray blocks especially in rural situations where fewer landowners would need to be willing to participate. Smaller spray blocks surrounded by woodland heavily infested with gypsy moth caterpillars are more likely to be reinvaded well into the interior of the sprayed area than are larger blocks. With guidance in the development of spray blocks, however, it should be possible to avoid in−effectively small blocks in areas where outbreaks are widespread.

Act 57 also specifies required means of notification of residents of proposed spray blocks including a press release, legal notice and a public meeting. It does not require direct mailing to residents as did the older rule but does not forbid this additional means of notification. The suppression program will continue to apply for federal cost−sharing for direct mailings as part of the notification process should applicants wish to do so.

We plan on proposing additional changes to the rules governing the suppression program the need for which has become apparent in the three years of the existence of the program. We are also conducting a survey of county and municipal cooperators and landowners served by the program. The results of this survey may also indicate other changes that should be made to better serve the public.

Comparison to federal regulation

The state suppression program allows us to apply for a Federal cost sharing program for suppression of gypsy moth outbreaks. This cost sharing program is only available to state organized aerial spray programs and by applying for this federal program we can save state residents up to half of the cost of the spray treatment.

Statutory authority

Sections 26.30 and 28.07, Stats.

Staff time required

Approximately 264 hours will be needed by the Department staff.

Natural Resources

Subject

Creation or revision of the following rules related to activities in navigable waterways:

Revise NR 1	Designated Waters
Revise NR 300	Timelines
Create NR 310	Procedures
Repeal NR 322	General permit rule
Revise NR 320	Bridges and Culverts
Recreate NR 323	Habitat Structures
Revise NR 325	Boathouses
Create NR 326 subchapters	Boat shelters, boat lifts, boat hoists and swim rafts
Create NR 328 subchapter III	Shore Erosion Control on Rivers and Streams
Create NR 329	Miscellaneous Structures
Revise NR 340	Nonmetallic Mining
Create NR 343	Ponds and Artificial Waterways
Create NR 345	Dredging

Note: The following rule proposals that also relate to Act 118 have previously been scoped: Creation of NR 328 subchapter I related to Shore Erosion Control on Lakes and Impoundments; Revision of NR 326 related to Piers; and Creation of NR 341 and Revision of NR 216 related to Grading.

Policy analysis

2003 Wisconsin Act 118 modified provisions in chapter 30 governing the regulation of activities in Wisconsin's navigable public waters. The legislation establishes a new regulatory framework where activities are authorized as exemptions; allowed under a general permit through rules adopted by Department; or reviewed under an individual permit. Article IX, Section I of Wisconsin's Constitution, and a large body of case law known as the Public Trust Doctrine, require that the public interest in Wisconsin's waterways be protected. The stated goals of the Legislature and Governor in adopting Act 118 were to streamline permit processes and not diminish public trust protections in the state's waters.

To assure these goals are met, and to meet the rulemaking requirements of Act 118, the Department will adopt rules to establish definitions and standards necessary for the administration of exemptions, general permits and individuals permits under chapter 30, Stats. The rules will maintain existing resource protections to the extent possible consistent with the legislation, and maintain or exceed streamlining previously accomplished through shortform permits. The rules will also address any germane issues raised by stakeholder and technical groups. Groups impacted by these rules include waterfront property owners and developers, anglers, boaters, hunters and tourists. Stakeholder organizations include builders associations, contractor and consultant associations, and environmental advocacy groups.

Comparison to federal regulation

The U.S. Army Corps of Engineers (Corps) regulates any activity that results in a discharge (including deposits and structures) into "waters of the United States" under section 404 of the Clean Water Act. The U.S. Army Corps of Engineers has comparable procedures for taking applications and making decisions on physical alterations to waters of the United States. An Individual Permit from the Corps is required, unless Wisconsin regulates the project in its entirety under chapter 30, Stats., in which case the Corps authorizes the project under general permits GP−01−WI or GP−LOP−WI. Dredging or discharge into waters declared navigable under Section 10, Rivers and Harbors Act, 1899 is also regulated, and requires an Individual Permit from the Corps.

Statutory authority

Sections 30.01, 30.12, 30.121, 30.123, 30.13, 30.19, 30.20, 30.2035, 30.206, 30.208, 30.209, 30.28, 30.291, 30.298, 227.11(2), 281.22, 281.36 and 281.37, Stats.

Staff time required

Rules for exemptions, general permits and notice and hearing procedures is estimated to require 3600 staff hours (approximately 2 FTE) to develop. This includes rule writing and review, stakeholder and technical advisory groups, public hearings, and briefings. Initial rules will be presented to the Natural Resources Board with requests for hearing authorization in April, May and June of 2004.

Natural Resources

Subject

Streamlining of the Chapter NR 500 series in conjunction with general corrections and certain specific changes.

Policy analysis

Over approximately the past year, the Waste Management Program has been working with stakeholders to identify areas of the NR 500 series that can be streamlined and protect human health and the environment. This work has resulted in a number of specific suggestions for streamlining that have broad support. During our meetings with stakeholders various alternatives were discussed ranging from more restrictive measures to more flexible measures. The group as a whole agreed to the suggestions we are pursuing. We propose to continue to work with stakeholders to translate these suggestions into proposed code language. At the same time, our intent is to make general corrections to the NR 500 series and pursue certain other specific changes. These specific changes include clarification of setback requirements between landfills and private wells, limits on landfilled tonnage claimed as exempt from environmental fees, and reducing the scope of the landfill manager/operator certification program. We will continue to solicit significant stakeholder input for all proposed code changes.

Comparison to federal regulation

The proposed rule changes conform to and do not exceed requirements of existing or proposed Federal Regulations.

Statutory authority

Section 289.06 (1), Stats.

Staff time required

Approximately 400 hours before the hearing and 140 hours after the hearing.

Public Defender

Subject

Sections PD 6.01, 6.02 (1), 6.025 (2) (a) – relating to the repayment of cost of legal representation

Proposed Action:

- 20% increase for repayment and prepayment fees
- specifying petitions for supervised release and discharge under ch. 980 as commitment case types
- deleting a finding of partial indigency as a method for determining ability to pay

Policy analysis

Wis. Stats. sec. 977.075 requires that the state public defender board establish by rule a program for repayment of the cost of legal representation, including reimbursement and prepayment options. Sections PD 6.01 and PD 6.02 (1) establish a payment schedule based on the type of case. Petition for supervised release and petition for discharge from commitment under the sexual predator law were not specifically listed in this schedule although these types of cases have been included under "commitment" since the law was enacted. Partial indigency determination had been used as a criterion for determination of ability to pay has been replaced by the collection statute.

Fiscal effect summary

In summary, the fiscal effect of this pilot project has been to increase collections revenues by $302,000 biennially. The remaining increased monthly revenue is due to the increase in caseload since FY2002 and the longer period to make the lower upfront payment.

We do not anticipate the proposed rule change clarifying petitions for supervised release and discharge under ch. 980 as commitment case types under the current payment schedule to have a fiscal impact because this proposed rule change reflects current practice. We do not anticipate the proposed rule change deleting partial indigency as a method for determining ability to pay because this proposed rule change reflects current practice.

We do not anticipate that the private sector will be fiscally impacted by these proposed rule changes.

Comparison to federal regulations

No federal regulations in this area.

Statutory authority

Statutory authority for rule: s. 977.02 (4m), Stats.

Statutes interpreted: ss. 977.075 (1), (3), Stats.

Staff time required

Estimate of amount of time agency employs will spend developing the proposed rule and of other resources needed to develop the rule: 20 hours; no other resources are necessary.

Public Instruction

Subject

Under s. 119.23 (2) (b), Stats., no more than 15% of MPS' membership (approximately 15,000 students) may attend private schools under the Milwaukee Parental Choice Program (MPCP). The department is required to prorate the number of spaces available at each participating private school if in any school year there are more spaces available than the maximum number of students allowed to participate in the program.

This proposed rule would set forth the process by which DPI would prorate student spaces in the MPCP.

Objectives of the rule. Establish a prorate method for DPI to utilize when the number of eligible students applying for the program exceeds the statutory limit.

Policy analysis

Continue to have students apply at the private schools rather than the DPI.

Continue to accept students randomly rather than on a first come first serve basis.

Continue to allow schools to give preference to students currently participating in the MPCP and their siblings when accepting applications.

New policies to be included in the administrative rule

One application period for MPCP students rather than monthly open application periods.

Computerized random selection conducted by DPI rather than the individual schools.

Policy alternatives

None. This is a statutory requirement.

Comparison to federal regulations

None.

Statutory authority

Section 119.23 (2) (b), Stats.

Staff time required

The amount of time needed for rule development by department staff and the amount of other resources necessary are indeterminable. The time needed to create the rule language itself will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than six months to complete.

Transportation

Subject

Objective of the rule. This proposal will amend ch. Trans 276, which establishes a network of highways on which long combination vehicles may operate, by adding 2 highway segments to the network. The actual segments being proposed are:

STH 139 from STH 70 to Long Lake

STH 32 from Laona to STH 64

Policy analysis

Federal law requires the Department of Transportation to react within 90 days to requests for changes to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to make changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. The Department has received a request from Jack McCraw of Long Lake, WI, to add these highway segments.

Comparison to federal regulations

In the Surface Transportation Assistance Act of 1982 (STAA), the federal government acted under the Commerce clause of the United States Constitution to provide uniform standards on vehicle length applicable in all states. The length provisions of STAA apply to truck tractor−semitrailer combinations and to truck tractor−semitrailer−trailer combinations. (See Jan. 6, 1983, Public Law 97−424, § 411) The uniform standards provide that:

- No state shall impose a limit of less than 48 feet on a semitrailer operating in a truck tractor−semitrailer combination.
- No state shall impose a length limit of less than 28 feet on any semitrailer or trailer operating in a truck tractor−semitrailer−trailer combination.
- No state may limit the length of truck tractors.
- No state shall impose an overall length limitation on commercial vehicles operating in truck tractor−semitrailer or truck tractor−semitrailer−trailer combinations.
- No state shall prohibit operation of truck tractor−semitrailer−trailer combinations.

• The State of Wisconsin complied with the federal requirements outlined above by enacting 1983 Wisconsin Act 78 which amended s. 348.07 (2), Stats., and s. 348.08 (1), Stats. This act created ss. 348.07 (2) (f), (fm), (gm) and 348.08 (1) (e) to implement the federal length requirements. In 1986 the legislature created s. 348.07 (2) (gr), Stats., to add 53 foot semitrailers as part of a two vehicle combination to the types of vehicles that may operate along with STAA authorized vehicles. (See 1985 Wisconsin Act 165)

The vehicles authorized by the STAA may operate on the national system of interstate and defense highways and on those federal aid primary highways designated by regulation of the secretary of the United States Department of Transportation. In 1984 the USDOT adopted 23 CFR Part 658 which in Appendix A lists the highways in each state upon which STAA authorized vehicles may operate. Collectively these highways are known as the National Network. In 1983 Wisconsin Act 78, the legislature enacted s. 348.07(4), Stats., which directs the Wisconsin Department of Transportation to adopt a rule designating the highways in Wisconsin on which STAA authorized vehicles may be operated consistent with federal regulations.

The Department of Transportation first adopted ch. Trans 276 of the Wisconsin Administrative Code in December of 1984. The rule is consistent with 23 CFR Part 658 in that the Wisconsin rule designates all of the highways in Wisconsin that are listed in 23 CFR Part 658 as part of the National Network for STAA authorized vehicles. The federal regulation does not prohibit states from allowing operation of STAA authorized vehicles on additional state highways. The rule making authority granted to the Wisconsin Department of Transportation in s. 348.07 (4), Stats., allows the DOT to add routes in Wisconsin consistent with public safety. The rule making process also provides a mechanism to review requests from businesses and shipping firms for access to the designated highway system for points of origin and delivery beyond 5 miles from a designated route. A process to review and respond to requests for reasonable access is required by 23 CFR Part 658.

Statutory authority

Section 348.07 (4), Stats.

Staff time required

It is estimated that state employees will spend 40 hours on the rule−making process, including research, drafting and conducting a public hearing.

Submittal of rules to legislative council clearinghouse

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

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On March 30, 2004, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Chs. ATCP 99, 100 and 101, relating to agricultural producer security.

Agency Procedure for Promulgation

A public hearing will be held on April 26 and 27, 2004.

The Trade and Consumer Protection Division is primarily responsible for promulgation of this rule.

Contact

If you have questions regarding this rule, you may contact Kevin LeRoy at (608) 224−4928.

Health and Family Services

Rule Submittal Date

On March 23, 2004, the Department of Health and Family Services submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

The Wisconsin Department of Health and Family Services proposes to amend s. HFS 107.13 (2) (c) 5., and (4) (c) 4.; and to create ch. HFS 36, ss. HFS 105.257, 107.13 (6) (b) 4. and (7), relating to standards for certification and criteria for determining the need for psychosocial rehabilitation services, and other conditions of coverage of community−based psychosocial rehabilitation services under the medical assistance program.

Statutory Authority: The Department's authority to create these rules is found in ss. 49.45 (30e) (b), 51.42 (7) (b), and 227.11 (2) (a), Stats.

Analysis

Rule Summary

The Department through this proposed order establishes the scope of community−based psychosocial rehabilitation services programs, standards for certification and criteria for determining the need for psychosocial rehabilitation services, and other conditions of coverage of community−based psychosocial rehabilitation services under the medical assistance program as authorized by ss. 49.45 (30e) and 51.42 (7) (b), Stats. The Department anticipates that the rules created in this order will complement services provided by existing community support programs under s. 51.421, Stats., by making a fuller array of mental health and substance−use and addiction disorder services potentially available to those in need in each county or tribe. The Department further anticipates that this order will allow for the creation of a broad range of flexible, consumer−centered, recovery−oriented psychosocial rehabilitation services to both minors and adults, including elders, whose psychosocial needs require more than outpatient therapy, but less than the level of services provided by existing community support programs. Certified community−based psychosocial rehabilitation services programs that meet the requirements of s. 49.45 (30e), Stats., and this order may be fully or partially funded by medical assistance with county or tribal match. These programs may also coordinate with other existing funding sources.

Agency Procedure for Promulgation

Public hearings will be scheduled at a future date.

Contact

Joyce Bohn Allen
Bureau of Mental Health and Substance Abuse Services
1 W. Wilson Street, Room 434
PO Box 7851
Madison, WI 53707−7851
608−266−1351, fax − 608−267−7793
e−mail − allenjb@dhfs.state.wi.us

Justice

Rule Submittal Date

On March 25, 2004, the Department of Justice submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. Jus 16, relating to the enforcement of the tobacco master settlement agreement.

Agency Procedure for Promulgation

A public hearing is scheduled for April 30, 2004.

Contact

If you have questions regarding this rule, you may contact Charlotte Gibson at 608−266−7656.

Public Instruction

Rule Submittal Date

On March 26, 2004, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends Chapter PI 6, relating to public librarian certification.

Agency Procedure for Promulgation

Public hearings will be scheduled.

The Division of Libraries, Technology and Community Learning is primarily responsible for promulgation of this rule.

Contact

If you have questions regarding this rule, you may contact Peg Branson, Continuing Education Consultant, at (608) 266−2413.

Public Service Commission

Rule Submittal Date

On March 25, 2004, the Public Service Commission submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule repeals and recreates Ch. PSC 173, relating to funding for 911 emergency telecommunications number services.

Agency Procedure for Promulgation

A public hearing will be held on Tuesday, April 27, 2004, at 10:00 a.m. at the Public Service Commission Building at 610 North Whitney Way, Madison, Wisconsin.

The Telecommunications Division of the Commission is the organizational unit responsible for promulgation of the rule.

Contact

The contact persons are Dennis Klaila at (608) 267−9780 and John Lorence at (608) 266−8128.

Revenue

Rule Submittal Date

On March 31, 2004, the Department of Revenue submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule repeals and recreates s. Tax 2.49 and creates s. Tax 2.495, relating to the apportionment of net business incomes of interstate financial organizations.

Agency Procedure for Promulgation

A public hearing on the proposed rule is required and will be scheduled at a future date.

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

Contact

If you have questions regarding this rule, please contact:
Dale Kleven
Income, Sales, and Excise Tax Division
Telephone (608) 266−8253
E−mail: dkleven@dor.state.wi.us

Transportation

Rule Submittal Date

On March 30, 2004, the Department of Transportation submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects Ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on specified highways.

Agency Procedure for Promulgation

A public hearing is scheduled for April 30, 2004.

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

Contact

If you have questions regarding this rule, you may contact Julie A. Johnson, Paralegal, Office of General Counsel, at (608) 267−3703.

Rule−making notices

Notice of Hearings

Agriculture, Trade and Consumer Protection [CR 04−030]

Agricultural Producer Security Rules.

The Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed permanent rule and two emergency rules relating to the agricultural producer security program under ch. 126, Stats. These rules modify chs. ATCP 99, 100 and 101, Wis. Adm. Code.

The department will hold two hearings at the time and places shown below. The department invites public comments on these rules. The department also seeks comments on other issues related to the producer security program, including possible overlap between the Wisconsin producer security program and the federal Perishable Agricultural Commodities Act (vegetables).

Following the public hearing, the hearing record will remain open until May 14, 2004, for additional written comments. You may obtain a free copy of these rules by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Bureau of Trade Practices, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224−4928. Copies will also be available at the hearings.

Hearing impaired persons may request an interpreter for these hearing. Please make reservations for a hearing interpreter by April 19, 2004, by writing to Kevin LeRoy, Division of Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708−8911, telephone (608) 224−4928. Alternatively, you may contact the Department TDD at (608) 224−5058. Handicap access is available at the hearings.

Hearings are scheduled as follows:

Monday, April 26, 2004, 1:30 p.m. until 4:00 p.m.

Wisconsin Department of Agriculture, Trade and Consumer Protection

Board Room

2811 Agriculture Drive

Madison, WI 53718

Handicapped accessible

Tuesday, April 27, 2004, 10:00 a.m. until 12:30 p.m.

Marathon County Public Library

300 N. First Street

Wausau, WI 54403

Handicapped accessible

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

Statutory Authority: ss. 126.15 (1) (intro.), 126.30 (1) (intro.), 126.46 (1) (intro.), 126.60 (1) (intro.), 126.81 and 126.88 (intro.), Stats.

Statutes Interpreted: ch. 126, Stats.

The Wisconsin department of agriculture, trade and consumer protection (”DATCP”) currently administers an agricultural producer security program under ch. 126, Stats. (”producer security law”). This program is designed to protect agricultural producers from catastrophic financial defaults by grain dealers, grain warehouse keepers, milk contractors and vegetable contractors (“contractors”) who procure agricultural commodities from producers. Among other things, the law requires most contractors to pay assessments to an agricultural producer security fund.

DATCP may adopt rules to implement the program (see statutory authority above).

Among other things, DATCP may revise contractor assessment rates, require contractor disclosures to producers, and interpret other requirements under the producer security law. This rule does all of the following:

- Authorizes a partial refund of certain agricultural producer security assessments required of grain dealers, grain warehouse keepers, milk contractors and vegetable contractors (collectively referred to as ”contractors”) under ch. 126, Stats. This rule authorizes a partial refund of an annual assessment that is drastically inflated by a temporary change in financial condition caused by a merger or acquisition. This rule defines the specific circumstances under which the refund is authorized. This rule does not authorize a refund if the change in the contractor’s financial condition lasts more than one fiscal year.
- Updates the disclosures that contractors must give agricultural producers under current rules. The updates are needed to accommodate recent law changes under 2003 Wis. Act 38.
- Clarifies that grain dealers and warehouse keepers may provide grain purchase and deposit receipts (required by current law) in electronic form, provided that the recipient can retrieve, store and print the receipt for future reference.

Assessment Refunds

Background

Under the producer security law, contractors pay annual assessments to an agricultural producer security fund (”the fund”). If a contractor defaults in payments to producers, DATCP may compensate producers from the fund. A contractor’s annual fund assessment is based on the contractor’s size, financial condition and risk practices. DATCP may modify fund assessments by rule.

Financial condition is determined on the basis of an annual financial statement filed by the contractor. Other things being equal, contractors with weaker financial statements pay higher annual fund assessments. Fund assessments are calculated according to a formula spelled out in the producer security law. However, DATCP may modify fund assessments by rule.

Refunds Authorized

In some cases, a merger or acquisition may temporarily affect a contractor’s financial statement. This temporary change may in some cases cause a disproportionate increase in annual fund assessments (based on the current statutory assessment formula). In such cases, this rule authorizes DATCP to refund part of a contractor’s assessment if certain conditions apply. The refund is paid as a credit against the next year’s assessment.

Under this rule, DATCP may refund part of an annual fund assessment paid by a contributing contractor if all of the following apply:

• The contractor paid the full amount of the assessment, including any late penalties that may apply.

• The contractor is the surviving entity in a merger under s. 179.77, 180.1101, 183.1201 or 185.61, Stats., or has acquired property pursuant to a sale of assets under s. 180.1202, Stats.

• The assessment was based on the contractor's financial statement for the fiscal year in which the merger or acquisition took effect.

• The contractor's financial statement, for the fiscal year in which the merger or acquisition took effect, caused the sum of the contractor's current ratio assessment rate and debt to equity assessment rate (both calculated according to current statutory formulas) to increase by at least 100% compared to the preceding license year.

• The contractor's annual financial statements, for the fiscal years immediately preceding and immediately following the fiscal year in which the merger or acquisition took effect, show positive equity, a current ratio of at least 1.25 to 1.00 and a debt to equity ratio of no more than 3.0 to 1.0.

• In the license year immediately following the license year for which the contractor paid the assessment, the sum of the contractor's current ratio assessment rate and debt to equity assessment rate (both calculated according to current statutory formulas) declines by at least 50% compared to the license year for which the contractor paid the assessment.

• The contractor requests the refund in writing, by the first day of the next license year.

Refund Amount

The amount of the refund under this rule will equal 75% of the difference between the assessment amount paid by the contractor and the assessment amount required of the contractor in the next license year.

Refund Paid as Credit Against Next Year's Assessment

Whenever DATCP pays a refund under this rule, DATCP must pay the refund as a credit against the contractor's assessment for the next license year. DATCP must apportion the credit, pro rata, against the quarterly assessment installments required of the contractor in that next license year. If the credit exceeds the total assessment required of the contractor in that next license year, DATCP must credit the balance in the same fashion against assessments required of the contractor in subsequent license years (up to 2 years).

DATCP may not pay refunds except as credits against future assessments (there is no cash refund). DATCP may not pay a refund (grant a credit) to any person other than the contractor who paid the original assessment on which the refund is given.

Disclosures to Producers

Under current rules, a contractor must provide an annual written "notice to producers." The notice must disclose whether the contractor participates in the fund, or has filed security with DATCP, to secure the contractor's payment obligations to producers. The notice may take different forms, depending on the basis on which the contractor is licensed by DATCP. Current rules spell out the type of notice that each contractor must give, and exact wording that the notice must include.

2003 Wis. Act 38 modified fund assessments and security filing requirements for some contractors. This rule modifies current disclosure requirements for some contractors, so that the disclosures accurately reflect current law.

Electronic Receipts for Grain

Chapter 126, Stats. requires grain dealers and grain warehouse keepers to provide written receipts for grain received from producers and depositors. This rule authorizes grain dealers and warehouse keepers to provide those receipts in electronic form, provided that the producer or depositor can readily retrieve, view, store and print the receipt for future reference.

Federal and Surrounding State Regulations

Wisconsin's Security Program

Wisconsin has an agricultural producer security program for grain, milk and vegetables. The Wisconsin legislature has spelled out detailed statutory requirements for grain dealers, grain warehouse keepers, milk contractors and vegetable contractors (ch. 126, Stats.). Contractors must be licensed by DATCP, and most contractors must contribute to an agricultural producer security fund administered by DATCP. A few contractors must also file security with DATCP.

DATCP cannot alter current statutory requirements, but can interpret and implement those requirements by rule. This rule makes limited changes to current rules. This rule will benefit contractors by authorizing assessment refunds and electronic grain receipts, without reducing producer security. This rule also modifies contractor disclosure requirements to implement recent statutory changes.

Federal Programs

There are no federal producer security programs related to milk. The United States department of agriculture (USDA) administers a producer security program for federally licensed grain warehouses that store grain for producers. Grain warehouses may choose whether to be licensed under state or federal law. Federally−licensed warehouses are exempt from state warehouse licensing and security requirements. State−licensed warehouses are likewise exempt from federal requirements.

The federal grain warehouse program currently provides little or no protection against financial defaults by grain dealers. Grain dealers are persons who buy and sell grain. Sometimes, grain dealers also operate grain warehouses. DATCP currently licenses grain dealers. Licensed warehouse keepers must also hold a state grain dealer license if they engage in grain dealing.

USDA proposes to regulate grain dealer activities of federally licensed warehouses, to the exclusion of state regulation. But USDA has not yet finalized its regulations. In any case, the federal regulations would not apply to state−licensed grain warehouses, or to grain dealers who do not operate a warehouse.

There is a federal security program for fresh market vegetables, but not for processing vegetables. Wisconsin's vegetable security program applies only to processing vegetables (not fresh market vegetables covered by federal regulations).

Surrounding States

In Minnesota, contractors must be licensed to procure grain, milk or processing vegetables from producers, or to operate grain warehouses. Regulated contractors must file bonds as security against default.

Neither Iowa nor Illinois have producer security programs for milk or vegetables. However, both states maintain indemnity funds to protect grain producers. Fund assessments are based solely on grain volume. In Wisconsin, by contrast, fund assessments are based on grain volume and financial condition.

Michigan has the following producer security programs:

• Potato dealers must be licensed, and must post bonds as security against defaults. (Wisconsin's vegetable security program includes, but is not limited to, potatoes.)

• Dairy plants that fail to meet minimum financial standards must file security or pay cash for milk.

• Grain producers have the option of paying premiums into a state fund. In the event of a grain default, the fund reimburses participating producers.

Fiscal Estimate

This rule will have little or no fiscal impact on the agricultural producer security fund, and no fiscal impact on the department. This rule authorizes partial refunds of fund assessments in certain cases, but the department does not anticipate many such cases. Refunds, when made, would merely eliminate unanticipated "windfalls" to the fund, and would not affect overall revenue projections for the fund. The rule will not have a significant impact on the department's operating costs.

Business Impact Analysis

This rule will have a minimal impact on regulated businesses. The Wisconsin legislature has spelled out detailed statutory requirements for grain dealers, grain warehouse keepers, milk contractors and vegetable contractors (ch. 126, Stats.). DATCP has limited authority to change these requirements by rule.

This rule will make minor changes to current rules. This rule will have a positive impact on some businesses, by authorizing assessment refunds and electronic receipts. This rule updates current disclosure requirements (per recent law changes), but the updated disclosure requirements will have a minimal impact on regulated businesses.

This rule does not impose any new regulatory requirements. This rule does not add business costs, and will reduce costs for some businesses. This rule will have little, if any, impact on small business.

Notice of Hearing

Justice

[CR 04−028]

NOTICE IS HEREBY GIVEN that, pursuant to s. 895.12, Stats., and interpreting s. 895.12, Stats., the Department of Justice will hold a public hearing on proposed rules, ch. Jus 16, relating to the enforcement of the tobacco master settlement agreement.

The hearing shall take place on:

April 30, 2004

10:00 a.m.

Risser Justice Building

Room 726

17 West Main Street

Madison, WI 53702

Interested persons are invited to appear at the hearing and offer comments on the proposed rule. Persons making oral presentations are requested to submit their comments in writing as well. The public record on this proposed rule will remain open until the close of business on the day of the hearing to permit the submission of written comments from people unable to attend the hearing. Written comments should be submitted to Charlotte Gibson, Assistant Attorney General, 17 West Main Street, Madison, Wisconsin, 53702.

Analysis of Proposed Rule

Statutory Authority: Wis. Stat. § 895.12 (9).

Statutes Interpreted: Wis. Stat. § 895.12.

2003 Wisconsin Act 245 gives the Department of Justice a number of new powers to enforce the tobacco master settlement agreement ("MSA"). Specifically, cigarette manufacturers must make detailed certifications concerning the products they make, and the attorney general must maintain a directory of the manufacturers who have current and accurate certifications. Manufacturers that have not signed on to the MSA must put into place certified escrow accounts and escrow a certain amount for each cigarette sold to consumers in the State of Wisconsin. The act also allows the attorney general to require certifications and escrow payments quarterly.

This proposed rule implements the powers granted under 2003 Wisconsin Act 73. The proposed rules allow the Department of Justice to require non−participating manufacturers to certify their compliance and make their escrow payments quarterly.

Fiscal Impact

The Department of Justice estimates that there will be no fiscal impact of the proposed rule.

Initial Regulatory Flexibility Analysis

The proposed rule may have an effect on small businesses. The type of small businesses that could be affected are non−participating manufacturers ("NPMs") under the MSA. Under the MSA and statutory law, NPMs (none of which are currently located in Wisconsin) are required to escrow money for possible future litigation concerning the state's health costs related to smoking. The rule gives the Department of Justice the power to require these nonparticipating manufacturers to provide certifications and escrow payments quarterly. While the Department of Justice believes that quarterly payment will assist NPMs to make appropriate marketing decisions so that they can meet these financial obligations, the quarterly reporting will require more paperwork for them.

Copies of Rule and Contact Person

Copies of the proposed rule can be obtained free of charge from, and any questions concerning the rule can be directed to:

Charlotte Gibson
Assistant Attorney General
Wisconsin Department of Justice
17 West Main Street
Madison, WI 53702
(608) 266−7656
gibsoncj@doj.state.wi.us

Notice of Hearing

Public Service Commission

[CR 04−026]

Hearing Date, Time and Location

Tuesday, April 27, 2004 – 10:00 a.m.

Public Service Commission, 610 North Whitney Way, Madison, WI

Comments Due:

Tuesday, May 18, 2004 – Noon

FAX Due:

Monday, May 17, 2004 – Noon

Address comments to:

Lynda L. Dorr, Secretary to the Commission

Public Service Commission

P.O. Box 7854

Madison, WI 53707−7854

FAX (608) 266−3957

The Public Service Commission of Wisconsin proposes an order to repeal and recreate Wis. Admin. Code ch. PSC 173,

relating to the funding of wireline and wireless emergency number telephone services.

NOTICE IS GIVEN that a hearing will be held beginning on Tuesday, April 27, 2004, at 10:00 a.m. in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, and continuing at times to be set by the presiding Administrative Law Judge. This building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the docket coordinator listed below.

Written Comments

The Commission requests comments on the above issues. Comments are due at the Commission by **noon** on **May 18, 2004,** (or by **noon** on **May 17, 2004,** if by fax). An original and 20 copies should be addressed and filed as indicated in the box above. Comments not received by **noon** on the date due will not be accepted. Fax filing cover sheets must state "Official Filing," the docket number, and the number of pages (limit 20 pages). **Please file by one mode only.**

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 146.70 (3m) (d) 4., (e) and (f); 196.02 (3) and 227.11 (2), Stats.

Statute interpreted: s. 146.70, Stats.

The landline 911 emergency number service in place throughout the country uses two distinct network designs. Basic 911 service uses the public switched network to route calls to the answering point. The telephone switch uses a translation table to convert the 911 address to a standard seven−digit or ten−digit telephone number. The dispatcher at the answering point must query the caller to learn the name and location of the calling party.

Enhanced 911 service routes a 911 call (from the telecommunications central office switch to the county or municipal public safety answering point) over a dedicated network, independent of the public switched network. The enhanced service will automatically report the name and address corresponding to the calling party's access line. The enhanced service also permits the system to route 911 calls from a given telephone exchange to more than one answering point, based upon the calling party's location.[1] Thus, enhanced 911 service can be distinguished from basic 911 service by three service elements: a dedicated network, automatic location identification (ALI), and selective routing.

The 911 emergency number systems that are currently deployed in Wisconsin will terminate calls directed to 911 from wireless telephones. This is required by Wis. Stat. § 146.70(2)(h). However, the existing access to 911 from wireless telephones can only provide the features of a basic 911 system. Wireless 911 calls are routed over the public switched network. The wireless carrier routes all 911 calls originated by its antennas or cell sites in a given county to the wireless answering point designated for that county. The current wireless 911 system cannot support multiple answering points. The current system does not disclose the wireless calling party's telephone number or location. This lack of automatic location disclosure severely degrades the usefulness of wireless 911 service, particularly in rural and off−road locations that lack landmarks or other reference points known to the caller or to the dispatcher who answers the call.

Sections 20.155(3)(q) and 146.70(3m), Stats., as created by 2003 Wisconsin Act 48 (Act 48), authorize the Commission to establish the Wireless 911 Fund to reimburse wireless carriers and local governments for the cost of the additional equipment, computer software and telephone network facilities that are required to provide the service elements (dedicated access, ALI, and selective routing) associated with enhanced wireless 911 service.

Act 48 also responds in part to the policy initiatives of the U.S. Congress and the Federal Communications Commission (FCC). *See* 47 C.F.R. § 20.18. Under § 20.18(j), a wireless telecommunications carrier is required to provide the enhanced wireless 911 service only after the following conditions have been met: (1) the administrator of a Public Safety Answering Point (PSAP) has requested the service; (2) the PSAP is capable of receiving and utilizing the information associated with the service; and (3) the PSAP has a mechanism in place to recover the cost of the service. Act 48 created the Wireless 911 Fund to address this third requirement for a funding mechanism.

The rule first makes non−substantive changes to the format of ch. PSC 173 to improve the overall presentation of the chapter. In recreating the existing provisions of ch. PSC 173, the Commission proposes to modify the current notice requirement for county−wide 911 contracts to align the notice procedure in this rule with the Commission's general administrative process in ch. PSC 2. *See* s. PSC 173.04 (1).

As required by Act 48, this rule establishes the Wireless 911 Fund and sets forth the necessary administrative procedures to operate the fund. In s. PSC 173.06, the rule provides the criteria under which grant applications from wireless carriers will be reviewed and approved.

In s. PSC 173.07, the rule provides the criteria under which grant applications from local governments will be reviewed and approved.

In s. PSC 173.08, the rule provides the criteria under which local governments applications for supplemental grants will be reviewed and approved.

In s. PSC 173.09, the rule sets forth the procedures and standards the Commission will use to approve or disapprove grant applications.

In s. PSC 173.10, the rule sets forth the procedures for setting the wireless surcharge, and for collecting and depositing the money generated by the wireless surcharge.

In s. PSC 173.11, the rule sets forth the procedures the Commission will use to administer the Wireless 911 Fund.

In s. PSC 173.12, the rule recites the language adopted by the legislature in Wis. Stats., s. 146.70(3m)(g) to protect the confidentiality of commercially−sensitive information provided by the wireless telecommunications industry to support implementation of the wireless 911 service.

TEXT OF PROPOSED RULE

SECTION 1. Chapter PSC 173 is repealed and recreated to read:

911 EMERGENCY TELECOMMUNICATIONS SERVICE

Subchapter I—General Provisions

PSC 173.01 Purpose. The purpose of this chapter is to implement those provisions of s. 146.70, Stats., that authorize the commission to review the contracts between counties and telecommunications providers for the provision of 911 emergency telecommunications service and that establish a wireless 911 fund to promote installation and use of enhanced wireless 911 emergency telecommunications service.

PSC 173.02 Definitions. In this chapter:

(1) "Active prepaid wireless telephone" means a prepaid wireless telephone that has been used or activated by the customer during the month to complete a telephone call for which the customer's card or account was decremented.

(2) "Application" means a request for money in the form of a grant authorized under s. 146.70(3m)(b), (c) or (e), Stats.

(3) "Commercial mobile radio service provider" has the meaning given in s. 196.01(2g), Stats.

(4) "Commission" means the public service commission

(5) "Designated public safety answering point" means a wireless public safety answering point that has been identified in a resolution adopted under s. 146.70(3m)(c)3. or 6., Stats., for the purpose of implementing the federal wireless orders.

(6) "Federal wireless orders" means the orders of the federal communications commission regarding 911 emergency services for wireless telephone users in FCC docket no. 94−102.

(7) "Fund" means the wireless 911 fund established by ss. 25.17(1)(yo) and 25.98, Stats.

(8) "Local government" has the meaning given in s. 146.70(3m)(a)4., Stats.

(9) "Prepaid wireless telephone service" means wireless telephone service which is activated by payment in advance of a finite dollar amount or for a finite set of minutes and which, unless an additional finite dollar amount or finite set of minutes is paid in advance, terminates either upon use by a customer of an agreed−upon amount of service corresponding to the total dollar amount paid in advance, or within a certain period of time following initial purchase or activation.

(10) "Reimbursement period" has the meaning given in s. 146.70(3m)(a)5., Stats.

(11) "Surcharge period" means the 3−year period during which wireless providers shall bill and collect the wireless surcharge authorized by s. 146.70(3m)(f), Stats. The surcharge period shall commence on the first day of the second month beginning after the effective date of s. PSC 173.10 ….[revisor inserts date] and conclude on the last day of the thirty−sixth month beginning after the month in which the surcharge period commences.

(12) "Wireless provider" has the meaning given in s. 146.70(3m)(a)6., Stats.

(13) "Wireless public safety answering point" has the meaning given in s. 146.70(3m)(a)7., Stats.

(14) "Wireless 911 surcharge" or "wireless surcharge" mean the monthly surcharge authorized by s. 146.70(3m)(f), Stats.

Subchapter II—Wireline 911 Emergency Telecommunications Service Contracts

PSC 173.03 Submission of telecommunications emergency services contracts. (1) A telecommunications utility which enters into a contract with a county for the provisions of 911 emergency telecommunications service shall within 20 days submit the contract for commission review.

(2) In addition to the contract, the utility shall submit all of the following information:

(a) A copy of the county ordinance adopting the plan for a 911 emergency telecommunications system.

(b) A list identifying all participating local exchange carriers and a statement that each has tariffs or concurring tariffs on file with the commission providing for individual 911 contracts.

(c) A list identifying the localities and the number of all service users residing outside the contracting county, specifying the municipality in which they reside.

(d) A list identifying those municipalities outside the contracting county with residents who will be billed for the service.

(e) A statement that all telecommunications service users in the county have access to a 911 system. If such a statement cannot be made with regard to a segment of the county's service users, the telecommunications utility shall provide information indicating that the local exchange carrier serving those service users is not capable of providing the 911 system on a reasonable economic basis on the effective date of the contract.

(f) A list of exchanges in the county with customers served by a 911 system outside the county, which identifies the provider of the 911 service.

(g) A description of access to the 911 system by telecommunications devices for the communicatively impaired.

(h) Cost support for and complete itemization of the installation and monthly charges for automatic number identification, automatic location identification and all trunking service components for both the primary telecommunications utility under the contract and the participating local exchange carriers. Cost support may be in the form of tariff reference if the rates and charges for 911 service are those in the utility's tariffs.

(i) A statement of the total billable exchange access lines for purposes of the contract and the actual exchange access line count. This statement shall provide detail as to how the billable exchange access line count was determined, including any equivalency factor used for the line equivalents and the number of lines to which the factor applies.

PSC 173.04 Commission review. (1) Upon receipt of a contract for 911 emergency telecommunications service, the commission shall issue a notice of investigation in accordance with s. PSC 2.09.

(2) Within 60 days of receipt of a contract for the provision of 911 emergency telecommunications service, the commission may disapprove the contract if it finds any of the following:

(a) The contract is not compensatory.

(b) The contract is excessive.

(c) The contract does not comply with the utility's tariff specifying the rates and charges or terms and conditions for the offering of 911 emergency telecommunications service.

(3) The commission may act on the contract without hearing.

(4) Any person may request disapproval of the contract within 20 days of mailing of notice by the commission, specifying reasons for the disapproval in writing. The person may request a hearing by specifying factual issues which are in dispute.

(5) The contract shall be effective immediately on signing and remain effective unless and until disapproved by the commission.

PSC 173.05 Assessment. A telecommunications utility submitting a contract under this chapter shall pay the commission's direct costs of contract approval, unless the utility has an agreement with participating utilities to share this cost.

Subchapter III—Wireless 911 Fund

PSC 173.06 Grant applications from wireless providers. (1) A wireless provider may apply to receive a grant from the wireless 911 fund as reimbursement for costs estimated in sub. (2). Except as provided in sub. (6), the wireless provider shall submit an application to the commission no later than the

first day of the third month beginning after the effective date of this section ….[revisor inserts date].

(2) An application under sub. (1) shall contain an itemized estimate, and supporting documentation, of the costs that the applicant has incurred, or will incur, during the reimbursement period to upgrade, purchase, lease, program, install, test, operate, or maintain all data, hardware, and software necessary to comply with the federal wireless orders in this state. This estimate may not include any costs for the implementation of wireless 911 emergency service in this state for which the wireless provider has been reimbursed by customers before or during the reimbursement period.

(3) An application under sub. (1) shall declare the amount of money the wireless provider has recovered or will recover from customers in this state, apart from the wireless surcharge established pursuant to s. PSC 173.10, as reimbursement for costs the wireless provider has incurred or will incur to implement wireless 911 service. The declaration shall include all money recovered from customers with a recurring billing statement or pre−paid service agreement using a separate line item charge identified as related to or associated with the implementation, installation, maintenance, or operation of wireless 911 emergency service network facilities or service features in this state, regardless of whether the amount collected was actually used for that purpose.

(4) An application under sub. (1) shall contain a description or explanation of the geographic area in the which the wireless provider will provide wireless 911 service in this state. The application shall disclose which local governments within the geographic service area the wireless provider has described have requested from the provider either Phase I or Phase II wireless 911 service in accordance with 47 CFR 20.18(j).

(5) A wireless provider may not apply for a grant under this section if its provision of 911 service does not conform to applicable requirements set forth at 47 CFR 20.18.

(6) A wireless provider that does not provide service to customers in this state before September 3, 2003, may make an application under this section after the date specified in sub. (1), under s. PSC 173.11(6)(b).

PSC 173.07 Grant applications from local governments. (1) A local government that operates a wireless public safety answering point, or local governments that jointly operate a wireless public safety answering point, may apply to receive a grant from the wireless 911 fund as reimbursement for costs that the applicant has directly and primarily incurred, or will directly and primarily incur, or both, for leasing, purchasing, operating, or maintaining the wireless public safety answering point. The local government shall submit an application to the commission no later than the first day of the third month beginning after the effective date of this section ….[revisor inserts date].

(2) An application under sub. (1) shall do all of the following:

(a) Demonstrate with appropriate documentation that each county which itself is one of the local governments or in which any of the local governments is located has adopted a resolution to satisfy the requirement of ss. 146.70(3m)(c)3. or 4., Stats.

(b) Demonstrate that the designated public safety answering point will serve the geographic area specified by ss. 146.70(3m)(c)5. and 6., Stats.

(c) Demonstrate that the designated public safety answering point has complied with the requirements set forth in 47 CFR 20.18(j).

(d) Contain an estimate of costs under sub. (3).

(e) If an application is for the joint operation of a wireless public safety answering point by local governments, specify the manner in which the estimated costs are apportioned among the local governments.

(3) The estimate of costs under sub. (2)(d):

(a) Shall include an estimate of all costs that the applicant has directly and primarily incurred, or will directly and primarily incur, during the reimbursement period for leasing, purchasing, operating, or maintaining the wireless public safety answering point including costs for all of the following:

1. Necessary network equipment, computer hardware and software, database equipment, and radio and telephone equipment, that are located within the wireless public safety answering point.

2. Training operators of a wireless public safety answering point.

3. Network costs for delivery of calls from a wireless provider to a wireless public safety answering point.

4. Collection and maintenance of data used by the wireless public safety answering point, including data to identify a caller and the location of a caller.

5. Relaying messages regarding wireless emergency 911 telephone calls via data communications from the wireless public safety answering point to local government emergency call centers in operation before June 1, 2003, that dispatch the appropriate emergency service providers.

(b) May include costs directly and primarily incurred by the applicant between January 1, 1999, and September 3, 2003, for any costs identified in par. (a)1. or 4.

(c) May not include:

1. Costs related to any of the following:

a. Emergency service dispatch, including personnel, training, equipment, software, records management, radio communications, and mobile data network systems.

b. Vehicles and equipment in vehicles.

c. Communications equipment and software used to communicate with vehicles.

d. Real estate and improvements to real estate, other than improvements necessary to maintain the security of a wireless public safety answering point.

e. Salaries and benefits of operators of a wireless public safety answering point.

2. Any costs in sub. (3)(a) which the applicant has recovered in the form of a gift or grant for the purposes described in sub. (3)(a).

(4) Except to the extent approved by the commission under s. PSC 173.09(4), an application from a local government or governments under this section may request to receive a grant for only one wireless public safety answering point in each county.

PSC 173.08 Supplemental grants. (1) A county, or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county, may apply for a supplemental grant under this section if it is applying for a grant under s. PSC 173.07.

(2) (a) To receive a supplemental grant during all three years of the reimbursement period, a county, or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county, shall submit its application to the commission with its application under s. PSC 173.07, no later than the first day of the third month beginning after the effective date of this section ….[revisor inserts date].

(b) To receive a supplemental grant during the second and third year of the reimbursement period, a county, or a local

government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county, and that did not submit an application for a supplemental grant with its grant application under s. PSC 173.07, shall submit its application during the commission's second year review under s. PSC 173.11(6) by the date the commission establishes in a public notice.

(c) To receive a supplemental grant during the third year of the reimbursement period, a county, or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county, and that did not submit an application for a supplemental grant with its grant application under s. PSC 173.07 or during the commission's second year review, shall submit its application during the commission's third year review under s. PSC 173.11(6) by the date the commission establishes in a public notice.

(3) An application for a supplemental grant under this section is in addition to the application for grants that the local government may make under s. PSC 173.07.

(4) An application for a supplemental grant under this section is not subject to the restrictions set forth in s. PSC 173.07.

PSC 173.09 Review and approval of grant applications. (1) The commission shall provide reasonable notice to the clerk of each county, each wireless provider that has requested notice, and any other interested party, of the date on which an application under this subchapter is due. If an application under ss. PSC 173.06 or 173.07 is submitted after the deadline, the commission shall take action under sub. (7).

(2) After the receipt of an application requesting a grant under this chapter, the commission shall issue a notice of investigation in accordance with s. PSC 2.09 if it has not already done so.

(3) The commission shall approve an application if the commission determines all of the following:

(a) The costs estimated in the application have been, or will be, incurred for the purpose of promoting a cost−effective and efficient statewide system for responding to wireless emergency 911 telephone calls.

(b) The costs estimated in the application are reasonable.

(c) The application complies with the requirements of this chapter.

(d) If the application is from a local government and includes costs related to the collection and maintenance of data under s. PSC 173.07(2)(d), the requirements under sub. (6) are met.

(4) Notwithstanding sub. (3), the commission may only approve an application for a grant to reimburse a local government for costs under s. PSC 173.07(3)(a)5. related to relaying messages regarding wireless emergency 911 telephone calls via data communications from the wireless public safety answering point to local government emergency call centers in operation before June 1, 2003, that dispatch the appropriate emergency service providers, if the commission first determines that reimbursement of such costs is in the public interest and will promote public health and safety.

(5) If an application from a local government requests reimbursement under s. PSC 173.07(3)(a) for equipment and facilities that will also be used to terminate wireline 911 emergency telecommunications service, the commission shall presume that one half of the total cost of equipment and facilities is directly associated with wireless 911 service and can be reimbursed from the fund. An applicant may rebut this 50% presumption by providing sufficient evidence to demonstrate that the presumed ratio is unfair and would unreasonably burden local taxpayers with the recovery of costs directly and solely attributable to the addition of enhanced wireless 911 telephone service.

(6)(a) An application from a local government that requests reimbursement for costs related to the collection and maintenance of data under s. PSC 173.07(2)(d) shall be approved only if the commission determines all of the following:

1. The local government's collection of land information, and development of a land information system that is related to that purpose are consistent with the applicable county land records modernization plans developed under s. 59.72(3)(b), Stats.

2. The local government's collection of land information conforms to the standards on which such plans are based.

3. The local government's collection of land information does not duplicate land information collection and other efforts funded through the land information program under s. 16.967(7), Stats.

(b) For any determination made by the commission under par. (a) before July 1, 2005, the commission shall first request the advice of the land information board before making its determination.

(7) If a wireless provider or local government submits an application after the deadline specified in ss. PSC 173.06 and PSC 173.07, respectively, the commission shall reduce the costs approved under sub. (3) by the following amounts:

(a) If the application is less than 1 week late, 5%.

(b) If the application is 1 week or more but less than 2 weeks late, 10%.

(c) If the application is 2 weeks or more but less than 4 weeks late, 25%.

(d) If the application is 4 weeks or more late, the wireless provider or local government is not eligible for a grant.

(8) If the commission does not approve an application under sub. (3), the commission shall provide the applicant with the commission's reasons and give the applicant an opportunity to resubmit the application. If the commission approves a part of the application, the commission shall provide the applicant with the commission's reasons for disapproving part of the application and give the applicant an opportunity to resubmit the portion of the application previously disapproved.

(9) For any application approved by the commission under sub. (3), the wireless provider or a local government that submitted the application may revise the application before the commission makes a disbursement to that wireless provider or local government.

PSC 173.10 Wireless 911 surcharge. (1) CALCULATION. (a) Upon the request of the commission, each wireless provider shall file with the commission a report setting forth the number of its wireless telephone numbers with billing addresses in this state that are billed on a recurring basis and the number of its wireless telephone numbers subject to a pre−paid service agreement with a customer with an address in this state or sold within this state, as of the date specified in the commission request.

(b) The commission shall determine the amount of the wireless surcharge by dividing the sum of the total amount of money requested from all grant applications approved under s. PSC 173.09 and the reasonable administration costs under 173.11(2) by 36, and then dividing that result by the total number of telephone numbers served by wireless providers and reported under sub. (a).

(2) COLLECTION. (a) Each wireless provider shall impose the wireless surcharge for each telephone number of a

customer that has a billing address in this state on each bill rendered during the surcharge period.

(b) The wireless surcharge shall be calculated and applied on a monthly basis. The wireless surcharge shall be the same for each wireless telephone number, regardless of the serving wireless provider, except that:

1. For a customer that is billed on a recurring basis other than monthly, the wireless provider shall impose a surcharge equal to the amount of the wireless surcharge times the number of months of service billed in that customer's billing statement times the number of telephone numbers billed or assigned to that customer.

2. For a customer with prepaid wireless telephone service, the wireless provider shall charge to that customer's prepaid account the amount of the monthly surcharge when the telephone becomes an active prepaid wireless telephone, provided the balance of the prepaid account is greater than or equal to the monthly wireless surcharge.

(c) Each wireless provider shall pay the full amount of the surcharge collected to the commission within 20 days of the end of the month in which the surcharge was collected for deposit in the wireless 911 fund. A wireless provider may not withhold any portion of the surcharge it collects as reimbursement for the cost of billing and collecting the surcharge, or for any other purpose.

(d) In the event that a customer tenders a partial payment of the monthly bill for wireless telecommunications service or other wireless service agreement, the serving wireless provider shall credit and remit to the commission the full amount of the wireless surcharge billed and due, irrespective of any contrary written directions from the customer, before applying the partial payment to any other outstanding charge for wireless telecommunications service.

PSC 173.11 Fund administration. (1) DESIGNATION. *The commission may designate a fund administrator.*

(2) ADMINISTRATIVE COSTS. The commission may recover from the wireless 911 fund its reasonable costs related to the administration of the fund.

(3) DEPOSIT OF FUNDS. The commission shall ensure that the amounts billed and collected through the wireless surcharge and remitted to the commission are deposited in the wireless 911 fund. All amounts deposited in the fund, including moneys earned as interest, shall remain in the fund until disbursed as provided in this chapter.

(4) REQUIRED DOCUMENTATION. Wireless providers and local governments with approved applications for grants under this chapter shall submit requests for reimbursement that include all of the following:

(a) A sworn paid invoice to document the actual cost of any approved purchase from a vendor or supplier.

(b) Appropriate documentation, such as time slips for work performed by employees or attendance rosters and training outlines for training performed, to verify that any internal costs approved for reimbursement actually were incurred.

(c) Appropriate documentation to verify that local governments have complied with the requirements under 47 CFR 20.18(j).

(d) Any other documentation that the commission may request to ensure that the moneys disbursed by grant have been used in the manner proposed by the applicant and approved by the commission.

(5) DISBURSEMENTS. (a) The commission shall make quarterly payments to wireless providers and local governments that have approved applications for grants under this chapter.

(b) The amount disbursed each quarter to a wireless provider or local government shall be the unpaid amount of the grant approved by the commission under s. PSC 173.09 for that wireless provider or local government divided by the number of months remaining in the reimbursement period times 3, but the commission may not disburse more than the amount for which the wireless provider or local government has provided the documentation specified in sub. (4).

(c)1. The commission shall begin payment of approved grant amounts to wireless providers when the wireless provider has installed all necessary equipment, upgrades and interconnecting telecommunications circuits.

2.a. Except as provided in subd. 2.b., the commission shall begin payment of approved grant amounts to local governments when the enhanced wireless 911 telecommunications service is implemented and made available to wireless telephone subscribers located within the boundaries of that local government.

b. For grant applications that include a request for reimbursement for the purchase of equipment described in s. PSC 173.07(3)(a)1., the commission may begin quarterly payments of approved grant amounts related to that equipment after the start of the surcharge period and upon receipt of the documentation in sub. (4)(a).

(d) The commission shall withhold payment of an approved grant to a local government if that local government does not implement the wireless 911 service in its jurisdiction before the end of the reimbursement period, and the local government shall repay to the fund any money it already received from the fund.

(e) No wireless provider or local government may receive a total amount in grants that exceeds the lesser of the estimated amount approved by the commission under s. PSC 173.09 for that wireless provider or local government or the cost actually incurred and documented under sub. (4).

(f) In the event that the wireless 911 fund has an insufficient balance to make all scheduled payments, the commission may adjust or reschedule payments to ensure the solvency of the fund.

(g) In the case of a disbursement for a jointly operated wireless public safety answering point, the commission shall apportion the disbursement of the grant in the manner specified under s. PSC 173.07(2)(e).

(6) SECOND YEAR AND THIRD YEAR REVIEW. (a) The commission shall review the amount of the wireless surcharge and the status of scheduled disbursements prior to the thirteenth and twenty−fifth month of the surcharge period. To facilitate these reviews, the commission may request from wireless providers an updated count of the number of wireless telephone numbers billed on a recurring basis and the number of wireless telephone numbers subject to a pre−paid service agreement.

(b) A wireless provider that did not provide service to customers in this state before September 3, 2003, and did not otherwise apply for a grant under s. PSC 173.06, may apply for a grant during the second year or third year review by the date the commission establishes in a public notice. A wireless provider applying for a grant under this section shall comply with all other requirements of this chapter.

(c) A wireless provider or local government may revise an application approved under s. PSC 173.09 before the date on which the grant is disbursed.

(d) A county, or a local government in a county, that jointly operates a wireless public safety answering point with another county, or local government in another county, may apply for a supplemental grant under s. PSC 173.08 during the commission's second year or third year review if it did not

apply for a supplemental grant when it submitted its grant application under s. PSC 173.07.

(e) The commission may decrease the wireless surcharge at any time. The commission may increase the wireless surcharge, effective as of the thirteenth and twenty−fifth month of the surcharge period, after completion of the second year and third year review.

(7) FINAL REVIEW. At the conclusion of the reimbursement period, the commission shall distribute to wireless providers any funds collected but not disbursed or otherwise obligated. Funds shall be distributed to wireless providers in proportion to the providers' respective deposits into the fund. The commission shall withhold payment of this residual money until the provider agrees to credit its current customer accounts the full amount of the residual payment. If a provider does not agree, then that provider's distribution amount shall be proportionately distributed to those providers that have agreed. Upon completion of all scheduled payments, including the residual payments at the end of the reimbursement period, the commission shall discontinue the wireless 911 fund.

(8) COLLECTION ACTION AUTHORIZED. The commission may bring an action to collect a surcharge that is not paid by a customer. The customer's wireless provider is not liable for the unpaid surcharge.

PSC 173.12 Confidentiality of information. (1) The commission shall withhold from public inspection any information received under this subsection that would aid a competitor of a wireless provider in competition with the wireless provider.

SECTION 2. EFFECTIVE DATES.

(1) This rule, except s. PSC 173.10, shall take effect on the first day of the second month following publication in the Wisconsin administrative register.

(2) Section PSC 173.10 shall take effect on the first day of the eleventh month following publication in the Wisconsin administrative register.

Fiscal Estimate

The commission anticipates that this rule will create additional costs in the form of new workload. It is possible for the commission to absorb those costs within the commission budget, including the wireless 911 fund. Counties electing to participate in the wireless 911 project may incur additional costs that may not be reimbursed entirely by the wireless 911 fund. A completed Fiscal Estimate form is attached.

Initial Regulatory Flexibility Analysis

These rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. The agency has considered the methods in s. 227.114(2), Stats., for reducing the impact of the rules on small telecommunications utilities and finds that incorporating any of these methods into the rules would be contrary to the statutory objectives which are the basis for the rules. The agency finds that access from wireless telephones to emergency police, fire and medical services by means of the 911 emergency number is in the public interest, and that access to 911 services from wireless telephones should be uniformly deployed throughout the state to the maximum extent possible. Further, portions of the rule are permissive. They will only apply to a telecommunications utility if it chooses to have them do so.

Contact Information

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

Questions regarding this matter may be directed to docket coordinator Dennis Klaila at (608) 267−9780.

Notice of Hearing
Transportation
[CR 04−029]

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:

April 30, 2004

Wisconsin State Patrol District 7

W7102 Green Valley Road

Spooner, WI

12:00 PM

(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. In the Surface Transportation Assistance Act of 1982 (STAA), the federal government acted under the Commerce clause of the United States Constitution to provide uniform standards on vehicle length applicable in all states. The length provisions of STAA apply to truck tractor−semitrailer combinations and to truck tractor−semitrailer−trailer combinations. (See Jan. 6, 1983, Public Law 97−424, § 411) The uniform standards provide that:

- No state shall impose a limit of less than 48 feet on a semitrailer operating in a truck tractor−semitrailer combination.
- No state shall impose a length limit of less than 28 feet on any semitrailer or trailer operating in a truck tractor−semitrailer−trailer combination.
- No state may limit the length of truck tractors.
- No state shall impose an overall length limitation on commercial vehicles operating in truck tractor−semitrailer or truck tractor−semitrailer−trailer combinations.
- No state shall prohibit operation of truck tractor−semitrailer−trailer combinations.

The State of Wisconsin complied with the federal requirements outlined above by enacting 1983 Wisconsin Act 78 which amended s. 348.07 (2), Stats., and s. 348.08(1), Stats. This act created ss. 348.07 (2) (f), (fm), (gm) and 348.08 (1) (e) to implement the federal length requirements. In 1986 the legislature created s. 348.07 (2) (gr), Stats., to add

53 foot semitrailers as part of a two vehicle combination to the types of vehicles that may operate along with STAA authorized vehicles. (See 1985 Wisconsin Act 165)

The vehicles authorized by the STAA may operate on the national system of interstate and defense highways and on those federal aid primary highways designated by regulation of the secretary of the United States Department of Transportation. In 1984 the USDOT adopted 23 CFR Part 658 which in Appendix A lists the highways in each state upon which STAA authorized vehicles may operate. Collectively these highways are known as the National Network. In 1983 Wisconsin Act 78, the legislature enacted s. 348.07 (4), Stats., which directs the Wisconsin Department of Transportation to adopt a rule designating the highways in Wisconsin on which STAA authorized vehicles may be operated consistent with federal regulations.

The Department of Transportation first adopted ch. Trans 276 of the Wisconsin Administrative Code in December of 1984. The rule is consistent with 23 CFR Part 658 in that the Wisconsin rule designates all of the highways in Wisconsin that are listed in 23 CFR Part 658 as part of the National Network for STAA authorized vehicles. The federal regulation does not prohibit states from allowing operation of STAA authorized vehicles on additional state highways. The rule making authority granted to the Wisconsin Department of Transportation in § 348.07(4), Stats., allows the DOT to add routes in Wisconsin consistent with public safety. The rule making process also provides a mechanism to review requests from businesses and shipping firms for access to the designated highway system for points of origin and delivery beyond 5 miles from a designated route. A process to review and respond to requests for reasonable access is required by 23 CFR Part 658.

This proposed rule amends Trans 276.07(15), Wisconsin Administrative Code, to add two 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
STH 70	Spooner	STH 40 at Radisson
STH 70	STH 27 at Ojibwa	STH 13 at Fifield

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 Impact

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally−recognized tribes or bands. The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

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.

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.

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[1] The proposed rule text often achieves these objectives by consolidating individual segments into contiguous segments with new end points. In order to determine the actual highway segment added, it is necessary to compare the combined old designations with the combined new designation.

[2] 45−foot buses are allowed on the National Network and Interstate system by Federal law. Section 4006(b) of the Intermodal Surface Transportation Efficiency Act of 1991.

Submittal of proposed rules to the legislature

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

Natural Resources

(CR 03−028)

Ch. NR 216, relating to storm water discharge permits.

Natural Resources

(CR 03−106)

Ch. NR 25, relating to commercial fishing in Lake Michigan (trap net marking requirements).

Pharmacy Examining Board

(CR 04−002)

Ch. Phar 2, relating to the practical examination, NAPLEX and the multi−state pharmacy jurisprudence examination.

Workforce Development

(CR 03−125)

Ch. DWD 80, relating to worker's compensation.

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.

Accounting Examining Board
(CR 03−071)

An order affecting chs. Accy 1, 4, 5, 7 and 8, relating to updating code and changing requirements for licenses.

Effective 6−1−04.

Educational Approval Board
(CR 03−126)

An order affecting chs. EAB 3 and 4 relating to the regulation of for−profit postsecondary schools; out−of−state, non−profit colleges and universities; and in−state, non−profit institutions incorporated after 1991.

Effective 6−1−04.

Natural Resources
(CR 02−097)

An order affecting ch. NR 400 series, relating to the control of hazardous air contaminants.

Effective 7−1−04.

Natural Resources
(CR 02−144)

An order affecting ch. NR 25, relating to commercial fishing in Lake Michigan.

Effective 7−1−04.

Natural Resouces
(CR 03−064)

An order affecting ch. NR 116, relating to the exclusion of costs of a nonconforming building or a building with a nonconforming use.

Effective 5−1−04.

Natural Resources
(CR 03−107)

An order affecting ch. NR 20, relating to sport fishing for yellow perch in Green Bay and its major tributaries and all other tributary streams, rivers and ditches to Green Bay and commercial fishing for yellow perch in Green Bay.

Effective 7−1−04.

Physical Therapists Affiliated Credentialing Board
(CR 03−020)

An order affecting chs. PT 1 to 9 relating to the licensing of physical therapists and physical therapist assistants, as well as continuing education requirements.

Effective 5−1−04.

Psychology Examining Board
(CR 03−079)

An order affecting chs. Psy 1 and 5, relating to the definition of prohibited dual relationships, the elaboration of the prohibition on exploitative relationships, the responsibility of license−holders to cooperate with board investigations, a requirement to maintain records, and violations of broad orders.

Effective 6−1−04.

Transportation
(CR 03−122)

An order affecting ch. Trans 149, relating titling and registration of homemade, reconstructed or repaired salvage vehicles.

Effective 6−1−04.

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