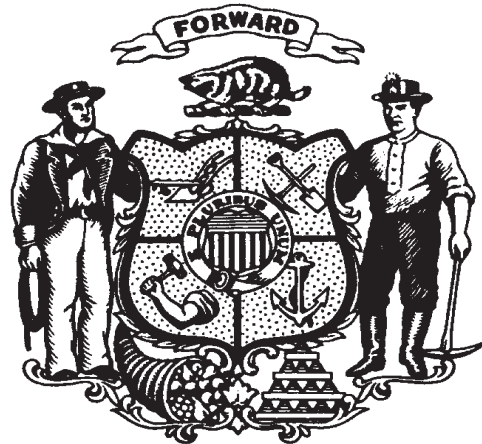


Wisconsin Administrative Register

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Emergency rules now in effect

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

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

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.

Health and Family Services

(Community Services, Chs. HFS 30—)

(Medical Assistance, Chs. HFS 100—)

Rules adopted revising **chs. HFS 105 and 107** and creating **ch. HFS 36**, 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.

Exemption from finding of emergency

2003 Wisconsin Act 33, s. 9124 (10m) authorizes the Department to promulgate these rules using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. These are the emergency rules. Similar initial proposed rules were submitted to the Legislative Council Rules Clearinghouse on March 23, 2004.

Plain language analysis

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 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.

Publication Date: June 29, 2004

Effective Date: July 1, 2004

Expiration Date: November 28, 2004

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

Rules adopted revising **ch. HFS 119**, relating to operation of the health insurance risk-sharing plan (HIRSP).

Exemption from finding of emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats., by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. These are the emergency rules. Department staff consulted with the Health Insurance Risk-Sharing Plan (HIRSP) Board of Governors on April 21, 2004 regarding the rules, as required by s. 149.20, Stats.

Plain language analysis

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP). HIRSP provides major medical health insurance for persons who are covered under Medicare because they are disabled, persons who have tested positive for HIV, and persons who have been refused coverage or who cannot get coverage at an affordable price in the private health insurance market because of their mental or physical health conditions. Also eligible for coverage are persons who do not currently have health insurance coverage, but who were covered under certain types of health insurance coverage (called creditable coverage) for at least 18 months in the past. According to state law, HIRSP policyholder premium rates must fund sixty percent of plan costs. The remaining funding for HIRSP is to be provided by insurer assessments and adjustments to provider payment rates, in co-equal twenty percent amounts.

Publication Date: June 29, 2004
Effective Date: July 1, 2004
Expiration Date: November 28, 2004

Publication Date: June 10, 2004
Effective Date: June 10, 2004
Expiration Date: November 7, 2004
Hearing Date: August 25 and 26, 2004

Insurance

Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2004.

Finding of emergency

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

Actuarial and accounting data necessary to establish PCF fees is first available in December of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2004.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 04-032, will be filed with the secretary of state in time to take effect October 1, 2004. Because the fund fee provisions of this rule first apply on July 1, 2004, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 18, 2004.

Publication Date: June 22, 2004
Effective Date: July 1, 2004
Expiration Date: November 28, 2004

Natural Resources (4) (Fish, Game, etc., Chs. NR 1-)

1. Rules adopted revising **chs. NR 10 and 19**, relating to the regulation of baiting and feeding to control and manage chronic wasting disease and bovine tuberculosis.

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. The state legislature has also delegated to the department rule – making authority in 2003 Wisconsin Act 240 to regulate feeding of wild animals for non-hunting purposes including recreational and supplemental feeding. 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.

2. Rules adopted amending **s. NR 25.09 (2) (b) 2. e.**, relating to commercial fishing with trap nets in Lake Michigan.

Finding of emergency

The use of the emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect public peace, health, safety or welfare. A statement of facts constituting the emergency is: The rule change will clarify the boundaries of the trap net area and thus reduce or prevent potential user conflicts between recreational and commercial fishers in the Manitowoc/Two Rivers area by changing the locations where commercial trap nets may be set from June 28 to Labor Day.

Publication Date: June 28, 2004
Effective Date: June 28, 2004
Expiration Date: November 25, 2004
Hearing Date: August 2, 2004

3. Rules adopted creating **ss. NR 1.05, 1.06 and 1.07**, relating to Natural Resources Board policies on protection and management of public waters.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

- Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).
- Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.
- Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of

neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

4. Rules adopted revising **ch. NR 10**, relating to the 2004 migratory game bird seasons.

Finding of emergency

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

Publication Date: August 31, 2004
Effective Date: August 31, 2004
Expiration Date: January 28, 2005
Hearing Date: October 13, 2004
 [See Notice this Register]

Natural Resources (11)

(Environmental Protection – Water Regulation, Chs. NR 300—)

1. Rules adopted revising **ch. NR 300** and repealing **ch. NR 322**, relating to timelines and procedures for exemptions, general permits and individual permits for activities in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid

in administering the new law, the following severe problems will occur:

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- Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

- Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004*
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004
Extension Through: November 14, 2004

*On June 24, 2004, the Joint Committee for Review of Administrative Rules suspended s. NR 310.17 (4) (a).

2. Rules adopted revising **ch. NR 320**, relating to the regulation of bridges and culverts in or over navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

3. Rules adopted revising **ch. NR 323**, relating to fish and wildlife habitat structures in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by

emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004
Extension Through: November 14, 2004

4. Rules adopted revising **ch. NR 325**, relating to boathouses and fixed houseboats in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of

natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004
Extension Through: November 14, 2004

5. Rules adopted revising **ch. NR 326**, relating to regulation of piers, wharves, boat shelters, boat hoists, boat lifts and swim rafts in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

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To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: April 19, 2004
Effective Date: April 19, 2004*
Expiration Date: September 16, 2004
Hearing Date: May 19, 2004

*On June 24, 2004, the Joint Committee for Review of Administrative Rules suspended this emergency rule.

6. Rules adopted revising **ch. NR 328**, relating to shore erosion control of inland lakes and impoundments.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as "areas of special natural resource interest" or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

7. Rules adopted revising **ch. NR 329**, relating to miscellaneous structures in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

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To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

8. Rules adopted revising **ch. NR 340**, and creating **ch. NR 343**, relating to regulation of construction, dredging, and enlargement of an artificial water body.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

9. Rules adopted revising **ch. NR 345**, relating to dredging in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to

streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams (for example, all new riprap and culvert applications currently require public notices).

Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation. Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water-based recreation and tourism industry.

To carry out the intention of the Legislature that 2003 Act 118 to speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for exemptions, general permits and jurisdiction under the new law.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

10. Rules adopted repealing s. NR 340.02 (2), (8) and (19) and to creating ch. NR 341, relating to regulation of grading on the bank of a navigable waterway.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general

permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

- Until general permits are created by rule, any activity which is not exempt requires an individual permit with an automatic 30-day public notice. The required 30-day comment period will unnecessarily delay hundreds of construction projects that otherwise could go ahead with specified conditions for protecting lakes and streams.

- Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin’s water-based recreation and tourism industry.

To carry out the intention of the Legislature that Act 118 will speed decision-making but not diminish the public trust in state waters, these emergency rules are required to establish definitions, procedures and substantive standards for general permits and jurisdiction under the new law.

Publication Date: May 19, 2004
Effective Date: May 19, 2004
Expiration Date: October 16, 2004
Hearing Date: June 16, 2004
Extension Through: December 14, 2004

11. Rules adopted creating ch. NR 310, relating to procedures for exemptions, general permits and individual permits for activities in navigable waterways.

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 Wisconsin Legislature recently enacted 2003 Wisconsin Act 118, to streamline the regulatory process for activities in public trust waters. The state has an affirmative duty to administer the new law in a manner consistent with the public trust responsibilities of the State of Wisconsin under Article IX, Section I of the Wisconsin Constitution.

2003 Act 118 identifies certain activities that may be undertaken in public trust waters exempt from a permit, or under a general permit. Certain activities may not be undertaken in waters that are defined as “areas of special natural resource interest” or at other locations where the activity would cause detrimental impacts on public rights and interests in navigable waters. Without emergency rules to aid in administering the new law, the following severe problems will occur:

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- Unclear wording of exemptions currently puts property owners, contractors and consultants at risk of violation.

Without clear procedures and standards established by emergency rule, many more people may request exemption determinations, slowing the decisions on individual permit applications.

- Wording of exemptions and temporary grading jurisdiction puts lakes and streams at risk. Without standards as intended and described in the new law, exempted activities and grading along shorelines will cause inadvertent but permanent destruction of fish and wildlife habitat, loss of natural scenic beauty and reduced water quality. Rights of neighboring property owners may also be harmed. Cumulatively over one or two construction seasons, these impacts will have immediate and permanent effects on Wisconsin's water-based recreation and tourism industry.

Publication Date: August 24, 2004
Effective Date: August 24, 2004
Expiration Date: January 21, 2005
Hearing Date: September 28, 2004

Public Instruction

Rules were adopted revising **ch. PI 35**, relating to financial reporting requirements under the Milwaukee Parental Choice Program.

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 welfare. A statement of the facts constituting the emergency is:

Per 2003 Wisconsin Act 15, the provisions under the rule must take effect beginning in the 2004–05 school year. Because some of the reporting requirements must be made by August 1, the rule must be in place as soon as possible to give the private schools enough notice to meet such requirements.

Publication Date: June 30, 2004
Effective Date: June 30, 2004
Expiration Date: November 27, 2004
Hearing Date: September 13, 2004

Regulation and Licensing

Rules were adopted repealing **ss. RL 31.035 (1m) and 31.036 (1m)**; and creating **ss. RL 4.01 (3g), (3r) and (5m), 4.07 and 4.09**, relating to criminal background investigations of applicants.

Exemption from finding of emergency

SECTION 4, Nonstatutory provisions., of 2003 Wisconsin Act 151 states: “(1) The department of regulation and licensing may, using the procedure under section 227.34 of the statutes, promulgate the rules under section 440.03 (13) (b) of the statutes, as created by this act, for the period before permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public

peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

Analysis prepared by the Department of Regulation and Licensing

This emergency rule is promulgated pursuant to 2003 Wisconsin Act 151. Act 151 was created in response to federal Public Law 92–544, which required authorization by state statute to continue the FBI's policy of honoring state requests for criminal background reports.

Act 151 modifies the authority of the Department of Regulation and Licensing to conduct criminal background checks of applicants and requires rule-making by the Department to conduct investigations whether an applicant for or holder of any credential issued by the Department has been charged with or convicted of a crime. The emergency rule preserves the ability of the Department to continue its practice of conducting criminal background investigations of applicants and credential holders.

Publication Date: July 3, 2004
Effective Date: July 3, 2004
Expiration Date: November 30, 2004
Hearing Date: October 1, 2004

Revenue

Rules adopted creating **s. Tax 2.99**, relating to the dairy investment credit.

Finding of emergency

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

The emergency rule is to clarify the following terms as they apply to the dairy investment credit:

- “amount the claimant paid in the taxable year,”
- “dairy farm modernization or expansion,”
- “milk production,” and
- “used exclusively related to dairy animals.”

It is necessary to promulgate this rule order to remove the threat of inappropriate credit claims and the revenue loss to the state as a result of clarification of the above terms being absent in the statutes.

Publication Date: September 17, 2004
Effective Date: September 17, 2004
Expiration Date: January 14, 2005

Revenue

Rules adopted creating **s. Tax 3.04**, relating to the subtraction from income allowed for military pay received by members of a reserve component of the armed forces.

Finding of emergency

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

Section 71.05 (6) (b) 34, Stats., provides that a subtraction from income may be claimed for “any amount of basic, special, and incentive pay received from the federal government by a person who is a member of a reserve component of the U.S. armed forces, after being called into active federal service under the provisions of 10 USC 12302 (a) or 10 USC 12304, or into special state service authorized by the federal department of defense under 32 USC 502 (f), that is paid to the person for a period of time during which the person is on active duty.”

Included under 32 USC 502 (f) are persons who are serving on active duty or full-time duty in the active guard reserve (AGR) program. Discussion between the departments of revenue and military affairs and legislative personnel revealed that it was not intended that these persons benefit from the subtraction provided for in s. 71.05 (6) (b) 34, Stats.

It is necessary to promulgate this rule order to remove the threat of inappropriate subtractions from income and the revenue loss to the state as a result of information contained in the statutes that implies persons who are serving on active duty or full-time duty in the active guard reserve program are eligible to claim the subtraction from income for military pay received by members of a reserve component of the armed forces.

Publication Date: September 17, 2004
Effective Date: September 17, 2004
Expiration Date: January 14, 2005

Transportation

Rules adopted creating **ch. Trans 135**, relating to creation of a school bus oxidation catalyst grant program in certain counties.

Exemption from finding of emergency

The Legislature, by Section 2r of 2003 Wis. Act 220, provides an exemption from a finding of emergency for the adoption of the rule.

Analysis prepared by the Department of Transportation

Plain Language Analysis: 2003 Wis. Act 220 requires the Wisconsin Department of Transportation, in consultation with the Wisconsin Department of Natural Resources, to develop and administer a program to provide grants for the purchase and installation of oxidation catalysts on school buses customarily kept in the counties identified in s. 110.20 (5), Stats.: Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington and Waukesha. Act 220 amends s. 20.395 (5) (hq), Stats., to provide funds for the grant program under WisDOT’s vehicle inspection/maintenance (I/M) program appropriation.

Publication Date: September 1, 2004
Effective Date: September 1, 2004
Expiration Date: See Section 2r 2003 Wis. Act 220
Hearing Date: September 14, 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 manufacturing, 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

* On April 28, 2004, the Joint Committee for Review of Administrative Rules suspended s. DWD 274.035 created as an emergency rule.

Scope statements

Agriculture, Trade and Consumer Protection

Subject

Pesticide Product Restrictions.

Objective of the rule. Modify the rule to create restrictions on the use of pesticides applied as fumigants that contain Metam-sodium as an active ingredient

Policy analysis

DATCP regulates distribution and use pesticides under s. 94.67–94.715, Stats. Pesticides are substances or mixtures of substances labeled or intended for use in preventing, destroying, repelling or mitigating any pest, or as a plant regulator, defoliant or desiccant. Metam-sodium is a pesticide applied as fumigant.

Metam-sodium is a toxic and corrosive pesticide that is registered for use as a fumigant by the US Environmental Protection Agency. The EPA approved label for this registration specifies use directions and precautions to be followed by persons applying the pesticide. The compound is used in Wisconsin to treat fields on which potatoes will be grown. ATCP 30 was modified in 1998 to include restrictions and conditions on the use of metam-sodium. The department has recently received input from the public that some of the current use restrictions and conditions should be modified to further reduce the potential for adverse health effects to humans that could result following use of the fumigant.

The registration for metam-sodium is currently under review by EPA, but no timeline for this process has been established. No other restrictions, outside of the registered label, are in place or are being proposed by EPA.

DATCP proposes to consider revisions to the current rule including:

- Additional mandatory setbacks between treatment sites and day care centers and other areas to reduce the potential for human exposure.
- Modification of use and post-treatment practices.
- Clarification of weather and site related limitations on use.
- Clarification of posting and other pre-application notification requirements.
- Specification of application monitoring, response and reporting requirements.
- Specification of reporting requirements.
- Other appropriate requirements based on evaluation of stakeholder input.

Policy alternatives

No change. Use of the fumigant in Wisconsin is expected to continue. It appears that current label restrictions can be improved to reduce the potential for human exposure.

Statutory authority

DATCP proposes to revise chapter ATCP 30, Wis. Adm. Code, under authority of ss. 93.07 and 94.69, Stats.

Staff time required

DATCP estimates that it will use approximately 0.2 FTE staff to develop this rule. This includes time required for investigation and analysis, rule drafting, preparing related documents, coordinating advisory committee meetings, holding public hearings and communicating with affected persons and groups. DATCP will use existing staff to develop this rule.

Health and Family Services

Subject

Objective of the rule. The Department of Health and Family Services proposes to create ch. HFS 19, relating to rules that disclose in advance the discretion that the agency will use in the enforcement of rules and guidelines against a small business.

Policy analysis

2003 Wisconsin Act 145, created effective July 1, 2004, s. 895.59, Stats., which requires each state agency to promulgate a rule that requires the agency to disclose the discretion that the agency will use in the enforcement of rules and guidelines against small businesses.

The rules created under s. 895.59, Stats., are required to include a reduction or waiver of penalties for voluntary disclosure by a small business of actual or potential violations of rules or guidelines. Section 895.59, Stats., further requires that the rule specify when the use of discretion in the enforcement of a rule or guideline against a small business will not be allowed. Section 895.59 (2), Stats., includes a list of circumstances under which discretion is not allowed. These circumstances must also be included in the rule. The rules may include consideration of a violator's ability to pay when determining the amount of any monetary penalty, assessment, or surcharge.

“Small business” as defined under s. 895.59 (1) (b), Stats., means a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs 25 or fewer employees or which has gross annual sales of less than \$5,000,000. Entities that are covered under ss. 48.685 and 50.065, Stats., also known as the Caregiver Law are not considered small businesses for the purposes of s. 895.59, Stats., or any rule created under that section.

The Department proposes to create a rule consistent with the requirements of s. 895.59, Stats.

Statutory authority

Sections 227.11 (2) and 895.59 (2), Stats.

Staff time required

The Department estimates it will take approximately 160 staff hours to promulgate the proposed rules.

Entities affected by the rules

Entities that may be affected by the proposed rules include the following: Emergency Medical and Ambulance Service Providers; Asbestos & Lead Abatement Providers,

Consultants, and Trainers; Hotels and Motels; Bed and Breakfasts; Tourist Rooming Houses; Recreational and Educational Campgrounds; Restaurants (including mobile restaurants); Tattoo and Body Piercing Establishments; and Tanning Bed Facilities; and Medical Assistance providers.

Comparison to federal regulations

There appear to be no proposed or existing federal regulations that are intended to address the activities to be regulated by the proposed rule.

Hearing and Speech Examining Board

Subject

Various changes relating to the regulation of hearing instrument specialists, speech–language pathologists and audiologists.

Objective of the rule. To implement the provisions enacted by the Legislature in 2003 Wisconsin Act 270.

Explanation of the agency's statutory authority to promulgate the rules

Sections 15.08 (5) (b), 227.11 (2), 459.12, 459.24 (5m) and (6) (c), Stats.

The agency has the authority to promulgate the rules under authority granted by 2003 Wisconsin Act 270 and by existing statutory authority.

The board will write rules to exempt new licensees from having to report continuing education hours at the time of the first renewal date following initial licensure. (Refer to ss. 459.09 (1) (b), 459.12 (1), 459.24 (5) (b) and (5m), Stats.)

The board will write rules to add a hardship provision and designate a period of validity for the temporary license coterminous with a failure to take the next available examination under s. 459.24 (6) (c), Stats.

The board will write rules to allow an equivalency decision for the postgraduate clinical fellowship in speech–language pathology on the basis of education or training received. (Refer to s. 227.11, Stats.)

The board will now allow supervision under a training permit by audiologists. (Refer to s. 459.12 (1), Stats.)

The board will write rules to define unprofessional conduct for audiologists and speech–language pathologists. (Refer to ss. 227.11 and 459.12 (1), Stats.)

Policy analysis

Changes are being proposed to implement 2003 Wisconsin Act 270. Exempting new licensees from the initial renewal period is an attempt to allow time for compliance with the continuing education requirements.

Designating a period of validity for the temporary license adds a hardship provision to accommodate certain delays in taking the examination that are beyond the control of the applicant and gives the board the ability to terminate the temporary license upon failure of an applicant to take the next available examination, thereby encouraging examination at the earliest possible date.

Allowing an equivalency decision for the postgraduate clinical fellowship in speech–language pathology on the basis of education or training adds flexibility for the board in reviewing an applicant's overall education and training for fitness to be licensed.

Allowing supervision under a temporary license by audiologists increasing training opportunities for those

working under a permit and allows audiologists to supervise the training.

Rules defining unprofessional conduct for audiologists and speech–language pathologists will provide clear guidance to license holders as to what constitutes unprofessional conduct and extend additional options to the board in its efforts to protect public health and safety through enforcement action.

Comparison to federal regulations

None. Checked the U.S. Code and Federal Register.

Statutory authority

Sections 15.08 (5) (b), 227.11 (2), 459.12, 459.24 (5m) and (6) (c), Stats.

Staff time required

150 hours.

Natural Resources

Subject

Objective of the rule. The Department requests authorization to begin development of an administrative rule establishing a voluntary registry of professional loggers. Such a "Cooperating Professional Timber Producer Program" would be patterned along the lines of the Cooperating Forester Program in ch. NR 1.213, Wis. Adm. Code. The objective of the proposed program is to improve sustainable management of Wisconsin's forests by providing land managers with names of logging firms that willingly agree to training standards and principles of conduct.

Policy analysis

Harvesting timber is a key element in Wisconsin's annual \$20 billion forest products industry. The point at which timber is cut can have a profound impact on soil stability, water quality, endangered resources, cultural heritage, forest aesthetics and many other values. While only an estimated 20% of private timber in Wisconsin is cut with the help of a trained forester, nearly all harvests involve a logger (the exception being landowners who cut their own trees). Helping land managers make informed decisions about selecting well trained, professional loggers can go a long ways in protecting the productivity of the forest resource.

A number of state agencies including DNR, DATCP and UWEX provide educational materials to landowners to help them avoid complications with questionable timber cutting practices. Many people remain uncertain, however, about harvesting. Concern about the quality of logging and long–term consequences of potentially destructive logging is common, especially for most landowners that may sell timber only once or twice in their lifetimes.

When people turn to the Department of Natural Resources for lists of timber producers to contact, there is an expectation that some filter for proficiency will be given. A program establishing sideboards will help the agency consistently and fairly distinguish among firms. Currently, the best the Department can do is recommend that land managers inquire about loggers' qualifications and professional association memberships, look into references, or check for convictions and judgments.

Considering the impact logging has on social, commercial and environmental values, the mission of the Department would be served if we were able to offer names of loggers agreeing to certain standards. To that end, the Department proposes establishment of a Cooperating Professional Timber

Producer program. A similar program for private enterprise foresters was established under Chapter NR 1.213, Wisconsin Administrative Code in 1989 and is quite successful. Participants in a professional timber producer program would need to meet entry standards and voluntarily adhere to ethical and silviculture principles, as is required in the Wisconsin Cooperating Forester program. The specifics of the program would be worked out with an ad hoc team including loggers and other stakeholders prior to requesting Board consent for hearings in spring 2005.

Statutory authority

Sections 26.35, 28.01, and 28.07, Stats., provide authority for this rule.

Staff time required

Approximately 170 hours will be needed by the Department. An ad hoc team of stakeholders should develop the rule and draft a Cooperating Professional Timber Producer Agreement form. Three public hearings are recommended prior to Board consideration for adoption.

Comparison to federal regulations

There are numerous laws and regulations related to environmental protection (e.g. spills of petroleum products), transportation (e.g., highway load restrictions), timber theft, zoning restrictions (e.g., cutting vegetation in riparian management zones), endangered species protection, workers compensation insurance, OSHA safety regulations, etc. that affect timber producers. Logging firms are not otherwise specifically regulated or licensed under Wisconsin or federal laws. The proposed Cooperating Professional Timber Producer program would not create any new mandatory requirements.

Regulation and Licensing

Subject

Revisions to administrative rules relating to the regulation of licensed and certified real estate appraisers.

Objective of the rule. To clarify and update the administrative rules relating to the regulation of licensed and certified real estate appraisers. Recommended changes relate to:

[1] Revisions to the application, examination, experience, qualifying education, continuing education and renewal requirements for licensed and certified real estate appraisers to reflect changes made to the Real Property Appraiser Qualification Criteria and Interpretations of the Criteria adopted by the Appraisers Qualifications Board (AQB) of the Appraisal Foundation on February 20, 2004.

[2] Revisions to the education and experience audit requirements for licensed and certified real estate appraisers to reflect the changes to Statement 10 of the *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* proposed by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

[3] Revisions relating to unprofessional conduct.

[4] Clarity, grammar, punctuation and use of plain language.

Policy analysis

Existing policies are contained in Chapters RL 80–87 and Appendix I. The proposal would revise:

[1] Definitions.

[2] Applications, examination, experience, qualifying education, continuing education and renewal requirements.

[3] Rules of unprofessional conduct.

[4] Make minor, technical and grammatical changes.

Federal Regulations

A. Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (“FIRREA”).

(1) In general:

The Federal Institutions Reform, Recovery, and Enforcement Act (“FIRREA”), 12 U.S.C. 3331 et seq., (Title XI) was enacted in 1989. Under FIRREA, insured financial institutions and insured credit unions are required to obtain the services of a state certified or licensed appraiser for appraisals conducted in connection with “federally related transactions.”

Under FIRREA, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council is required to monitor state appraiser certifying and licensing agencies for the purpose of determining whether a state agency’s policies, practices, and procedures are consistent with the federal law. The Appraisal Subcommittee may not recognize appraiser certifications and licenses from states whose appraisal policies, practices, or procedures are found to be inconsistent with FIRREA. Before refusing to recognize a state’s appraiser certifications or licenses, the Appraisal Subcommittee must provide that state’s certifying and licensing agency with a written notice of its intentions not to recognize the state’s certified or licensed appraisers and ample opportunity to provide rebuttal information or to correct the conditions causing the refusal. A decision of the Subcommittee to refuse to recognize a state’s appraiser certifications or licenses is subject to judicial review. 12 U.S.C. 3331 et seq.

In 1997, the Appraisal Subcommittee adopted the *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers*, which all states must comply with. [The Appraisal Subcommittee’s Policy Statements are available at: <http://www.asc.gov>.]

(2) Appraiser Qualifications:

Under FIRREA, the state criteria for the qualifications of certified real estate appraisers must meet the minimum qualifications criteria for certification established by the Appraiser Qualifications Board (AQB) of the Appraisal Foundation. The minimum qualifications criteria established by the AQB are set forth in the *Real Property Appraiser Qualification Criteria and Interpretations of the Criteria* (“Criteria”). The AQB Criteria includes the minimum experience, examination, qualifying education and continuing education requirements that must be satisfied by an individual in order to obtain and maintain a certified appraiser credential. [The AQB Criteria is available on the Internet at: <http://www.appraisalfoundation.org>.]

Under FIRREA, the states may establish their own qualifications and requirements for licensed appraiser credentials. The states are not obligated to adopt the minimum experience, examination, education and continuing education requirements recommended by AQB for the licensure of real estate appraisers. However, the Appraisal Subcommittee recommends that all states adopt the AQB Criteria established for licensed appraisers. The Department of Regulation and Licensing has adopted substantially all of the requirements set forth in the AQB Criteria established for the licensure of real estate appraisers.

States Regulations.

Under FIRREA, all states, including Illinois, Iowa, Indiana, Michigan and Minnesota, that certify real estate appraisers for purposes of conducting appraisals in federally related transactions must assure compliance with the AQB Criteria. In addition, the Appraisal Subcommittee recommends that all states assure compliance with the AQB Criteria for the licensure of real estate appraisers.

Statutory authority

Sections 227.11 (2), 458.03 (1) (b), 458.06, 458.08 and 458.085, Stats.

Staff time required

120 hours.

Revenue

Subject

S. Tax 2.99, relating to the dairy investment credit.

Description of all entities that will be affected by the rule

Entities that operate Wisconsin dairy farms, as well as entities that prepare Wisconsin income tax returns, will be affected by the rule.

Summary of, and comparison with, existing or proposed federal regulation

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule. Description of policy issues:

Objective of the rule. The objective of the proposed rule is to clarify the following terms as they relate to the dairy investment credit, which was created by 2003 Wisconsin Act 135:

- “amount the claimant paid in the taxable year,”
- “dairy farm modernization or expansion,”
- “milk production,” and
- “used exclusively related to dairy animals.”

Policy analysis

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect the creation by 2003 Wisconsin Act 135 of the dairy investment credit. If the rules are not changed, they will be incomplete in that they will not provide clarification of certain terms used in the statutory language of the credit.

Statutory authority

227.11 (2) (a), Stats.

Staff time required

The department estimates it will take approximately 60 hours to develop this rule order.

Revenue

Subject

S. Tax 3.04, relating to the subtraction for military pay received by members of a reserve component of the armed forces.

Description of all entities that will be affected by the rule

Members of a reserve component of the armed forces, as well as entities that prepare Wisconsin income tax returns, will be affected by the rule.

Summary of, and comparison with, existing or proposed federal regulation

There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Policy analysis

Objective of the proposed rule. The objective of the proposed rule is to clarify that the subtraction from income for military pay received by members of a reserve component of the armed forces is not available to persons who are serving on active or full-time duty in the active guard reserve (AGR) program under 32 USC 502 (f).

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect the creation by 2003 Wisconsin Act 183 of the subtraction from income for military pay received by members of a reserve component of the armed forces. If the rules are not changed, they will be incomplete in that they will not provide clarification that persons who are serving on active or full-time duty in the active guard reserve (AGR) program under 32 USC 502 (f) are not eligible to claim the subtraction.

Statutory authority

227.11 (2) (a), Stats.

Staff time required

The department estimates it will take approximately 60 hours to develop this rule order.

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 September 14, 2004, the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Subject Matter

The subject matter of the proposed rule relates chs. ATCP 10 to 12, 17, 55 and 60, livestock premises registration.

Agency Procedure for Promulgation

A public hearing will be held.

The department's Animal Health Division is primarily responsible for this rule.

Contact Information

Melissa Mace
608 224-4883

Financial Institutions — Banking

Rule Submittal Date

Pursuant to s. 227.14 (4m), Stats., notice is hereby provided of the Department of Financial Institutions, Division of Banking's submittal to the Legislative Council of proposed rule creating s. DFI—Bkg 74.09 (5). The date on which the proposed rule was submitted to the council for review was September 9, 2004.

Subject Matter

The subject matter of the proposed rule relates to authorizations to consolidate accounts. A hearing on this rule is required. The organizational unit primarily responsible for the promulgation of this rule is the Department of Financial Institutions, Division of Banking.

Agency Procedure for Promulgation

Pursuant to s. 227.17 (1) (a), Stats., a notice of hearing regarding this rule is hereby submitted for publication in the Administrative Register. Pursuant to s. 227.17 (2m), Stats., this notice has been approved by the Secretary, Department of Financial Institutions. Pursuant to s. 227.17 (1) (bm), Stats., a paper copy of the notice of hearing is being delivered to the Secretary, Department of Administration on September 8, 2004.

Contact Information

If you have any questions regarding this matter, please do not hesitate to contact:

Mark Schlei
608-267-1705

Transportation

Rule Submittal Date

On September 14, 2004, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Subject Matter

The subject matter of the proposed rule relates to issuance of driver licenses and identification cards.

Agency Procedure for Promulgation

A public hearing is required and scheduled for October 12, 2004.

The Division of Motor Vehicles is the organizational unit responsible for promulgation of the proposed rule.

Contact Information

Julie A. Johnson, Paralegal
608 266-8810

Transportation

Rule Submittal Date

On September 14, 2004, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Subject Matter

The subject matter of the proposed rule relates to proof of identity.

Agency Procedure for Promulgation

A public hearing is required and scheduled for October 12, 2004.

The Division of Motor Vehicles is the organizational unit responsible for promulgation of the proposed rule.

Contact Information

Julie A. Johnson, Paralegal
608 266-8810

Rule-making notices

Notice of Hearing

Agriculture, Trade and Consumer Protection

[CR 04-094]

(Reprinted from 9-15-04 Register)

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed amendment to chapter ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides. The hearing will be held at the time and place shown below. The department invites the public to attend the hearings and comment on the proposed rule. Following the public hearing, the hearing record will remain open until October 22, 2004, for additional written comments.

Written comments should be sent to the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management attention Randy Zogbaum, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708. Written comments can be submitted via email to randy.zogbaum@datcp.state.wi.us.

You may obtain a free copy of this rule and the environmental impact statement by contacting the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708. You can also obtain a copy by calling (608) 224-4524 or emailing randy.zogbaum@datcp.state.wi.us. Copies will also be available at the hearings. To view the proposed rule online, go to:

http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=26421661&infobase=code.nfo&j1=atcp%20&jump=atcp%20&softpage=Browse_Frame_Pg

Hearing impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by **September 24, 2004**, by writing to Randy Zogbaum, Division of Agricultural Resource Management, P.O. Box 8911, Madison, WI 53708-8911, telephone (608) 224-4524. Alternatively, you may contact the Department TDD at (608) 224-5058. Handicap access is available at the hearings.

Hearing Location:

Tuesday, October 5, 2004, 4 p.m. to 7 p.m.

Adams County Library
569 North Cedar Street
Meeting Room
Adams, WI 53910
Handicapped accessible

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

The Department of Agriculture, Trade and Consumer Protection ("DATCP") regulates pesticide use to prevent groundwater contamination. Current rules restrict the use of atrazine pesticides, and prohibit atrazine use in areas where groundwater contamination has exceeded state enforcement standards established by the Department of Natural Resources ("DNR").

This rule update expands one current atrazine prohibition area in Adams County, based on new groundwater data showing atrazine contamination in excess of DNR enforcement standards. This rule adds 1,280 acres to the current prohibition area. This rule does not eliminate any prohibition areas.

Statutory Authority

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

Statutes interpreted: ss. 94.69, 160.19, 160.21, 160.23 and 160.25, Stats.

DATCP has broad authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. DATCP has authority to adopt pesticide rules under s. 94.69 (1), Stats. Under ss. 160.19 (2) and 160.21 (1), Stats., DATCP must regulate pesticide use, as necessary, to prevent groundwater contamination and restore groundwater quality.

Background

DATCP currently regulates atrazine use to protect Wisconsin groundwater. Atrazine is an agricultural herbicide that has been widely used for many years. Atrazine has been found in groundwater in many areas of the state. Current DATCP rules do all the following:

- Specify maximum atrazine use rates. These rates are about half the rates normally allowed under the federal label.
- Limit the timing of atrazine applications. Under current rules, atrazine applications are allowed only from April 1 through July 31.
- Prohibit atrazine use on 1.2 million acres of land. Current rules prohibit atrazine use in 102 designated areas where contamination has been found at or above groundwater enforcement standards adopted by DNR. Current rules also prohibit atrazine mixing and loading operations that are not conducted over a spill containment surface.

Current rules spell out standards for the creation and repeal of prohibition areas. DATCP updates its atrazine rules each year, based on existing regulatory standards and new groundwater findings. This rule is a routine annual update to DATCP's current atrazine rules.

Rule Content

This rule expands one current prohibition area in Adams County, based on existing regulatory standards and new groundwater findings. This rule adds 1,280 acres to the current prohibition area (this rule contains a map showing the expanded prohibition area). This rule does not repeal any existing prohibition areas.

Environmental Impact

This rule will help to protect and restore groundwater quality in Adams County. The attached Environmental Impact Statement provides background information related to DATCP's overall regulation of atrazine pesticides. This rule is consistent with the state groundwater law, and with the overall protocol for atrazine regulation that has been in effect since 1991.

Fiscal Impact

This rule will require some additional department expenditures for groundwater testing and informational services related to the expanded prohibition area. The

department expects to absorb these expenditures within the department's current budget. For more information contact Randy Zogbaum at (608) 224-4524.

Business Impact

This rule will have affect 2 to 4 farmers located in the expanded atrazine prohibition area created by the rule. However, those farmers have other pesticides available for weed control. This rule will not have a significant economic impact on farmers or other businesses, and is not subject to the delayed small business effective date provision in s. 227.22(2)(e), Stats.. For more information contact DATCP small business regulatory coordinator Dennis Fay at (608) 224-5031 or email at dennis.fay@datcp.state.wi.us.

Federal Regulations

Pesticides and pesticide labels must be registered with the federal Environmental Protection Agency ("EPA"). Persons may not use pesticides in a manner inconsistent with the federal label.

The current federal label for atrazine suggests that atrazine should not be used on permeable soils with groundwater near the soil surface. Wisconsin has clearer, more definite restrictions on atrazine use, based on actual findings of groundwater contamination in this state.

EPA is proposing federal rules that would require states to create a pesticide management plans for pesticides that have the potential to contaminate groundwater. Wisconsin's current regulatory scheme for atrazine pesticides would likely comply with the proposed federal rules.

Adjacent State Regulations

Wisconsin atrazine regulations are stronger than those in adjacent states:

- Iowa restricts atrazine application rates to 1/2 the federal label rate in 23 counties (7 with county-wide restrictions and 16 with restrictions in some townships).
- Minnesota has a program of voluntary use limitations when surface water or groundwater contamination exceeds a level of concern. This program suggests pesticide use restrictions or management practices to reduce surface water or groundwater contamination. To date, this program has not been implemented anywhere in Minnesota.
- Illinois and Michigan have no atrazine regulations.

Businesses Affected

The changes to ch. ATCP 30, Wis. Adm. Code, Appendix A will affect small businesses in Wisconsin. The greatest small business impact of the changes will be on users of atrazine — farmers who grow corn. The proposed prohibition area contains approximately 1280 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 320 acres of corn will be affected. Between 2 and 4 producers would be affected, depending on their corn acreage and their reliance on atrazine products. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

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

Reporting, Recordkeeping and Other Procedures Required for Compliance

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

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

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

Professional Skills Required to Comply

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

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

Notice of Hearings

Agriculture, Trade and Consumer Protection

[CR 04-096]

(Reprinted from 9-15-04 Register)

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold a joint hearing with the Wisconsin Department of Health and Family Services (DHFS). At the hearing, DATCP will propose to make minor changes to the rule regulating food safety in retail food establishments, such as grocery stores, and to update the Wisconsin Food Code. DHFS will propose separate but nearly identical rules for restaurants.

The public hearing will be held by videoconference on October 7, 2004, at the places shown below. DATCP invites the public to attend the hearing at these locations and comment on the proposed rule. Following the public hearing date, the hearing record will remain open until October 22, 2004, for additional written comments, which may be sent to the Division of Food Safety at the address (below) or by e-mail to hearingcomments@datcp.state.wi.us.

DATCP's proposed rule will be posted at on the Wisconsin Legislative Council web site at http://www.legis.state.wi.us/lc/adm_rules.htm. You may also obtain a free copy of this rule by making a request to the department:

Division of Food Safety
 Department of Agriculture, Trade and Consumer
 Protection
 P.O. Box 8911
 Madison, WI 53708-8911
 Telephone: (608) 224-4700
 E-mail: kathy.porter@datcp.state.wi.us

Copies will also be available at the public hearing.

To provide comments or concerns relating to small business, please contact DATCP's small business regulatory coordinator, Keeley Moll (e-mail: keeley.moll@datcp.state.wi.us), at the Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911; telephone (608) 224-5039.

Hearing-impaired persons may request an interpreter for the hearing. Please make reservations for a hearing interpreter by Thursday, September 24, 2004, by contacting Debbie Mazanec (e-mail: Debbie.mazanec@datcp.state.wi.us), P.O. Box 8911, Madison WI 53708-8911; telephone (608) 224-4712; or telephone message relay system (TTY) at (608) 266-4399 to forward your call to the department at (608) 224-5058. Handicap access is available at all locations for the hearing.

Hearing will be held on **Thursday, October 7, 2004**, from 9:30 a.m. through 12:30 p.m., via interactive videoconferencing at the following locations:

Madison – Main Broadcast Center
 UW Pyle Center
 Room 227
 702 Langdon St.
 Madison, WI 53706

Waukesha
 Waukesha State Office Building
 Department of Transportation Offices
 Room 153
 141 NW Barstow St.
 Waukesha, WI 53188

Appleton
 Fox Valley Technical College
 Room G1131
 1825 Bluemound Dr.
 Appleton, WI 54913-2277

Wisconsin Rapids
 Dept. of Transportation
 Room 120
 1681 2nd Ave. S
 P.O. Box 8021
 Wisconsin Rapids, WI 54495-8021

Eau Claire
 Eau Claire State Office Building
 Room 139
 718 W. Clairemont Ave.
 Eau Claire, WI 54702

Spooner
 WI DNR Northern Region Office
 Conference Room
 810 West Maple St.
 Spooner, WI 54801

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

The Department of Agriculture, Trade and Consumer Protection ("DATCP") currently licenses and inspects retail food establishments, such as grocery stores. DATCP has adopted food safety rules for retail food establishments. The current rules are based on the federal Model Food Code. This rule updates the Wisconsin Food Code, based on changes contained in the most current (2001) edition of the federal Model Food Code. This rule also makes other minor changes to clarify current rules.

The Wisconsin Department of Health and Family Services ("DHFS") is proposing nearly identical rules for restaurants. This is a joint effort by DATCP and DHFS to maintain consistent and up-to-date standards for all retail food operations. Some grocery stores include restaurants, and vice-versa. DATCP and DHFS coordinate their licensing and inspection activities so that there is no regulatory overlap.

Rulemaking Authority

Statutory Authority: ss. 93.07 (1), 97.30 (5) and 227.14 (1s), Stats.

Statute Interpreted: s. 97.30, Stats.

DATCP has broad authority, under s. 93.07 (1), Stats., to adopt rules needed to implement laws under its jurisdiction. DATCP licenses retail food establishments under s. 97.30, Stats. DATCP may adopt rules for retail food establishments, pursuant to s. 97.30 (5), Stats. Rules may include standards for the construction and maintenance of facilities; the design, installation, cleaning and maintenance of equipment and utensils; personnel sanitation; food handling, display and storage; and food sources and food labeling.

The format of the Wisconsin Food Code is different from that of most state administrative rules. DATCP and DHFS are authorized, under s. 227.14 (1s), Stats., to use the drafting format of the federal model food code. This rule follows that authorized format.

Background

The United States Food and Drug Administration ("FDA") publishes a federal model food code. The model food code provides practical, science-based food safety standards for grocery stores, restaurants and other retail food establishments. Many states base their retail food regulations on the federal model food code.

Current DATCP and DHFS rules are based on the 1999 version of the model food code. DATCP has adopted the model food code as an Appendix to ch. ATCP 75, Wis. Adm. Code (the Wisconsin Food Code). DHFS has adopted the model food code as an Appendix to ch. HFS 196, Wis. Adm. Code.

FDA updated the model food code in 2001. This rule updates the Wisconsin food code based on the 2001 updates to the federal model food code. This rule also makes other minor changes and clarifications to current rules.

Rule Content

This rule makes a large number of updates and technical changes to current DATCP rules. The following are some of the more significant changes:

Food Temperatures

Under current rules, “potentially hazardous foods” must be kept sufficiently hot (or sufficiently cold) to prevent the rapid and progressive growth of infectious or toxigenic microorganisms. This rule changes the required minimum temperature of hot “potentially hazardous” foods from 140o F. to 135o F. This rule also allows cold “potentially hazardous” foods (which are normally refrigerated at 41o F. or lower) to remain unrefrigerated for up to 6 hours if certain procedures are followed.

Definitions

A restaurant is a place that prepares or serves “meals.” This rule modifies the definition of “meal” so that it no longer includes individual pastry items served with a beverage. For example, a grocery store will no longer be subject to potential regulation as a “restaurant” merely because it serves doughnuts and coffee. This rule also makes a number of other technical changes to current definitions.

Food Employees

This rule clarifies current standards related to food employee health and sanitation. Among other things, this rule does the following:

- Allows employees to contact ready-to-eat food with bare hands under certain limited conditions (special requirements apply).
- Clarifies current provisions limiting food contact by employees affected with certain illnesses or symptoms.
- Clarifies current requirements related to food employee hand-washing, and requires employees to wash hands before putting on gloves to work with food.

Food Safety and Labeling

This rule clarifies current standards related to the safety and labeling of food offered for sale in a retail food establishment. Among other things, this rule does the following:

- Clarifies current requirements related to food sources.
- Clarifies provisions related to the handling and sale of raw eggs and shellfish.
- Requires hazard control (HACCP) procedures or warning labels for unpasteurized juice.
- Clarifies date-marking requirements for ready-to-eat “potentially hazardous” foods.
- Requires warning disclosures related to the sale of certain uncooked ready-to-eat foods, including uncooked meat, fish, eggs and shellfish.

Food Equipment and Utensils

This rule makes minor clarifications related to current standards for food equipment and utensils.

Water, Plumbing and Waste

This rule makes minor technical changes suggested by the Department of Commerce, Wisconsin’s plumbing code agency. It also makes minor technical changes related to handwash sinks and temporary food establishments.

Buildings and Facilities

This rule does the following:

- Prohibits facility configurations that cause the general public to enter or exit a retail food establishment through a food processing area.
- Requires food establishments to comply with applicable provisions of the Wisconsin commercial building code.
- Makes other minor technical changes related to standards for retail food buildings and facilities.

License Fee Correction

Current rules incorrectly set an annual license fee of \$60 for retail food establishments with annual food sales of less than \$25,000. This rule corrects (reduces) the license fee to \$40, which is the fee established by s. 97.30(3m)(cm), Stats.

Fiscal Impact

This rule will have no significant fiscal effect on state or local government. The rule will not alter state or local retail food enforcement activities. A fiscal estimate is attached.

Business Impact

This rule affects retail food establishments such as grocery stores, bakeries and convenience stores. Many of these businesses are small businesses. This rule will benefit affected businesses by clarifying existing regulatory requirements. In some cases, this rule gives affected businesses wider latitude to choose a preferred method of compliance. This rule will not have a significant economic impact on small business, and is not subject to the delayed small business effective date provision in s. 227.22 (2) (e), Stats.

The rule adds some minor new requirements for some retail food establishments, but these requirements are not expected to impose any significant burdens. This rule will benefit businesses that have combined grocery and restaurant operations, because it will maintain consistency with DHFS restaurant rules. A small business analysis (“initial regulatory flexibility analysis”) is attached.

Under 2003 Wis. Act 145, DATCP and other agencies must adopt rules spelling out their rule enforcement policy for small businesses. DATCP has not incorporated a small business enforcement policy in this rule, but will propose a separate rule on that subject. DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Federal Regulation

Federal law, like state law, generally prohibits the sale of adulterated or misbranded food. There are no federal regulations that specifically address retail food operations. However, FDA publishes a model food code that is based on the best available science and information related to retail food safety.

FDA, the United States Department of Health and Human Services, and the United States Department of Agriculture encourage state and local governments to adopt retail food safety regulations that are consistent with the federal model food code. The current Wisconsin Food Code is based on the 1999 edition of the federal model food code. This rule updates the Wisconsin Food Code to incorporate changes contained in the 2001 (most recent) edition of the federal model food code.

Regulatory Approach and Supporting Information

FDA developed and published the federal model food code based on the best available science and information related to retail food safety. The federal model food code encourages consistent state and local regulation of retail food establishments. Numerous states have adopted state retail food regulations based on the federal model food code. FDA periodically updates the federal model food code. FDA adopted the latest edition in 2001 and added a supplement in 2003.

The current Wisconsin Food Code is based on the 1999 edition of the federal model food code. This rule updates the Wisconsin Food Code based on the 2001 edition of the federal model food code (as supplemented in 2003). DATCP and DHFS made minor adjustments to the model food code in consultation with Wisconsin local health agencies, the Wisconsin Conference on Food Protection, and the National

Conference on Food Protection. DATCP and DHFS also drew on 2 years of field experience with the current rule.

DATCP and DHFS also developed this rule in consultation with an advisory committee that included local health agencies (large and small), the Wisconsin Grocers Association, the Wisconsin Restaurant Association, the Tavern League of Wisconsin and the University of Wisconsin Extension—Food Science.

Surrounding State Programs

The states adjacent to Wisconsin have all adopted retail food regulations based on some version of the federal model food code:

Minnesota – Minnesota’s current regulations are based on the 1997 edition of the federal model food code.

Iowa – Iowa’s current regulations are based on the 1997 edition of the federal model food code.

Illinois – Illinois’ current regulations are based on the 1995 edition of the federal model food code. Like Wisconsin, Illinois is proposing to update its regulations based on the 2001 edition of the federal model food code.

Michigan – Michigan’s current regulations, like Wisconsin’s, are based on the 1999 edition of the federal model food code.

Notice of Hearings

Agriculture, Trade and Consumer Protection

[CR 04–103]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed rule that implements the livestock premises registration program created by 2003 Wis. Act 229. Persons who keep livestock in this state must register the premises annually with the DATCP. Each premises will receive a unique premises registration number generated by the United States Department of Agriculture. There is no fee to register.

DATCP will hold five public hearings at the times and places shown below. DATCP invites the public to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until Friday, December 10, 2004, for additional written comments. Comments may be sent to the Division of Animal Health at the address below or by e-mail to: hearingcommentsAH@datcp.state.wi.us.

DATCP’s proposed rule will be posted on the Wisconsin Legislative Council web site at:

http://www.legis.state.wi.us/lc/adm_rules.htm.

You may also obtain a free copy of this rule by making a request to:

Wisconsin Department Agriculture, Trade and Consumer Protection

Division of Animal Health

P.O. Box 8911

Madison, WI 53708–8911

Telephone: (608) 224–4883

Copies will also be available at the public hearing.

To provide comments or concerns relating to small business, please contact DATCP’s small business regulatory coordinator Keeley Moll at the address above, by e-mail at Keeley.Moll@datcp.state.wi.us or by telephone at (608) 224–5039.

Hearing—impaired persons may request an interpreter for these hearings. Please make reservations for a hearing interpreter by October 22, 2004, by contacting Melissa Mace, Division of Animal Health, Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708–8911, telephone (608) 224–4883. Alternatively, you may contact the DATCP TDD at (608) 224–5058. Handicap access is available at the hearings.

Hearing Locations:

Tuesday, November 9, 2004

2:00 p.m. to 4:00 p.m. and 4:30 p.m. to 6:30 p.m.

WDATCP Regional Office

3610 Oakwood Hills Parkway

Eau Claire, WI 54701–7754

Wednesday, November 10, 2004

2:00 p.m. to 4:00 p.m. and 4:30 p.m. to 6:30 p.m.

Calamus Town Hall

W9820 County Trunk D

Beaver Dam, WI 53916

Monday, November 15, 2004

2:00 p.m. to 4:00 p.m. and 4:30 p.m. to 6:30 p.m.

Iowa County Courthouse, Room 204

222 N. Iowa Street

Dodgeville, WI 53533

Wednesday, November 17, 2004

2:00 p.m. to 4:00 p.m. and 4:30 p.m. to 6:30 p.m.

Brown County Library

515 Pine Street

Green Bay, WI 54301

Tuesday, November 30, 2004

2:00 p.m. to 4:00 p.m. and 4:30 p.m. to 6:30 p.m.

Community Center, Matheson Memorial Library

101 North Wisconsin Street

Elkhorn, WI 53121

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

This rule implements the livestock premises registration program created by 2003 Wis. Act 229. This program is intended to protect animal health and the security of the food chain. Among other things, premises registration will facilitate more rapid response to animal disease emergencies.

Under this rule, persons who keep livestock in this state must register annually with the Department of Agriculture, Trade and Consumer Protection (“DATCP”). DATCP will assign a unique premises registration number, generated by the United States Department of Agriculture (“USDA”), to each registered premises. Registration information is confidential, and there is no fee to register. Registration complies with standards contained in the National Animal Identification System (“national plan”).

Statutory Authority

Statutory Authority: ss. 93.07 (1), 93.07 (10), 95.51 (3m) and (7), 95.55 (6), 95.68 (8), 95.69 (8), 95.71 (8), 95.72 (5), 97.22 (8) and 97.42 (4), Stats.

Statutes interpreted: ss. 93.07 (10), 95.51, 95.55, 95.60, 95.68, 95.69, 95.71, 95.72, 97.22 and 97.42, Stats.

DATCP has broad general authority under s. 93.07 (1), Stats., to make and enforce rules to implement laws under its jurisdiction. Section 95.51, Stats., creates a livestock premises registration program and directs DATCP to implement the program. The following statutes specifically authorize DATCP to adopt rules related to the following subjects:

- Section 93.07 (10), Stats. (animal health).
- Section 95.51 (3m) and (7), Stats. (livestock premises registration program).
- Section 95.55 (6), Stats. (deer farms).
- Section 95.68 (8), Stats. (animal markets).
- Section 95.69 (8), Stats. (animal dealers).
- Section 95.71 (8), Stats. (animal truckers).
- Section 95.72 (5), Stats. (rendering plants and other entities that collect and process livestock carcasses).
- Section 97.22 (8), Stats. (dairy farms).
- Section 97.42 (4), Stats. (slaughter establishments).

Background

Wisconsin is the first state in the nation to mandate a livestock premises registration program. The Wisconsin program is part of a national effort to create a comprehensive livestock identification system. The national plan spells out the goals and standards for all states to follow.

The national plan was developed under the auspices of USDA and the United States Animal Health Association, in cooperation with the livestock industry. It calls for a system that can identify all animals and premises exposed to a foreign animal disease (such as foot and mouth disease) within 48 hours after the disease is discovered. This rapid response capability will be critically important in the event of a major animal disease emergency.

This rule addresses livestock *premises* registration, not *animal* identification. But premises registration is a necessary first step toward a comprehensive livestock identification system. By itself, premises registration will also facilitate more effective disease control and emergency response. Under the national plan, each state is responsible for establishing an effective premises registration program that meets national standards.

Program Administration

The Wisconsin Livestock Identification Consortium (“WLIC”), which represents a broad spectrum of the livestock industry groups, has led the nation in developing a premises registration system that meets national standards. Recently, USDA picked the WLIC system as the prototype for a national premises registration system. DATCP will likely contract with WLIC to administer the livestock registration program on behalf of DATCP. This rule spells out contract standards, including confidentiality requirements.

DATCP has requested, and hopes to receive, continued federal funding for the registration program. If federal funding is not forthcoming, it will be necessary to fund the premises registration program with state tax dollars or registration fees. The Legislature will determine the funding source and amount. This rule does not create any registration fees.

DATCP estimates that the program will affect at least 60,000 livestock premises in Wisconsin and will cost approximately \$918,000 each year. DATCP will work with the livestock industry and others to promote voluntary compliance but may also take enforcement action against

persons who knowingly refuse to comply. Penalties are set by statute and are equivalent to those under other animal health and food safety laws.

Rule Content

This rule implements Wisconsin’s Livestock Premises Registration Law (2003 Wis. Act 229), which takes effect on November 1, 2005. The rule includes the following key provisions:

Annual Registration Required

A person may not keep “livestock” in this state unless the livestock premises are annually registered with DATCP. “Livestock” includes cattle, swine, poultry, sheep, goats, horses, farm-raised deer, bison, camelids (such as llamas), ratites (such as ostriches and emus) and fish.

If 2 or more persons have a role in keeping livestock at the same location (for example, if one person owns the livestock, another tends them, and a 3rd owns the land), any one of those persons may register that location (the others need not register). Registration does not create any “ownership” rights that do not otherwise exist. It merely identifies a location in this state at which livestock are kept. DATCP assigns a unique premises code that continues with that location, even if the registrant changes (some exceptions apply).

Operators of livestock facilities currently licensed by DATCP (dairy farms, deer farms, fish farms, animal markets, animal dealer premises, animal trucker premises, slaughter establishments, equine quarantine facilities and rendering establishments) must register the facilities licensed to them and may not let others register those premises for them. License holders will be able to register by filling out a few extra lines on their annual license renewal forms.

Effective Dates

The registration requirement under this rule will take effect on January 1, 2006, except that for livestock facilities currently licensed by DATCP, the registration requirement will take effect on the first day of the first full license year beginning after January 1, 2006. For example, the registration requirement first applies to dairy farms on May 1, 2006, because dairy farm licenses expire on April 30 of each year.

An annual registration *expires* on December 31, or in the case of livestock premises currently licensed by DATCP, on the annual license expiration date.

How to Register

There is no fee to register livestock premises. A person may register on-line or in writing on forms prescribed by the DATCP. Forms will be readily available from DATCP and its contract agent. DATCP will send annual renewal forms to registrants to make renewal as easy as possible. Renewals, like initial registrations, may be transacted on-line.

Each registrant must provide the following information:

- Registrant’s legal name, any trade names, mailing address, and phone number.
- Primary premises location and any secondary locations included in the registered premises.
- Name and phone number of a contact person with knowledge of livestock movements to and from all locations comprising the premises.
- Type(s) of livestock operation.
- Type(s) of livestock kept.

DATCP or its agent will issue a written or electronic premises registration certificate to each registrant, depending on the form of registration. The registration certificate will include a unique premises registration code generated by USDA (the premises code is assigned to the primary premises

location). If the registrant is currently licensed by DATCP (dairy farms, deer farms, livestock markets, etc.), the premises code will be included on the registrant's annual license.

Confidentiality

Premises registration information required under this rule is confidential. However, the premises code itself is not confidential. Neither DATCP nor its contract agent may disclose confidential registration information to any other person or agency (except USDA). DATCP may disclose confidential registration information if necessary to prevent or control disease, or to protect public health, safety or welfare. DATCP may also disclose information with the registrant's permission.

This confidentiality does not apply to information required under other laws. For example, information that was required of license holders and was open to public inspection prior to the effective date of the livestock premises registration law remains open to public inspection. But premises registration information required for the first time under the new law, or under this rule, must be kept confidential.

DATCP may create aggregate information (such as maps and statistics) from registration information, but may not disclose that information if it would reveal (or make it possible to deduce with certainty) the address or identity of any registrant.

Contract Agent

DATCP may contract with an agent (presumably WLIC) to process registrations, manage registration information, and perform other functions on behalf of DATCP. The registration process must be conducted under the name of DATCP, not the contract agent. DATCP must approve the registration process and forms.

The contract agent may not do any of the following without DATCP approval:

- Change the registration process or forms.
- Use or disclose any information that it acquires as DATCP's agent.
- Purport to collect information as DATCP's agent.
- Ask a registrant for permission to use or release confidential registration information.

A contract agent must specifically identify to DATCP the individuals who will handle confidential information. Each of those individuals must sign a confidentiality agreement with DATCP. Neither the contract agent, nor any individual affiliated with the contract agent, may disclose confidential information or use it for financial advantage.

A contract agent must comply with applicable state standards related to the storage, handling and disposition of state records. If a contract is terminated, the contract agent must return all registration records to DATCP. DATCP may terminate a contract at any time.

Receiving Livestock from Unregistered Premises

This rule prohibits the receipt of livestock from unregistered premises for purposes of sale, exhibition or slaughter. But this prohibition does not apply unless USDA or surrounding states impose an equivalent prohibition in all of the surrounding states.

Changes to Existing Rules

This rule modifies current DATCP rules related to the licensing of dairy farms, deer farms, fish farms, animal markets, animal dealer premises, animal trucker premises, slaughter establishments, equine quarantine facilities and rendering establishments by incorporating by reference the

new livestock premises registration requirements under this rule.

Fiscal Impact

The livestock premises registration program will have no fiscal impact on local government, but it will have a significant fiscal impact on DATCP. DATCP expects to incur one-time costs of \$42,000 and annual costs of \$918,600 to implement the program (see fiscal estimate attached). DATCP has requested, and hopes to receive, federal funding to cover these costs. However, federal funding is not assured.

If federal funding is not forthcoming, state funding will be needed. As required by 2003 Wisconsin Act 229, DATCP will submit a biennial budget request for state appropriations (tax dollars or fee revenues) to fund the program in the FY 2005-07 biennium. The Legislature will determine the funding source and amount. This rule does not create any registration fees.

Business Impact

This rule implements the livestock premises registration program mandated by the Legislature in 2003 Wisconsin Act 229. This rule will affect an estimated 60,000 Wisconsin businesses, including the following (many of these businesses are "small businesses"):

- Livestock producers, including dairy, beef, swine, poultry, farm-raised deer, sheep, goat, fish and exotic livestock producers.
- Horse owners and stable operators.
- Livestock markets, dealers and truckers.
- Slaughter establishments.
- Rendering and dead animal processing establishments.
- Operators of livestock exhibitions.
- Veterinary clinics.

Affected businesses must register their premises annually with DATCP. There is no fee. Businesses can register on-line or in writing. Businesses currently licensed by DATCP, including dairy farms, deer farms, fish farms, animal markets, animal dealers, animal truckers, slaughter establishments, equine quarantine facilities and rendering establishments, can comply just by completing a few additional lines on their annual license applications. DATCP will facilitate annual renewals by sending automatic renewal notices to all registrants.

This rule does not create any new record-keeping or reporting requirements, other than the basic annual registration requirement. It does not require businesses to hire any new professional services. This rule establishes a delayed effective date of January 1, 2006, so that affected business will have time to understand and comply with the new registration requirement. For persons currently licensed by DATCP, the effective dates are further delayed to coincide with the start of an annual licensing period.

DATCP will work with the livestock industry to implement the new program, which will have important benefits for the industry. DATCP and its contract agent will implement an information and education program, and it will provide convenient registration mechanisms for affected businesses. DATCP will also make it easy for registrants to renew annually by sending automatic renewal forms (registrants need only update pre-printed information, if that information has changed).

This rule will not have a significant adverse economic impact on small business, and it is not subject to the delayed small business effective date provision in s. 227.22(2)(e), Stats.

A small business analysis ("initial regulatory flexibility analysis") is attached.

Under 2003 Wis. Act 145, DATCP and other agencies must adopt rules spelling out their rule enforcement policy for small businesses. DATCP has not incorporated a small business enforcement policy in this rule, but it will propose a separate rule on that subject. DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Federal Regulation

There is, as yet, no federal law mandating nationwide registration of livestock premises. However, USDA plans to implement a comprehensive livestock identification program that includes state registration of livestock premises. USDA and the United States Animal Health Association have developed a national plan in cooperation with the livestock industry.

Under 2003 Wis. Act 229, Wisconsin rules must be consistent with the national plan. This rule is consistent with the current national plan and will be modified as necessary as the national plan evolves. USDA has funded the development of Wisconsin's premises registration system and may fund its implementation.

Notice of Hearing Financial Institutions – Banking [CR 04–098]

NOTICE IS HEREBY GIVEN That pursuant to ss. 218.04 (7) (d) and 227.11 (2), Stats., and interpreting s. s. 218.04 (9j), Stats., the Department of Financial Institutions, Division of Banking will hold a public hearing at the Department of Financial Institutions, 345 W. Washington Avenue, 5th Floor, in the city of Madison, Wisconsin, on the **22nd day of October, 2004**, at 9:00 a.m. to consider the creation of a rule relating to authorizations to consolidate accounts.

Analysis Prepared by the Department of Financial Institutions, Division of Banking

Statute(s) interpreted: s. 218.04 (9j), Stats.

Statutory authority: ss. 218.04 (7) (d) and 227.11 (2), Stats.

Explanation of agency authority: Pursuant to ss. 218.04, and 220.02 (3) and (4), Stats., the division regulates collection agencies.

Related statute or rule: None.

Plain language analysis: The objective of the rule is to create s. DFI—Bkg 74.09 (5). The purpose of the rule is to set forth requirements for an authorization received by a licensee from a creditor for consolidating accounts. The rule establishes criteria regarding the form and content of the authorization.

Summary of and preliminary comparison with existing or proposed federal regulation: There is no existing or proposed federal regulation.

Comparison with rules in adjacent states: Similar rules do not exist in adjacent states.

Summary of factual data and analytical methodologies: There is no factual data associated with this rule. The rule was drafted in consultation with trade associations for entities affected by the rule.

Analysis and supporting documentation used to determine effect on small business: Because the rule only establishes the criteria for an already existing requirement, the division believes that the rule will not have a significant effect on small business. The rule merely indicates what the authorization required by s. 218.04 (9j), Stats., must include. Furthermore, the authorization requirements request the most basic information, none of which should create an additional

burden. Lastly, an agency must obtain a suit authorization from the client before moving forward with any suit. The authorization required by s. 218.04 (9j), Stats., and further defined by this rule could easily be included as part of that authorization.

Initial Regulatory Flexibility Analysis

The proposed rule will not have an effect on small businesses.

Fiscal Estimate

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

Contact Person

A copy of the proposed rule and fiscal estimate may be obtained from, and written comments regarding the proposed rule may be submitted to, Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708–8861, tel. (608) 267–1705. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institutions' website, www.wdfi.org. Comments may also be submitted via the department's website contact page, e-mail the secretary. All comments not otherwise to be presented at the hearing must be received prior to the hearing set for this rule.

Notice of Hearing Natural Resources

Fish, Game, etc., Chs. NR 1—

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, 29.197 and 227.11, Stats., interpreting ss. 29.014 and 29.197, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM–26–04(E) pertaining to the 2004 migratory game bird season. For ducks, the state is divided into two zones each with 60-day seasons. The season began at noon September 25 and continues for 60 consecutive days in the north, closing on November 23. In the South, the season opens at noon on October 2 and continues through October 10, followed by a 5-day split, and then reopens on October 16 and continues through December 5. The daily bag limit is 6 ducks. For Canada geese, the state is apportioned into 3 goose hunting zones. The statewide daily bag limit for Canada geese in the Horicon and Collins Zones is 2 birds per day during the open seasons within each zone. In the Exterior Zone and its subzones, the daily bag limit will be one bird per day until October 31 and from November 1 to the end of the season in each zone or subzone, the daily bag limit will be 2 birds per day.

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

Wednesday, October 13, 2004 at 1:00 p.m.

Room 517, GEF #2

101 South Webster Street

Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kent Van Horn at (608) 266–8841 with specific

information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The proposed changes will not result in any significant changes in spending or revenue. There are no government costs anticipated due to the provisions of this bill.

The proposed rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. Mail to Kent Van Horn, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until October 15, 2004. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearing. A personal copy of the proposed rule and fiscal estimate may be obtained from Mr. Van Horn.

Notice of Hearing Natural Resources

Environmental Protection—General, Chs. NR 100— Environmental Protection—WPDES, Chs. NR 200—

[CR 04–101]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2), 281.15 and 283.13, Stats., interpreting ss. 281.15 and 283.13, Stats., the Department of Natural Resources will hold a public hearing on revisions to ss. NR 106.09 (1), 149.22 and NR 219, Table A, note 29, Wis. Adm. Code, relating to the whole effluent toxicity (WET) test methods. Monitoring for whole effluent toxicity (WET) is required in WPDES permits in order to determine the potential for impairment of fish and aquatic life from wastewater discharges. The U.S. Environmental Protection Agency promulgated regulations concerning the use of WET methods in 1995. EPA's methods include many provisions which allow different protocols to be followed, depending on the intended use and the area of the country where the test is being applied. Wisconsin permittees are required to conduct WET tests in accordance with the "State of Wisconsin Aquatic Life Toxicity Testing Methods Manual, Edition 1" which is intended to comply with 40 CFR Part 136 while providing procedures specific to Wisconsin. Improvement to WET test methods based on the latest science and recent revisions to EPA methods warrant updating the Methods Manual to a 2nd edition.

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

- a. Types of small businesses affected: Smaller industrial permittees that discharge to a surface water and have WET requirements in their permits as well as smaller WET labs who may wish to be certified to conduct WET tests.
- b. Description of reporting and bookkeeping procedures required: No new procedures.
- c. Description of professional skills required: No new skills.

The Department's Small Business Regulatory Coordinator may be contacted at:

SmallBusinessReg.Coordinator@dnr.state.wi.us or by calling (608) 266-1959.

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

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

Tuesday, October 12, 2004 at 1:00 p.m.

Room 774B, GEF#2, 101 South Webster Street, Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kari Fleming at (608) 267-7663 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The changes being proposed to WET test methods are not expected to change the costs of WET program implementation within the Department.

WET test methods must be followed by permittees and contract laboratories when required by a WPDES permit, therefore, local governments are affected if WET testing is required in their permits. However, because the changes that are proposed to WET test methods are not expected to significantly increase the costs currently associated with WET testing, no financial impacts are expected to local governments.

The proposed rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. Mail to Ms. Kari Fleming, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until October 31, 2004. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearing. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Fleming.

Notice of Hearings Natural Resources

Environmental Protection—Water Regulation, Chs. NR 300—

[CR 04–088]

NOTICE IS HEREBY GIVEN that pursuant to ss. 30.12 (1), (1p) and (3) (br), 30.13 (1) and (1m), 30.206 and 227.11 (2), Stats., interpreting ss. 30.12 (1), (1g) (a), (b), (e) and (f), (1p), (3) and (3m), 30.13 (1) and (1m), 30.20 (1g) (b) 2. and 30.206, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 326, Wis. Adm. Code, relating to regulation of piers, wharves, boat shelters, boat hoists, boat lifts and swimming rafts in navigable waterways. The proposed rule will implement 2003 Wisconsin Act 118 by establishing construction, design and placement standards for projects to be eligible for statutory exemptions, establishing general permits and establishing standards for projects that may be authorized under an individual permit. The proposed rule defines and describes design standards to qualify for

exemptions for piers, wharves, seasonal boat shelters, boat hoists, boat lifts and swimming rafts. The rule establishes general permits for preexisting piers and permanent boat shelters which meet certain conditions, and establishes standards for specific individual permits for piers. Department staff will work with stakeholders prior to public hearing to develop more specific standards for marinas, and identify any other general or individual permits that may be appropriate.

NOTICE IS HEREBY FURTHER GIVEN that the Department will also be seeking comments on an alternative to the Department's proposed rule that was developed by a citizen stakeholder group. A copy of this alternative rule will be available no later than October 8, 2004.

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

a. Types of small businesses affected: Building contractors, small-scale land developers and consultants who provide plans or designs for projects along public navigable waterways.

b. Description of reporting and bookkeeping procedures required: The person responsible for a project in or along a lake or stream must develop plans and occasionally conduct some analyses, submit an application, and observe the site during construction. For some activities, photographs of the completed project are required.

c. Description of professional skills required: Map reading, basic computer use, mathematics, drawing to scale, and clear writing.

While it may be helpful or efficient, hiring a consulting firm is not necessary to comply with these requirements. Many projects are planned and conducted by individuals with no professional background. If the site has particularly challenging features, such as steep slopes, erosive soils, highly variable features or if the intensity of neighboring uses are likely to create controversy, then professional ecological or engineering expertise may be helpful.

The Department's Small Business Regulatory Coordinator may be contacted at: SmallBusinessReg.Coordinator@dnr.state.wi.us or by calling (608) 266-1959.

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

NOTICE IS HEREBY FURTHER GIVEN that the Department will hold an open house from 4:00 p.m. to 6:00 p.m. prior to the hearings in Green Bay, Eau Claire, Merrill, Hayward and Waukesha and from 10:00 to noon in Madison. Department staff will be available to answer questions regarding the proposed rules.

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

Monday, November 1, 2004

Video conference participation will be available at:

OL 1132, Old Library
UW-Eau Claire
105 Garfield Ave.,
Eau Claire

MAC137, Instructional Services Bldg.,
UW-Green Bay
2420 Nicolet Dr.
Green Bay

Wednesday, November 3, 2004 at 6:00 p.m.
Council Chambers, Merrill City Hall
1004 E. 1st Street, Merrill

Thursday, November 4, 2004 at 6:00 p.m.
County Board Room, Sawyer Co. Courthouse
10610 Main Street,
Hayward

Tuesday, November 9, 2004 at 4:00 p.m.
Room 151, State Office Building
141 NW Barstow Street
Waukesha

Wednesday, November 10, 2004 at 12:00 p.m.
Room 027, GEF #2
101 South Webster Street
Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Roberta Lund at (608) 266-2220 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

Most of the permitting activities covered by this administrative rule remain unchanged in terms of the workload required by Department staff and revenues generated by required permits. The exception is for permanent boat shelter permits, which were issued on an individual permit basis prior to Act 118, and will be issued as general permits under this proposed administrative rule. The net fiscal impact is estimated to be a workload decrease of about 95 hours/year, which equates to about \$2,000 in salary and fringe benefits, and a revenue decrease of about \$4,800/year.

Overall, the full implementation of Act 118 and its multiple related rules is not expected to have a major impact on DNR water permit revenues or workload.

The Department's proposed rule and the stakeholder proposed rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. Mail to Ms. Liesa Lehmann, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until December 1, 2004. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the

public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained from Ms. Roberta Lund, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707.

**Notice of Hearings
Natural Resources**

**Environmental Protection—Air Pollution Control,
Chs. NR 400—**

[CR 04–102]

NOTICE IS HEREBY GIVEN that pursuant to s. 285.69 (3), Stats., interpreting s. 285.69 (3), Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 406 and 410, Wis. Adm. Code, relating to asbestos permit exemption fees and inspection fees and a program for recovering the exact costs of laboratory fees for sample analysis for the asbestos program. Section NR 410.05 explains the scenarios in which a fee is charged with the Notification of Intent to Demolish and Renovate required in ch. NR 447. The current language establishes three fees based on the amount of friable asbestos containing material that will be involved in the scope of the project. This order modifies ch. NR 410 by increasing the inspection fee amounts that can be collected, as well as adding a new level in which inspection fees can be charged. This order also revises language in chs. NR 406 and 410 that is inconsistent with ch. NR 447. Finally, the proposed rule creates the ability to charge the costs of laboratory analysis for samples taken at nonresidential demolition and renovation projects.

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

a. Types of small businesses affected: Building owners, asbestos abatement contractors, demolition contractors and environmental consultants

b. Description of reporting and bookkeeping procedures required: No additional compliance or reporting requirements are required

c. Description of professional skills required: No additional skills are required.

The Department's Small Business Regulatory Coordinator may be contacted at:
SmallBusinessReg.Coordinator@dnr.state.wi.us or by calling (608) 266–1959.

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

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

Wednesday, October 13, 2004 at 11:30 a.m.

Room 139, DNR SE Region Hdqrs.,
2300 N. Dr. Martin Luther King, Jr. Drive,
Milwaukee

Thursday, October 14, 2004 at 11:30 a.m.

Prairie Room, Portage County Library
1001 Main Street
Stevens Point

Friday, October 15, 2004 at 11:30 a.m.

Room 349, GEF #3
125 South Webster Street
Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bob Eckdale at (608) 266–2856 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. Mail to Nathan Luedke, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until November 1, 2004. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained by writing Proposed Rules, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 or by calling (608) 266–7718.

**Notice of Hearings
Natural Resources**

**Environmental Protection—Air Pollution Control,
Chs. NR 400—**

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a), 285.11 (1), (6) and (17), 285.60 (6) and 285.69 (1), Stats., interpreting ss. 285.11 (6) and (17), 285.60 and 285.61, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 400, 406, 407 and 410, Wis. Adm. Code, relating to providing the interface of the state air permitting programs with federal changes to the air permitting program. The State Implementation Plan developed under s. 285.11 (6), Stats., will also be revised. On December 31, 2002, the U.S. Environmental Protection Agency published regulations that significantly changed the way new and modified sources of air pollution are permitted. Changes necessary to implement the federal program cannot be fully utilized unless additional changes are made to the state construction and operation permitting regulations. The proposed rule revisions have been designed to take full advantage of the flexibility made available under the proposed changes that adopt the federal air permitting revisions without compromising on Department or public opportunity for review. The proposed rule revisions are intended to provide flexibility to stationary sources utilizing the permit applicability exclusions provided within the federal rule changes.

Currently, all emission limitations and specific conditions that are contained within a construction permit are considered federally enforceable because there is no mechanism within the construction permit program to identify "state-only" requirements whose underlying authority does not rest within Wisconsin's State Implementation Plan. These rule revisions

will enable Wisconsin to identify requirements as "state-only" conditions in construction permits where the underlying rule has not been submitted to U.S. Environmental Protection Agency for inclusion in the State Implementation Plan and thus not intended to be federally enforceable, or is not required by federal law.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at:

SmallBusinessReg.Coordinator@dnr.state.wi.us or by calling (608) 266-1959.

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

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

Tuesday, October 26, 2004 at 1:00 p.m.

Room 124A & B, State Office Building
1681 Second Ave. South
Wis. Rapids

Thursday, October 28, 2004 at 1:00 p.m.

Room 511, GEF #2
101 South Webster Street
Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bob Eckdale at (608) 266-2856 with specific information on your request at least 10 days before the date of the scheduled hearing.

The proposed rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. Mail to Jeff Hanson, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until November 1, 2004. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained by writing Proposed Rules, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 or by calling (608) 266-7718.

Notice of Hearings Natural Resources

Environmental Protection—Air Pollution Control, Chs. NR 400—

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) (a), 285.11 (1) and (6), 285.60 (2g), (3) and (6) and 285.69 (1), Stats., interpreting ss. 285.11 (6), 285.60 (2g) and (3),

285.61 and 285.62, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 400, 406, 407 and 410, Wis. Adm. Code, relating to implementing general and registration air permit programs required by 2003 Wisconsin Act 118. The State Implementation Plan developed under s. 285.11 (6), Stats., will also be revised. The proposed rule revision establishes criteria and procedures for the issuance of general and registration air permits. These rules are intended to provide industry and the Department with a streamlined approach to permitting low emitting sources or categories of similar sources. Sources that are eligible for and which choose to take advantage of a general or registration permit would complete a simplified permit application form. General and registration permits would already have been completed by the Department for the targeted sources or source categories using permit language that is standard for the sources to be covered by the permit. This process will provide greater certainty, flexibility and timeliness to the permitting process.

The proposed rule establishes the general framework for these permits by setting implementation criteria. Specific permit criteria will be developed during permit preparation of sources that could be regulated by registration or general permits include those that have actual emissions significantly lower than federal major source thresholds, nonmetallic mineral processing plants, asphalt plants, small natural gas fired generators, digestors, small heating units, printing presses and hospital sterilization equipment.

Also included in this proposed rule is a minor change to clarify the permit exemption criteria for grain processing and grain storage facilities. This clarification is necessary to ensure that column dryers and rack dryers are included in the exemption criteria, as was intended in the original rule development. Included in this package as well is a minor technical change to provide correct references to the recently updated ch. NR 445 which was inadvertently omitted in the processing of that rule package.

NOTICE IS HEREBY FURTHER GIVEN that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses. The Department's Small Business Regulatory Coordinator may be contacted at: SmallBusinessReg.Coordinator@dnr.state.wi.us or by calling (608) 266-1959.

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

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

Thursday, October 28, 2004 at 3:00 p.m.

Room 511, GEF #2
101 South Webster Street
Madison

Wednesday, November 3, 2004 at 1:00 p.m.

Room 141, DNR SE Region Hdqrs.
2300 N. Dr. Martin Luther King Jr., Drive
Milwaukee

Thursday, November 4, 2004 at 1:00 p.m.
Schmeekle Room, UW–Stevens Point
2419 North Point Drive
Stevens Point

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bob Eckdale at (608) 266–2856 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The use of general and registration permits will result in reduced programmatic costs in the long run. While the Department will spend resources similar to that of a standard permit review to prepare a general permit or a registration permit, the resulting product will be used to regulate several similar sources resulting in lower costs associated with review of permit applications.

It is anticipated that approximately 50 registration permits and 50 general permits will be issued for new construction annually. Under proposed fees for these projects, the department would see \$155,000 in additional revenue. If these projects were required to undergo the traditional permit route, the Department would garner approximately \$500,000 in permit fees for these projects. Although the registration and general permit programs will result in less administrative burden for regulated facilities, the department will incur the costs of implementing the program and developing permits for use under these programs. Thus, these programs are not expected to change the department's need for permitting resources.

The proposed rule may be reviewed and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. Written comments on the proposed rule may be submitted via U.S. Mail to Jeff Hanson, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until November 5, 2004. Written comments whether submitted electronically or by U.S. mail will have the same weight and effect as oral statements presented at the public hearings. A personal copy of the proposed rule and fiscal estimate may be obtained by writing Proposed Rules, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 or by calling (608) 266–7718.

Notice of Hearing **Transportation** **[CR 04–099]**

NOTICE IS HEREBY GIVEN that pursuant to ss. 343.02, 343.03 (5) and 343.14 (2) (f), Stats., and interpreting s. 343.14 (2) (f), Stats., the Department of Transportation will hold a public hearing in **Room 421** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **12th** day of **October**, 2004, at **1:30 PM**, to consider the amendment of ch. Trans 102, Wisconsin Administrative Code, relating to the issuance of driver licenses and identification cards.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: ss. 343.02, 343.03 (5) and 343.14 (2) (f), Stats.

Statutes Interpreted: s. 343.14 (2) (f), Stats.

Plain Language Analysis: This proposed rule modifies s. Trans 102.14, relating to the issuance of driver licenses and identification cards. Current law requires the Department to issue driver licenses at motor vehicle service centers. This rule making is intended to permit the Wisconsin Division of Motor Vehicles (DMV) to mail permanent driver license and ID card documents from a centralized issuance facility. DMV would issue a temporary paper receipt (license or ID card) at DMV service centers. DMV recognizes a number of business advantages to using a centralized issuance system including a reduction in identity theft, persons having multiple identities, and residency fraud.

In addition, this rule making makes clear that the department may decline to immediately issue licenses and ID cards at motor vehicle service centers to persons who have not previously been issued licenses in Wisconsin or another jurisdiction. Licenses are mailed to such individuals at the address specified in their license application. DMV has been mailing out licenses to individuals in these categories on a pilot basis and determined that it helps identify persons who are fraudulently representing themselves as Wisconsin residents.

Finally, the proposed rule making would give DMV explicit authority to withhold immediate distribution of licenses and to use mail distribution if other patterns of fraudulent application activity are determined and a person's application fits that pattern.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: There are no existing or proposed federal regulations on this matter.

Comparison with Rules in Adjacent States:

Michigan: Central Issuance System

Minnesota: Central Issuance System

Illinois: Over-the-counter Issuance System

Iowa: Over-the-counter Issuance System

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: DMV has mailed licenses since March 1, 2004 to drivers who are new license or ID applicants in Wisconsin and who have not been previously licensed in another jurisdiction. In that time, about 600 licenses or IDs have been returned to the department and cancelled because the mailing address provided by the applicant was invalid. The fact that this mechanism has been successful in reducing the issuance of falsified identification documents suggests that permanent adoption of a Central Issuance System is appropriate. The American Association of Motor Vehicle Administrators (AAMVA), which represents all U.S. and Canada jurisdictions, recommends a centralized issuance system as an effective method in reducing identity theft, residency fraud, and internal theft of stock materials needed to manufacture licenses and ID cards. A number of long-term, over-the-counter issue states such as Kansas, Washington, Colorado, Utah and Maine have recently switched to a central issuance system to reduce identity theft and other fraud-related issues. Delaying issuance will allow the Department to review and investigate questionable applications before the permanent card is issued.

Persons applying for a license under a centralized issuance system would receive a temporary license document if they need a license document.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: This proposed rule will have no adverse impact on small businesses. You may contact the Department's small business regulatory coordinator by phone at (608) 267-3703, or via e-mail at the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

Fiscal Effect and Anticipated Costs Incurred by Private Sector: 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.

Place Where Comments are to be Submitted and Deadline for Submission: The public record on this proposed rule making will be held open until close of business on the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Phil Alioto, Department of Transportation, Division of Motor Vehicles, Room 255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Mr. Alioto by phone at (608) 267-4524.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

Notice of Hearing Transportation [CR 04-100]

NOTICE IS HEREBY GIVEN that pursuant to s. 343.14 (2) (f), Stats., and interpreting s. 343.14 (2) (f), Stats., the Department of Transportation will hold a public hearing in **Room 421** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **12th** day of **October**, 2004, at **1:30 PM**, to consider the amendment of ch. Trans 102, Wisconsin Administrative Code, relating to proof of identification.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: s. 343.14 (2) (f), Stats.

Statutes Interpreted: s. 343.14 (2) (f), Stats.

Plain Language Analysis: This proposed rule modifies s. Trans 102.15, relating to proof of identification required to obtain a Wisconsin driver license or identification card. The amendment updates what documents the Department will accept for identification purposes when issuing driver licenses or identification cards. The Department proposes removing documents that no longer exist and removing documents with poor security and integrity. The Department also proposes to add acceptable identity documents that are useful in verifying a person's name, date of birth, identity and residency. The rule changes will help ensure that driver licenses and identification cards are issued to correctly identified people and not to persons using fictitious identities.

Other proposed changes include:

- Establishing acceptable documents as proof of Wisconsin residency.
- Giving law enforcement and Department employees the right to confiscate documents submitted for proof to support a false statement of the person's name and date of birth, identity or residency.
- Permitting the Department to require additional proof of identity in circumstances where identity theft has been reported.

This rule making creates s. Trans 102.025 which establishes criteria for all documents accepted by the Division of Motor Vehicles (DMV) as part of an application for driver license. This also sets the general rule that a document with a photograph of a person will not be accepted unless the person is readily recognizable from the photograph. Throughout s. Trans 102.15, the descriptive word "identifiable" is deleted because the now "readily recognizable" standard is adopted with regard to all documents that contain photographs. The intent is to give DMV field staff and processors more ability to request additional ID when a person is not easily recognized as being the person in a photo ID document.

Finally, this rule making proposes to permit the Department to enter into an agreement with the Department of Corrections (DOC) under which the DOC, as agent for the Department, can take digital photographs of inmates or to accept and transmit entire driver license applications to DMV. Permitting the Department of Corrections to transmit driver license applications to DMV may reduce DOC costs and enhance security by allowing driver license and ID card applications to be processed without requiring the DOC to transport inmates to DMV service centers.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: Federal law requires all commercial driver license (CDL) applicants provide social security numbers to the Department. Current statutes, however, require the Division of Motor Vehicles to issue a license without a social security number to any person who completes a form specified by the Department of Workforce Development (DWD). The DWD's form does not permit CDL applicants to obtain a waiver of the social security number requirement.

Comparison with Rules in Adjacent States: The following chart summarizes the provisions of proposed amendments to Ch. Trans 102 and how the issue is dealt with in the states bordering Wisconsin.

Wisconsin	Michigan	Minnesota	Illinois	Iowa
<p>Confiscation of Documents –Proposed Trans 102.025 (3) would permit DMV to seize suspected false identification documents.</p> <p>Does the state permit the DMV to confiscate suspected false identification?</p>	Yes, documents turned over to Investigative Unit	No, copy made, license not issued until issue resolved.	No, document turned over to investigator on-site	Yes
<p>SSN Religious Exemption – Repeal of existing s. Trans 102.15 (5) (b) would eliminate citizens’ ability to cite religious grounds as a reason to decline to provide a social security number when obtaining a driver license.</p> <p>Does the state permit persons to decline to provide a SSN when obtaining a driver license?</p>	Yes	No	No	No
<p>This rulemaking proposes to disallow use of a number of documents as identity documents in the driver licensing process. The following shows whether the states identified permit or do not permit the use of the cited documents for identification purposes in driver licensing.</p>				
Wisconsin	Michigan	Minnesota	Illinois	Iowa
A notification of birth registration issued by the state division of health or a county or health department s. Trans 102.15 (3) (a) 12.	No	No	No	No
A federal I-181 “memorandum of creation of lawful permanent residence” s. Trans 102.15 (3) (a) 13.	No	No	No	No
A northern marina card s. Trans 102.15 (3) (a) 14.	No	Yes	No	No
A U.S. merchants service photo identification card s. Trans 102.15 (4) (a) 8.	No	No	No	No
A copy of the person’s federal or state income tax return s. Trans 102.15 (4) (a) 9.	No	No	No	Only tax documents completed by gov. agency
A professional license s. Trans 102.15 (4) (a) 10.	No	No	No	No
A private investigator’s license s. Trans 102.15 (4) (a) 15.	No	No	No	No
A life insurance policy s. Trans 102.15 (4) (a) 16.	No	No	No	No
A canceled check s. Trans 102.15 (4) (a) 17.	No	No	No	No
A Canadian social insurance card s. Trans 102.15 (4) (a) 20.	No	No	No	Yes

Amended – Proof of Name and Date of Birth				
<p>Proposed s. Trans 102.15(3)(a)15. would permit DOT to accept Native American identification cards if they meet several requirements.</p> <p>Does the state permit the use of Native American identification cards for identification purposes in driver licensing?</p>	No	Permits use of the American Indian card (I-872)	No	Permits use of ID card issued by the Canadian Dept. of Indian Affairs. U.S. Bureau of Indian Affairs or tribal ID cards are not acceptable as primary, but are accepted as secondary document
<p>The rule proposes to accept driver licenses or IDs from other jurisdictions that are expired for less than 8 years.</p> <p>s. Trans 102.15(3)(a)16. s. Trans 102.15(4)(a)2. and 5.</p> <p>Does the state accept driver licenses or IDs from other jurisdictions as proof of ID? If so, may the license/ID be expired?</p>	Accepts another state or a Canadian driver license or identification card with a photo.	Accepts a photo driver’s license, state identification card, or permit issued by a US state other than MN, DC, Guam, US VI, or Canadian Province or territory that is current or expired for 5 years or less.	Accepts out-of state drivers license/ID card only if “current.”	Accepts photo driver’s license/ID card or certified copy of a license/ID card that is valid or has not been expired more than 1 yr. (Specifically rejects state ID cards from a few selected states.)
<p>This rule proposes to allow DMV to accept a court order under seal related to the adoption or divorce of the individual or to a name or gender change that includes the person’s current full legal name, date of birth and, in the case of a name change or divorce orders, the person’s prior name.</p> <p>s. Trans 102.15(3)(a)17.</p> <p>Does the state permit the use of court orders as ID?</p>	Court Orders with seals or be a true copy.	Certified Court Orders	Court Order	Court order containing the applicant’s full name, date of birth and court seal may be used as primary identification. A court order that does not contain the applicant’s date of birth but does have full name may be used as a secondary form of ID.
Amended – Proof of Identity				
<p>Proposed s. Trans 102.15(4)(a)6. would allow employer IDs to be used as proof of ID if the ID meets certain requirements.</p> <p>Does the state permit use of employer IDs as proof of identity?</p>	No	No	No	Yes
<p>Proposed s. Trans 102.15(4)(a)7. would allow a student photo identification card containing a photograph of the person to be used as ID.</p> <p>Does the state permit photo student IDs to be used as proof of identity?</p>	Yes	Yes	No	Yes

Proposed s. Trans 102.15(4)(a)12. would permit the use of a valid original driver license from a foreign country accompanied by an international driver's permit that translates the original license as ID. Does the state permit licenses from other countries and their translations to be used as proof of ID?	Yes	No	No	No
Does the state permit welfare cards (Wisconsin Quest cards) to be used as proof of ID? s. Trans 102.15(4)(a)18.	No	No	No	Yes
A Forward Wisconsin card s. Trans 102.15(4)(a)19.	No	No	No	Yes
Does the state permit use of identification cards issued by a Mexican consulate bearing photo-graphs and signatures, or reproduction of the signatures, of the person as proof of ID? s. Trans 102.15(3)(a)19.	No	No	No	No
The department proposes to permit the department of corrections to take photos and accept driver license and ID applications from inmates and to accept the Wisconsin department of corrections ID cards as identity documents. s. Trans 102.15(3)(a)20. Does the state permit use of prison system IDs as proof of ID or permit prison staff to collect driver license applications on behalf of the driver licensing agency?	No	No	No	No
The department proposes to permit use of utility bills for water, gas, electric or land line phone service to be used as proof of Wisconsin residency. s. Trans 102.15(4m)(b) Does the state permit use of utility bills to prove residency?	No	No	Yes	Yes
The department proposes to permit the use of paycheck or pay stub with the customer's name and address, and the employer's name and address as proof of Wisconsin residency. s. Trans 102.15(4m)(c) Does the state permit use of pay stubs as proof of residency?	No	No	yes	Yes
The department proposes to permit use of an account statement at least 30 days old from a Wisconsin financial institution as proof of residency. s. Trans 102.15(4m)(d) Does the state permit use of financial institution account statements as proof of residency?	No	No	Yes	Yes

<p>The department proposes to permit use of Milwaukee county ID cards issued after February 2000, but no later than July 1, 2003, as proof of residency. s. Trans 102.15(4m)(e)</p> <p>Does the state permit the use of county ID cards as proof of residency?</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>No</p>
<p>The department proposes to permit the use of an individual taxpayer identification number, or ITIN, along with the IRS letter listing a Wisconsin address as proof of residency. s. Trans 102.15(4m)(f)</p> <p>Does the state permit use of tax ID numbers and IRS correspondence as proof of residency?</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>No</p>
<p>The department proposes to permit use of Wisconsin work permits for minors to be used as proof of residency. s. Trans 102.15(4m)(g)</p> <p>Does the state permit use of state issued work permits to be used as proof of residency?</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>No</p>
<p>The department proposes to permit an affirmation by an applicant's spouse, mother, father, child or legal guardian verifying that the applicant is a resident of Wisconsin as proof of residency if the person affirming holds a valid Wisconsin drivers license or ID card. s. Trans 102.15(4m)(h)</p> <p>Does the state permit parents, spouses, children or legal guardians who hold driver licenses to affirm the residency of the driver?</p>	<p>No</p>	<p>No</p>	<p>No</p>	<p>No</p>

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: The Department compared the requirements of Wisconsin law with those of other states, AAMVA recommendations, and recommendations from Department staff in making changes to the types of documentation that will be acceptable as proof of name, date of birth, identity and residency.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: This proposed rule will have no adverse impact on small businesses. You may contact the Department's small business regulatory coordinator by phone at (608) 267-3703, or via e-mail at the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

Fiscal Effect and Anticipated Costs Incurred by Private Sector: 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.

Place Where Comments are to be Submitted and Deadline for Submission: The public record on this proposed rule making will be held open until close of business on the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Phil Alioto, Department of Transportation, Division of Motor Vehicles, Room 255, P. O. Box 7911, Madison, WI 53707-7911. You may also contact Mr. Alioto by phone at (608) 267-4524.

To view the proposed amendments to the rule, view the current rule, and submit written comments via e-mail/internet, you may visit the following website: <http://www.dot.wisconsin.gov/library/research/law/rulenotices.htm>.

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.

Health and Family Services (CR 04-025)

An order affecting chs. HFS 36, 105 and 107, 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.

Effective 11-1-04.

Health and Family Services (CR 04-040)

An order affecting chs. HFS 10, 13, 52, 55, 57, 59, 83, 124, 131, 134, 136, 181 and 252, relating to family care; reporting and investigation of caregiver misconduct; residential care centers for children and youth, child-placing agencies, day camps for children and day care programs established by school boards; group foster care; shelter care for children; community-based residential care facilities; patient rights and resolution of grievances; hospitals; hospices; embalming standards; reporting blood test results; and electronic benefits transfer.

Effective 12-1-04.

Health and Family Services (CR 04-050)

An order affecting ch. HFS 109, relating to the SeniorCare program.
Effective 11-1-04.

Health and Family Services (CR 04-051)

An order affecting chs. HFS 152 to 154, relating to the provision and reimbursement of services under the Wisconsin Chronic Disease Program.
Effective 12-1-04.

Health and Family Services (CR 04-053)

An order affecting chs. HFS 132 and 134, relating to nursing homes and facilities for the developmentally disabled.
Effective 11-1-04.

Natural Resources (CR 01-104)

An order affecting chs. NR 600 and 815, relating to the control of injection wells.
Effective 11-1-04.

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **September 30, 2004**, Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code and also to the subscribers of the specific affected Code.*

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

Agriculture, Trade and Consumer Protection (CR 03-121)

An order affecting chs. ATCP 10 to 12, relating to captive wildlife and animal health. Effective 10-1-04 and 1-1-05.

Summary of Final Regulatory Flexibility Analysis

This rule adds regulatory requirements for some businesses, but these requirements are necessary for animal disease control and not expected to impose an undue burden. The new Captive Wildlife Law mandates some of the requirements.

In some cases, this rule gives affected businesses wider latitude to choose a preferred method of compliance. This rule will benefit affected businesses by clarifying regulatory requirements, and coordinating DATCP and DNR regulation.

This rule imposes new fees related to deer hunting preserves. The new fee (\$150 for a 10-year hunting preserve certificate) is modest, and is needed to defray costs of providing inspections newly mandated by the Legislature. This rule requires deer farm operators, including hunting preserve operators, to identify dead animals with "dead tags" purchased at cost from DATCP. The "dead tags" are needed for disease control and traceback, including chronic wasting disease control.

This rule codifies, but does not increase, current fees for poultry and farm-raised game bird operators that wish to participate in the National Poultry Improvement Plan. The fees are modest (\$20-200, depending on flock size and type), and merely cover DATCP's cost to provide inspections and services required under the National Poultry Improvement Plan.

The rule expands current regulation of livestock truckers, dealers and markets to include entities that handle wild animals. This change was mandated by the Legislature. The change could have a substantial impact on wild animal markets, dealers and truckers, which will now have to comply with the same regulations that apply to livestock markets, dealers and truckers. However, DATCP does not believe that many "small businesses" will be affected.

This rule will require health certificates (certificates of veterinary inspection) for the import of certain animals that can now be imported without a certificate. This rule also requires persons importing wild animals to obtain a permit for DATCP (there is no charge for the permit). The new import requirements are consistent with current requirements for livestock, are needed to control serious diseases that may be spread by these animals, and which are not adequately addressed by current import controls.

This rule will add some record keeping requirements, especially for deer hunting preserves, wild animal markets, and wild animal dealers and truckers.

Summary of Comments by Legislative Review Committees

On June 28, 2004, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture Financial Institutions and Insurance, and to the Assembly Committee on Natural Resources. Neither the Assembly Committee on Natural Resources nor the Senate Committee on Agriculture, Financial Institutions and Insurance took any action on the rule during their review period.

Agriculture, Trade and Consumer Protection (CR 04-030)

An order affecting chs. ATCP 99, 100 and 101, relating to agricultural producer security. Effective 10-1-04.

Summary of Final Regulatory Flexibility Analysis

Rule Description

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.

This rule does all of the following:

- Authorizes a partial refund of contractor assessments that are drastically inflated by a *temporary* change in financial condition caused by a merger or acquisition.
- Authorizes an assessment reduction for 6 large contractors who (unlike most other contractors) are required to maintain individual security (bonds or letters of credit) with DATCP.
- 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.

Small Businesses Affected by this Rule

A "small business," as defined in s. 227.114 (1) (a), Stats., means a business entity, including its affiliates, which is independently owned and operated and not dominant in its field, and which employs fewer than twenty-five full time employees or which has gross annual sales of less than \$2,500,000.

There are roughly 750 licensed contractors. They range in size from international corporations to “small businesses”.

Effects on Small Business

It is unlikely that the provisions relating to partial refunds and reductions of contractor assessments will have any direct effect on small businesses. These provisions are more likely to effect large companies.

This rule updates current disclosure requirements (per recent law changes), but the updated disclosure requirements only apply to contractors who purchase (or store) more than \$18,000,000 of grain, milk or vegetables. It is very unlikely that any “small businesses” would be affected by this provision.

This rule also clarifies that grain dealers and warehouse keepers may provide grain purchase and deposit receipts (required by current law) in electronic form. This provision may provide some benefit to small businesses by enabling them to choose what may be a lower cost form of providing receipts.

Summary of Comments by Legislative Review Committees

On June 30, 2004, DATCP transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform and to the Assembly Committee on Agriculture. Neither the Assembly Committee on Agriculture nor the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform took any action on the rule during their review period.

Natural Resources (CR 01-081)

An order affecting ch. NR 400 series, relating to the control of mercury emissions to address the atmospheric deposition of mercury. Effective 10-1-04.

Summary of Final Regulatory Flexibility Analysis

Small business will not be directly affected by the proposed rules. The requirements are anticipated to only apply to large businesses.

Summary of Comments by Legislative Review Committees

The proposed rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On August 13, 2003, a joint hearing was held on the proposed rule. As a result of that hearing, the Assembly Committee on Natural Resources asked the Department to consider modifications to proposed rule. The Senate Committee on Environment and Natural Resources also asked for modifications specifically including the ability for utilities to achieve an 80% reduction by 2015 with current available technology, the potential for duplication when a federal mercury emission standard is implemented, and the exclusion of a comprehensive emissions credits trading and banking program.

At their June 25, 2004 meeting, the Natural Resources Board adopted modifications that addressed the committees concerns, as well as technical changes that modified the period for the sampling of fuel mercury content required for determining the baseline from the calendar year of 2004 to the 12 months following rule promulgation, included a note following the rule provisions relating to multi-pollutant reduction alternatives to reference Environmental

Cooperative Agreements as a potential basis for a multi-pollutant reduction alternative, added section 111 to the federal regulations that would be included in a reconciliation report and modified the periodic evaluation and reconciliation report provisions of the rule to include the legislative standing committees as recipients of the reports, providing the committees with an opportunity to monitor the rule’s implementation and the appropriateness of the Department’s response to mercury control technology developments.

Natural Resources (CR 02-046)

An order affecting ch. NR 2, relating to department procedures for administrative hearings. Effective 10-1-04.

Summary of Final Regulatory Flexibility Analysis

Fewer than 50 contested case hearings are conducted yearly, many of which have no participation by small businesses. The rule is not expected to meaningfully increase the cost of participation in contested case hearings.

Summary of Comments by Legislative Review Committees

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. The Assembly Committee on Natural Resources held a public hearing on October 9, 2002 and requested modifications. The Natural Resources Board agreed to delete the proposal to limit the number of written interrogatories and the length of depositions during discovery proceedings prior to administrative hearings.

Natural Resources (CR 04-011)

An order affecting chs. NR 10 and 15, relating to hunting and trapping regulation changes. Effective 11-1-04 and 4-1-05.

Summary of Final Regulatory Flexibility Analysis

These revisions pertain to rules relating to hunting, trapping and wildlife refuges. These rules are applicable to individual sportspersons and impose no compliance or reporting requirements for small businesses, nor are any design or operational standards contained in the rule. Therefore, a final regulatory flexibility analysis was not required.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On June 30, 2004, the Assembly Committee on Natural Resources held a public hearing. The Department did not receive any comments as a result of this hearing.

Natural Resources (CR 04-014)

An order affecting ch. NR 50, relating to the snowmobile trail grant program. Effective 10-1-04.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The rule was reviewed by the Assembly Committee on Tourism and the Senate Committee on Environment and Natural Resources. There were no comments.

**Natural Resources
(CR 04-015)**

An order affecting ch. NR 168, relating to the administration of the brownfield site assessment grant program. Effective 10-1-04.

Summary of Final Regulatory Flexibility Analysis

This rule describes the administrative requirements for a grant program for local governments. This is not a regulatory program and the department does not expect any impact on small businesses.

Summary of Comments by Legislative Review Committees

The proposed rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. On June 30, 2004, the Assembly Committee on Natural Resources held a public hearing. The Department did not receive any comments as a result of this hearing.

**Natural Resources
(CR 04-046)**

An order affecting chs. NR 1, 10 and 12, relating to hunting and trapping. Effective 10-1-04.

Summary of Final Regulatory Flexibility Analysis

The revisions pertain to rules that relate to hunting and trapping. These rules are applicable to individual sportspersons. Therefore, a final regulatory flexibility analysis was not required.

Summary of Comments by Legislative Review Committees

The proposed rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. There were no comments received by the Department.

**Public Instruction
(CR 04-008)**

An order affecting ch. PI 36, relating to public school inter-district open enrollment. Effective 10-1-04.

Summary of Final Regulatory Flexibility Analysis

There is no impact on small business.

Summary of Comments by Legislative Review Committees

No comments received.

**Transportation
(CR 04-029)**

An order affecting ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways. Effective 10-1-04.

Summary of Final 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.

Summary of Comments by Legislative Review Committees

No comments received.

**Transportation
(CR 04-034)**

An order affecting ch. Trans 1, relating to the elderly and disabled transportation assistance to counties. Effective 10-1-04 and 1-1-06.

Summary of Final Regulatory Flexibility Analysis

This proposed rule will have no adverse impact on small businesses.

Summary of Comments by Legislative Review Committees

No comments received.

**Transportation
(CR 04-042)**

An order affecting ch. Trans 276, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways. Effective 10-1-04.

Summary of Final 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.

Summary of Comments by Legislative Review Committees

No comments received.

**Veterans Affairs
(CR 04-037)**

An order affecting ch. VA 18, relating to the administration of the registered nurse education stipend program. Effective 10-1-04.

Summary of Final Regulatory Flexibility Analysis

There is no impact on small business.

Summary of Comments by Legislative Review Committees

No comments received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **September 2004**, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

Revisions

Agriculture, Trade and Consumer Protection

Ch. ATCP 10

- S. ATCP 10.01 (8), (22r), (38), (41), (45) (g), (L) to (n), (55m), (56), (73m)
- S. ATCP 10.02 (1) to (3), (5)
- S. ATCP 10.025 (3)
- SS . ATCP 10.07 and 10.08
- S. ATCP 10.50 (1), (2) (b), (f) to (h), (3), (4) (a)
- S. ATCP 10.51
- S. ATCP 10.61 (1m), (4) (c), (9), (12)
- S. ATCP 10.615
- S. ATCP 10.66 (1), (3), (4)
- S. ATCP 10.67 (4) (b)
- S. ATCP 10.91 (1)

Ch. ATCP 11

- S. ATCP 11.01 (3) to (5), (11), (27), (29r), (41) to (45), (50), (51m), (54) (g) to (n), (64), (84e)
- S. ATCP 11.02 (1), (4) (a), (6) (c)
- S. ATCP 11.10 (4) (a), (c)
- S. ATCP 11.11 (1) (b)
- S. ATCP 11.15
- S. ATCP 11.20 (1) (b)
- S. ATCP 11.22 (1) (intro.)
- S. ATCP 11.23 (2) (d)
- S. ATCP 11.30 (1) (c), (2) (c)
- S. ATCP 11.34 (2) (c), (d)
- S. ATCP 11.40 (1) (a), (c), (d), (2)
- S. ATCP 11.50
- S. ATCP 11.51 (1)
- S. ATCP 11.545 (1) (b), (d)
- S. ATCP 11.545 (1) (e), (2) (a)
- S. ATCP 11.55 (1) (intro.), (a), (1m), (2), (3), (5)
- S. ATCP 11.56 (1) (b), (2) (c)
- S. ATCP 11.595
- S. ATCP 11.62 (4)
- S. ATCP 11.70 (1)

Ch. ATCP 12

- S. ATCP 12.01 (1) to (1w), (13) to (17m), (20) (g), (L) to (n), (27)
- SS. ATCP 12.02 to 12.06
- S. ATCP 12.07 (2)
- S. ATCP 12.08 (1) (b), (3), (4), (8), (9), (15), (16), (19) (intro.), (20) and (22)

Ch. ATCP 99

- SS. ATCP 99.13 and 99.135
- S. ATCP 99.14 (2) (d)

- S. ATCP 99.16
- S. ATCP 99.25 and 99.255
- S. ATCP 99.26 (2) (b), (c)
- S. ATCP 99.28

Ch. ATCP 100

- SS. ATCP 100.13 and 100.135
- S. ATCP 100.20 (2) (e)

Ch. ATCP 101

- SS. ATCP 101.25 and 101.255
- S. ATCP 101.26 (2) (a) (intro.), (b) (intro.), (d), (e)

Natural Resources

Ch. NR 1

- S. NR 1.16 (intro.)

Ch. NR 2

- SS. NR 2.01 to 2.04
- S. NR 2.05 (1), (2), (3) and (5)
- S. NR 2.055
- S. NR 2.06 (1), (2) (d) and (3)
- S. NR 2.065 (1) and (2)
- S. NR 2.07
- S. NR 2.08 (1) to (7)
- S. NR 2.085 (1) to (4)
- S. NR 2.09 (1) to (3)
- S. NR 2.095
- S. NR 2.10
- S. NR 2.105
- S. NR 2.11 (1) to (3)
- S. NR 2.115
- S. NR 2.12 (1) to (4)
- S. NR 2.13 (1) and (3) to (6)
- S. NR 2.135 (2), (3) and (5)
- S. NR 2.14 (2) and (4) to (7)
- S. NR 2.15 (1) and (2)
- S. NR 2.155 (1) to (3)
- S. NR 2.157 (1) and (2)
- S. NR 2.16
- S. NR 2.17 (1) and (3)
- S. NR 2.18 (1) to (3)
- S. NR 2.19 (4) to (9)
- S. NR 2.195 (2) to (6)
- S. NR 2.20 (1) to (6)

Ch. NR 10

- S. NR 10.001 (6p), (6t), (11) and (23m)
- S. NR 10.104 (11) (intro.), (a) (intro.), (b) (intro.) and (13) (intro.)

S. NR 10.105 (3) and (4)
 S. NR 10.106 (2) (f)
 S. NR 10.01 (3) (e) and (et)
 S. NR 10.06 (8) (a)
 S. NR 10.07 (1) (a) and (3)
 S. NR 10.09 (1) (c)
 S. NR 10.27 (5) (b), (g) and (m)
 S. NR 10.28 (3)
 S. NR 10.41

Ch. NR 11

S. NR 11.08

Ch. NR 12

S. NR 12.06 (2), (3) (a) and (4) (b)

Ch. NR 19

S. NR 19.02 (2) and (3) (c)

Ch. NR 50

S. NR 50.09 (4) (c) and (5) (c)

Ch. NR 168

S. NR 168.03 (3), (3m), (7), (8m) and (16m)
 S. NR 168.07 (1) to (3)
 S. NR 168.09 (4)
 S. NR 168.11 (1), (2) (c), and (4)
 S. NR 168.13 (2) (a), (am), (b), (c), (e), (f), (g), and (h)
 S. NR 168.17 (3) to (5)
 S. NR 168.19 (2), (8) and (9)
 S. NR 168.21 (2) and (11)

Ch. NR 400

S. NR 400.02 (64)

Ch. NR 405

S. NR 405.02 (22) (c)

Ch. NR 406

S. NR 406.04 (intro.)

Ch. NR 408

S. NR 408.02 (2) (a) and (4)
 S. NR 408.04 (1)

Ch. NR 439

S. NR 439.075 (2) (b)

Ch. NR 446

S. NR 446.01 (2)
 S. NR 446.02 (1), (1c), (1g), (1n), (1r), (1w), (6e), (6m),
 (6s), (8m) and (10s)
 S. NR 446.025

S. NR 446.027
 S. NR 446.029
 S. NR 446.03 to 446.12
 S. NR 446.14 (1) and (2)
 SS. NR 446.15 to 446.16
 S. NR 446.16

Ch. NR 484

S. NR 484.04 (20m) and (26m)
 S. NR 484.05 (9)
 S. NR 484.10 (47m)

Public Instruction**Ch. PI 36**

S. PI 36.01 (2) (a)
 S. PI 36.02 (1), (1m), (4), (7m) and (10m)
 S. PI 36.03 (1) (a), (b), (e), (f), (h) and (i), (2) (b) and
 (d), (3) (a), (c) and (d)
 S. PI 36.04 (1), (2) (b) to (d), (4), (5), (6) (a) (intro.),
 (7), (8) and (9) (intro.), (a), (b), (11) to (13), (16)
 and (17)
 S. PI 36.05 (3), (5) (a) and (b), (6) (a) (intro.), (7), (8)
 (intro.), (a) and (b), (9), (10) to (12)
 S. PI 36.09
 S. PI 36.10 (4) (a)

Transportation**Ch. Trans 1**

S. Trans 1.015 (1), (4m)
 S. Trans 1.02 (1), (2) (b) and (3)
 S. Trans 1.03 (3) (intro.), (b) and (4)
 S. Trans 1.035
 S. Trans 1.04
 S. Trans 1.05 (1), (2) (b), (e), (f), (g), (3), (7) and (8)
 S. Trans 1.06 (2), (3), (4), (5) and (6)
 S. Trans 1.08 (1) (a) to (e), (2) (a) and (3)
 S. Trans 1.09 (2) and (3)

Ch. Trans 276

S. Trans 276.07 (7), (15), (15m) and (22)

Veterans Affairs**Ch. VA 18 (entire chapter)****Editorial corrections**

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

Agriculture, Trade & Consumer Protection**Ch. ATCP 100**

S. ATCP 100.16 (1) (intro.)
 S. ATCP 100.20 (2) (a), (c) and (f)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 67. Relating to a creation of the State of Wisconsin citizen corps council.

Executive Order 68. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff to commemorate the three year anniversary of the terrorist attacks on the United States.

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