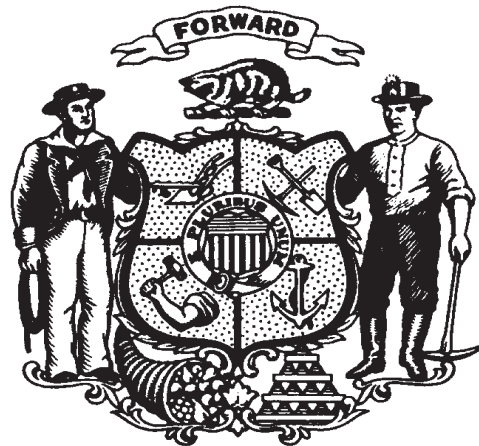


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Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health,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

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

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

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

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

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

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, its 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.

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

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

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:

- 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: 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).

- 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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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

- 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

- 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

- 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.

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

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

- 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).

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

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:

- 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

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 (2)

1. 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

2. Rules adopted creating **ch. RL 150 to 154**, relating to the licensure and regulation of athlete agents.

Exemption from finding of emergency

SECTION 4, Nonstatutory provisions of 2003 Wisconsin Act 150 states in part:

(2) The department of regulation and licensing may, using the procedure under section 227.24 of the statutes, promulgate the rules under section 440.9935 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 rules under this subsection as emergency rules is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide findings of emergency for rules promulgated under this subsection.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: s. 227.11 (2), Stats., and ss. 440.99, 440.991, 440.915, 440.992, 440.9925, 440.993, 440.9935, 440.994, 440.9945, 440.995, 440.9955, 440.996, 440.9975, 440.998 and 440.999, Stats., as created by 2003 Wisconsin Act 150.

Statutes interpreted: Chapter 440, Subchapter XII.

This emergency rule is promulgated pursuant to 2003 Wisconsin Act 150. This Act grants the Department of Regulation and Licensing the authority to create rules relating to the licensure and regulation of athlete agents.

In this order adopting emergency rules the Department of Regulation and Licensing creates rules relating to the licensure of athlete agents. These rules are as a result of 2003 Wisconsin Act 150 which enacted the Uniform Athlete Agents Act. Chapters RL 150 to 154 establish requirements and standards for registration and the practice of registered athlete agents. The rules specify the registration requirements for temporary and permanent registration, renewal requirements, and prohibited conduct for athlete agents.

SECTION 1 creates Chapter RL 150 which sets forth the statutory authority and the definitions for the proposed rules.

SECTION 2 creates Chapter RL 151 which sets forth the application process and requirements for an initial certificate of registration, including the application process for a temporary certificate of registration.

SECTION 3 creates Chapter RL 152 which sets forth the application process and requirements for renewal of a certificate of registration.

SECTION 4 creates Chapter RL 153 which outlines the standards of practice which apply to a credential holder.

SECTION 5 creates Chapter RL 154 which defines unprofessional conduct.

Publication Date: October 5, 2004
Effective Date: October 5, 2004
Expiration Date: March 4, 2005
Hearing Date: November 12, 2004
 [See Notice this Register]

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 manufactory, mechanical or mercantile establishment, beauty parlor, laundry, restaurant, confectionary store, or telegraph or telecommunications office or exchange, or any express or transportation establishment or any hotel.”

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

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

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

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

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

Publication Date: March 1, 2004

Effective Date: March 1, 2004*

Expiration Date: July 29, 2004

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

Scope statements

Health and Family Services

Subject

The Department proposes to repeal and recreate ch. HFS 53, relating to disclosure of medical, genetic, social history, or identifying information concerning birth parents, adoptees, and individuals who were not adopted but whose parents' parental rights were terminated.

Policy Analysis

The Adoption Search Program operated under ss. 48.432 and 48.433, Stats., by the Department, makes available requesters qualified under s. 48.432 (3), Stats., medical, genetic, social history, or identifying information concerning birth parents, adoptees, and individuals who were not adopted but whose parents' parental rights were terminated. The Department, the county agency, or the licensed child-placing agency that handled the adoption is responsible for conducting searches for the requested information.

The Department proposes to update the standards of operation for the Adoption Search Program that is operated by the Department under ch. HFS 53 and ss. 48.432 and 48.433, Stats. The Adoption Search Program allows medical, genetic, social history, or identifying information concerning birth parents to be made available to requesters qualified under s. 48.432 (3), Stats. The Department anticipates that updating ch. HFS 53 will result in improved service delivery and coordination between the Department, county agencies, and licensed child-placing agencies that conduct searches for information under the Adoption Search Program.

Comparison to federal regulations

The Department is unable to identify any comparable federal regulations at this time.

Entities affected by the rule

Entities that may be affected by the proposed rules include licensed child welfare agencies.

Statutory authority

Sections 48.432 (9), 48.433 (11), and 227.11 (2), Stats.

Staff time required

The Department estimates that it will take approximately 32 staff hours to promulgate proposed rules.

Natural Resources

Subject

Chapter NR 46.30, Forest Tax Program, annual timber stumpage rate changes and chapter NR 46.18 (1) (a) management plan maps.

Policy Analysis

The issues needing to be addressed are routine and technical within the Managed Forest Law (MFL) program.

The department is required to assess the value of cut wood products based on the current stumpage value schedule. Current stumpage values are determined each year by

surveying industry, private forestry consultants and DNR field staff on the prices obtained the previous year for wood products by species, product type, and zone. These values are recalculated annually using a weighted three-year average and published in NR 46.30. The stumpage value charts are used to determine severance and yield tax for participants in the Forest Tax Law programs. It is important to adjust these values annually so that landowners are not paying too much in yield/severance tax or too little.

Comparison to federal regulations

There are no known federal rules which apply to stumpage rates.

Statutory authority

ss. 77.06 (2), 77.91 (1) and 227.11 (2) (a), Stats.

Staff time required

Approximately 31 hours will be needed by the department.

Transportation

Subject

Objective of the rule. This rule making will amend ch. Trans 510, relating to the Transportation Facilities Economic Assistance and Development (TEA) Program. The objective of the rule making is to incorporate legislative changes to the program, update dated references in the existing rule, and remove an inconsistent provision that could hinder the availability of grant increases where warranted. The existing rule establishes criteria and procedures for grant applications/awards for transportation facilities improvements (TEA grants). Legislative changes require WisDOT to promulgate rules establishing criteria and procedures for the granting and repayment of TEA loans in addition to TEA grants. Legislative changes also require TEA grants to be funded year round under a first-come, first-serve premise rather than under set quarterly funding cycles previously employed. Due to WisDOT reorganization, contact points for TEA applications need to be updated. Finally, inconsistencies between s. Trans 510.06 (1), which prohibits grant ceiling amendments, and s. 84.185 (3) (b) (1), Stats., and s. Trans 510.02 (7), which both allow grant ceiling adjustments in special circumstances, need to be rectified.

Policy Analysis

WisDOT has the authority to grant TEA loans pursuant to s. 84.185 (6m), Stats. No TEA loans have been granted to date because ch. Trans 510 contains no criteria and procedures for granting and repayment of TEA loans. Legislative changes now provide WisDOT with the authority to promulgate rules including criteria and procedures for the repayment of TEA loans. *See* s. 84.185 (4), Stats. Some TEA projects produce low benefit/cost ratios, contribute minimally to the economic growth of the State, and therefore do not qualify for TEA grants. These are typically projects in more rural areas that pay a weighted average hourly wage far below the industry standard. Rather than deny TEA grants to these projects that are relatively important to smaller rural communities, a TEA loan could be an appropriate alternative. Since no TEA loans

have yet been made, no new or old policies will be implicated by this portion of the proposed rule amendment.

TEA grant applications are currently decided first come, first serve once all eligibility requirements are met pursuant to recent legislative requirements instituted in the last biennial budget. Projects were formerly decided quarterly with funding stretched out over the year and projects priority ranked. Ch. Trans 510 needs to be updated so that confusion over the old and new application process is eliminated. Although the old procedure was a more organized way of administering the program, particularly in coordinating and minimizing TEA-related travel, communities may now get TEA loans year round and under a far less competitive environment. TEA projects are more likely to be successful under the new procedure but perhaps at the expense of projects that occur later in the year when funding has been depleted. However, WisDOT has not yet experienced that potential problem. No new or old policies will be implicated by this portion of the proposed rule amendment.

The rule amendment also eliminates old WisDOT Bureau and Section references that no longer exist due to Department reorganization. No new or old policies will be implicated by updating the contact points for TEA applications and information.

Finally, s. 84.185 (3), Stats., and s. Trans 510.02 (7) specifically allow TEA grant ceiling increases when warranted by special circumstances, including contract

change orders. In contrast, Trans 510.06 (1) appears to prohibit grant ceiling adjustments after the Department has approved an application for funding. WisDOT has consistently allowed TEA grant increases where unforeseen circumstances (e.g., poor soils) have raised project costs legitimately, subject to statutory limitations (approval of the Secretary, \$5,000 per job created/retained and 50% of anticipated cost of the improvement) *See* s. 84.185 (3), Stats. Since that grant approval is generally made far in advance of actual construction, unforeseen circumstances (i.e., contract change orders) may not have been contemplated at the time the grant application was made. Denying grant increases when applicants experience legitimately unforeseen costs could unfairly stick communities entirely with project cost overruns. WisDOT's existing policy is fair, and the rule should be modified to remove possible ambiguity.

Comparison to federal regulations

Not applicable.

Entities affected by the rule

Wisconsin communities filing TEA grant or loan applications, engineering consulting firms.

Statutory authority

s. 84.185., Stats.

Staff time required

40 hours.

Submittal of rules to legislative council clearinghouse

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

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

Rule Submittal Date

On October 15, 2004, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 15.08 (5) (b) and 227.11 (2), Stats.

The proposed rule-making order relates to the barrier free design parts of the board's examinations for professional engineers.

Agency Procedure for Promulgation

A public hearing is required and will be held on November 18, 2004 at 9:15 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin 53702.

Contact Information

If you have questions, please contact:

Pamela Haack, Paralegal

Office of Administrative Rules, (608) 266-0495

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

Rule Submittal Date

On October 15, 2004, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 15.08 (5) (b) and 227.11 (2), Stats.

The proposed rule-making order relates to the name of the principles and practice examination for land surveyors.

Agency Procedure for Promulgation

A public hearing is required and will be held on November 18, 2004 at 9:15 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin 53702.

Contact Information

If you have questions, please contact:

Pamela Haack, Paralegal

Office of Administrative Rules, (608) 266-0495

Natural Resources

Rule Submittal Date

On October 8, 2004, the Department of Natural Resources, submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to trout fishing in Richland and Vernon counties.

Agency Procedure for Promulgation

A public hearing is required and will be held on November 11, 2004.

Contact Information

Steve Hewett

Bureau of Fisheries Management and Habitat Protection
608-267-7501

Natural Resources

Rule Submittal Date

On October 8, 2004, the Department of Natural Resources, submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to bass fishing tournaments.

Agency Procedure for Promulgation

A public hearing is required and will be held on November 11, 2004.

Contact Information

Pat Schmalz

Bureau of Fisheries Management and Habitat Protection
608-266-8170

Natural Resources

Rule Submittal Date

On October 8, 2004, the Department of Natural Resources, submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order relates to chs. NR 500, 502, 544 and 545, recycling.

Agency Procedure for Promulgation

A public hearing is required and will be held on November 15, 2004.

Contact Information

Cynthia Moore

Bureau of Waste Management
608-267-7550

Regulation and Licensing

Rule Submittal Date

On October 15, 2004, the Wisconsin Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 227.11 (2) and 458.24, Stats.

The proposed rule-making order relates to the 2005 edition of the Uniform Standards of Professional Appraisal Practice (USPAP).

Agency Procedure for Promulgation

A public hearing is not required under s. 227.16 (2) (e), Stats. A 30-day notice will be published in the administrative register.

Contact Information

If you have questions, please contact:
Pamela Haack, Paralegal
Office of Administrative Rules, (608) 266-0495

Revenue

Rule Submittal Date

On October 13, 2004, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates s. Tax 2.99, relating to the dairy investment credit.

Agency Procedure for Promulgation

A public hearing on the proposed rule is required and will be scheduled.

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

Contact Information

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

Revenue

Rule Submittal Date

On October 13, 2004, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates 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.

Agency Procedure for Promulgation

A public hearing on the proposed rule is required and will be scheduled.

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

Contact Information

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

Transportation

Rule Submittal Date

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

Analysis

The proposed rule affects ch. Trans 302, relating to vehicle marking.

Agency Procedure for Promulgation

A public hearing is not required.

The Division of State Patrol is primarily responsible for the promulgation of the proposed rule.

Contact Information

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

Transportation

Rule Submittal Date

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

Analysis

The proposed rule affects ch. Trans 112, relating to medical standards for driver licensing and general standards for school bus endorsements.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for November 15, 2004.

The Division of Motor Vehicles/Records and Licensing Info Section is responsible for the promulgation of the proposed rule.

Contact Information

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

Rule-making notices

Notice of Hearing

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

[CR 04-119]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11, (2), Stats., and interpreting s. 443.09 (5), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to repeal s. A-E 4.08 (1) (c); and to amend s. A-E 4.05 (1) (c), (2) (b) and (3) (c), relating to the barrier free design parts of the board's examinations for professional engineers.

Hearing Date, Time and Location

Date: **November 18, 2004**
 Time: 9:15 A.M.
 Location: 1400 East Washington Avenue
 Room 179
 Madison, Wisconsin

Appearances at the Hearing:

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by November 26, 2004 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

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

Statutes interpreted: s. 443.09 (5), Stats.

Currently, all professional engineering candidates must successfully complete the fundamentals of engineering examination, the principles and practice of engineering examination, and the barrier-free design parts of the board's examination on the statutes, rules and regulations governing the practice of professional engineering in Wisconsin.

Although there are a variety of types of engineers that will never do design work that would entail barrier-free designs, all engineering fields must currently take and pass this component of examination according to s. A-E 4.05 (1) (c), (2) (b), (3) (c) and 4.08 (1) (c). In order to attain a degree at the university level engineers are thoroughly trained in this area and should not be required to take and pass the barrier free portion of the examination.

SECTION 1 removes the language that requires an applicant to take and pass the barrier free design part of the board's examination.

SECTION 2 repeals s. A-E 4.08 (1) (c) that relates to the barrier free examination.

Comparison with similar rules in adjacent states

Wisconsin is the only state among the adjacent states that requires all engineering applicants to take the barrier free portion of the examination.

Existing or proposed federal legislation

The Wisconsin Department of Commerce has incorporated into its Commercial Building Code the International Building Code and the ICC/ANSI A117.1., Standard for Accessible and Usable Buildings and Facilities to assure barrier-free accessibility and to meet the federal Americans with Disabilities Act Accessibilities Guidelines. The federal government does not regulate or oversee the application process for engineers involving licensure requiring such a component like the barrier-free examination is met, and a search of the United States Code Services (USCS) and the Code of Federal Regulations (CFR) returned no entries regarding this subject. Because of the federal and state building mandates, a unit must be built conforming to stringent standards that only capable engineers and architects can meet.

Fiscal Estimate

The Department of Regulation and Licensing will incur \$500 in costs to print and distribute the rule change.

Private Sector Fiscal Impact

The department has determined that this rule will have no significant fiscal effect on the private sector.

Initial Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

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

Notice of Hearing

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors

[CR 04-118]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11, (2), Stats., and interpreting s. 443.06 (3), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to amend s. A-E 6.05 (1) and (2) (b), and 6.07 (1) and (2), relating to the name of the principles and practice examination for land surveyors.

Hearing Date, Time and Location

Date: **November 18, 2004**
 Time: 9:15 A.M.
 Location: 1400 East Washington Avenue

Room 179
Madison, Wisconsin

**Notice of Hearing
Natural Resources
(Fish, Game, etc.)**

[CR 04-111]

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by November 26, 2004 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

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

Statutes interpreted: s. 443.06 (3), Stats.

In November, 2002, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors adopted a rule creating s. A-E 6.07 (CR02-090). The proposed rule-making order relating to land surveyors referred to the "state jurisdictional examination" rather than the "principles and practice examination." A comment in the Clearinghouse Report suggested the name be changed to the "principles and practice examination" because "state jurisdictional examination" was not used elsewhere in the rule. That change was made and the rule was adopted.

However, since this examination is more commonly known in the field as the "state jurisdictional examination," this proposed rule-making order amends s. A-E 6.05 (1) and (2) (b) and 6.07 (1) and (2) changing the name of the examination from the "principles and practice examination" to the "state jurisdictional examination."

Comparison with similar rules in adjacent rules: N/A

Existing or proposed federal legislation: N/A.

Fiscal Estimate

The Department of Regulation and Licensing will incur \$500 in costs to print and distribute the rule change.

Private Sector Fiscal Impact

The department has determined that this rule will have no significant fiscal effect on the private sector.

Initial Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, 29.4035 and 227.11 (2), Stats., interpreting ss. 29.014, 29.041, 29.403 and 29.4035, Stats., the Department of Natural Resources will hold a public hearing on repealing and recreating ss. NR 20.20 (53) (f) and (63) (c), Wis. Adm. Code, relating to trout fishing on the Pine River and Melancthon Creek in Richland and Vernon Counties. In response to a citizen petition, the Department is proposing this rule to change the Richland and Vernon county trout fishing regulation of the Pine river (uppermost STH 80 bridge upstream to CTH CH in the Village of Yuba) from catch and release to 3 trout bag limit and 9-inch size limit. It also changes the regulations on Melancthon creek from catch and release with artificial lures on the whole stream for all trout to allow the harvest of 5 trout in total, only 3 of which can be brook trout. Brown or rainbow trout must be over 7 inches while brook trout must be between 6 and 9 inches. Anglers can use bait downstream of STH 80, but can only use artificial lures upstream from STH 80.

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 hearing will be held on:

Thursday, November 11, 2004 at 7:00 p.m.

County Courtroom, Richland Co. Courthouse

181 W. Seminary

Richland Center

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

Fiscal Estimate

There is no fiscal impact.

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 Mr. Steve Hewett, Bureau of Fisheries management and Habitat Protection, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until November 17, 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 Mr. Hewett.

Notice of Hearing
Natural Resources
(Fish, Game, etc.)

[CR 04–112]

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014 (1), 29.403, 29.4035 and 227.11 (2), Stats., interpreting ss. 29.014 (1), 29.403 and 29.4035, Stats., the Department of Natural Resources will hold a public hearing on amending s. NR 20.40 (6)(d) and creating s. NR 20.40 (am) and (d) and (6m), Wis. Adm. Code, relating to bass fishing tournaments. The passage of 2003 Wisconsin Act 249 requires the Department to promulgate rules to establish a program to authorize and regulate fishing tournaments. In addition, Act 249 establishes a bass fishing tournament pilot program that creates a study in which the sorting/culling of bass by tournament anglers in 4 permitted bass tournaments per year is allowed and the impacts evaluated. Act 249 requires that the Department create, by rule, live well standards that all pilot program boats must meet to be considered for the program. Recommended live well standards include:

1. The live well must be an original manufactured part of the boat and have a capacity of at least 25 gallons;
2. The live well must be in working condition and its operation must be demonstrated prior to fishing in the tournament;
3. The live well must be capable of continuously pumping freshwater into it;
4. The live well must be capable of holding, recirculating and aerating water.

The pilot program and the live well standards sunset on December 31, 2006.

In addition, based on public comments, the Department may make additional changes to existing tournament rules, including but not limited to allowable length of tournaments, to accommodate the 2 year pilot tournament program.

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 hearing will be held on:

Thursday, November 11, 2004 at 7:00 p.m.

Gathering Waters Room, South Central Region Hdqrs.

3911 Fish Hatchery Road

Fitchburg

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 Pat Schmalz at (608) 266–8170 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

None anticipated.

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 Mr. Pat Schmalz, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until November 18, 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 Mr. Schmalz

Notice of Hearing
Natural Resources

(Environmental Protection – Solid Waste Management)

[CR 04–113]

NOTICE IS HEREBY GIVEN that pursuant to ss. 289.05 (1), 289.06 (1), 289.07 (1) and 287.03 (1) and (2), Stats., interpreting ss. 287.09 (2) (a), 287.11, 287.27, 289.35 and 289.55, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 500, 502 and 544 and the repeal of ch. NR 545, Wis. Adm. Code, relating to recycling. The intent of the proposed revisions is to eliminate obsolete language and references, to confirm the original intent and scope of rules through clarification of rule language and definitions and to update certain provisions to reflect changes in recycling methods and technology. Chapter NR 545 which addresses out-of-state units with an effective recycling program is repealed. The proposed revisions include:

Technical edits – All references to recycling requirements for out-of-state units and volume based fee systems are eliminated. Also eliminated are references to obsolete sections of statutes and code and to dates that are long past.

Code updates – Other revisions are proposed to clarify the original intent and scope of recycling requirements by state law and under local ordinance, to address changes to recycling collection and processing systems, and to ensure that materials recovery facilities are operated and maintained in a manner so as to protect the environment and human health.

NR 500 – Definitions are revised to be consistent with statutory definitions or to add clarity.

NR 502 – Language is added to ensure that transfer and solid waste processing facilities are maintained and operated in a manner so as to protect the environment and human health, and eliminate exemptions for handling of waste tires.

Language is added to ensure that recycling services inform their clients of recycling requirements under state and local law.

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: Recycling collection and processing systems, and transfer and solid waste processing facilities

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 hearings will be held on:

Monday, November 15, 2004 at 10:00 a.m.

Video conference participation will be available at

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

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

Pyle Center, 702 Langdon Street, Madison

Room 98, State Office Building 819 N. 6th Street, Milwaukee

Conference Room, DNR Region Office, 810 W. Maple, Spooner

Room CCC124, Communications Arts Center, 1101 Reserve St., 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 Cynthia Moore at (608) 267-7550 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

The only revision which will have a minor state fiscal impact is the requirement for waste tire processors to obtain an approval for plan of operation. We estimate this will cost the department approximately \$500 in salary for plan review and approvals.

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. Cynthia Moore, Bureau of Waste Management, P.O. Box 7921, Madison, WI 53707. Comments may be submitted until

November 29, 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. Moore.

Notice of Hearing Regulation and Licensing

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in s. 227.11 (2), Stats., and ss. 440.99, 440.991, 440.915, 440.992, 440.9925, 440.993, 440.9935, 440.994, 440.9945, 440.995, 440.9955, 440.996, 440.9975, 440.998 and 440.999, Stats., as created by 2003 Wisconsin Act 150, and interpreting Chapter 440, Subchapter XII, the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below on an order adopting emergency rules to create chapters RL 150-154, relating to the licensure and regulation of athlete agents.

Hearing Date, Time and Location

Date: November 12, 2004

Time: 10:00 a.m.

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

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by November 22, 2004, to be included in the record of rule-making proceedings. Analysis prepared by the Department of Regulation and Licensing.

Analysis

Statutes authorizing promulgation: s. 227.11 (2), Stats., and ss. 440.99, 440.991, 440.915, 440.992, 440.9925, 440.993, 440.9935, 440.994, 440.9945, 440.995, 440.9955, 440.996, 440.9975, 440.998 and 440.999, Stats., as created by 2003 Wisconsin Act 150.

Statutes interpreted: Chapter 440, Subchapter XII.

This emergency rule is promulgated pursuant to 2003 Wisconsin Act 150. This Act grants the Department of Regulation and Licensing the authority to create rules relating to the licensure and regulation of athlete agents.

In this order adopting emergency rules the Department of Regulation and Licensing creates rules relating to the licensure of athlete agents. These rules are as a result of 2003 Wisconsin Act 150 which enacted the Uniform Athlete Agents Act. Chapters RL 150 to 154 establish requirements and standards for registration and the practice of registered athlete agents. The rules specify the registration requirements for temporary and permanent registration, renewal requirements, and prohibited conduct for athlete agents.

SECTION 1 creates Chapter RL 150 which sets forth the statutory authority and the definitions for the proposed rules.

SECTION 2 creates Chapter RL 151 which sets forth the application process and requirements for an initial certificate of registration, including the application process for a temporary certificate of registration.

SECTION 3 creates Chapter RL 152 which sets forth the application process and requirements for renewal of a certificate of registration.

SECTION 4 creates Chapter RL 153 which outlines the standards of practice which apply to a credential holder.

SECTION 5 creates Chapter RL 154 which defines unprofessional conduct.

Fiscal Estimate

The Department of Regulation and Licensing will incur \$500 in costs for staff to print and distribute the rule change.

In addition, 2003 Wisconsin Act 150 charged the department to calculate initial credentialing costs to calculate initial fees for licensure as an athlete agent. The initial fee shall be \$312.

Copies of Rule and Contact Person

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

Notice of Hearing Regulation and Licensing [CR 04-110]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in s. 227.11 (2), Stats., and ss. 440.99, 440.991, 440.915, 440.992, 440.9925, 440.993, 440.9935, 440.994, 440.9945, 440.995, 440.9955, 440.996, 440.9975, 440.998 and 440.999, Stats., as created by 2003 Wisconsin Act 150, and interpreting Chapter 440, Subchapter XII, the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to create chapters RL 150-154, relating to the licensure and regulation of athlete agents.

Hearing Date, Time and Location

Date: November 12, 2004
Time: 10:00 a.m.
Location: 1400 East Washington Avenue
 Room 179A
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by November 22, 2004, to be included in the record of rule-making proceedings. Analysis prepared by the Department of Regulation and Licensing.

Analysis

Statutes authorizing promulgation: s. 227.11 (2), Stats., and ss. 440.99, 440.991, 440.915, 440.992, 440.9925, 440.993, 440.9935, 440.994, 440.9945, 440.995, 440.9955, 440.996, 440.9975, 440.998 and 440.999, Stats., as created by 2003 Wisconsin Act 150.

Statutes interpreted: Chapter 440, Subchapter XII.
 Regulation in adjoining states:

Michigan: None.

Illinois: None. [The Uniform Athlete Agents Act (UAAA), is pending. 2003 Wisconsin Act 150, is Wisconsin's enactment of the UAAA.]

Minnesota: Has adopted the Uniform Athlete Agents Act (UAAA), but has not promulgated rules.

Indiana : Indiana Administrative Code:

ARTICLE 4. ATHLETE AGENTS- Rule 1. Authority and Applicability

10 IAC 4-1-1 Authority

Authority: IC 4-6-2-1.3

Affected: IC 25-5.2

Sec. 1. This article is adopted under the authority granted to the attorney general by the uniform athlete agent act (IC 25-5.2). (*Office of Attorney General for the State; 10 IAC 4-1-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

10 IAC 4-1-2 Applicability

Authority: IC 4-6-2-1.3

Affected: IC 25-5.2

Sec. 2. The definitions in the uniform athlete agent act and in this rule apply throughout this article. (*Office of Attorney General for the State; 10 IAC 4-1-2; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

Rule 3. Fees

10 IAC 4-3-1 Fee for registration as an athlete agent

Authority: IC 4-6-2-1.3

Affected: IC 25-1-8-2; IC 25-5.2-2-7

Sec. 1. The fee for a two (2) year application for registration or renewal of registration is seven hundred dollars (\$700). (*Office of Attorney General for the State; 10 IAC 4-3-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2208*)

Rule 6. Agency Contract Notice Provision

10 IAC 4-6-1 Format for notice on agency contract

Authority: IC 4-6-2-1.3

Affected: IC 4-21.5-3-35; IC 25-5.2-2-8

Sec. 1. For the purposes of IC 25-5.2-2-8, the notice required in IC 25-5.2-2-8(c) shall be considered adequate if the notice is in 14-point boldface type in capital letters within two (2) inches of the signature of the student athlete on the same page as the signature of the student athlete. (*Office of Attorney General for the State; 10 IAC 4-6-1; filed Feb 22, 2002, 2:52 p.m.: 25 IR 2209*)

Iowa: [Not based on the Uniform Athlete Agents Act (UAAA)]

ATHLETE AGENT REGISTRATION (IAC 721 Chap 42)

721-42.1(9A,17A) Fees. The fee for the initial application for certificate of registration as an athlete agent is \$300. The fee for a renewal application for certificate of registration is \$150.

721-42.2(9A,17A) Surety bond. An athlete agent shall have on file with the secretary of state, before the issuance or renewal of a certificate of registration, a surety bond executed by a surety company authorized to do business in this state, in the sum of \$25,000. The bond shall be executed on the form prescribed by the secretary of state. The prescribed bond form may be obtained by writing to the Secretary of State, Hoover State Office Building, Des Moines, Iowa 50319, or by calling (515)242-5071.

721-42.3(9A,17A) Agent contract. An agent contract to be entered into by a registered athlete agent and a student athlete who has not previously signed a contract of employment with a professional sports team shall be on a form approved by the secretary of state. If the form of the

contract is in compliance with any players association form contract, the contract shall be approved by the secretary of state. Forms may be submitted to the secretary of state for approval by forwarding the forms to: Secretary of State, Athlete Agent Registration, Hoover State Office Building, Des Moines, Iowa 50319.

721—42.4(9A,17A) General information. Further information pertaining to the Registration of Athlete Agents Act and all application forms may be obtained by contacting the Secretary of State, Corporations Division, Hoover State Office Building, Des Moines, Iowa 50319, (515)242-5071 during regular office hours, 8 a.m. to 4:30 p.m. Monday through Friday except legal holidays. These rules are intended to implement Iowa Code chapter 9A. [Filed emergency 7/8/88—published 7/27/88, effective 7/8/88]

In this proposed rule-making order the Department of Regulation and Licensing creates rules relating to the licensure of athlete agents. These rules are as a result of 2003 Wisconsin Act 150 which enacted the Uniform Athlete Agents Act. Chapters RL 150 to 154 establish requirements and standards for registration and the practice of registered athlete agents. The rules specify the registration requirements for temporary and permanent registration, renewal requirements, and prohibited conduct for athlete agents.

SECTION 1 creates Chapter RL 150 which sets forth the statutory authority and the definitions for the proposed rules.

SECTION 2 creates Chapter RL 151 which sets forth the application process and requirements for an initial certificate of registration, including the application process for a temporary certificate of registration.

SECTION 3 creates Chapter RL 152 which sets forth the application process and requirements for renewal of a certificate of registration.

SECTION 4 creates Chapter RL 153 which outlines the standards of practice which apply to a credential holder.

SECTION 5 creates Chapter RL 154 which defines unprofessional conduct.

Fiscal Estimate

The Department of Regulation and Licensing will incur \$500 in costs for staff to print and distribute the rule change.

In addition, 2003 Wisconsin Act 150 charged the department to calculate initial credentialing costs to calculate initial fees for licensure as an athlete agent. The initial fee shall be \$312. The calculation of costs for initial credentialing and revenue needed, assuming 100 agents are initially credentialed, appears on the attached page.

Private Sector Fiscal Effect

The department has determined that this rule has no significant fiscal effect on the private sector.

Initial Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

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

Notice of Proposed Rule Regulation and Licensing [CR 04-120]

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) and 458.24, Stats., and interpreting ss. 458.24 and 458.26 (3) (b), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Regulation and Licensing will adopt the following rules as proposed in this notice, without public hearing unless, within 30 days after publication of this notice, **November 1, 2004**, the Department of Regulation and Licensing is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 227.11 (2) and 458.24, Stats.

Statutes interpreted: ss. 458.24 and 458.26 (3) (b), Stats.

In this proposed rule-making order the Department of Regulation and Licensing proposes to repeal and recreate ch. RL 87, Appendix I, which incorporates by reference the 2004 edition of the Uniform Standards of Professional Appraisal Practice (USPAP).

SECTION 1. The department proposes to repeal ch. RL 87, Appendix I, which incorporates by reference the 2004 edition of the USPAP and recreate it to incorporate by reference the 2005 edition of the USPAP.

As required under s. 227.21, Stats., the department has obtained the consent of the attorney general and revisor of statutes to the incorporation of the 2005 edition of USPAP into the rules by reference.

Text of Rule

SECTION 1. Ch. RL 87, Appendix I is repealed and recreated to read:

APPENDIX I

UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE

The 2005 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) is hereby incorporated by reference into this Appendix. The 2005 edition of USPAP is effective January 1, 2005 to December 31, 2005.

After January 1, 2005, copies of the 2005 edition of USPAP may be purchased from the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, and (202) 347-7722. After January 1, 2005, copies of the 2005 edition of USPAP may also be obtained, at no charge, from the Appraisal Foundation's website at <http://www.appraisalfoundation.org>.

Note: As required under s. 227.21, Stats., the attorney general and revisor of statutes have consented to the incorporation by reference of the 2005 edition of the Uniform Standards of Professional Appraisal Practice. After January 1, 2005, copies of the 2005 edition of the USPAP will be on file in the offices of the department, the secretary of state and the revisor of statutes.

Federal Regulations

The Federal 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.”

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council is authorized under FIRREA to monitor the requirements established by states for the certification and licensing of individuals who are qualified to perform appraisals in connection with federally related transactions. *21 USC 3333; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers.*

Under FIRREA, real estate appraisals performed in connection with federally related transactions are required to be performed in accordance with generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board (ASB) of the Appraisal Foundation. *21 USC 3339; Appraisal Subcommittee – Policy Statements Regarding State Certification and Licensing of Appraisers, Statement 3.*

The appraisal standards promulgated by the ASB are contained in the Uniform Standards of Professional Appraisal Practice (USPAP) and are available on the Appraisal Foundation’s website at: <http://www.appraisalfoundation.org>.

States Regulations

Under FIRREA, all states, including Illinois, Iowa, Michigan and Minnesota, must assure that certified appraisers comply with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board. In Wisconsin, USPAP has been incorporated by reference in Appendix I to ch. RL 87, Code. See also, s. 458.24, Stats.

Fiscal Estimate

The Department of Regulation and Licensing will incur \$500 in costs to print and distribute the rule change.

Private Sector Fiscal Impact

The department has determined that this rule will have no significant fiscal effect on the private sector.

Initial Regulatory Flexibility Analysis

These proposed rules will have no significant economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Person

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

Notice of Proposed Rule Transportation [CR 04–114]

NOTICE IS HEREBY GIVEN that pursuant to the authority of s. 194.09, and 227.11, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Wisconsin Department of Transportation will adopt the following rule repealing ch. Trans 302 without public hearing unless, within 30 days after publication of this notice, on **November 1, 2004**, the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an

association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: s. 194.09, Stats.

Statutes Interpreted: s. 194.09, Stats.

Plain Language Analysis: Wisconsin statutes require in s.194.09 that each motor vehicle operating in Wisconsin as a common motor carrier, as a contract carrier or as a private motor carrier, be clearly marked to identify that the motor carrier meets the regulations identified in ch. 194. Chapter 194 sets standards for motor carriers to ensure safe, competitive and efficient transportation services and includes regulations for licensing, permitting, certifications, inspections, penalties for violations of traffic laws, restrictions, appeal processes, insurance and taxation.

For the purposes of both statutory authority and administrative rule authority, the types of motor carriers are defined in ch. 194 as follows:

1. “Common motor carrier” means any person who can be hired to operate a motor carrier for the transport of persons and property. The focus of common carriers is to transport people over regular routes or routes with fixed endpoints. The transportation of property in conjunction with the transport of passengers is a secondary activity.

2. “Contract motor carrier” means any person who can be hired to operate a motor carrier to transport property over a regular or irregular route.

3. “Private motor carrier” means a person who operates her/his own motor carrier to transport property over a regular or irregular route.

Ch. Trans 302, Vehicle Marking, under the authority of Chapter 194, provides out-dated regulations for marking intrastate motor carriers operating in Wisconsin, including for-hire motor carriers and private vehicles having a gross vehicle weight of more than 12,000 pounds. However, regulations for operating motor carriers are found also in two other DOT administrative rules, Trans 325, Motor Carrier Safety Regulations for intrastate motor carriers, and Trans 327, Motor Carrier Safety for interstate motor carriers. Trans 325 and Trans 327 have adopted federal regulations identified in Title 49 CFR Part 390.21 for marking commercial motor carriers. The adoption of these marking regulations by Trans 325 and Trans 327 makes Trans 302 inconsistent with 49 CFR Part 390.21 and thus confusing for the motor carrier industry.

To eliminate outdated information and information inconsistent with adopted federal guidelines, the DOT proposes that ch. Trans 302 be repealed.

Text of Rule

SECTION 1. Chapter Trans 302 is repealed.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: Federal motor carrier regulation 49 CFR Part 390.21 requires motor carriers to be marked to display:

1. The legal name or single trade name of the self-propelled motor carrier as listed on the motor carrier identification report (From MCS–150) and submitted in accordance with federal regulations.
2. The USDOT motor carrier identification number.
3. The name of the operator of the motor carrier if different from the motor carrier owner by using the term “operated by”.
4. The ICCMC number where applicable.
5. Required identification in the prescribed format, color, and lettering size.
6. Required identification prescribed for rented motor vehicles.

Chapter Trans 302 requires intrastate motor carriers to be marked to display:

1. The legal name of the carrier.
2. The city and state of the motor carrier's headquarters.
3. Any applicable federal transportation authority number.
4. The empty weight of the power unit.
5. Identification in the prescribed format, color, and lettering size.
6. In accordance with 43 CFR Part 390.21 as an alternative to meeting the regulations identified in Trans 302.

The intent of repealing ch. Trans 302 is to keep Wisconsin laws and motor carrier administrative rules compliant with existing federal regulations. Specifically, federal regulations regarding motor carrier marking, 49 CFR Part 390.21, have been adopted in ch. Trans 325 for intrastate motor carriers and ch. Trans 327 for interstate motor carriers.

Comparison with Rules in Adjacent States:

Michigan: Currently drafting legislation to adopt federal regulations except requirement for display of the USDOT number for intrastate motor carriers.

Minnesota: Adopted federal regulations in statute (221.031 subchapter 6).

Illinois: Has not adopted the federal regulations for intrastate motor carriers.

Iowa: Adopted federal regulations.

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: Ch. Trans 302 was created in 1982 to provide a uniform means for identifying the owner or operator subject to ch. 194, Stats., and private vehicles having a gross vehicle weight of more than 12,000 pounds. Since 1982, 49 CFR Part 390.21 has been adopted by chs. Trans 325 and Trans 327 for motor carriers engaged in both interstate and intrastate commerce.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: Small motor carrier businesses based in Wisconsin will benefit from the repeal of ch. Trans 302 through the elimination of inconsistencies related to vehicle marking. The small businesses that provide intrastate motor carrier services will have only one source of regulations, thus making their efforts to comply easier. Small businesses that provide both intrastate and interstate motor carrier services will be able to simultaneously comply with both Wisconsin and federal regulations thus making their efforts easier.

Enforcement of the rule will be performed as part of routine motor carrier enforcement in Wisconsin. The repeal of ch. Trans 302 will be made known to motor carriers through routine dialogue with industry representatives, contact with individual motor carrier services and in routine State Patrol documents. Since the result of the repeal of ch. Trans 302 will simplify marking regulations, small businesses motor carriers will generally be in compliance by simply following federal regulations.

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/rulencites.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 revenues or liabilities. The private sector of the motor carrier industry will benefit by having a single set of regulations for vehicle marking, thus saving time and cost on obtaining applicable regulations and painting only minimal information on the vehicles.

Place Where Comments are to be Submitted and Deadline for Submission: Questions about this rule and any petition for public hearing may be addressed to Lt. Charles Teasdale, Division of State Patrol, Room 551, P. O. Box 7912, Madison, Wisconsin 53707-7912, telephone (608) 267-0305.

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 04-117]

NOTICE IS HEREBY GIVEN that pursuant to ss. 121.555 (3) (c), 121.555 (4) (a), 343.12 (2), 343.20 (1), 343.21 (3), 343.23 (2), 343.237, Stats., and interpreting ss. 121.555 (3) (c), 121.555 (4) (a), 343.12 (2), 343.20 (1), 343.21 (3), 343.23 (2), 343.237, Stats., the Department of Transportation will hold a public hearing in **Room 144-B** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **15th day of November, 2004, at 1:00 PM**, to consider the amendment of ch. Trans 112, Wisconsin Administrative Code, relating to medical standards for driver licensing and general standards for school bus endorsements.

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. 121.555 (3) (c), 121.555 (4) (a), 343.12 (2), 343.20 (1), 343.21 (3), 343.23 (2), 343.237, Stats.

Statutes Interpreted: ss. 121.555 (3) (c), 121.555 (4) (a), 343.12 (2), 343.20 (1), 343.21 (3), 343.23 (2), 343.237, Stats.

Plain Language Analysis: Under current law, a person may not operate a school bus without a school bus endorsement issued by the Department of Transportation (DOT). DOT may issue a school bus endorsement to a person's valid motor vehicle operator's license if the person meets certain qualifications, including being free of conviction for certain crimes. A school bus endorsement is valid for the eight-year duration of the person's operator's license. Under certain circumstances, DOT must cancel the operator's license of a person to whom a school bus endorsement has been issued.

2003 Wisconsin Act 280 modified the existing criminal history requirements, and imposed additional requirements for the initial issuance or renewal of a school bus endorsement. That act prohibits DOT from issuing or renewing a school bus endorsement to an applicant if the applicant has been convicted of or adjudicated delinquent for any specified disqualifying crime or offense within a prior minimum specified time. These disqualifying crimes and offenses and minimum time periods for disqualification include those specified under current statutes, including various crimes against children. The act also authorizes DOT to specify by rule additional disqualifying crimes and offenses and the time period during which the disqualification applies.

Prior to Act 280, persons were not eligible for a school bus endorsement if he or she has been convicted of listed offenses (including a felony or an "offense against public morals") within the past five years, if the circumstances of the offense are "substantially related" to the circumstances of operating a school bus, or was convicted of specified offenses (including OWI and operating with a suspended or revoked license) within the past two years, regardless of whether the circumstances of the offense are "substantially related" to the circumstances of operating a school bus. Thus, Act 280 lengthened the periods of disqualification for some offenses, and listed some offenses that arguably are not "substantially related" to the circumstances of operating a school bus.

This rule establishes three periods of disqualification from eligibility for a school bus driver endorsement for conviction of listed felonies and misdemeanors. A lifetime disqualification is imposed on any person convicted of violent crimes resulting in death or serious physical injury to another, of sex offenses involving children and other vulnerable persons, or of other crimes involving predation or victimization of children or other vulnerable persons. A five-year disqualification is imposed on any person convicted of other crimes against life and bodily security, of other crimes against children, of crimes involving use of a motor vehicle, including operating while intoxicated (OWI), of possession of illegal weapons or of similar offenses likely to result in serious injury to others. A two-year disqualification is imposed on any person convicted of negligent operation of a motor vehicle, of obstructing emergency and rescue personnel or of other crimes.

Many of the listed offenses comprise felonies and misdemeanors. Under the rule, if a person provides evidence to the Department that his or her conviction of a listed offense is a misdemeanor conviction, the disqualification period is shortened to the next shorter disqualification period. However, there is no reduced disqualification period for misdemeanor sexual assault convictions, and the minimum period of disqualification for any listed offense (whether felony or misdemeanor) is two years.

The rule requires the Department to conduct a criminal history record search of every applicant for initial issuance or renewal to determine whether the person is convicted of disqualifying offenses. Although a school bus endorsement is renewed every eight years, DOT must conduct a criminal history search four years after the person obtains a school bus endorsement and, if appropriate, cancel the endorsement.

The rule also requires any person applying for initial issuance or renewal of a school bus endorsement to certify whether he or she has been convicted of any disqualifying offense, and allows the department to disqualify the person for the appropriate period based on that certification.

The rule requires any person who has resided in another state within the previous two years to notify the department of those other states, and requires the department to make a good faith effort to obtain the criminal history records from those other states, including submitting the persons fingerprints to the Department of Justice for a nationwide criminal history search.

The rule allows DOT to require every applicant for initial issuance or renewal of a school bus endorsement to provide two sets of fingerprints, and to pay fees for the two criminal history records searches that will be completed at initial issuance or renewal, and four years after the person obtains the school bus endorsement.

This rule making also makes minor changes to medical standards for school bus drivers not required under 2003 Wisconsin Act 280, including the following:

1. Allows physician to certify driver is following treatment plan for cerebrovascular function, without such certification of the patient.

2. Shortens from 12 to 6 months the period during which a school bus driver must be free of any cerebrovascular incident.

3. Eliminates the 12 month period during which school bus driver must be free of destructive behavior or suicidal tendencies, instead making eligible a driver who is free of such behaviors or tendencies at the time of application.

4. Provides that a license restriction imposed on a physician's recommendation may be lifted only by the physician that recommended the restriction or by the Department following its evaluation of the person's ability to drive.

5. Provides that a person who does not meet minimum waiting periods following certain medical disqualifications cannot request a medical review board assessment of those disqualifications, because those waiting periods cannot be waived.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: Federal school bus driver qualifications are set forth at 49 CFR 383.123. Under federal regulations, an applicant must certify and the State must verify that, during the two-year period immediately prior to applying for the school bus endorsement, the applicant has not been convicted of any of the disqualifying offenses in 49 CFR 383.51(b) (generally, OWI, speeding, leaving the scene of an accident, serious moving violations, and offenses involving alcohol and drugs) while operating a CMV or of any offense in a non-CMV that would be disqualifying under 49 CFR 383.51(b) if committed in a CMV; has not had more than one conviction of any of the serious traffic violations defined in 49 CFR 383.5, while operating any type motor vehicle; has not had any conviction for a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident and; has as not been convicted of any motor vehicle traffic violation that resulted in an accident.

No federal regulations have been proposed regarding school bus driver qualifications within the previous two years.

Comparison with Rules in Adjacent States:

Michigan: Michigan administrative rules require the driver to meet only statutory requirements, none of which relate to the driver's criminal background. Mich. Adm. Code R 340.232, 340.1252 (2004). Michigan statutes require a school to request a criminal background check prior to employing a driver, but do not appear to require the school to take any action based on the result of the search and do not appear to establish licensing qualifications based on criminal background. § 257.1853(4), Mich. Comp. Laws Svc. (2004).

Minnesota: Minnesota school bus driver qualifications are set forth at s. 7414.0400, Minn. Adm. Code. Minnesota disqualifies a person convicted of a felony or certain misdemeanors from holding a school bus endorsement for 5 years after the conviction or for 5 years after the release from incarceration, whichever occurs later. An applicant is ineligible for a school bus endorsement while he or she has felony charges pending against him or her. Minnesota requires a criminal background check at initial issuance and renewal, but requires the school district or its contractor to complete the background check. However, an applicant who has resided in a state other than Minnesota within the preceding five years must have the background check completed by the FBI, by the state or the state's contractor. Minnesota imposes a lifetime disqualification for Head Start bus drivers convicted of certain crimes against minors. Scholl

bus driver qualifications are set forth in s. 171.3215, Minn. Stat.

Illinois: Illinois school bus driver qualifications are set forth at 92 Ill. Adm. Code 1035.15. *Illinois imposes a lifetime disqualification for convictions of committing or attempting to commit listed felonies and misdemeanors, and a three year disqualification for reckless driving, OWI, or reckless homicide resulting from operation of a motor vehicle. Illinois statutes list disqualifying offenses at 625 ILCS 5/6-106.1, (2004).* Illinois requires the prospective employer to collect fingerprints from the school bus permit applicant, and to submit those prints to the Secretary of State for an FBI background check. 92 Ill. Adm. Code 1035.25 (2004). Illinois requires the denial or cancellation of the school bus permit issued to any person whose criminal record check indicates is ineligible to hold the school bus permit. 92 Ill. Adm. Code 1035.35 (2004).

Iowa: Iowa school bus driver qualifications are set forth at 761 IAC 911.6(321). Iowa requires the regional transit system to conduct a **criminal** records review of each driver prior to employment and on an annual basis. This review verifies that the driver has no history of child abuse or other **criminal** activity. Each driver who transports students must have an authorization to operate a **school bus** issued by the department of education in accordance with Iowa Code section 321.376. Illinois statutes make ineligible any person convicted for a public offense as defined by the Iowa criminal code, if the offense is relevant to and affects driving ability, or if the offense includes sexual involvement with a minor student. Iowa Code § 321.375.

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: 2003 Wisconsin Act 280 requires DOT to promulgate rules specifying crimes or other offenses, in addition to those specified in the statutes, the conviction for which, or adjudication of delinquency for which, disqualifies the applicant from initial issuance or renewal of a school bus endorsement and, for each such crime or offense, the time period within which the disqualification applies. The time period may be permanent but may not be less than the time period specified in the statutes. DOT first examined the statutes for every crime, and classified them by felony or misdemeanor. DOT further classified those crimes according to the threat they represented to school children or other vulnerable persons, to sexual offenses, to operation of a large motor vehicle, and that reflected on the person's trustworthiness with children. DOT established these criteria and completed the classification in consultation with the Wisconsin School Bus Association, a nonprofit organization that represents school bus companies and serves as Wisconsin's contact to the National Association of State Directors of Pupil Transportation. DOT and Wisconsin School Bus Association examined anecdotal examples known by those organizations and presented to the legislature during hearings on 2003 Senate Bill 350 (enacted as 2003 Wisconsin Act 280). Those anecdotes presented examples of school bus drivers that committed criminal offenses while holding a school bus endorsement who were skilled operators but that had criminal histories that suggested the driver might commit the offense. DOT has no factual data to support those anecdotes.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: This rule making will prohibit some skillful drivers from obtaining a school bus endorsement, and employment as a school bus driver. To the extent that this rule reduces the pool of school bus drivers, DOT expects that the

cost of employing school bus drivers will rise. DOT has no factual data to determine how many bus drivers will be made ineligible by this rule. In its fiscal estimate for 2003 Senate Bill 350 prepared in January, 2004, DOT stated that it issues approximately 2,000 school bus driver endorsements each year, and projected 2,000 background checks per year. DOT has no information regarding how many applicants have resided in other states within the previous two years, or of how many school districts and school bus companies might already be employing criminal background checks as part of their ordinary employment practices.

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: As stated in more detail above, this rule will prohibit some skillful drivers from obtaining a school bus endorsement, and employment as a school bus driver. To the extent that this rule reduces the pool of school bus drivers, DOT expects that the cost of employing school bus drivers will rise. DOT has no information regarding how many school bus companies might already be employing criminal background checks as part of their ordinary employment practices.

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 November 22, 2004, 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 Karen Schwartz, Department of Transportation, Records and Licensing Info Section, Room 351, P. O. Box 7918, Madison, WI 53707-7918. You may also contact Ms. Schwartz by phone at (608) 266-0054.

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

NOTICE IS HEREBY GIVEN that pursuant to ss. 121.555 (3) (c), 121.555 (4) (a), 343.12 (2), 343.20 (1), 343.21 (3), 343.23 (2), 343.237, Stats., and interpreting ss. 121.555 (3) (c), 121.555 (4) (a), 343.12 (2), 343.20 (1), 343.21 (3), 343.23 (2), 343.237, Stats., the Department of Transportation will hold a public hearing on the **15th day of November, 2004**, at the Hill Farms State Transportation Building, **Room 144-B**, 4802 Sheboygan Avenue, Madison, WI, at **1:00 PM**, to consider the emergency rule amendment of ch. Trans 112, Wisconsin Administrative Code, relating to medical standards for driver licensing and general standards to school bus endorsements.

Parking for persons with disabilities and an accessible entrance are available.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory Authority: ss. 121.555 (3) (c), 121.555 (4) (a), 343.12 (2), 343.20 (1), 343.21 (3), 343.23 (2), 343.237, Stats.

Statutes Interpreted: ss. 121.555 (3) (c), 121.555 (4) (a), 343.12 (2), 343.20 (1), 343.21 (3), 343.23 (2), 343.237, Stats.

Plain Language Analysis: Under current law, a person may not operate a school bus without a school bus endorsement

issued by the Department of Transportation (DOT). DOT may issue a school bus endorsement to a person's valid motor vehicle operator's license if the person meets certain qualifications, including being free of conviction for certain crimes. A school bus endorsement is valid for the eight-year duration of the person's operator's license. Under certain circumstances, DOT must cancel the operator's license of a person to whom a school bus endorsement has been issued.

2003 Wisconsin Act 280 modified the existing criminal history requirements, and imposed additional requirements for the initial issuance or renewal of a school bus endorsement. That act prohibits DOT from issuing or renewing a school bus endorsement to an applicant if the applicant has been convicted of or adjudicated delinquent for any specified disqualifying crime or offense within a prior minimum specified time. These disqualifying crimes and offenses and minimum time periods for disqualification include those specified under current statutes, including various crimes against children. The act also authorizes DOT to specify by rule additional disqualifying crimes and offenses and the time period during which the disqualification applies.

Prior to Act 280, persons were not eligible for a school bus endorsement if he or she has been convicted of listed offenses (including a felony or an "offense against public morals") within the past five years, if the circumstances of the offense are "substantially related" to the circumstances of operating a school bus, or was convicted of specified offenses (including OWI and operating with a suspended or revoked license) within the past two years, regardless of whether the circumstances of the offense are "substantially related" to the circumstances of operating a school bus. Thus, Act 280 lengthened the periods of disqualification for some offenses, and listed some offenses that arguably are not "substantially related" to the circumstances of operating a school bus.

This rule establishes three periods of disqualification from eligibility for a school bus driver endorsement for conviction of listed felonies and misdemeanors. A lifetime disqualification is imposed on any person convicted of violent crimes resulting in death or serious physical injury to another, of sex offenses involving children and other vulnerable persons, or of other crimes involving predation or victimization of children or other vulnerable persons. A five-year disqualification is imposed on any person convicted of other crimes against life and bodily security, of other crimes against children, of crimes involving use of a motor vehicle, including operating while intoxicated (OWI), of possession of illegal weapons or of similar offenses likely to result in serious injury to others. A two-year disqualification is imposed on any person convicted of negligent operation of a motor vehicle, of obstructing emergency and rescue personnel or of other crimes.

Many of the listed offenses comprise felonies and misdemeanors. Under the rule, if a person provides evidence to the Department that his or her conviction of a listed offense is a misdemeanor conviction, the disqualification period is shortened to the next shorter disqualification period. However, there is no reduced disqualification period for misdemeanor sexual assault convictions, and the minimum period of disqualification for any listed offense (whether felony or misdemeanor) is two years.

The rule requires the Department to conduct a criminal history record search of every applicant for initial issuance or renewal to determine whether the person is convicted of disqualifying offenses. Although a school bus endorsement is renewed every eight years, DOT must conduct a criminal history search four years after the person obtains a school bus endorsement and, if appropriate, cancel the endorsement.

The rule also requires any person applying for initial issuance or renewal of a school bus endorsement to certify whether he or she has been convicted of any disqualifying offense, and allows the department to disqualify the person for the appropriate period based on that certification.

The rule requires any person who has resided in another state within the previous two years to notify the department of those other states, and requires the department to make a good faith effort to obtain the criminal history records from those other states, including submitting the persons fingerprints to the Department of Justice for a nationwide criminal history search.

The rule allows DOT to require every applicant for initial issuance or renewal of a school bus endorsement to provide two sets of fingerprints, and to pay fees for the two criminal history records searches that will be completed at initial issuance or renewal, and four years after the person obtains the school bus endorsement.

This rule making also makes minor changes to medical standards for school bus drivers not required under 2003 Wisconsin Act 280, including the following:

1. Allows physician to certify driver is following treatment plan for cerebrovascular function, without such certification of the patient.
2. Shortens from 12 to 6 months the period during which a school bus driver must be free of any cerebrovascular incident.
3. Eliminates the 12 month period during which school bus driver must be free of destructive behavior or suicidal tendencies, instead making eligible a driver who is free of such behaviors or tendencies at the time of application.
4. Provides that a license restriction imposed on a physician's recommendation may be lifted only by the physician that recommended the restriction or by the Department following its evaluation of the person's ability to drive.
5. Provides that a person who does not meet minimum waiting periods following certain medical disqualifications cannot request a medical review board assessment of those disqualifications, because those waiting periods cannot be waived.

Summary of, and Preliminary Comparison with, Existing or Proposed Federal Regulation: Federal school bus driver qualifications are set forth at 49 CFR 383.123. Under federal regulations, an applicant must certify and the State must verify that, during the two-year period immediately prior to applying for the school bus endorsement, the applicant has not been convicted of any of the disqualifying offenses in 49 CFR 383.51(b) (generally, OWI, speeding, leaving the scene of an accident, serious moving violations, and offenses involving alcohol and drugs) while operating a CMV or of any offense in a non-CMV that would be disqualifying under 49 CFR 383.51(b) if committed in a CMV; has not had more than one conviction of any of the serious traffic violations defined in 49 CFR 383.5, while operating any type motor vehicle; has not had any conviction for a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident and; has as not been convicted of any motor vehicle traffic violation that resulted in an accident.

No federal regulations have been proposed regarding school bus driver qualifications within the previous two years.

Comparison with Rules in Adjacent States:

Michigan: Michigan administrative rules require the driver to meet only statutory requirements, none of which relate to the driver's criminal background. Mich. Adm. Code

R 340.232, 340.1252 (2004). Michigan statutes require a school to request a criminal background check prior to employing a driver, but do not appear to require the school to take any action based on the result of the search and do not appear to establish licensing qualifications based on criminal background. § 257.1853 (4), Mich. Comp. Laws Svc. (2004).

Minnesota: Minnesota school bus driver qualifications are set forth at s. 7414.0400, Minn. Adm. Code. Minnesota disqualifies a person convicted of a felony or certain misdemeanors from holding a school bus endorsement for 5 years after the conviction or for 5 years after the release from incarceration, whichever occurs later. An applicant is ineligible for a school bus endorsement while he or she has felony charges pending against him or her. Minnesota requires a criminal background check at initial issuance and renewal, but requires the school district or its contractor to complete the background check. However, an applicant who has resided in a state other than Minnesota within the preceding five years must have the background check completed by the FBI, by the state or the state's contractor. Minnesota imposes a lifetime disqualification for Head Start bus drivers convicted of certain crimes against minors. School bus driver qualifications are set forth in s. 171.3215, Minn. Stat.

Illinois: Illinois school bus driver qualifications are set forth at 92 Ill. Adm. Code 1035.15. *Illinois imposes a lifetime disqualification for convictions of committing or attempting to commit listed felonies and misdemeanors, and a three year disqualification for reckless driving, OWI, or reckless homicide resulting from operation of a motor vehicle. Illinois statutes list disqualifying offenses at 625 ILCS 5/6-106.1, (2004).* Illinois requires the prospective employer to collect fingerprints from the school bus permit applicant, and to submit those prints to the Secretary of State for an FBI background check. 92 Ill. Adm. Code 1035.25 (2004). Illinois requires the denial or cancellation of the school bus permit issued to any person whose criminal record check indicates is ineligible to hold the school bus permit. 92 Ill. Adm. Code 1035.35 (2004).

Iowa: Iowa school bus driver qualifications are set forth at 761 IAC 911.6(321). Iowa requires the regional transit system to conduct a **criminal** records review of each driver prior to employment and on an annual basis. This review verifies that the driver has no history of child abuse or other **criminal** activity. Each driver who transports students must have an authorization to operate a **school bus** issued by the department of education in accordance with Iowa Code section 321.376. Illinois statutes make ineligible any person convicted for a public offense as defined by the Iowa criminal code, if the offense is relevant to and affects driving ability, or if the offense includes sexual involvement with a minor student. Iowa Code § 321.375.

Summary of Factual Data and Analytical Methodologies Used and How the Related Findings Support the Regulatory Approach Chosen: 2003 Wisconsin Act 280 requires DOT to promulgate rules specifying crimes or other offenses, in addition to those specified in the statutes, the conviction for which, or adjudication of delinquency for which, disqualifies the applicant from initial issuance or renewal of a school bus endorsement and, for each such crime or offense, the time period within which the disqualification applies. The time period may be permanent but may not be less than the time period specified in the statutes. DOT first examined the

statutes for every crime, and classified them by felony or misdemeanor. DOT further classified those crimes according to the threat they represented to school children or other vulnerable persons, to sexual offenses, to operation of a large motor vehicle, and that reflected on the person's trustworthiness with children. DOT established these criteria and completed the classification in consultation with the Wisconsin School Bus Association, a nonprofit organization that represents school bus companies and serves as Wisconsin's contact to the National Association of State Directors of Pupil Transportation. DOT and Wisconsin School Bus Association examined anecdotal examples known by those organizations and presented to the legislature during hearings on 2003 Senate Bill 350 (enacted as 2003 Wisconsin Act 280). Those anecdotes presented examples of school bus drivers that committed criminal offenses while holding a school bus endorsement who were skilled operators but that had criminal histories that suggested the driver might commit the offense. DOT has no factual data to support those anecdotes.

Effect on Small Business and, If Applicable, Any Analysis and Supporting Documentation Used to Determine Effect on Small Businesses: This rule making will prohibit some skillful drivers from obtaining a school bus endorsement, and employment as a school bus driver. To the extent that this rule reduces the pool of school bus drivers, DOT expects that the cost of employing school bus drivers will rise. DOT has no factual data to determine how many bus drivers will be made ineligible by this rule. In its fiscal estimate for 2003 Senate Bill 350 prepared in January, 2004, DOT stated that it issues approximately 2,000 school bus driver endorsements each year, and projected 2,000 background checks per year. DOT has no information regarding how many applicants have resided in other states within the previous two years, or of how many school districts and school bus companies might already be employing criminal background checks as part of their ordinary employment practices.

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: As stated in more detail above, this rule will prohibit some skillful drivers from obtaining a school bus endorsement, and employment as a school bus driver. To the extent that this rule reduces the pool of school bus drivers, DOT expects that the cost of employing school bus drivers will rise. DOT has no information regarding how many school bus companies might already be employing criminal background checks as part of their ordinary employment practices.

Copies of Emergency Rule: Requests for copies of the emergency rule should be submitted to Karen Schwartz, Department of Transportation, Records and Licensing Information Section, Room 253, P. O. Box 7918, Madison, WI 53707-7918. You may also contact Ms. Schwartz by phone at (608) 266-0054.

To view the emergency rule or the proposed permanent rule, or submit written comments on the permanent rule 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.

Agriculture, Trade and Consumer Protection (CR 04-039)

An order affecting ch. ATPC 34, relating to the "Clean Sweep" Program.
Effective 12-1-04.

Employee Trust Funds (CR 04-075)

An order affecting ch. ETF 40, relating to the contributions towards employee health insurance premiums by local units of government that participate in the group health insurance plans established by the state of Wisconsin, group insurance board.
Effective 12-1-04.

Natural Resources (CR 04-024)

An order affecting chs. NR 20, 21, 22, 23 and 26, relating to fishing on the inland, outlying and boundary waters of Wisconsin.
Effective 1-1-05.

Natural Resources (CR 04-033)

An order affecting ch. NR 219, relating to analytical test methods for testing effluent discharges.
Effective 12-1-04.

Natural Resources (CR 04-047)

An order affecting ch. NR 114, relating to septage operator certification.
Effective 12-1-04.

Natural Resources (CR 04-059)

An order affecting ch. NR 10, relating to the 2004 migratory game bird seasons.
Effective 1-1-05.

Public Service Commission (CR 04-026)

An order affecting ch. PSC 173 to establish a Wireless 911 Fund to promote an emergency telephone number service for wireless subscribers.
Effective 1-1-05 and 10-1-05.

Veterans Affairs (CR 04-080)

An order affecting ch. VA 2, relating to the part-time study grant program and the tuition and fee reimbursement grant program.
Effective 12-1-04.

Rules published with this register and final regulatory flexibility analyses

*The following administrative rule orders have been adopted and published in the **October 31, 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 03-119)

An order affecting ch. ATCP 35, relating to the agricultural chemical cleanup program. Effective 11-1-04.

Summary of Final Regulatory Flexibility Analysis

The rule changes will not have a major impact on small business. The primary impact will be negative in that the rule incorporates statutory language that lowers the reimbursement rate that can be paid to those small businesses that experience a fertilizer or pesticide spill. Small businesses will not need additional professional services to comply with this rule.

Summary of Comments by Legislative Review Committees

On July 8, 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 Agriculture. Neither the Assembly Committee on Agriculture 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 04-005)

An order affecting chs. ATCP 10, 12, 42, 50, 60, 74, 80, 92, 118, 134, 140 and 162, relating to remedial technical rule changes. Effective 11-1-04.

Summary of Final Regulatory Flexibility Analysis

This rule will have no significant effects on businesses. This rule merely clarifies current rule provisions, or conforms those provisions to current law.

Summary of Comments by Legislative Review Committees

On June 29, 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 Agriculture. Neither the Assembly Committee on Agriculture, nor the Senate Committee on Agriculture, Financial Institutions and Insurance took any action on the rule during their review period.

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.

Summary of Final Regulatory Flexibility Analysis

There will be no adverse affect on small businesses. If psychosocial rehabilitation services currently are being provided, then the individual consumer or the county of responsibility is paying for the cost of the services. This rule will permit the county of responsibility to use their existing funds that are being expended for these services as the required match to the federal portion of Medicaid funding (federal financial participation or FFP). The increase in available funding may result in an increase in revenues for a local small business if the county and the consumer select the business as a provider of a component of the psychosocial rehabilitation services for the consumer.

Summary of Comments by Legislative Review Committees

No comments were received.

Health and Family Services (CR 04-045)

An order affecting ch. HFS 158, relating to the fee for monitoring radiation emissions in the vicinity of nuclear power plants. Effective 11-1-04.

Summary of Final Regulatory Flexibility Analysis

The rules have no effect on "small business" as defined in s. 227.114 (1), Stats.

Summary of Comments by Legislative Review Committees

No comments were received.

Health and Family Services (CR 04-050)

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

Summary of Final Regulatory Flexibility Analysis

These proposed rule changes will have no effect on small businesses.

Summary of Comments by Legislative Review Committees

No comments were received.

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.

Summary of Final Regulatory Flexibility Analysis

The fiscal impact on small business as defined in s. 227.114 (1), Stats., will be minimal. The majority of the proposed rule revisions either eliminate rules and prescriptive language, expand and update definitions for current terminology, or ease an existing standard. In addition, no new anticipated small business impact will be associated with the parallel Wisconsin proposed adoption of the 2000 edition of the Life Safety Code.

Summary of Comments by Legislative Review Committees

No comments were received.

**Health and Family Services
(CR 04-056)**

An order affecting ch. HFS 119, relating to operation of the health insurance risk-sharing plan (HIRSP). Effective 11-1-04.

Summary of Final Regulatory Flexibility Analysis

The rule changes will not affect insurers that are small businesses, as "small business" is defined in s. 227.114 (1), Stats. Although the program statutes and rules provide for assessment of insurers to help finance the Health Insurance Risk-Sharing Plan (HIRSP), no assessed insurer is a small business as defined in s. 227.114 (1), Stats. Moreover, s. 149.143, Stats., prescribes how the amount of an insurer's assessment to help finance HIRSP is to be determined. The rule changes may affect some health care providers that are small businesses. The net effect of HIRSP on small business health care providers is unknown.

Summary of Comments by Legislative Review Committees

No comments were received.

**Natural Resources
(CR 01-104)**

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

Summary of Final Regulatory Flexibility Analysis

The department does not expect any negative impact on small businesses as a result of this action. It is believed that this action will save money for responsible parties, including small businesses, which conduct remediation of soil and groundwater.

Summary of Comments by Legislative Review Committees

The proposed rules were referred to the Assembly Committee on Environment and the Senate Committee on Environmental Resources in February, 2002. Following public hearing, the Assembly Committee on Environment had concerns regarding the visitorial powers described in s. NR 815.12, the expansion of Class V well injection to include the injection of "substances", and the establishment of the point of standards application for injection wells as the point of fluid injection. The Senate Committee on Environmental Resources asked the Department to consider modifications to the visitorial powers described in S. NR 815.12.

Following consultation with the U.S. Environmental Protection Agency and the Wisconsin Department of Commerce over 2 years, changes were identified that could be made to address the legislators' concerns but still ensure that the proposed rules meet the federal requirement that state injection well regulations are at least as stringent as federal

regulations. These changes included clarification to the scope of the visitorial powers, "substances" will be defined using the statutory definition in s. 160.01 (8), Stats., as it specifically applies to protection of Wisconsin groundwater resources and notes are amended to clarify how the point of standards application is established for determining compliance with injection well construction and operating requirements. Rule text is also modified to clarify that the point for determining compliance will not necessarily be the point of injection for all classes/types of injection wells. Section NR 815.06 (5) is also modified to clarify that common construction-related activities are not to be considered prohibited underground injection practices.

**Natural Resources
(CR 03-054)**

An order affecting ch. NR 118, relating to minimum standards and guidelines for Lower St. Croix National Scenic Riverway zoning ordinances. Effective 11-1-04.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

The proposed rule was referred to the Assembly Committee on Natural Resources and the Senate Committee on Environment and Natural Resources. The Committees extended their review time for an additional 30 days. During that time, the department proposed germane modifications to address concerns that were raised during the review time. At the conclusion of the review period, the committees took no action on the proposed rule.

**Natural Resources
(CR 04-048)**

An order affecting ch. NR 46, relating to the administration of the Forest Crop Law and the Managed Forest Law. Effective 11-1-04.

Summary of Final Regulatory Flexibility Analysis

The proposed rule does not affect small businesses. Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law are required by statute to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood product volume cut from their land. Since this is a voluntary program, no special provisions have been provided for small businesses.

Summary of Comments by Legislative Review Committees

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

**Public Instruction
(CR 04-027)**

An order affecting ch. PI 6, relating to public librarian certification. Effective 11-1-04.

Summary of Final Regulatory Flexibility Analysis

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

Summary of Comments by Legislative Review Committees

No comments were received.

Sections affected by rule revisions and corrections

The following administrative rule revisions and corrections have taken place in **October 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 10.21 (11) (c), (15) (b), (bm)

Ch. ATCP 35

S. ATCP 35.03 (1)

S. ATCP 35.04 (5) and (6)

S. ATCP 35.06 (5)

S. ATCP 35.08 (6) and (7)

S. ATCP 35.14 (5) and (13)

S. ATCP 35.16 (7) and (9) (intro.)

S. ATCP 35.22 (1), (2), (4), (5), (6)

S. ATCP 35.28

Ch. ATCP 42

S. ATCP 42.06 (3)

S. ATCP 42.16 (1) (b) and (2) (b)

S. ATCP 42.40 (4) (b)

S. ATCP 42.44 (6) (a)

S. ATCP 42.54 (1) (a)

Ch. ATCP 50

S. ATCP 50.01 (31)

S. ATCP 50.40 (9) (L)

Ch. ATCP 60

S. ATCP 60.11 (2) (c) and (4) (h)

S. ATCP 60.245 (1) (a) and (b)

Ch. ATCP 80

S. ATCP 80.01 (2)

S. ATCP 80.04 (6)

S. ATCP 80.16 (2) (g)

S. ATCP 80.28 (1) (b)

S. ATCP 80.50 (2) (e) and (f) and (3) (d)

S. ATCP 80.62 (1) (a) and (c)

Ch. ATCP 92

S. ATCP 92.02 (1) and (3) (c)

S. ATCP 92.06 (1) (a) and (2)

S. ATCP 92.20 (3) (d)

S. ATCP 92.22 (1) (b)

Ch. ATCP 118

S. ATCP 118.02 (2)

Ch. ATCP 127

S. ATCP 127.01 (21) (c)

Ch. ATCP 134

S. ATCP 134.06

Ch. ATCP 140

S. ATCP 140.40

Ch. ATCP 162 (Entire chapter)

Health and Family Services

Ch. HFS 36 (Entire chapter)

Ch. HFS 105

S. HFS 105.257

Ch. HFS 107

S. HFS 107.13 (2) (c), (4) (c), (6) (b) and (7)

Ch. HFS 109

S. HFS 109.03 (9)

S. HFS 109.13 (3) (c) and (d)

S. HFS 109.15 (4) (b) and (5) (a) and (b)

S. HFS 109.16

Ch. HFS 119

S. HFS 119.07 (6) (b) to (d)

S. HFS 119.15 (2) and (3)

Ch. HFS 132

S. HFS 132.13 (1), (1m), (2), (2m), (5), (8r) and (13m)

S. HFS 132.31 (1) (k)

S. HFS 132.32 (1) (b)

S. HFS 132.42 (3) and (4)

S. HFS 132.44 (1), (b) and (c)

S. HFS 132.45 (3), (4) (g), (5) (d), (e), and (g)

S. HFS 132.46

S. HFS 132.51 (2) (b) and (c)

S. HFS 132.52 (2) (c), (4), (5) and (6)

S. HFS 132.60 (1) (c), (5) (a), (c) and (d), (6) (b)

S. HFS 132.62 (2) (a) and (3) (a)

S. HFS 132.63 (1), (2), (6) (c) and (7) (a)

S. HFS 132.65 (2), (3) (a) and (b), (5) (d), and (6) (c)

S. HFS 132.66 (1) (d)

S. HFS 132.68 (3) and (4)

S. HFS 132.69 (2) (a)

S. HFS 132.82

S. HFS 132.83 (4), (5) (b), (c) and (d) and (7) (a)

S. HFS 132.84 (3), (4) and (6) (d)

Ch. HFS 134

S. HFS 134.12 (1)

S. HFS 134.13 (1) to (4), (4m), (5), (10), (13) and (23m)

S. HFS 134.14 (2) (a)

S. HFS 134.41 (2) (b)

S. HFS 134.44 (5) and (6)

S. HFS 134.47 (3) (h)

S. HFS 134.51 (1) (c) and (d)

S. HFS 134.52 (2) (d)

S. HFS 134.60 (4) (a), (c) and (d) and (5) (b)

S. HFS 134.64 (6) (c) and (7) (a)
 S. HFS 134.67 (2), (4) (b) and (5) (c)
 S. HFS 134.81 (2) (a) and (b)
 S. HFS 134.82
 S. HFS 134.83 (4) (a), (5) (b), (c) and (d) and (8) (a)
 S. HFS 134.84 (5) (c)
Ch. HFS 158
 S. HFS 158.04

Ch. NR 118 (Entire chapter)

Ch. NR 600

S. NR 600.03 (127), (218m), (244) and (263)
 S. NR 600.04

Ch. NR 815 (Entire chapter)

Natural Resources

Ch. NR 46

S. NR 46.30 (2) (a) to (c)

Public Instruction

Ch. PI 6

S. PI 6.03 (1) (am), (2) (3) (c), (4), (5), (6) (b) and (c)

Editorial corrections

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

Agriculture, Trade and Consumer Protection

Ch. ATCP 1

S. ATCP 1.03 (1) (a)

Ch. ATCP 55

S. ATCP 55.02 (11)

Ch. ATCP 71

S. ATCP 71.03 (9) (a)

Ch. ATCP 134

S. ATCP 134.06 (3) (a)

Health and Family Services

Ch. HFS 107

S. HFS 107.36 (1) (a), (b), (c), (d), (f), (g) and (2) (b)

Natural Resources

Ch. NR 600

S. NR 600.03 (75)

Public Instruction

Ch. PI 6

S. PI 6.03 (6) (d)

Executive orders

The following are recent Executive Orders issued by the Governor.

Executive Order 69. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Corporal Adrian Soltau of the United States Marines who lost his life during Operation Iraqi Freedom.

Executive Order 70. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Assistant Fire Chief Bill Weborg of the Ephraim Fire Department.

Executive Order 71. Relating to a proclamation that the flag of the United States and the flag of the State of Wisconsin be flown at half-staff as a mark of respect for Private First class Andrew McFall Halverson of the United States Marines who lost his life during Operation Iraqi Freedom.

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