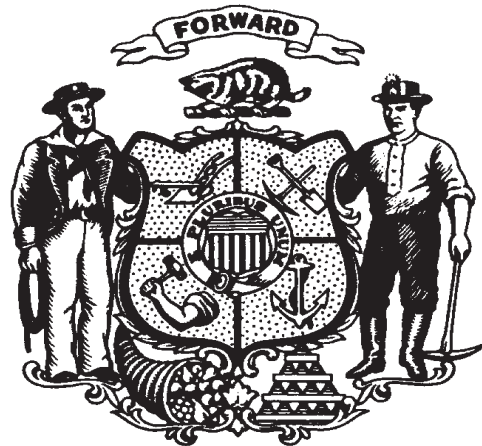


Wisconsin Administrative Register

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Emergency Rules Now in Effect

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

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

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

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

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

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

Agriculture, Trade & Consumer Protection

Rules adopted creating **s. ATCP 21.20**, relating to voluntary certification of firewood dealers.

Finding of Emergency

(1) The Wisconsin department of natural resources (“DNR”) has adopted rules, under s. NR 45.04 (1) (g), to restrict the movement of firewood into Wisconsin state parks. The DNR rules are designed to prevent the spread of exotic pests, such as Emerald Ash Borer, that may inhabit firewood. The DNR rules prohibit the possession of firewood in a state park unless the firewood comes from within 50 miles from the park, or from a more distant source approved by the Department of Agriculture, Trade and Consumer Protection (“DATCP”).

(2) The DNR rules effectively prohibit a firewood dealer located more than 50 miles from a state park from supplying firewood to that state park, except as authorized by DATCP. That prohibition may work a substantial hardship on firewood dealers who normally supply significant quantities of firewood to parks located more than 50 miles away.

(3) This rule creates a voluntary certification program for firewood dealers who obtain their wood from Wisconsin and agree to treat the wood for potential pests such as Emerald Ash Borer. Certified firewood dealers may supply firewood to Wisconsin state parks, even though they are located more than 50 miles from those parks.

(4) DATCP is adopting this rule as a temporary emergency rule, pending completion of “permanent” rulemaking proceedings. DATCP cannot complete permanent rules in

time for the 2007 camping season. Without this emergency rule, certain firewood dealers may experience unnecessary financial hardship during the 2007 camping season, because they will be precluded from supplying firewood to state parks more than 50 miles away. This emergency rule allows those firewood dealers to continue supplying firewood to more distant state parks, subject to sourcing and treatment requirements that are reasonably designed to prevent the spread of serious exotic pests.

Publication Date: May 22, 2007
Effective Date: May 22, 2007
Expiration Date: September 19, 2007
Hearing Date: June 26, 2007

Commerce

(Licenses, Certifications, etc., Ch. Comm 5)

Rules adopted revising **ch. Comm 5**, relating to licensing of elevator contractors and installers.

Exemption From Finding of Emergency

Under the nonstatutory provisions of 2005 Wis. Act 456, the Department of Commerce was directed to issue emergency rules that implement provisions of the Act. The Act specifically states: “Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of commerce 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 a finding of emergency for the rules promulgated under this subsection.”

The Act mandates the licensing of elevator contractors and installers. Under the Act no person may engage in the business of installing or servicing conveyances or working on a conveyance unless licensed as of June 1, 2007. These emergency rules are being adopted in order to provide the elevator industry the ability to comply with licensing aspects of the Act and continue working until permanent rules are implemented.

Publication Date: June 1, 2007
Effective Date: June 1, 2007
Expiration Date: October 29, 2007
Hearing Date: June 27, 2007

Commerce

(Amusement Rides, Ch. Comm 34)

Rule adopted creating **s. Comm 34.22 (5m)**, relating to amusement ride safety.

Finding of Emergency

The Department of Commerce finds that an emergency exists within the state of Wisconsin and that adoption of an emergency rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is as follows.

1. An amusement ride fatality occurred in Wisconsin on July 14, 2007. The ride involved the field attachment of passengers who don harnesses and then are elevated off the ground.

2. Although no mechanical or equipment failure contributed to the incident, attachment and connection practices of the operators did not incorporate safety practices used on some similar rides in the industry.

3. The department recognizes that without promulgating this emergency rule, there could be confusion in what constitutes a recognized safe practice for the field attachment or connection of harnessed passengers on similar amusement rides. The department believes clarifying the code will promote safety.

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

Publication Date: August 13, 2007
Effective Date: August 13, 2007
Expiration Date: January 10, 2008

Commerce (Financial Resources for Businesses and Communities, Chs. Comm 104–131)

Rules adopted creating **ch. Comm 135**, relating to tax credits and exemptions for internet equipment used in the broadband market.

Exemption From Finding of Emergency

These rules establish the criteria for administering a program that will (1) certify businesses as temporarily eligible for tax credits and exemptions for Internet equipment used in the broadband market, and (2) allocate up to \$7,500,000 to these businesses for these tax credits and exemptions.

Pursuant to section 227.24 of the statutes, this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper. In accordance with section 17 (1) (d) of 2005 Wisconsin Act 479, this rule will remain in effect until January 1, 2008, or until the Department reports its certifications and determinations under this rule to the Department of Revenue, whichever is sooner.

The rules specify who is eligible for the income and franchise tax credits and the sales and use tax exemptions in this program, for Internet equipment used in the broadband market. Eligible equipment is also specified, along with how to apply for the certifications and allocations. Parameters for allocating the authorized total of \$7,500,000 are likewise specified. These parameters emphasize (1) efficiently initiating broadband Internet service in areas of Wisconsin that otherwise are not expected to soon receive this service, and (2) encouraging economic or community development. The rule chapter also describes the time-specific legislative oversight that is established in 2005 Act 479 for these allocations, and describes the follow-up reports that the Act requires from every person who receives a sales or use tax exemption under this chapter.

Publication Date: February 20, 2007
Effective Date: February 20, 2007
Expiration Date: See section 17 (1) (d) 2005 Wis. Act 479
Hearing Date: March 26, 2007

Dentistry Examining Board

Rule adopted amending the effective date of CR 04–095, by amending the emergency rule that took effect on December 29, 2006, relating to the requirements for administering the office facilities and equipment for safe and effective administration and the applicable standards of care, and to provide for reporting of adverse occurrences related to anesthesia administration.

Finding of Emergency

The board has made a finding of emergency. The board finds that failure to delay the effective date of CR04–095, from July 1, 2007 to November 1, 2007 will create a danger to the public health, safety and welfare. The extra four months are needed to allow the implementation of the rule to occur and to ensure the continued use of conscious sedation for dental patients. The rules created a course requirement for receiving a conscious sedation permit that did not exist. Courses have and are being developed to meet this requirement. By November 1, 2007, the course will have been available to enough dentists to ensure the continuation of the use of conscious sedation.

Publication Date: June 24, 2007
Effective Date: July 1, 2007
Expiration Date: November 28, 2007
Hearing Date: July 11, 2007

Elections Board

Rules adopted creating **s. EIBd 3.50**, relating to pricing of voter information available from the Statewide Voter Registration System.

Exemption From Finding of Emergency

The Elections Board finds that under Section 180 of the non-statutory provisions of 2005 Wisconsin Act 451, in subsection (4), the Elections Board may promulgate emergency rules under s. 227.24, Stats., implementing s. 6.36 (6), Stats., as created by Wisconsin Act 451. Notwithstanding s. 227.24 (1) (c) and (2), Stats., emergency rules promulgated under subsection (4) remain in effect until the date on which permanent rules take effect. Notwithstanding s. 227.24 (1) (a) and (3), Stats., the Elections Board is not required to provide evidence that promulgating a rule under subsection (4) as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under subsection (4).

This amended rule interprets ss. 5.02 (14) and (17), 6.27, 6.275, 6.29, 6.33, 6.34, 6.35, 6.36, 6.40, 6.45, 6.46, 6.48, 6.50, 6.54, 6.55, 6.56, and 6.57, Stats. The rule requires that persons who request copies of information from the Statewide Voter registration System must pay, for each such copy, a charge calculated under the provisions of the rule.

At the present time, the Elections Board is limited, in the fee that it can charge for information provided by the Statewide Voter registration System, to the fee set by s. 19.35 (3), Stats.: “the actual, necessary, and direct cost of reproduction and transcription of the record.” In order to recover both the cost of reproduction and the cost of maintaining the list at the state and local level, rather than having its charge be limited to the amount currently provided under the public records law, the Board needs an immediate rule reflecting both cost components required by the new statute.

Publication Date: May 12, 2007
Effective Date: May 12, 2007
Expiration Date: See section 180 (4), 2005 Wis. Act 451
Hearing Date: June 11, 2007

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

Rules adopted revising **ch. HFS 107**, relating to benefits covered by the Wisconsin Medical Assistance program, and affecting small businesses.

Finding of Emergency

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

A recent revision to s. HFS 107.07 (2), the prior authorization subsection of the dental services section of the Medicaid Administrative Code, caused a result which was not intended by the Department. To correct this error, the Department is promulgating rules to clarify that the Department’s intent is to require prior authorization for orthodontia and other services provided under early and periodic screening, diagnosis and treatment (EPSDT) services. The medical necessity of these services is determined by the Department based on information submitted by the provider. Thus, it is necessary to require prior authorization to determine the appropriateness of providing these services to an individual recipient.

In the previous rulemaking (Clearinghouse Rule 05–033) the prior authorization requirement was removed for most procedures that had high rates of approval (greater than 75%). The change was intended to reduce the staff time required for dental offices to process prior authorization requests. The Department did not intend to remove the requirement for prior authorization for orthodontia and other services. The Department specifically stated, in Clearinghouse Rule 05–033, that “Procedures where appropriate pricing requires a high degree of clinical knowledge (e.g., orthodontics and TMJ surgery), and procedures with strict time limitations (e.g., dentures) are also proposed to retain prior authorization.”

The language that was adopted, however, has been interpreted by at least one dentist to mean that prior authorization is no longer required to provide orthodontia to recipients. This interpretation was upheld by an administrative law judge in an administrative hearing. The Department believes that the interpretation of the administrative law judge could open up the Department to being required to pay for procedures that are purely cosmetic. Because the intent of the Department and the language

adopted, as recently interpreted, had opposite effects, the Department is promulgating rules to revise section s. HFS 107.07 to clarify the intent of the rule.

A basic concept of the Medicaid program is that services must be medically necessary to be reimbursable. Allowing the existing rule language to remain in its present form could require reimbursement for orthodontia that is not medically justified.

Publication Date: April 30, 2007
Effective Date: April 30, 2007
Expiration Date: September 27, 2007

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

1. Rules adopted revising **chs. NR 19 and 20**, relating to the control of fish diseases and invasive species.

Finding of Emergency

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

The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a “notifiable” disease, meaning that outbreaks must be reported immediately. VHS has been discovered in the Great Lakes, and is moving from the lower lakes (Ontario and Erie), where it has already caused large–scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish diseases to reach the Mississippi drainage. Twenty–seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. The VHS virus can be transported from affected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in the Great Lakes is therefore a threat to the public health or safety or to the environment.

Publication Date: April 8, 2007
Effective Date: April 8, 2007
Expiration Date: September 5, 2007
Hearing Date: May 3, 10 and 17, 2007

2. Rules adopted revising **chs. NR 19 and 20**, relating to the control of fish diseases and invasive species.

Finding of Emergency

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

The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a “notifiable” disease, meaning that outbreaks must be reported immediately. VHS has been discovered in the Great Lakes, and is moving from the lower lakes (Ontario and Erie), where it has already caused large–scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois

River, allowing fish and fish diseases to reach the Mississippi drainage. Twenty–seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. The VHS virus can be transported from affected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in the Great Lakes is therefore a threat to the public health or safety or to the environment.

This emergency rule clarifies and expands the emergency rules put into effect on April 8, 2007.

Publication Date: May 2, 2007
Effective Date: May 2, 2007
Expiration Date: September 5, 2007
Hearing Date: June 11, 2007

3. Rules adopted revising emergency rules affecting **chs. NR 19 and 20** relating to control of fish diseases and invasive species.

Finding of Emergency

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

The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a “notifiable” disease, meaning that outbreaks must be reported immediately. On May 11, the Department received notice that freshwater drum collected from Little Lake Butte des Morts were infected with the VHS virus. Earlier VHS had been discovered in the Great Lakes, and was known to be moving from the lower lakes (Ontario and Erie), where it has already caused large–scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish disease to reach the Mississippi drainage basin. Twenty–seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. The VHS virus can be transported from infected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in Wisconsin is therefore a threat to the public health or safety or to the environment.

Publication Date: May 27, 2007
Effective Date: May 27, 2007
Expiration Date: September 5, 2007
Hearing Date: July 11, 2007

4. Rules adopted amending **s. NR 20.20**, relating to the hook and line harvest of lake sturgeon.

Finding of Emergency

The Department of Natural Resources finds that an emergency exists and rules are necessary to prevent excessive harvest of lake sturgeon from the inland waters of Wisconsin during the 2007 hook and line season.

Publication Date: July 23, 2007
Effective Date: July 23, 2007
Expiration Date: December 20, 2007
Hearing Date: August 13, 2007

5. Rules adopted amending **ss. NR 10.01 (1) (v), 10.12 (5) (d) and 10.15 (6); and to repeal and recreate s. NR 10.01 (1) (b), (g) and (u)**, relating to the 2007 migratory game bird seasons and waterfowl hunting zones.

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 30, 2007
Effective Date: August 30, 2007
Expiration Date: January 27, 2008
Hearing Date: October 19, 2007
 [See Notice this register]

Natural Resources (2) **(Environmental Protection – Water Regulation, Chs. NR 300–)**

1. Rules adopted revising **ch. NR 345**, relating to general permits for dredging in Great Lakes 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 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 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 under a general permit. There are no statutory general permits for dredging, including operation of a motor vehicle, on the beds of the Great Lakes to remove algae, mussels, dead fish and similar large plant and animal nuisance deposits. Without emergency rules to create general permits, all dredging, including operation of a motor vehicle, on the beds of the Great Lakes to remove plant and animal nuisance deposits require an individual permit with an automatic 30–day public notice. The required 30–day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision–making but not diminish the public trust in state waters, these

emergency rules are required to establish general permits to be in effect for the 2007 summer season, with specific standards for operation of a motor vehicle, on the beds of the Great Lakes to remove plant and animal nuisance deposits.

Publication Date: June 10, 2007
Effective Date: June 10, 2007
Expiration Date: November 7, 2007
Hearing Date: July 10, 2007

2. Rules adopted revising **chs. NR 320, 323, 328, 329, 341, 343 and 345**, relating to general permit criteria requiring decontamination of equipment for invasive species and viruses.

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 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 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 under a general permit. There are no statutory general permits standards that require decontamination of equipment for invasive species and viruses. Without emergency rules to create new general permit standards, any condition imposed would be limited to individual permits only with an automatic 30–day public notice. The required 30–day comment period will unnecessarily delay projects that otherwise could go ahead with prescribed conditions established in a general permit. To carry out the intention of Act 118 to speed decision–making but not diminish the public trust in state waters, these emergency rules are required to establish general permits standards to be in effect for the 2007 summer season, with specific standards that require decontamination of equipment for invasive species and viruses.

In addition, The Department of Natural Resources finds that an emergency exists and the foregoing rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is: The World Health Organization for Animal Health (OIE) lists viral hemorrhagic septicemia (VHS) as a “notifiable” disease, meaning that outbreaks must be reported immediately. VHS has been discovered in the Great Lakes, and is moving from the lower lakes (Ontario and Erie), where

it has already caused large–scale fish kills, via Huron, where it has been present since 2005, to the upper lakes (Michigan and Superior). Lake Michigan is connected to the Mississippi River by the Chicago Sanitary and Ship Canal and Illinois River, allowing fish and fish diseases to reach the Mississippi drainage. Twenty–seven species of Wisconsin fish have been identified as susceptible by the OIE or USDA APHIS, including most of our most important recreational and commercial species. The VHS virus can be transported from affected areas to areas where it is not yet present via live fish, fish eggs, refrigerated or frozen dead fish, or water where infected fish have been present. The presence of VHS virus in the Great Lakes is therefore a threat to the public health or safety or to the environment.

Publication Date: July 12, 2007
Effective Date: July 12, 2007
Expiration Date: December 9, 2007
Hearing Date: August 13, 2007

Workforce Development (Workforce Solutions, Chs. DWD 11 to 59)

Rules adopted revising **ch. DWD 56**, relating to child care enrollment underutilization.

Finding of Emergency

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

The child care subsidy budget is expected to have a substantial deficit by the end of state fiscal year 2006–07. While many factors will have an impact on the program’s final fiscal balance, current spending patterns at current rates suggest that the program will exceed its 06–07 budget authorization by approximately \$46 million. This rule will provide for more efficient use of the program’s limited funding.

Publication Date: April 1, 2007
Effective Date: April 1, 2007
Expiration Date: August 29, 2007
Hearing Date: June 20, 2007
Extension Through: October 27, 2007

Scope Statements

Health and Family Services

Subject

The Department of Health and Family Services proposes to amend ch. HFS 56, Foster Home Care for Children, relating to creating restrictions on exposing foster children to second–hand smoke; using physical restraint with foster children; and providing direction on tribal foster homes and Indian children.

Policy Analysis

Section 48.67, Stats., requires the Department to promulgate rules establishing minimum requirements for the issuance of licenses and the operation of foster homes and treatment foster homes among other entities. The rules must be designed to promote the health, safety, and welfare of the children placed in the care of the foster parent or treatment foster parent.

In order to promote the health and welfare of foster children, the Department intends to amend the rules to prohibit foster families from exposing foster children to second hand smoke.

The Department also intends to amend the rules to provide clarification and guidance to support the prohibition on using physical punishment, ill treatment, or harsh or humiliating discipline of a foster child.

Finally, the Department intends to amend the rules to provide for the support and recognition of tribal custom and practice to enhance the welfare of Indian foster children and to provide guidance regarding the statutory right of Wisconsin tribes to license foster homes.

Statutory Authority

The Department’s authority to promulgate these changes to the rules is found at ss. 48.67, 48.675 (2), and 227.11 (2), Stats.

Entities Affected by the Rule

The amendments to the rule will have a direct impact on the Department, including the Bureau of Milwaukee Child Welfare (BMCW), county human and social services agencies, licensed child placing agencies, and prospective and current foster parents and treatment foster parents, including those individuals who are seeking licensure as a foster parent for the purposes of adopting a child.

Comparison with Federal Regulations

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

Estimate of Time Needed to Develop the Rule

It is anticipated that approximately 70 hours of staff time will be required for the development, drafting, review, and editing of the proposed rule. The Department will work with the Out–of–Home Care/Adoption Committee to develop the rule. Committee participants include representatives from the Bureau of Milwaukee Child Welfare, Bureau of Regulation and Licensing, county human services and social services agencies, tribal child welfare agencies and private child placing agencies.

Insurance

Subject

The rule affects ch. Ins 2, relating to sales of life insurance and annuities to the military and affecting small business.

Objective of the Rule

The purpose of the proposed rule is to address life insurance and annuities sales practices involving military personnel that are unfair, false, misleading or deceptive. In that regard the Office will consider adoption of the National Association of Insurance Commissioner’s (“NAIC”) Model Military Sales Practices Model Regulation (“Model”).

Policy Analysis

The Model was adopted by the NAIC in June 2007 at the direction of Congress expressed in the Military Personnel Financial Services Protection Act, Pub. L. No. 109–290 (2006) (the “Federal Act”). There are no current state laws or rules that specifically address sales of life insurance and annuities products to the military or on military bases.

Statutory Authority

Sections 601.41 (3), 601.42, 618.37, 628.10, 628.34, and ch. 645, Stats.

Entities Affected by the Rule

The proposed rule will apply to insurers, agencies and agents.

Comparison with Federal Regulations

The Model tracks or incorporates relevant U.S. Department of Defense solicitation regulations in Instruction 1344.07: Personal Commercial Solicitation on Department of Defense Installations, and Army Regulation 210–7: Commercial Solicitation on Army Installations. These regulations identify improper sales practices directed at active duty service members. However the Model also addresses similar sales practices directed to active duty military personnel conducted off military installations. The proposed rule is likely to similarly reflect these U.S. military regulations.

Estimate of Time Needed to Develop the Rule

200 hours and no other resources are necessary.

Marriage and Family Therapy, Professional Counseling and Social Work Examining Board

Subject

Proposed amendments to: definitions under ch. MPSW 10; application for licensure as a professional counselor as provided in s. MPSW 11.01, pertaining to degree requirements, board approval of equivalent programs and accreditation of programs; application requirements for professional counselor licensure specifically related to obtaining 3000 hours of supervised practice of professional counseling under a professional counselor training license as provided in s. MPSW 11.015 and ch. MPSW 12; academic programs equivalent to degrees in professional counseling pertaining to coursework requirements, credit hour requirements, accreditation standards, total program credit

requirements and board approval as provided in ss. MPSW 14.01 and 14.02.

Objective of the Rule

Proposed amendments to ss. MPSW 10.01 Definitions and 11.01 Applications.

The definition or description of what is considered a Master's or Doctorate degree in professional counseling is not found or clarified in the board's administrative rules; however, the statutory requirements for licensure include submitting either a "Master's Degree in Professional Counseling" or its equivalent from a program approved by the section. The section has found that a "professional counseling degree" does not appear to be a common name applied to a counseling master's program, and instead has found programs with numerous counseling related titles including, guidance and counseling, counseling psychology, rehabilitation counseling, etc. The section proposes to create a definition and/or guidelines as to what constitutes a professional counseling degree acceptable by the section as well as guidelines on program preapproval and approval.

Proposed amendments to s. MPSW 11.015 Professional counselor training license and ch. MPSW 12 Supervised practice requirement.

The current rules do not explicitly state that a person must hold a professional counselor training license in order to accrue hours of supervised professional counseling practice. Thusly, the section found that many applicants have provided and in some cases are currently providing psychotherapeutic services without the training credential. As the practice of professional counseling and the provision of psychotherapy is a protected practice under ch. 457, Wis. Stats., the section is proposing to clarify the requirement to hold a credential while accumulating their supervised practice hours.

Wisconsin's equivalency standards are set at 48 credits minimum (3 credits for counseling practicum, 3 credits for counseling theory, and 42 credits distributed over 6 of the 8 topic areas) for a program considered equivalent to a professional counselor degree. The section may wish to look closer at the national models for professional counseling licensure. The national models for practice appear to be a minimum of 48 credit programs for non-clinical counselor education programs and 60 hours for mental health counseling (clinical psychotherapy) programs.

Proposed amendments to ss. MPSW 14.01 and 14.02 Academic programs equivalent to a master's and doctorate degree in professional counseling.

The section's rules for determining equivalency to a master's/doctorate degree in professional counseling require minimums of one 3-credit semester hour or 4 quarter hour coursework in a number of "topic areas" specified under the rules. The section has found little evidence that establishes degree programs primarily assembled with 3-semester hour or 4-quarter hour courses as intrinsically superior to other programs with the semester hour or quarter hour minimum and proposes to eliminate the requirement.

Additionally, under equivalent degree standards, the rules specify a minimum of 42 credits distributed over 6 of the 8 topic areas plus 3 credit minimums for the required counseling theory and practicum for a minimum of a 48 credit program. The section has found that this requirement varies from state to state, and the national models for practice describe a minimum of a 48-credit non-clinical education program and 60 credits for mental health counseling programs, and includes guidelines for addressing deficiencies with alternative requirements. The section reserves the right

to adjust the credit minimum and requirements for achieving equivalency.

Policy Analysis

The section made the following policy determinations regarding the requirement to obtain supervised hours under a training credential:

- Board legal counsel, Jacquelynn Rothstein, advised the section that under Act 80 individuals should be holding a PC training certificate. 2001 Act 80, revised Wis. Stat. Chapter 457 which created practice protection for the mental health licensure, including professional counseling (*Discussion Regarding Professional Counselor Training Certificates, Professional Counselor Section minutes, November 16, 2004*)
- All supervised hours accumulated on or before March 1, 2005 (without a training certificate) by those individuals eligible for a training certificate will be counted toward licensure. All supervised hours obtained after March 1, 2005, must be completed under a valid training certificate. (*Professional Counselor Section minutes, November 16, 2004*)
- The Professional Counselor Section will consider applications for PC licensure for those who received their required supervised practice without the benefit of a training certificate on a case-by-case basis for applicants who graduated prior to 2005. (*Professional Counselor Section minutes, October 31, 2005*)

The section made the following policy determinations regarding approval and preapproval of degree programs used to satisfy the requirements for licensure:

- The section discussed the various program names with "Counseling" in the description and how the department should handle the application process for these programs. The board advised the credentialing staff that if an applicant holds a master's or doctor's degree in "counseling" (as opposed to "professional counseling"), that is not on the approved list on the application, then credentialing will ask for a transcript to be sent. (*Discussion Re: Guidelines regarding the application process and Practicum [Sic] for Credentialing Staff to Use, Professional Counselor Section minutes, June 25, 2003*)
- The department discussed with the section a question frequently posed by applicants as to if they hold degrees that have names very similar to those on the "preapproved list" would the section accept them. Credentialing staff also asked for guidance as to what they should do with the preapproved list – should program names be added one at a time or should there be another mechanism in place. The section directed the department to obtain a counseling program catalog and to include a list of CACREP approved schools along with the application materials. (*Discussion Re: Pre-approved degrees – Consider Adding Degree(s) to Pre-approved List, Professional Counselor Section minutes, Sept 24, 2003*)
- The section held a discussion as to whether a number of specific Wisconsin Programs should be considered on the "approved program list." The section reviewed materials from the following programs and made determinations as to whether they would be accepted on the approved program list. Upon the review of specific programs, credentialing staff was directed to create a new preapproved program list. The section also at this time voted to accept any CACREP or CORE accredited programs as automatically meeting the requirements for licensure. (*Discussion Re: Approval of School Programs and*

the Development of New Approved Degree List..., Professional Counselor Section minutes, February 1, 2005)

Statutory Authority

Sections 15.08 (5) (b) and (6), 227.11 (2) and 457.03 (1), Stats.

Entities Affected by the Rule

Entities primarily affected by the rule will be those interested in pursuing training licensure or full licensure as a professional counselor. This may include those who are currently providing psychotherapy in s. HFS 61.96 clinics under an exemption for licensure who at a future time may wish to ask the section to count their supervised practice time gained in clinical practice without the benefit of a professional counseling training license.

Changes outlined in the scope may also affect counselor programs provided by accredited colleges and universities.

Comparison with Federal Regulations

There is no applicable existing federal legislation.

Estimate of Time Needed to Develop the Rule

160 hours.

Natural Resources

Subject

The rule relates to the State Wildlife Grants Program.

Objective of the Rule

The Department requests authorization to begin development of an administrative rule to establish a grant program to help implement the Wildlife Action Plan. The State Wildlife Grants Program, funded through annual Congressional appropriations and administered by the U.S. Fish and Wildlife Service, provides federal money to Wisconsin for cost-effective conservation aimed at preventing wildlife from becoming endangered. The Department will provide financial assistance, through State Wildlife Grant funds, for projects that protect Species of Greatest Conservation Need and their habitats, as described in the Wildlife Action Plan.

Policy Analysis

United States laws and policies place the primary responsibility for wildlife management in the hands of the states. State fish and wildlife agencies have a long history of success in conserving game species, thanks to the support of hunter and angler license fees and federal excise taxes. But 90 percent of our Nation's wildlife is not hunted or fished. As a result, there is a serious gap in wildlife conservation funding, and thousands of species are falling through the cracks.

State Wildlife Grants help fill that gap by supporting projects that prevent *all wildlife* from declining to the point of being endangered. Projects supported by this program protect and restore important lands and waters, collect information on what kinds of wildlife are in trouble, and develop partnerships with landowners to protect declining species and habitats on public and private lands. By emphasizing a proactive approach, the State Wildlife Grants Program helps us take action to protect wildlife and habitats before they become too rare and costly to protect.

In order to make the best use of the State Wildlife Grants Program, Congress charged each state and territory with developing a statewide wildlife action plan. These proactive

plans identify species and habitats of greatest conservation need and outline the steps needed to conserve all wildlife and vital natural areas for future generations.

The State Wildlife Grants Program saves taxpayer dollars. Taking action to conserve wildlife before it becomes endangered is environmentally sound and fiscally responsible. Once a species declines to the point of potential extinction, recovery efforts become risky and expensive. A non-federal match requirement assures local ownership and leverages state and private funds to support conservation. In an era of tight budgets, the State Wildlife Grants Program represents how limited federal funds can be invested to get the most results for taxpayers.

Statutory Authority

Sections 227.11 and 29.604, Stats.; and Department of the Interior and Related Agencies Appropriations Act, 2002, Public Law 107-63; Title I; Land and Water Conservation Fund Act of 1965 U.S. C. 4601-4 through 11.

Entities Affected by the Rule

State Wildlife Grants support projects that prevent wildlife from declining to the point of being endangered. Projects supported by this program protect and restore important lands and waters, collect information on what kinds of wildlife are in trouble, and develop partnerships with landowners to protect declining species and habitats on public and private lands. Therefore, public land managers and private landowners throughout the state will benefit from this program as well as public agencies, non-governmental environmental groups, researchers at universities and colleges and citizen scientists.

Comparison with Federal Regulations

Several grant programs provide opportunities for private landowners to manage their land for rare species. The U.S. Fish and Wildlife Service provides grants to private landowners through the Partners for Fish and Wildlife Program and the Private Stewardship Grant Program, which both focus on species listed at the federal level as endangered or threatened. The U.S. Fish and Wildlife Service also funds the Landowner Incentive Program (LIP). LIP was authorized by Congress to provide technical and financial assistance to private landowners who are willing to partner with their states to maintain and enhance habitat for "at-risk species". These rare animals and plants, which are identified by each state, include state- and federally-listed species and other species with small and/or declining numbers in the state. The program is intended for management, restoration and protection of private land with habitat for at-risk species. The Natural Resources Conservation Service provides funds to private landowners to restore habitat for federal or state listed species or special concern species through the Wildlife Habitat Incentive Program. The State Wildlife Grants Program is an opportunity to address the gaps in existing funding and tailor a program unique to Wisconsin.

Estimate of Time Needed to Develop the Rule

The Department will need approximately 170 hours of staff time.

Natural Resources

Subject

The rule affects ch. NR 219, relating to water test procedures and analysis methods.

Objective of the Rule

In March 2007, EPA published two final rules, “Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; National Primary Drinking Water Regulations; and National Secondary Drinking Water Regulations” and “Guidelines Establishing Test Procedures for the Analysis of Pollutants; Analytical Methods for Biological Pollutants in Wastewater and Sewage Sludge”. The proposed revision to ch. NR 219 incorporates these changes.

Policy Analysis

The analytical methods contained in 40 CFR Part 136, which are used by laboratories in support of WPDES compliance monitoring, have not been substantively updated in several years. Many of the methods that were deleted by this action were originally published thirty or more years ago. Use of newer laboratory instruments and methods have been hindered by the lack of inclusion in the Federal rule. The WPDES–required analysis of oil and grease has been updated to eliminate the use of freon, which is an known ozone depleting substance.

This update will allow laboratories to utilize these new techniques, deletes outdated methods and typically provides two or more analytical methods from which laboratories can select to use. Many laboratories will find little or no modification to their practices as a result of these changes. This update non–controversial.

Statutory Authority

Sections 219.11 and 283.55 (1), Stats.

Entities Affected by the Rule

Wisconsin Pollutant Discharge Elimination System (WPDES) permittees and Chapter NR 149 registered and certified laboratories.

Comparison with Federal Regulations

This revision will update ch. NR 219 to reflect recent changes at 40 CFR Parts 122, 136, 430, 455, 465, and 503. All tables in ch. NR 219 contain analytical methods and sample hold time and preservation requirements that have been impacted by the March 2007 final rules. This rulemaking will update the content of each table to reflect these changes.

Estimate of Time Needed to Develop the Rule

Approximately 170 hours.

Natural Resources**Subject**

The rule affects ch. NR 462, relating to the Boiler MACT rule.

Objective of the Rule

The proposed rulemaking is intended to repeal or amend Chapter NR 462 so that it is not in effect or has no compliance date in effect in the short term since the underlying counterpart federal rule has been vacated by the Federal Appeals Court.

Policy Analysis

Existing state policy is to be consistent with federal regulations with certain limited exceptions when statutory criteria are met. Chapter NR 462 was adopted and became effective in 2006 to reflect and be fully consistent with the counterpart federal regulations. Those federal regulations were vacated by the United States Court of Appeals for the District of Columbia. The policy alternatives are to remain consistent with federal regulations or to determine that there is a policy reason and sufficient legal authority for Chapter NR 462 and the compliance deadline to remain in effect as a state–only regulation when the underlying federal regulation has been vacated.

Statutory Authority

Sections 227.11 (2) (a) and 285.11 (1), Stats.

Entities Affected by the Rule

There are approximately 93 industrial, commercial and institutional boiler facilities in Wisconsin affected by ch. NR 462.

Comparison with Federal Regulations

The counterpart federal regulation (now vacated) is 40 CFR Part 63, Subpart DDDDD. On July 30, 2007 the United States Court of Appeals for the District of Columbia vacated the federal rule that is the basis for NR 462. The existing Chap. NR 462 is fully consistent with the federal regulation that’s been vacated.

Estimate of Time Needed to Develop the Rule

Approximately 100 hrs. staff time primarily within the Bureau of Air Management

Submittal of Rules to Legislative Council Clearinghouse

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

Natural Resources

On August 29, 2007, the Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The rule affects chs. NR 404 and 484, relating to ambient air quality standards for total suspended particulates (TSP) and particulate matter (PM) and affecting small business.

Agency Procedure for Promulgation

A public hearing is scheduled for October 12, 2007.

Contact Person

Bill Adamski
Bureau of Air Management
(608) 266-2660

Transportation

On August 24, 2007, the Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The rule affects ch. Trans 101, relating to the demerit point system.

Agency Procedure for Promulgation

A hearing is required and is scheduled for October 1, 2007. The Division of Motor Vehicles, Bureau of Driver Services, Citations and Withdrawals is responsible for promulgation of the rule.

Contact Person

Julie A. Johnson
(608) 267-3703

Rule–Making Notices

Notice of Hearing Natural Resources

(Fish, Game, etc., Chs. NR 1—)

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 227.11 and 227.24, Stats., interpreting ss. 29.014, 29.041 and 227.885, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM–20–07(E) pertaining to the 2007 migratory game bird season. This emergency order took effect on August 30, 2007. The significant regulations are:

Ducks: The state is divided into two zones with 60–day seasons. The season begins at 9:00 a.m. September 22 in the north and closes on November 20. In the south, the season begins at 9:00 a.m. on September 29 and continues through October 7, followed by a 5–day split, reopening on October 13 and continuing through December 2. The dates of the youth waterfowl hunt are September 15 and 16. The daily bag limit is 6 ducks including no more than 4 mallards (one hen), one black duck, one pintail, 2 canvasbacks, 2 wood ducks, 2 redheads and 2 scaup.

Canada Geese: The state is apportioned into the Horicon, Collins and Exterior zones plus four subzones within the Exterior zone. Season lengths are: Collins zone – 62 days (periods, first period beginning September 16); Horicon zone – 92 days (4 periods, first period beginning September 16); Exterior zone in the northern duck zone – 85 days (September 16 to December 9); Exterior zone in the southern duck zone – 85 days (September 16 to October 7 followed by a 5–day split and October 13 to December 14); and Mississippi River subzone – 85 days (September 29 to October 7 and October 13 to December 27). The Burnett County subzone is closed to Canada goose hunting. The statewide daily bag limit for Canada geese is 2 birds per day.

In addition to these annual regulatory issues, the emergency rule requires the use of non–toxic shot for rail, snipe and moorhen statewide and allows the placement of decoys and shooting at birds that are within a 75–yard area around the boundary of the Horicon National Wildlife Refuge as long as the hunter is more than 75 yards from the boundary.

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

October 19, 2007	Room 606
Friday at 1:00 p.m.	GEF #2 Office Building 101 S. Webster Street Madison, WI

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kent Van Horn at (608) 266–8841 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

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

Submission of Comments

Written comments on the emergency rule may be submitted to Mr. Kent Van Horn, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than October 23, 2007. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule may be obtained from Mr. Van Horn. The emergency rule may be reviewed and comments electronically submitted at the following internet site: <http://adminrules.wisconsin.gov>.

Notice of Hearing Natural Resources

(Environmental Protection–Air Pollution Control, Chs. NR 400—)

[CR 07–082]

NOTICE IS HEREBY GIVEN that pursuant to ss. 285.11 (1) and (6) and 285.21 (1) (a), Stats., interpreting s. 285.21 (1) (a), Stats., the Department of Natural Resources will hold a public hearing on revisions to chs. NR 404 and 484, Wis. Adm. Code, relating to ambient air quality standards for total suspended particulates (TSP) and particulate matter (PM) and affecting small business. The State Implementation Plan developed under s. 285.11(6), Stats., is also revised. The proposed rule will repeal ambient air standards for TSP and annual PM₁₀ from ch. NR 404 and federal monitoring requirements for TSP and annual PM₁₀ from ch. NR 484. The proposed rule will adopt U.S. Environmental Protection Agency promulgated national ambient air quality standards (NAAQS) for PM_{2.5} into ch. NR 404 and incorporate the corresponding federal PM_{2.5} monitoring requirements for that ambient air standards into ch. NR 484.

The proposed rules would assure that the Wisconsin Administrative Code is consistent with the NAAQS for particulate matter, as required under s. 285.21 (1) (a), Stats., and reflect the science of particle pollution effects on human health. If any areas in the state are designated as nonattainment for the new air quality standards, the Department is required to develop an air quality state implementation plan to ensure that the ambient air quality standards are attained and maintained in those areas.

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

- a. Types of small businesses affected: Any small business emitting particulate matter.
- b. Description of reporting and bookkeeping procedures required: No new state procedures are required.
- c. Description of professional skills required. No new skills are required.

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

October 12, 2007 Room G09, GEF #2 Building
 Friday at 1:30 p.m. 101 South Webster
 Madison, WI

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

The proposed rule and supporting documents, including the fiscal estimate may be viewed and downloaded and comments electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>. (Search this Web site using the Natural Resources Board Order No. AM–23–07). Written comments on the proposed rule may be submitted via U.S. mail to Mr. Bill Adamski, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 or by e–mail to William.Adamski@wisconsin.gov. Comments may be submitted until **October 22, 2007**. 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. If you do not have Internet access, a personal copy of the proposed rule and supporting documents, including the fiscal estimate may be obtained from Robert Eckdale, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 or by calling (608) 266–2856.

Notice of Hearing Transportation [CR 07–081]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16, 343.02 (1), 343.32 (2) (a) and (5), Stats., and interpreting s. 343.32, 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 **1st day of October, 2007, at 1:30 PM**, to consider the amendment of ch. Trans 101, Wisconsin Administrative Code, relating to the demerit point system.

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.

Analysis Prepared by the Department of Transportation

Statute interpreted

Section 343.32, Stats.

Statutory authority

Sections 85.16, 343.02 (1), 343.32 (2) (a) and (5), Stats.

Explanation of agency authority

Section 343.32 (2) (a), Stats., permits the Secretary to suspend a person's operating privilege if the person appears by the records of the department to be a habitually reckless or negligent operator of a motor vehicle or to have repeatedly violated any of the state traffic laws, any local ordinance enacted under ch. 349 or any traffic laws enacted by a federally recognized American Indian tribe or band in this state if the tribal traffic laws violated strictly conform to provisions in chs. 341 to 348 or, if the offense occurred on a federal military installation located in this state, any federal law which is in strict conformity with a state traffic law. The Department has used a demerit point system to accomplish this end since 1958. The statute permits the Secretary to adopt by rule a method of weighing traffic convictions by their seriousness and allows the Secretary to change that weighted scale "as experience or the accident frequency in the state makes necessary or desirable," though much flexibility in the system has been eliminated over the years by statutory amendment mandating specific assignment of demerit points, suspension of operating privileges at specific point levels and doubling of demerit point assessments for probationary drivers.

Section 343.32 (5), Stats., provides that the secretary also may provide by rule for a reduction of points if a person shows to the department satisfactory evidence of completion of a course of instruction in traffic safety, defensive driving or similar course or driver improvement counseling approved by the secretary.

Related statute or rule

Section 343.44, Stats. Persons whose operating privileges are suspended under s. 343.32 (2), Stats., as a result of demerit point accumulation are subject to prosecution for operating after suspension if they continue to operate motor vehicles.

Plain language analysis

The proposed rule makes the following changes to Wisconsin's demerit point system:

- Violations will only be used once to create a point case.
- No convictions that result in a withdrawal will be used in a point case, unless the withdrawal is a disqualification under s. 343.315, or if the underlying convictions results in a withdrawal for failure to pay or for a habitual traffic offender revocation.
- An existing point case may be amended, if a driver is still suspended and the additional convictions are within one year of each other by date of violation.
- For persons who are subject to a court–ordered suspension, as well as a suspension for a point case, the longer suspension period will apply.
- Revocation language for demerit point cases has been removed, as all point withdrawals are now suspensions due to 1997 Wisconsin Act 84.
- Completion of point reduction school may be used to reduce points assessed against a driver's license that has already been suspended.
- Point reduction is allowed every three years.

No specific effective date is provided in this rule. DMV will need to reprogram its systems in order to implement this rule making. (DMV is rewriting the computer systems associated with demerit point suspensions in any event, and the simplification of the system proposed in these rules reduces the complexity of that task and, therefore, the cost of rewriting the system.) When DMV knows that the system will be ready to use on a specific date, it will publish an independent notice in the administrative register announcing

the effective date. The date may well be something other than the first day of a month. Historically, WisDOT has implemented major computer system changes over weekends to provide time for programmers to react to any unexpected difficulties.

Comparison with federal regulations

Driver improvement programs are state functions.

Comparison with adjacent states

Michigan: Michigan has a driver responsibility program. This program assesses a driver responsibility fee for drivers who accumulate seven or more points in a two–year period (Category 1) or are convicted of specific qualifying offenses (Category 2). If a driver fails to pay the driver responsibility fee, their license is suspended.

Under Category 1, offenses such as careless driving, drag racing, speeding, improper turn, following too close, failure to yield, failure to obey signal and improper use of lights result in a point assessment under Category 1. The fees begin at \$100 and increase by \$50 for each additional point above seven points, and are assessed yearly.

A sample of Category 2 offenses and fees are:

- Operating While Intoxicated – \$1000
- Reckless Driving – \$500
- No proof of insurance – \$200
- Operating on Expired License – \$150

Fees are paid directly to the Michigan Department of the Treasury, and are imposed in addition to any fee or forfeiture imposed by the court.

Minnesota: The commissioner of the Minnesota Department of Safety may administratively suspend a driver's license for a number reasons, including habitual reckless or negligent operation of a motor vehicle or being a habitual violator of state traffic laws.

Illinois: A driver's license will be suspended for three traffic violations committed within any 12–month period. For drivers under age 21, two traffic violations within any 24–month period will result in a suspension. Drivers under age 18 must successfully complete a driver remedial education course to reinstate driving privileges. The length of the suspension varies according to the seriousness of the traffic offenses.

Iowa: Three countable offenses within 12 months or a speeding violation of 25+ miles per hour over the limit results in driver improvement school. Countable offenses include all moving violations, except for certain speeding offenses less than 10 mph over the limit, parking violations, equipment violations, and failure to appear.

After successful completion of the driver improvement program, a driver is on probation for one year. A driver convicted of a moving violation while on probation, will have their license suspended. Failure to complete the driver improvement program also results in a license suspension.

Summary of factual data and analytical methodologies

In 2006, there were 33,569 driver license suspensions because a person accumulated too many points. Currently, someone that accumulates more than 12 demerit points in a 12–month period, based on the date of violation, will be suspended.

The Department expects the number of driver's license suspensions for points to decrease. This proposed rule making allows someone to receive a 3 demerit point reduction for attending traffic safety school every 3 years, instead of 5 years currently allowed under the existing rule. As such, people will have an additional opportunity to reduce their points that does not exist today.

It is difficult to estimate exactly how many people will take advantage of this proposed change, since people have many reasons to attend traffic safety school. Some are required to attend traffic safety school (Group Dynamics) for an impaired driving conviction, while others attend traffic safety school to learn how to operate a motorcycle (Basic Rider Education). Some judges also require a person to attend traffic safety school for other reasons. As such, we have no clear data that shows how many people attend traffic safety school simply for the point reduction.

Analysis and supporting documentation used to determine effect on small businesses

There should be no detrimental impact on small business. The changes being proposed to ch. Trans 101 will likely cause a slight decrease in the number of persons whose driver's license is administratively suspended for points. As such, there will be more persons with valid driver's licenses available to employers.

Small Business Analysis

There will be no significant adverse effect on small businesses. The Department's Regulatory Review Coordinator may be contacted by e–mail at ralph.sanders@dot.state.wi.us, or by calling (414) 438–4585.

Fiscal Estimate

Vocational, technical and adult education districts will see a slight increase in tuition paid, as technical colleges offer point reduction school. Under the proposed rule, people will be eligible for point reduction every three years instead of five years. The Department will see a slight decrease in reinstatement and occupational license fees, as the changes will likely cause a slight decrease in the number of persons who are administratively suspended for points.

Anticipated Costs Incurred by Private Sector

The Department estimates that there will be no fiscal impact on state or private sector revenues or liabilities.

Agency Contact Person and Submission of Comments

The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Mary Jackson, Department of Transportation, Bureau of Driver Services, Driving Privileges and Withdrawals Unit, Room 305, P. O. Box 7917, Madison, WI 53707–7917. You may also contact Ms. Jackson by phone at (608) 264–7173 or via e–mail: mary.jackson@dot.state.wi.us.

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>.

Submittal of Proposed Rules to the Legislature

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

Commerce **(CR 07-063)**

Ch. Comm 133, relating to film production accreditation program.

Elections Board **(CR 07-059)**

Ch. ElBd 3, relating to statewide voter registration.

Natural Resources **(CR 07-025)**

Ch. NR 809, relating to IESWTR, LT1, DDBP, PN, CCR, radionuclide and total coliform rules and updating of analytical methods for public water systems.

Natural Resources **(CR 07-034)**

Ch. NR 140, relating to groundwater quality standards (Alachlor-ESA).

Natural Resources **(CR 07-035)**

Chs. NR 10 and 16, relating to hunting, nuisance wild animal removal and captive wildlife.

Natural Resources **(CR 07-055)**

Chs. NR 10 and 12, relating to 2007 migratory game bird seasons and waterfowl hunting zones.

Transportation **(CR 07-072)**

Ch. Trans 130, relating to special identification cards and registration plates for the physically disabled.

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.wisconsin.gov or (608) 266–7275 for updated information on the effective dates for the listed rule orders.

Natural Resources (CR 07–011)

An order affecting ch. NR 1, relating to educational requirements for cooperating foresters and to contracting for timber sale establishment services on state land.

Effective 11–1–07.

Natural Resources (CR 07–015)

An order affecting chs. NR 10, 16, 19 and 45, relating to hunting and trapping regulations.

Effective 10–1–07.

Natural Resources (CR 07–024)

An order affecting ch. NR 46, relating to the administration of the Forest Crop Law and the Managed Forest Law.

Effective 11–1–07.

Public Service Commission (CR 07–020)

An order affecting ch. PSC 133, relating to construction, installation, and placing in operation natural gas facilities, and the authorization of natural gas service territory.

Effective 11–1–07.

Regulation and Licensing (CR 07–031)

An order creating chs. RL 160 to 163 and 166 to 168, relating to substance abuse professionals.

Effective 11–1–07.

Revenue (CR 07–027)

An order affecting ch. Tax 1, relating to electronic funds transfer.

Effective 11–1–07.

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