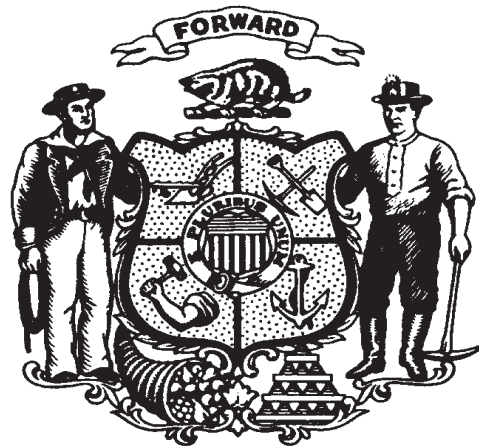


# Wisconsin Administrative Register

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## Emergency rules now in effect

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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.*

*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, 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](http://www.legis.state.wi.us/rsb/code).*

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### Agriculture, Trade & Consumer Protection (2)

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

#### Finding of emergency

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

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

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

(4) On February 27, 2002, the national veterinary services laboratory informed Wisconsin that it had confirmed chronic wasting disease for the first time in this state. The laboratory confirmed the disease in test samples collected from 3 free-ranging white-tailed deer killed by hunters during the November 2001 gun deer season. The Wisconsin Department of Natural Resources (DNR) collected these samples as part

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

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

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

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

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

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

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

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

**Publication Date:** April 9, 2002  
**Effective Date:** April 9, 2002  
**Expiration Date:** September 6, 2002  
**Hearing Date:** May 22, 2002

2. Rules adopted revising **ch. ATCP 96** relating to milk producer security.

#### **Finding of emergency**

(1) The Legislature, in 2001 Wis. Act 16, repealed and recreated Wisconsin's agricultural producer security program. The new program is codified in ch. 126, Stats. (the "new law"). The new law takes effect, for milk contractors, on May 1, 2002. The new law is intended to protect milk producers against catastrophic financial defaults by milk contractors.

(2) The new law applies to milk contractors, including dairy plant operators, producer agents and other milk handlers, who procure producer milk in this state. Under the new law, milk contractors must be licensed by the Wisconsin department of agriculture, trade and consumer protection (DATCP). Milk contractors must pay license fees and do one or more of the following:

(a) Contribute to Wisconsin's agricultural producer security fund, to help secure milk payments to milk producers.

(b) File security with DATCP.

(c) File financial statements with DATCP, showing that the contractor meets minimum financial standards specified in ch. 126, Stats.

(3) The new law regulates producer agents (who market milk and collect payment for milk producers, without taking title to the milk), but treats them differently than other milk contractors. Producer agents may have lower fund participation requirements, and may file smaller amounts of security, than other milk contractors. The program may provide correspondingly less compensation to producers if a producer agent defaults.

(4) It is important to clarify the following matters before the new law takes effect for milk contractors on May 1, 2002:

(a) The treatment of dairy plant operators who provide custom processing services to milk producers, without marketing or taking title to milk or dairy products.

(b) The treatment of producer agents. Under s. 126.51, Stats., DATCP must adopt rules for milk contractors who wish to qualify as producer agents under the new law.

(c) The treatment of persons who market only processed dairy products for milk producers, without procuring, marketing or processing raw producer milk.

(d) The method by which milk contractors calculate and report milk payment obligations, for the purpose of calculating fund assessments and security requirements under the new law.

(5) Under s. 126.81 (4), Stats., DATCP may require milk contractors to disclose their security and fund contribution status to milk producers. It is important for milk contractors to begin making these disclosures soon after the new law takes effect, so that producers can evaluate the financial risk associated with milk procurement contracts. Disclosures are

important, because not all milk contractors are required to participate in the agricultural security fund or file security with DATCP.

(6) It is not possible, by normal rulemaking procedures, to adopt these essential clarifications and disclosure requirements by May 1, 2002. DATCP must, therefore, adopt them by emergency rule. This emergency rule is needed to implement the new law, to protect the financial security of milk producers, to preserve fair competition in the dairy industry, and to avoid unnecessary confusion and expense for dairy businesses.

**Publication Date:** April 29, 2002  
**Effective Date:** April 29, 2002  
**Expiration Date:** September 26, 2002  
**Hearing Date:** May 16, 2002

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## **Commerce**

### **(Financial Assistance to Businesses and Communities, Chs. Comm 105 to 128)**

The Wisconsin Department of Commerce proposes an order to create **ch. Comm 118** relating to the Agricultural Development Zone Program.

#### **Finding of emergency**

The Department of Commerce finds that an emergency exists and that adoption of the rule is necessary for the immediate preservation of public health, safety and welfare.

Facts constituting the emergency are as follows:

1. In accordance with s. 560.798 (5), Stats., the Department of Commerce has the responsibility to promulgate rules for the operation of an agricultural development zone to provide for the attraction, promotion, retention, and expansion of agricultural businesses in the state.

2. Section 560.798 (3), Stats., makes available certain tax benefits for certified business within an agricultural development zone; tax credits first apply to tax years beginning on or after January 1, 2003.

3. Commerce, being the agency with primary authority for economic development in the state, recognizes that there is a verified need to attract, promote retain, and expand Wisconsin agricultural businesses. For example, over the past 50 years, Wisconsin has experienced an average of six dairy farms leaving production each day.

4. In the year 2001, state milk production declined by more than one billion pounds, resulting in a near 5% decline in milk production.

5. Western states have increased their cheese production, while Wisconsin experiences declining milk production and dairy processing activities; this program would immediately assist Wisconsin in regaining its prominence in dairy and dairy processing production.

6. The creation of this program combined with other economic development programs in the state is expected to increase the competitiveness of the Wisconsin dairy industry.

This emergency rule is being created in order that the process of designating an agricultural development zone be commenced as soon as possible and that such eligible businesses may become certified and participate in the tax benefits through the Agricultural Development Zone Program.

**Publication Date:** August 13, 2002  
**Effective Date:** August 13, 2002  
**Expiration Date:** January 10, 2003

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## Corrections (2)

1. Rules adopted revising **ch. DOC 328**, relating to adult field supervision.

### Finding of emergency

The department of corrections finds that an emergency exists and that rules are necessary for preservation of the public peace, safety and welfare. A statement of the facts constituting the emergency is: Pursuant to s. 304.074 (2) Stats., the department has authority to collect “at least \$1 per day, if appropriate” from offenders on supervision. However, the current proposed budget reform bill, Assembly Bill 1, directs the department to amend supervision fees and provides, in relevant part, the following:

“...the department of corrections shall promulgate the rules that are required under s. 304.074 (5) of the statutes and that set rates under s. 304.074 (2) of the statutes. The rules shall take effect on July 1, 2002.”

“...the rules shall require the department to have a goal of receiving at least \$2 per day, if appropriate, from each person who is on probation, parole, or extended supervision and who is not under administrative supervision, as defined in s. 304.74 (1) (a) of the statutes, or minimum supervision, as defined in s. 304.74 (1) (b) of the statutes.”

While the language and potential requirements of Assembly Bill 1 doubles the amount the department may collect in supervision fees, the current Administrative Code limits the department’s efforts to do so. The current ch. DOC 328 establishes a set fee schedule with a maximum collection of \$45 per month.

As proposed, the budget reform bill requires the department to rely upon the collection of an increased amount of supervision fees. If the department remained without administrative rule authority to collect the increased fees on July 1st, the department, and clearly the public, would be significantly impacted by the loss of revenue. The proposed budget has anticipated and relied upon such increase in establishing budgetary guidelines for the department of corrections.

This situation requires the department to effect an emergency rule rather than complying with the notice, hearing, legislative review and publication requirements of the statutes. Complying with the standard promulgation procedures for a permanent rule could easily delay the department’s ability to collect the necessary fees by seven months to one year. This delay would have a substantial impact on the department because more than 85% of the department’s supplies and services budget will be funded by program revenue generated from supervision fees collected in the next fiscal year. This revenue provides for a variety of essential departmental functions, including rent for approximately 114 probation and parole offices, vehicles that enable probation and parole agents to conduct home visits on offenders, extradition of absconders, and computers that enable agents to conduct such critical functions as pre–sentence investigation reports. If the department were somehow hindered in the attempt to perform these functions it would obviously affect the department’s ability to adequately supervise offenders and ultimately result in a breakdown in the department’s ability to help protect the public.

This order:

- Raises the department’s supervision fee goal to at least \$2 per day, if appropriate, from all offenders under supervision by the department.

- Eliminates the distinction between offenders supervised by the department on administrative and minimum supervision and offenders who are deemed medium, maximum and high risk as it relates to supervision fees. All offenders under supervision by the department will pay, based on their ability, according to one supervision–fee scale.

**Publication Date:** July 2, 2002  
**Effective Date:** July 2, 2002  
**Expiration Date:** November 28, 2002  
**Hearing Dates:** July 29 & 30, 2002

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

### Exemption from finding of emergency

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

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

and,

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

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

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

**Publication Date:** September 3, 2002  
**Effective Date:** September 3, 2002  
**Expiration Date:** January 31, 2003

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## Elections Board

Rules adopted amending **s. EIBd 6.05** relating to filing campaign reports by electronic transmission.

### Finding of emergency

The Elections Board finds that an emergency exists in the implementation of the requirement of s. 11.21 (16), Stats., that each registrant for whom the board serves as filing officer and who or which accepts contributions in a total amount or value of \$20,000 or more during a campaign period, shall file each required campaign finance report in an electronic format, and finds that the attached rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is as follows:

With the close of the legislature’s 2001–02 biennial session, it is now apparent that the Board will not receive an

additional appropriation to develop a software program that enables registrants to file reports that integrates with the agency's information management system. Implementing an alternate means to permit registrants to comply with s. 11.21 (16), Stats., is necessary for use of campaign finance reports filed in 2002 and thereafter. Filings in electronic format will improve the welfare of Wisconsin's citizens by making campaign finance information more readily available to citizens, candidates, journalists and advocacy groups. Filing reports electronically is the only viable means of ensuring that the public has the information necessary to participate in the selection of our governmental leaders.

**Publication Date:** June 1, 2002  
**Effective Date:** June 1, 2002  
**Expiration Date:** October 29, 2002

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

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

#### Finding of emergency

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

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

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

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

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

**Publication Date:** September 1, 2002  
**Effective Date:** September 1, 2002  
**Expiration Date:** January 29, 2003

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

1. Rules adopted revising **ch. HFS 119**, relating to the Health Insurance Risk–Sharing Plan.

#### Exemption from finding of emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats., by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. Department staff consulted with the Health Insurance Risk–Sharing Plan (HIRSP) Board of Governors on April 17, 2002 on the rules, as required by s. 149.20, Stats.

#### Analysis prepared by the Department of Health and Family Services

Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b), and 655.61, Stats.

The State of Wisconsin in 1981 established a Health Insurance Risk–Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. HIRSP offers different types of medical care coverage plans for residents.

One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty–eight percent of the 13,645 HIRSP policies in effect in March 2002, were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The rate increases for Plan 1 contained in this rulemaking order increase an average of 25.4%. This produces policyholder premiums that are equivalent to 150% of the industry standard, the minimum allowed by statute. Rate increases for specific policyholders range from 19.2% to 27.8%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. These rate increases reflect general and industry–wide premium increases and take into account the increase in costs associated with Plan 1 claims. For example, recent annual industry standard premium rates have increased by approximately 35%. HIRSP costs have risen by a smaller amount, hence the smaller rate increases for HIRSP, relative to the industry standard. According to state law, HIRSP premiums must fund 60% of plan costs and cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market.

A second type of medical coverage provided by HIRSP is for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Twelve percent of the 13,645 HIRSP policies in effect in March 2002, were of the Plan 2 type. The rate increases for Plan 2 contained in this rulemaking order increase an average of 30.8%. Rate increases for specific policyholders range from 23.3% to 33.5%, depending on a policyholder's age, gender, household income and zone of residence within Wisconsin. These rate increases reflect general and industry–wide cost increases and adjust premiums to a level in accordance with the authority and requirements set out in s. 149.14 (5m), Stats.

The Department through this rulemaking order proposes to amend ch. HFS 119 in order to update HIRSP premium rates

in accordance with the authority and requirements set out in s. 149.143 (2) (a), Stats. The Department is required to set premium rates by rule. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles.

The Department through this rulemaking order is also increasing total HIRSP insurer assessments and reducing provider payment rates, in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 2001. The Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula.

By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2002. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$24,750,178. The total annual contribution to the HIRSP budget provided by an assessment on insurers is \$26,003,305. On April 17, 2002, the HIRSP Board of Governors approved the calendar year 2001 reconciliation process. The Board also approved the HIRSP budget for the plan year July 1, 2002 through June 30, 2003.

**Publication Date:** June 17, 2002  
**Effective Date:** July 1, 2002  
**Expiration Date:** November 28, 2002

2. Rules adopted revising **chs. HFS 152 to 154**, relating to the Wisconsin Chronic Disease Program.

#### **Finding of emergency**

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

The Wisconsin Chronic Disease Program (WCDP) is the payer of last resort for working poor persons with medical problems relating to chronic renal disease, cystic fibrosis or hemophilia. The Department administers the WCDP. The WCDP reimburses beneficiaries' dialysis and transplant services, home supplies, lab and x-ray services and kidney donor services for chronic renal disease recipients. Cystic fibrosis recipients are eligible for reimbursement of hospital services, certain physician services, lab and x-ray services, prescription medication and some home supplies. Recipients with hemophilia receive reimbursement for blood derivatives and supplies necessary for home infusion. The program's annual \$5 million budget is entirely state funded. About 90% of the budget (\$4.5 million) funds the care of chronic renal disease recipients, of which 60% (\$2.7 million) is for drugs. Drug costs are increasing at a rate of at least 10% per year. The Wisconsin 2001–03 biennial budget does not provide for increases of this magnitude. Consequently, the WCDP will likely have an estimated shortfall of between \$700,000 and \$900,000 in the 2001–03 biennium.

To mitigate the projected budgetary shortfall, the Department will be emphasizing generic drugs and implement an expanded drug rebate program. Both of these efforts can be accomplished through Department policy changes. In addition, WCDP drug copayment amounts must be increased. The Department's administrative rules governing WCDP currently limit the drug copayment amounts to the \$1 used by the Wisconsin Medicaid Program. To further mitigate the effect of increased drug costs on the WCDP program, the Department is also increasing the

WCDP prescription drug copayment amounts to \$5 for generic drugs and \$10 for brand name drugs. These new copayment amounts resemble those used by commercial health insurers and were determined by the Department in consultation with the Chronic Renal Disease Program Advisory Committee. While the Department is currently in the process of promulgating these amendments to the permanent rules, the Department must implement these changes immediately to preserve the public welfare. Therefore, the Department is issuing these identical amendments as an emergency order.

The proposed rules potentially affect approximately 6,500 individuals with chronic renal disease, 200 individuals with hemophilia and 150 individuals with cystic fibrosis. Approximately 41% of persons enrolled in the program received state-funded benefits in 2000–01. The rest either incurred no expenses that were covered under these programs, or their expenses did not exceed the required deductibles.

**Publication Date:** July 1, 2002  
**Effective Date:** July 1, 2002  
**Expiration Date:** November 28, 2002

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### **Insurance**

Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2002 and relating to the Wisconsin health care insurance plan's primary limits.

#### **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 January 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, 2002.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 02–035, will be filed with the secretary of state in time to take effect September 1, 2002. Because the fund fee provisions of this rule first apply on July 1, 2002, 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 3, 2002.

**Publication Date:** June 19, 2002  
**Effective Date:** July 1, 2002  
**Expiration Date:** November 28, 2002

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### **Natural Resources (4) (Fish, Game, etc., Chs. NR 1–)**

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

#### **Finding of emergency**

Sections 1 and 2. Defines an archery hunt as it relates to the special chronic wasting disease (CWD) control and management hunts.

Section 3. Defines CWD.

Section 4. Defines the CWD eradication zone.

Section 5. Defines the CWD intensive harvest zone.

Section 6. Defines the CWD management zone.

Section 7. Defines adequate public notice and information as it relates to defining a new CWD eradication zone.

Section 8. Defines a section of land.

Section 9. Defines a shotgun hunt as it relates to the special CWD control and management hunts.

Section 10. Modifies those deer management units participating in the regular deer gun season framework.

Sections 11 and 12. Modifies those state park properties that have a more restrictive deer season harvest limit and season framework.

Section 13. Defines all of the metro deer management units as Zone “M” and eliminates deer management unit 76M from the list of metro units which have a standard deer season framework and harvest limits.

Section 14. Updates exceptions to the regular deer archery season.

Section 15. Updates exceptions to the muzzleloader season.

Section 16. Creates the Special CWD management control hunt earn–a–buck seasons and framework for the gun and archery hunts in the deer management units, portions of deer management units and state parks that are included in the CWD management and intensive harvest zones.

Sections 17 and 18. Exempts units that are participating in the special CWD herd reduction hunts from the one–day youth antlerless deer hunt and the special herd control hunts.

Section 19. Authorizes the use of aircraft by the department to harvest, spot, rally and drive deer to help with the depopulation of deer within the eradication zone after all other control measures have been considered and also authorizes the use of buckshot from or with the aid of aircraft.

Sections 20 and 21. Prohibits the use of bait statewide for hunting and provides exceptions to allow baiting for bear hunting by imposing bait site, permit and date restrictions, and also allows the use of liquid scents for deer hunting.

Section 22. Requires participants in the CWD herd reduction hunts to comply with blaze orange clothing requirements.

Section 23. Modifies the overwinter populations for the deer management units that are included in the CWD management zones and identifies 5 new units that are created as the result of splitting the units when defining the boundaries of the CWD zones.

Section 24. Creates special CWD deer permits that authorize the harvesting of deer within the CWD management zones and creates a permit that will be issued to hunters to replace their carcass tag should they shoot a deer that appears to be diseased while hunting and defines the conditions for their use.

Section 25. Develops transportation and sampling guidelines for deer harvested within and outside of the CWD management zones.

Section 26. Develops registration guidelines for deer harvested within the CWD management zones.

Section 27. Updates state park properties that may conduct firearm, muzzleloader and late bow seasons.

Section 28. Establishes deer seasons and weapon restrictions for specific state park properties.

Section 29. Creates a map that identifies the CWD management zone and the CWD intensive harvest zone.

Section 30. Provides the department with the authority to utilize additional measures when necessary, within their legislative authority, to control the spread of CWD in the state.

Section 31 and 32. Authorizes the shooting of deer in waterfowl closed areas that are located within the CWD management zones.

Section 33 and 34. Identifies deer within the CWD eradication zone as causing a nuisances and authorizes the department to issue permits to landowners and their permittees to harvest deer during periods defined by the department throughout the year and defines the parameters of their issuance and guidelines for their use.

Section 35. Defines bird feeding devices and structures.

Section 36. Defines small mammals.

Section 37. Prohibits feeding of wildlife and outlines exceptions for birds and small mammals.

Section 38. Creates a free state park hunting access permit that is required to hunt in the state parks participating in the special CWD control hunts.

**Publication Date:** July 3, 2002

**Effective Date:** July 3, 2002

**Expiration Date:** November 30, 2002

**Hearing Date:** August 12, 2002

- Rules adopted revising s. NR 20.20 (73) (j) 4., relating to sport fishing for yellow perch in Lake Michigan and Lake Michigan tributaries.

#### Finding of emergency

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

Yellow perch reproduction has been poor in Lake Michigan since 1990, leading to the closure of commercial fishing and severe limitations on sport fishing. Reproduction was moderately good in 1998, and reproduction by fish spawned in that year now provides the best hope for an early recovery of the population. This rule is needed to adequately protect fish spawned in 1998 during the 2002 spawning season.

**Publication Date:** April 15, 2002

**Effective Date:** April 15, 2002

**Expiration Date:** September 12, 2002

**Hearing Date:** April 8, 2002

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

#### Finding of emergency

The waters of Lake Superior were not part of the extensive off–reservation treaty rights litigation known as the Voigt case. The parties stipulated that the Lake Superior rights would be dealt with, to the extent possible, by agreement rather than litigation. This rule represents the implementation of the most recent negotiated amendments to the agreement between the State and the Red Cliff and Bad River Bands. In order to comply with the terms of the agreement, the State must change its quotas and commercial fishing regulations at the earliest possible date. Failure of the State to do so will not only deprive state fishers of increased harvest opportunities available under the agreement, but could also jeopardize the agreement, putting the entire Lake Superior fishery at risk of litigation.

**Publication Date:** July 8, 2002

**Effective Date:** July 8, 2002

**Expiration Date:** December 5, 2002

**Hearing Date:** August 19, 2002

4. Rules adopted revising **ch. NR 10**, relating to the 2002 migratory game bird season.

#### 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, 2002  
**Effective Date:** August 30, 2002  
**Expiration Date:** January 27, 2003  
**Hearing Date:** September 26, 2002

[See Notice This Register]

## Natural Resources (2)

### (Environmental Protection – General, Chs. NR 100—)

1. Rules adopted creating **ch. NR 109**, relating to aquatic plant management.

#### 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. Many lake communities traditionally manage aquatic plants on the waters of the state to allow navigation and other beneficial recreational water use activities and to control invasive aquatic species. Without aquatic plant management, many bodies of water would be inaccessible due to excessive growth of invasive aquatic plants like Eurasian water milfoil and purple loosestrife and native aquatic plant communities would be threatened. 2001 WI Act 16 included new statutory language, s. 23.24, Stats., for the protection of native aquatic plant communities and control of invasive plant species. The new law prohibits a person from managing aquatic plants without a valid aquatic plant management permit issued under this chapter. This order is designed to allow beneficial aquatic plant management activities to continue on waters of state through the 2002 open–water, growing season. Normal rule-making procedures will not allow the establishment of these rules for the 2002 open–water, aquatic plant–growing season. Failure to create NR 109 will result in unnecessary threats to valued native aquatic plant communities by invasive species and loss of navigation and beneficial recreational activities on Wisconsin lakes, rivers and wetlands.

**Publication Date:** May 10, 2002  
**Effective Date:** May 10, 2002  
**Expiration Date:** October 7, 2002  
**Hearing Dates:** July 22, 23, 24 & 25, 2002

2. Rules adopted creating **ch. NR 173**, relating to the administration of the brownfield green space and public facilities grant program.

#### Finding of emergency

This rule is being promulgated as an emergency rule in accordance with s. 227.24, Stats. This rule sets forth the procedures required to award grants that will be used to remediate environmental contamination in order to protect public health and restore the environment. It is necessary to follow the emergency rule procedures because if the standard procedures were followed the rule would not take effect in time to have the money awarded and encumbered within the 2003 fiscal year. As a result, the appropriation would lapse and funding would not be available to fund the environmental remediation of properties around the state.

**Publication Date:** August 29, 2002  
**Effective Date:** August 29, 2002  
**Expiration Date:** January 26, 2003

## State Treasurer

Rules adopted creating **ch. Treas 1** relating to the Wisconsin College Savings Program Board.

#### Exemption from finding of emergency

Section 15 (1), 2001 Wis. Act 7 provides an exemption from a finding of emergency for the adoption of ch. Treas 1.

#### Analysis prepared by the Office of the State Treasurer

Statutory authority: Section 14.64 (2) (e), Stats., and section 15, 2001 Wis. Act 7.

Statutes interpreted: s. 14.64 *et seq.*, Stats.

The Wisconsin College Savings Program Board establishes a rule for the operation of the College Savings Program. The rule is designed to grant flexibility to program participants wherever possible, while enabling the State and its private–sector partners to administer the program in a manner that protects the program’s financial integrity and viability. Maintaining eligibility as a “qualified tuition program” pursuant to section 529 of the Internal Revenue Code [26 USC 529] is another primary objective. “529” programs are eligible for a number of federal tax benefits that are attractive to families saving for future college costs. Significant features of the rule are addressed below:

Sections Treas 1.03, 1.04 and 1.05 describe who may open an account and how to open an account. Section Treas 1.06 discusses designating a successor owner and describes how to change ownership of an account. Sections Treas 1.07 and 1.08 define the account beneficiary and how to change the beneficiary on an account.

Section Treas 1.09 details how to make contributions to an account, including minimum and maximum contribution limits, and how to “roll over” an account balance to another section 529 program. IRS requirements relating to investment direction are also detailed.

Sections Treas 1.11, 1.12 and 1.13 describe account withdrawals, distributions and refunds. Special circumstances are also provided for in these sections, such as the death or disability of the beneficiary or receipt of a scholarship by a beneficiary. Section Treas 1.14 sets forth conditions under which the Board may terminate an owner’s account. Sections Treas 1.15 and 1.16 address related fees and penalties.

**Publication Date:** January 7, 2002  
**Effective Date:** January 7, 2002  
**Expiration Date:** See Section 15, 2001 Wis. Act 7  
**Hearing Date:** March 5, 2002

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## Veterans Affairs

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

### Finding of Emergency

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

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

The Department proposes to raise the amount to the statutory maximum for several compelling reasons. Raising the maximum loan amount will help stimulate the economy by providing additional resources for veterans and their families. Due to the state of the economy, veterans and their families have a significant need for financial assistance in the form of below market interest rate loans. Additionally, the personal loan program is the primary source of revenue for the veterans trust fund. Immediate infusion of additional assets in the form of personal loans will provide significant financial support for the trust fund. It is expected that increasing the maximum loan amount will result in approximately \$4,000,000 of new loan assets over the 8–month period in which it would take to promulgate this rule change using the regular promulgation procedure.

**Publication Date: August 5, 2002**

**Effective Date: August 5, 2002**

**Expiration Date: January 2, 2003**

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## Workforce Development

### (Unemployment Insurance, Chs. DWD 100–150)

Rules adopted amending s. DWD 129.01 (1), relating to extension of the time period allowed for filing an initial claim for unemployment insurance benefits.

### Exemption from finding of emergency

Pursuant to 2001 Wis. Act 35, s. 72 (2) (b), the Department is not required to provide evidence that promulgating this 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 this rule.

### Analysis Prepared by the Department of Workforce Development

Statutory authority: s. 108.08 (1), Stats. and 2001 Wis. Act 35, s. 72 (2) (b).

Statute interpreted: s. 108.08 (1), Stats.

Pursuant to s. 108.08 (1), Stats., a claimant must give notice to the department with respect to a week of unemployment “within such time and in such manner as the department may by rule prescribe” in order to receive benefits for that particular week.

Under the current s. DWD 129.01 (1), a claimant must file his or her initial claim for benefits no later than the close of the week in which the claimant intends the claim to start. For example, a claimant who files two weeks late cannot obtain unemployment benefits retroactively unless the department waives the time limit under the exceptional circumstances provision in s. DWD 129.01 (4). This emergency rule extends the time period for filing an initial claim by seven days beyond the end of the week for which the claimant expects to get the benefits.

Increasing the time frame within which a claimant may file a timely initial unemployment insurance benefit claim would reduce disparate treatment of claimants in like situations by removing the subjectivity of finding “exceptional circumstances” before allowing late claims and ease an increasing workload for the unemployment insurance division. The institution of this change would eliminate approximately 67% of untimely filing issues. This would translate into savings of 5 to 6 full–time employees (FTEs). These positions would then be able to turn attention and time to resolving other eligibility issues at a time when the unemployment insurance division is currently experiencing a sharp increase in workload and anticipates continued increase over the next three years.

The telephone initial claims system allows the department to be more lenient in proscribing filing deadlines due to its expanded accessibility and speed in identifying and resolving eligibility issues. Programming changes to the telephone initial claims system are estimated to require 50 hours at approximately \$50 to \$60 per hour for a total of \$2500 to \$3000.

**Publication Date: April 14, 2002**

**Effective Date: April 14, 2002**

**Expiration Date: See 2001 Wis. Act 35, Section 72 (2) (b)**

**Hearing Dates: July 15, 16 & 17, 2002**

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## Scope statements

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### Natural Resources

#### Subject

Revise solid waste rules (NR 500 series) to increase plan review and license fees, including the license fee surcharge.

#### Policy Analysis

Through actions in the FY01–03 budget, additional positions were added to the Program Revenue Account. Initial calculations show this will cause a deficit in the account in approximately 2004. A small workgroup was formed in early 2002 and consisted of the following members: Ed Wilusz, Wis. Paper Council; Ron Hermes, Wisconsin Chapter of the NSWMA; Andy Gilbert, Stora Enso; Mark Halleen, Foth and Van Dyke; Phil Stecker, Outagamie County; Jerry Mandli, Dane County; Al Roof, Monroe County; Colleen Hellenbrand, DNR Bureau of Waste Management; and Dennis Mack, DNR Bureau of Waste Management. The workgroup reviewed data on solid waste program revenue trends from solid waste facility plan review and license fees, and evaluated options to address the trends and the impact on the Program Revenue Account. While the workgroup made it clear they did not endorse any fee increases at this time, they were in agreement that the Waste Management Program could proceed with the development of draft rules that would increase plan review and license fees, including the license fee surcharge. At the same time, the Waste Management Program will continue to work on streamlining plan review and other aspects of the Waste Management Program.

Groups likely to be interested in the fee increases will include anyone owning or utilizing solid waste facilities, including landfills, surface impoundments, processing facilities, storage facilities, incinerators, air curtain destructors, woodburning facilities, one–time disposal facilities, municipal waste combustors, landspreading facilities, beneficial reuse sites, transfer facilities, collection and transportation facilities, and medical waste transporters.

#### Statutory authority

Section 289.61, Stats.

#### Staff time required

Approximately 200 hours will be needed.

### Revenue

#### Subject

Subject:

Ss. Tax 11.001, 11.13, 11.14 and 11.84, relating to sales and use tax definitions, direct pay, exemption certificates, and aircraft.

Description of policy issues:

Objective of the proposed rule:

The objectives of the proposed rule are to:

- Reflect that the definition of “tax” includes county and stadium sales and use taxes.
- Include the football stadium tax in the definition of “stadium tax,” pursuant to 1999 Wis. Act 167, effective May 27, 2000.

- Reference the definition of “retailer” to the statutory definition.

- Remove a substantive provision from a definition.

- Eliminate references to obsolete exemption certificates and reflect the incorporation of resale certificates as part of exemption certificates.

- Reflect that a purchaser is subject to a sales tax rather than a use tax when it gives an exemption certificate claiming resale.

- Indicate the name of the direct pay permit application form, and eliminate the reference to a fee requirement that is obsolete.

- Update the name of the division in the Department of Transportation where aircraft are registered.

- Reflect the department’s Private Letter Ruling, # W0124006 dated March 22, 2001, relating to the towing of hang glider pilots.

- Clarify a provision regarding advertising banners towed by aircraft.

- Update examples, and update notes to list the department’s Internet web site, and the current location and mailing address.

- Correct a typographical error and a cross reference to another paragraph.

- Reflect correct numbering system, punctuation, grammar, format, and terminology, per Legislative Council Rules Clearinghouse standards.

#### Policy Analysis

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect law changes and private letter rulings. If the rules are not changed, they will be incorrect in that they will not reflect current law or current Department policy. The rules also will not reflect current Clearinghouse standards, and desired clarifications will not be made.

#### Statutory authority

Section 227.11 (2) (a), Stats.

#### Staff time required

The department estimates it will take approximately 100 hours to develop this rule order.

### Transportation

#### Subject

This rule making will amend ch. Trans 313, relating to ignition interlock devices (IIDs) and driver licensing, to implement a statewide ignition interlock program and to develop a pilot project. The proposed statewide IID program will update reporting requirements for vendors and service providers to improve coordination and cooperation between the Department, assessment agencies and law enforcement.

#### Policy Analysis

Section 110.10, Stats., as created by 1999 Wis. Act 109, requires DOT to provide for all of the following by rule:

(1) Create a process for the selection of persons to install, service and remove IIDs from motor vehicles;

(2) Provide for a periodic review of the fees charged to the owner of a vehicle for the installation, service and removal of an IID;

(3) Require IID providers in Wisconsin to establish pilot programs involving the voluntary use of IIDs;

(4) Require IID providers to provide DOT and designated law enforcement any IID installation, tampering, service and failure reports in a timely manner; and

(5) Require IID providers to notify DOT of any IID tampering, circumvention, bypass or violation resets and other relevant data recorded in the IID's memory, with DOT subsequent notification to the assessment agency of such information.

In this rule making, DOT proposes to meet these requirements as follows:

(1) **Create a process for the selection of persons to install, service and remove IIDs from motor vehicles.** Current rules require manufacturers of IIDs to carry product liability insurance and agree to indemnify the state for claims arising out of the use of IIDs. No other criteria for determining whether a person is qualified to install, service or remove IIDs exist.

DOT proposes to meet the legislative requirements by establishing criteria for the selection of an installer or service technician including background checks for criminal history, technical training and other relevant criteria. Training requirements should reduce the risk of an installer damaging an IID customer's vehicle and help ensure safe installation practices. The criminal history checks requirement would be used to screen persons convicted of sexual offenses, fraud, or repeat OWI violations, to protect the public and prevent repeat OWI offenders from learning how to circumvent the devices.

(2) **Provide for a periodic review of the fees charged to the owner of a vehicle for the installation, service and removal of an IID.** The proposed rule making will establish a schedule for vendors to submit their fee schedule to DOT for review, with administrative followup procedures for non-compliance. The Department proposes to require IID vendors to notify DOT of any changes to their fee schedule (before/within X days after) changes to the fees. DOT will post a list of authorized IID vendors and their fees on its internet site. Any changes in fees would be posted on the Department internet site before the fees become effective so the customers can compare the services and rates of authorized vendors.

The policy alternatives are to require vendor notification of fee schedule changes periodically to DOT or conducting site visits. Conducting site visits would consume scarce administrative resources. Submission of fee schedule changes to DOT for internet posting allows the Department to monitor fee changes and thereby address consumer protection concerns. Additionally, monitoring IID program fee schedule changes by requiring the posting of vendor fees on DOT's internet site allows the Department to effectively utilize limited administrative resources.

(3) **Require IID providers in Wisconsin to establish pilot programs involving the voluntary use of IIDs.** IID vendors may already install IIDs on vehicles of persons who are not required by law to have such a device on their vehicle. DOT proposes to gather data from vendors who install IIDs on vehicles of persons who are not required by law to have the device on their vehicle. The Department proposes to collect vendor data to facilitate possible future study to determine whether IID voluntary use reduces drunk driving among non-regulated population (e.g., company fleet vehicle drivers, teenage drivers, and first offense OWI offenders).

The alternative to requiring that vendors share data with DOT is to continue current practice whereby vendors may install IIDs on vehicles of persons who are not required by law to have the device on their vehicle without reporting. However, absent a requirement that vendors participate in the program and report information to DOT, the Department would not be able to effectively gather the data and potentially study the effects of IID voluntary use in that population.

(4) **Require IID providers to provide DOT and designated law enforcement any IID installation, tampering, service and failure reports in a timely manner.** Currently, IID vendors or service providers are required to share installation, removal, tampering, circumvention, bypass and violation reset reports with local law enforcement. Vendors or service providers must report within three working days installation or removal of IIDs to the Department or to the sheriff of the county where the driver resides. The vendor or service provider reports the removal or installation in a specific form designated by the Division of Motor Vehicles, which is mailed to the DMV office in Madison.

To address the timeliness concern expressed in s. 110.10 (4), Stats., DOT proposes to review the time periods for submission of the reports in the current rule. The Department may also require IID installers to electronically report installation, removal, or any indication of tampering, circumvention, bypass and violation resets when installing, removing or servicing IIDs to DOT, law enforcement and district attorneys.

Without reporting timelines DOT, law enforcement and district attorneys would be unable to respond on a timely fashion to potential IID violations. Untimely reports make it difficult for law enforcement to allocate resources to investigate possible violations. Requiring installers or service providers to electronically report installation, removal, tampering, circumvention, bypass and violation resets may prove to be an effective way to distribute the information to DOT, law enforcement and district attorneys at minimum taxpayer cost.

(5) **Require IID providers to notify DOT of any IID tampering, circumvention, bypass or violation resets and other relevant data recorded in the IID's memory, with DOT subsequent notification to the assessment agency of such information.** DOT proposes the establishment of a mechanism for notification of the assessment agency that administers the IID violator's driver safety plan. When vendor or service provider reports indicate IID tampering, circumvention, bypass, violation resets, or removal, DOT will make such information available to the assessment agency.

The Department also proposes to consider screening reports gathered by vendors, or have vendors screen reports before its submission to DOT, so that only reports that appear to definitely establish a violation are reported to the assessment agency.

An alternative to DOT screening reports is to provide all reports to assessment agencies and allow them to do the screening. This alternative could bury assessment agencies in paper, consume their limited resources and detract from their main purpose. Removal, tampering, circumvention, bypass and violation resets reports from vendors may lead to licensing actions by the Department or non-compliance findings by assessment agencies or treatment facilities.

This rule making, in addition to the foregoing, is also intended to: (1) improve administrative procedures to enable ignition interlock providers to comply with regulatory requirements more efficiently, (2) update regulations regarding the responsibilities of the Department, vendors and service providers, and (3) establish driver license processes

related to drivers whose operating privileges or vehicles are subject to IID restrictions.

**Statutory authority**

Section 110.10, Stats., as created by 1999 Wis. Act 109.

**Staff time required**

Approximately 120 hours.

**Veterans Affairs**

**Subject**

Amendment of s. VA 12.02 (7) and (16) Wis. Adm. Code – relating to the maximum loan amount under the personal loan program. *Objective of the rule.* The proposed rule would raise the maximum loan amount under to the personal loan program to the statutory maximum of \$15,000.

**Policy Analysis**

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

The Department proposes to raise the maximum loan amount to the statutory maximum for several reasons. Raising the maximum loan amount will provide additional lower–than–market loan resources to veterans and their families in a time of economic uncertainty. Additionally, the personal loan program is the primary source of revenue for the veterans trust fund. Infusion of additional assets in the form

of personal loans will provide significant financial support for the trust fund.

**Statutory authority**

Section 45.356 (7).

**Staff time required**

Approximately 1 hour of Department of Veterans Affairs staff time will be needed to promulgate the rules.

**Veterans Affairs**

**Subject**

Amendment of s. VA 12.02 (4) Wis. Adm. Code – relating to the determination of interest rates under the personal loan program. *Objective of the rule.* The proposed rule would identify additional criteria that the secretary of the department could use to adjust personal loan program interest rates.

**Policy analysis**

The lending industry is able to adjust interest rates based upon various factors, including the cost of money, term of the loan, loan security, creditworthiness of the applicant, and other relevant factors. Under the current rule, the secretary may adjust interest rates only on the basis of the income and type of security offered by the applicant. In order to be competitive with the lending industry and provide a sound marketing strategy for the program, it is essential that the secretary be able to adjust the personal loan program interest rates in a similar manner. The proposed rule will identify additional criteria to enable the secretary to accomplish these goals.

**Statutory authority**

Section 45.356 (7).

**Staff time required**

Approximately 5 hours of Department of Veterans Affairs staff time will be needed to promulgate the rules.

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## Submittal of rules to legislative council clearinghouse

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

### **Agriculture, Trade and Consumer Protection**

#### **Rule Submittal Date**

On August 12, 2002 the Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

#### **Analysis**

Statutory Authority: ss. 93.07 (1), 97.20 (4), 100.20 (2), 126.49, 126.51 and 126.81, Stats.

Statutes Interpreted: ss. 93.15, 97.20, 100.20 and 100.22, Stats., and ch. 126, Stats.

This rule implements Wisconsin's new agricultural producer security law (ch. 126, Stats., created by 2001 Wis. Act 16). The new law is designed to protect

agricultural producers against catastrophic financial defaults by grain dealers, grain warehouse keepers, milk contractors and vegetable contractors. The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) administers the new law. This rule amends and repeals current rules, and creates new rules consistent with the new law.

#### **Agency Procedure for Promulgation**

The department will hold public hearings on this rule after the Rules Clearinghouse completes its review.

#### **Contact Person**

The department's Trade and Consumer Protection Division is primarily responsible for the rule. If you have questions, you may contact Kevin LeRoy at (608) 224-4928.

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## Rule–making notices

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### Notice of Hearing

#### Natural Resources (Fish & Game, etc., Chs. NR 1—)

NOTICE IS HEREBY GIVEN that pursuant to ss. 29.014, 29.041, 227.11 (2) (a) and 227.24, Stats., interpreting ss. 29.014, 29.041 and 29.197, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM–23–02(E) pertaining to the 2002 migratory game bird season. This emergency order took effect on August 30, 2002. The significant regulations are:

**Ducks** – The state is divided into two zones each with 60–day seasons. The north season will run continuous with no split and the south will have a 5–day split. This year the northern duck zone season will begin at noon on September 28 and continue through November 26. The southern duck zone season will begin at noon on October 5 and continue through October 13 and from October 19 to December 8. The daily bag limit is 6 ducks including no more than 4 mallards, of which only one may be a hen, and from October 19 until the end of the duck seasons in the north and the south 2 of the 4 mallards may be hens, one black duck, 1 pintail (during the open dates of the 30 day pintail season), 2 wood ducks, 2 redheads and 3 scaup. A 30–day pintail season will be offered from September 28 – October 27 in the northern duck zone and from October 5 – October 13 and October 19 – November 8 in the southern duck zone. The canvasback season is closed in 2002.

**Canada Geese** – The state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone – 68 days; Horicon Zone – 94 days; Exterior Zone – 94 days in the north and 92 days in the south (North: Sept. 21 – Sept. 27 and Sept. 28 (noon) – Dec. 23; South: Sept. 28 – Oct. 4, Oct. 5 (noon) – Oct. 13 and Oct. 19 – Jan. 2); and Mississippi River Subzone – 70 days (Sept. 28 – Oct. 4, Oct. 5 (noon) – Oct. 13 and Oct. 19 – Dec. 11). The Burnett County subzone is closed to Canada goose hunting.

In addition, the emergency order prohibits the harvesting of canvasbacks during the 2002 waterfowl seasons, repeals outdated language that established the bag limit for Canada geese during the 2001 youth waterfowl hunt and modifies the date of the two–day youth waterfowl hunt.

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

**Thursday, September 26, 2002 at 1:00 p.m.**

Room 027, GEF #2

101 South Webster Street, Madison

NOTICE IS HEREBY FURTHER GIVEN that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kurt Thiede at (608) 267–2452 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the emergency rule may be submitted to Mr. Kurt Thiede, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than October 1, 2002. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [WM–23–02(E)] may be obtained from Mr. Thiede.

### Notice of Hearing

#### Public Service Commission [CR 02–115]

The Commission proposes to revise ch. PSC 114 Wis. Adm. Code, relating to rules concerning electric safety–Revision of Volume 1 of the Wisconsin State Electrical Code.

#### Hearing Date, Time and Location

**Date:** Friday, October 11, 2002 – 10:00 a.m.

**Location:** Pecatonica River Conference Room  
(Lower Level), Public Service Commission  
610 North Whitney Way  
Madison, WI.

NOTICE IS GIVEN that a hearing will be held beginning on Friday, October 11, 2002, at 10:00 a.m. in the Pecatonica River Conference Room (Lower Level) at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, and continuing at times to be set by the presiding Administrative Law Judge. This building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the docket coordinator listed below.

#### Analysis prepared by the Department of Public Service Commission

Statutory authority: ss.196.74 and 227.11 (2), Stats.

Statute interpreted: s.196.74.

By letter dated October 9, 2001, the Commission appointed an advisory committee pursuant to s. 227.13, Stats., to review and submit recommendations for updating Volume 1 of the Wisconsin State Electrical Code. This part of the Code is administered by the Commission.

Volume 1 has been and is based on the National Electrical Safety Code (NESC), which is also known as American National Standards Institute (ANSI) C2. In 1979, 1982, 1985, 1988, 1991, 1994, and 1997, the Commission adopted the 1977, 1981, 1984, 1987, 1990, 1993, and 1997 editions of the NESC, respectively, with certain changes, deletions and additions.

The 2002 edition of the NESC was recently issued, and a corresponding revision of Volume 1 is now desired to reflect the latest national code, correct existing deficiencies, and make other changes, as necessary, to update and improve the state code. The rules in ch. PSC 114 Wis. Adm. Code deal with safety requirements for the installation, operation, and maintenance of primarily outdoor electric supply and communications lines and facilities used by utilities, including electric and telephone suppliers, railroads, and cable television providers.

A statement of scope on this rule was approved by the Commission on July 3, 2001, and was published in the Wisconsin Administrative Register on July 31, 2001. Meetings of the Technical Advisory Committee were held on October 31, 2001, December 4, 2001, January 23, 2002, and February 5, 2002.

**Initial Regulatory Flexibility Analysis**

Utilities and others subject to the proposed rules, including municipally-owned electric utilities that serve in rural areas, may experience modest increases in the cost of new rural distribution construction due to the proposed increased requirements for grounding rural lines. The proposed rules will have no effect on small business.

**Fiscal Estimate**

This rule has no fiscal impact. A completed Fiscal

Estimate form is attached.

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

Questions regarding this matter may be directed to docket coordinator Mohammed Monawer at (608) 267-7778. Copies of the proposed rule can also be obtained from Mr. Monawer. Hearing or speech-impaired individuals may also use the Commission's TTY number: (608) 267-1479.

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## Submittal of proposed rules to the legislature

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

### **Accounting Examining Board (CR 01–047)**

Ch. Accy 5, relating to experience in public practice.

### **Administration (CR 02–100)**

Chs. Adm 25 and 41, relating to grants for information technology development projects and for energy development and demonstration projects.

### **Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors (CR 02–090)**

Ch. A–E 6, relating to land surveyor temporary permits.

### **Corrections (CR 02–093)**

Ch. DOC 328, relating to adult field supervision.

### **Employee Trust Funds (CR 02–057)**

Ch. ETF 50, relating to employer medical certification requirements under the Long–Term Disability Insurance (LTDI) program.

### **Financial Institutions–Securities (CR 02–102)**

Chs. DFI–Sec 3, 4, 5, and 9, relating to securities broker–dealer, agent, investment adviser and investment adviser representative license–filing procedures, license period provisions, and securities registration disclosure.

### **Health and Family Services (CR 99–099)**

Ch. HFS 77, relating to criteria and procedures for reimbursement of communication access services for persons who are deaf or hard of hearing.

### **Health and Family Services (CR 02–101)**

Ch. HFS 50, relating to adoption assistance and the use of the state adoption information exchange to find adoptive families for children.

### **Insurance (CR 02–051)**

Ch. Ins 3, relating to transitional treatment.

### **Insurance (CR 02–069)**

Ch. Ins 9, relating to defined network plans.

### **Natural Resources (CR 00–161)**

Ch. NR 809, relating to lead and copper monitoring and treatment, requirements for public water systems.

### **Natural Resources (CR 01–144)**

Chs. NR 150 and 353, relating to wetland conservation activities.

### **Natural Resources (CR 02–013)**

Ch. NR 811, relating to development of an aquifer storage recovery well or the operation of an ASR system by a municipal water utility.

### **Natural Resources (CR 02–015)**

Chs. NR 299, 300, 351 and 352, relating to permit and water quality certification time limits, exempt activities in nonfederal wetlands and the identification and delineation of nonfederal wetlands.

### **Natural Resources (CR 02–044)**

Ch. NR 6, relating to snowmobile rail crossings.

### **Natural Resources (CR 02–045)**

Ch. NR 324, relating to regulation of fishing rafts on the Wolf River and its tributaries.

### **Natural Resources (CR 02–046)**

Ch. NR 2, relating to department procedures for administrative hearings.

### **Natural Resources (CR 02–060)**

Ch. NR 549, relating to recycling efficiency incentive grants.

### **Natural Resources (CR 02–062)**

Ch. NR 544, relating to a pilot program for alternative method of compliance with solid waste recycling requirements.

### **Natural Resources (CR 02–063)**

Ch. NR 173, relating to administration of the brownfield green space and public facilities grant program.

### **Natural Resources (CR 02–073)**

Ch. NR 20, relating to fishing on the inland and outlying waters of Wisconsin.

**Natural Resources  
(CR 02–074)**

Chs. NR 47 and 74, relating to administration of the Wisconsin forest landowner grant program.

**Natural Resources  
(CR 02–075)**

Ch. NR 10, relating to 2002 migratory game bird season.

**Natural Resources  
(CR 02–076)**

Ch. NR 428, relating to emissions averaging provisions and categorical emission limits while controlling nitrogen oxides (NO<sub>x</sub>).

**Natural Resources  
(CR 02–089)**

Chs. NR 10 and 45, relating to small game and expanded spring turkey hunting in state parks.

**Public Defender  
(CR 02–109)**

Chs. PD 2 and 3, relating to eligibility determinations.

**Public Defender  
(CR 02–110)**

Ch. PD 1, relating to provisional appointment of private attorneys seeking certification for appellate appointments.

**Public Instruction  
(CR 01–069)**

Ch. PI 16, relating to testing of pupils with limited–English language proficiencies and disabilities.

**Public Instruction  
(CR 02–032)**

Ch. PI 28, relating to providing access to the 4th, 8th, and 10th grade knowledge and concepts examinations and the high school graduation test.

**Public Instruction  
(CR 02–107)**

Ch. PI 25, relating to the children at risk program

**Regulation and Licensing  
(CR 02–067)**

Chs. RL 81, 84, and 85, relating to applications, examinations, experience, education, renewal requirements and unprofessional conduct with regard to real estate appraisers.

**Revenue  
(CR 99–101)**

Ch. Tax 11, relating to communication services.

**Revenue  
(CR 02–053)**

Chs. Tax 6, 11, and 12, relating to waste treatment facilities.

**Transportation  
(CR 02–081)**

Ch. Trans 401, relating to construction site erosion control and storm water management procedures for department actions.

**Transportation  
(CR 02–085)**

Ch. Trans 130, relating to disabled parking placards.

**Transportation  
(CR 02–086)**

Ch. Trans 320, relating to calculation of fees for special events, security, traffic enforcement and escort services.

**Veterans Affairs  
(CR 02–091)**

Ch. VA 16, relating to the county veterans transportation services grant program.

**Workforce Development  
(CR 02–050)**

Chs. DWD 12, 17, and 23, relating to Wisconsin Works.

**Workforce Development  
(CR 02–087)**

Ch. DWD 295, relating to apprenticeship probationary period.

**Workforce Development  
(CR 02–094)**

Ch. DWD 80, relating to workers compensation procedures on claim, payment after an order, reports by expert witnesses, and statement of employee.

**Workforce Development  
(CR 02–104)**

Ch. DWD 56, relating to administration of child care funds.

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## Rule orders filed with the revisor of statutes bureau

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

**Accounting Examining Board  
(CR 01–133)**

An order affecting ch. Accy 1, relating to auditing standards, standards for accounting and review services, and standards for attestation engagements.

Effective 11–1–02

**Agriculture, Trade and Consumer Protection  
(CR 01–076)**

An order affecting ch. ATPC 21, relating to plant inspection and pest control programs.

Effective 11–1–02

**Commerce  
(CR 02–042)**

An order affecting chs. Comm 2, relating to fee schedule and Comm 8, relating to mines, pits and quarries.

Effective 11–1–02

**Controlled Substances Board  
(CR 02–025)**

An order affecting ch. CSB 2, relating to classifying dichloralphenazone as a schedule IV controlled substance.

Effective 11–1–02

**Financial Institutions–Corporate and Consumer Services  
(CR 02–068)**

An order affecting ch. DFI–CCS 10, relating to certain

fees regarding partnerships, corporations, limited liability companies and cooperatives.

Effective 11–1–02

**Natural Resources  
(CR 02–012)**

An order affecting ch. NR 484, relating to the establishment and operation of a voluntary multi–pollutant emission reduction registry.

Effective 11–1–02

**Natural Resources  
(CR 02–019)**

An order affecting chs. NR 106, 211, and 219, relating to regulatory mercury in wastewater discharge permits.

Effective 11–1–02

**Natural Resources  
(CR 02–047)**

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

Effective 11–1–02

**Regulation and Licensing  
(CR 02–066)**

An order affecting ch. RL 87, Appendix I, relating to the 2003 edition of the Uniform Standards of Professional Appraisal Practice (USPAP).

Effective 11–1–02