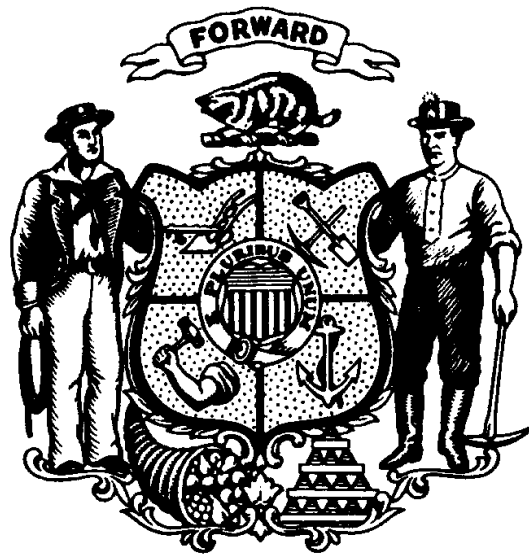


WISCONSIN ADMINISTRATIVE REGISTER

No. 479



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REVISOR OF STATUTES BUREAU
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NOTICE SECTION

Notice of Hearings **Agriculture, Trade &** **Consumer Protection** **(Reprinted from 11-15-95** **Wis. Adm. Register)**

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on the proposed repeal and recreation of ch. ATCP 42, Wis. Adm. Code, related to commercial feed.

Written Comments

The hearings will be held at the times and places shown below. The public is invited to attend the hearings and comment on the proposed rule. Following the public hearings, the record will remain open until **December 15, 1995** for additional written comments.

Copies of Rule

A copy of the rule to be considered may be obtained, free of charge, from the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, Agricultural Resource Management Division by contacting Eric Nelson, P.O. Box 8911, Madison, WI 53708-8911, or by calling (608)224-4539 or FAX at (608)224-4656.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **November 17, 1995** either by writing Eric Nelson, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, (608/224-4539) or by contacting the message relay system (TTY) at 608/224-5058. Handicap access is available at the hearings.

Hearing Information

<p>November 28, 1995 Tuesday 1:30 – 4:30 p.m. evening session 6:00 – 8:00 p.m.</p>	<p>Quality Inn 809 W. Clairemont Ave. Eau Claire, WI</p>
<p>November 29, 1995 Wednesday 1:30 – 4:30 p.m. evening session 6:00 – 8:00 p.m.</p>	<p>Ramada Inn 201 N. 17th Ave. Wausau, WI</p>
<p>November 30, 1995 Thursday 1:30 – 4:30 p.m. evening session 6:00 – 8:00 p.m.</p>	<p>Holiday Inn 625 W. Rolling Meadows Dr. Fond du Lac, WI</p>
<p>December 5, 1995 Tuesday 1:30 – 4:30 p.m. evening session 6:00 – 8:00 p.m.</p>	<p>Nate's Supper Club and White House Inn 1450 Veterans Dr. Richland Center, WI</p>
<p>December 6, 1995 Wednesday 1:30 – 4:30 p.m. evening session 6:00 – 8:00 p.m.</p>	<p>Department of Agriculture, Trade and Consumer Protection Board Room 2811 Agriculture Dr. Madison, WI</p>

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

Statutory authority: ss. 93.07 (1) and 94.72 (13) (a)

Statute interpreted: s. 94.72

The department of agriculture, trade and consumer protection regulates the manufacture and distribution of commercial feed under s. 94.72, Stats. Commercial feed includes feed for domestic livestock and pets. Feed regulation is aimed at protecting animal and human health, and preventing sales of adulterated and misbranded feed products. The department regulates commercial feed in cooperation with the federal food and drug administration (FDA) and other states.

This rule repeals and recreates current rules under ch. ATCP 42, Wis. Adm. Code, related to commercial feed. The rule is based, to a large extent, on standards adopted by the American association of American feed control officials (AAFCO). Among other things, the rule establishes standards for all of the following:

- Licensing manufacturers and distributors of commercial feed.
- Commercial feed labels, including labels for custom-mixed feed and dog and cat food.
- Truth in labeling.
- Nutritional claims.
- Drugs and other feed additives.
- Good manufacturing practices for medicated feed and dog and cat food.

Under s. 94.72, Stats., and this rule, a commercial feed means any animal feed that is sold or bartered, or offered for sale or barter, but does not include any of the following:

- Grain, whether whole or ground, which is not mixed with other grains or other materials.
- Hay, straw, cottonseed hulls, stover or silage which is not mixed with other materials.
- Unprocessed meat or other unprocessed portions of animal carcasses.

COMMERCIAL FEED LICENSE

License Required

Under s. 94.72, Stats., and this rule, no person may manufacture or distribute commercial feed in this state without an annual license from the department, except that a person may do any of the following without a license:

- Distribute packaged commercial feed in its original package, as packaged by a licensed manufacturer or distributor.
- Distribute bulk commercial feed in the same form received from a licensed manufacturer or distributor, and with the same labeling.
- Manufacture or distribute a "custom-mixed feed" which is prepared at the request of a final retail purchaser according to a formula provided by that final retail purchaser. Commercial feeds used as ingredients in "custom-mixed" feed must be obtained from licensed sources.

License Application and Fees

To obtain an annual license, an applicant must do all of the following:

- Submit an application on a form provided by the department.
- Pay an annual license fee of \$25, and a supplementary fee of \$25 for each additional business location.
- Submit a feed tonnage report if required under s. 94.72(6), Stats.
- Pay inspection fees on reported feed tonnage, if required under s. 94.72(6), Stats. A commercial feed manufacturer is not required to pay inspection fees on either of the following:
 - Grain used in a commercial feed, if that grain is owned and provided by the final retail purchaser of that feed.
 - Grain used in a "custom-mixed" feed.

COMMERCIAL FEED LABELING; GENERAL

This rule establishes general labeling requirements for commercial feed. The general labeling requirements apply to all commercial feed, other than "custom-mixed" feed and dog and cat food. This rule specifies different labeling requirements for custom-mixed feed and dog and cat food (see below).

Label Contents: General

Under this rule, a commercial feed label must generally include all of the following:

- The product name of the commercial feed, and its brand name if any.
- Drug labeling if the commercial feed contains any drug.
- A statement of purpose identifying the animals for which the feed is intended, and the use for which the feed is intended.
- A guaranteed analysis of nutrients.
- An ingredient statement.
- The name and address of the manufacturer or distributor who is responsible for the contents and labeling of the commercial feed.
- A declaration of net quantity.
- Use directions and precautionary statements.

Product and Brand Names

Under this rule, a commercial feed must be labeled with its product name and its brand name if any. A product or brand name may not be inconsistent with the intended use of the commercial feed, and may not contain any statement or representation that is false, deceptive or misleading. This rule regulates the use of certain terms, including ingredient names, in product or brand names.

Medicated Commercial Feeds

Under this rule, if a commercial feed contains one or more drugs, the commercial feed label must identify the commercial feed as a "medicated" feed. It must also include:

- A statement explaining the purpose for each drug.
- A statement identifying the name and amount of each active drug ingredient in the commercial feed.
- Directions for use and precautionary statements needed for the safe administration and handling of the commercial feed.

Statement of Purpose

Under this rule, a commercial feed must be labeled with a statement of purpose that identifies all of the following:

- The species and classes of animals for which the commercial feed is intended.
- The specific intended use of the commercial feed, unless the commercial feed is intended as a complete feed for all species and classes of animals identified on the feed label.

Under this rule, a statement of purpose is not required for either of the following:

- An ingredient or combination of ingredients sold as a specialized nutritional source for use in manufacturing other commercial feeds.
- Grain or grain mixtures, provided that they contain no drugs and the seller makes no specific feed claim for them.

The rule identifies standard terms which, if used on a commercial feed label, indicate that the commercial feed is intended for a specified class of animals. For example, a swine feed labeled as a "pre-starter" is intended for swine weighing from 2 to 11 lbs. The rule does not require the use of these standard terms, but the terms may not be used in a manner inconsistent with the rule. The rule specifies standard terms corresponding to standard classes of swine, poultry, beef cattle, dairy cattle, equines, sheep and goats, ducks, geese and rabbits.

Guaranteed Analysis

Under this rule, a commercial feed must be labeled with a "guaranteed analysis" that guarantees the amount of nutrients and other key substances in the commercial feed. Under this rule, a guaranteed analysis must include all of the following:

- A minimum guarantee for all of the following substances, unless the commercial feed is clearly labeled for a specialized purpose that is unrelated to the content of those substances:

- Crude protein.
- Equivalent crude protein from non-protein nitrogen, if present.
- Crude fat.
- A maximum guarantee for crude fiber, unless the commercial feed is clearly labeled for a specialized purpose that is unrelated to its crude fiber content.
- Mineral guarantees if the feed is sold wholly or in part for its mineral content.
- Vitamin guarantees if the commercial feed is sold wholly or in part for its vitamin content.
- Microorganism guarantees if the commercial feed is sold wholly or in part for its microorganism content.
- A sugar guarantee if the commercial feed is sold primarily for its sugar content.
- If the commercial feed is intended as a specialized nutrient source primarily for use in the manufacture of other commercial feeds, a minimum guarantee for each nutrient that is relevant to that purpose.
- Additional guarantees, if any, that are required for a specific class of commercial feed under this rule. This rule identifies specific substances which must be guaranteed in certain commercial feeds, including feeds intended for swine, poultry, beef cattle or calves, dairy cattle or calves, equines, sheep, goats, ducks, geese, fish or rabbits.

This rule specifies the form and order in which guarantees are to be listed in the guaranteed analysis. Except where this rule requires a different format, guarantees must be expressed as a percentage by weight of commercial feed.

Ingredient Statement

Under this rule, a commercial feed must be labeled with an ingredient statement that lists the name of each ingredient from which the commercial feed is manufactured. An ingredient name must be one of the following:

- The common or usual name of that ingredient.
- The official name of that ingredient as stated in AAFCO's official publication.
- An appropriate collective name, specified in the rule, which accurately describes that ingredient. If an ingredient statement includes a collective term that describes one or more individual ingredients, none of those individual ingredients may be listed in the ingredient statement under any other name.

Manufacturer or Distributor: Name and Address

Under this rule, a commercial feed must be labeled with the name and principal mailing address of a manufacturer or labeler who assumes responsibility for the content and labeling of that commercial feed. If a person manufactures commercial feed on behalf of another licensed manufacturer or labeler who is identified on the feed label, the person manufacturing that feed on behalf of that responsible manufacturer or labeler need not be identified on the feed label.

For example, if a local feed mill manufactures feed on behalf of a feed consultant who is licensed as a manufacturer or labeler under this rule, and whose name and address appear on the feed label, the feed consultant is legally responsible for the content and labeling of the commercial feed. The local feed mill need not be identified on the feed label.

Declaration of Net Quantity

Under this rule, no person may sell or distribute any package, container or bulk lot of commercial feed unless that package, container or bulk lot bears a label which accurately declares the net quantity of commercial feed contained in that package, container or bulk lot. The declaration must comply with all of the following requirements:

- Net quantity must be declared in terms of weight, measure or count, based on applicable requirements under s. 98.06, Stats. (Liquid quantities must normally be declared in terms of liquid measure, and other quantities must normally be declared in terms of weight.)
- If the net quantity is declared in terms of weight or measure, the weight or measure must be expressed in appropriate inch-pound units and in appropriate metric units.
- The declaration must include any supplementary declarations which are needed to make the declaration fully informative. For example, if a declaration includes a declaration of count, it should also specify the size or weight of the counted units.

Use Directions and Precautionary Statements

Under this rule, a commercial feed must be prominently labeled with use directions and precautionary statements. This requirement is subject to the following exceptions:

● No use directions are required for a non-medicated ingredient or a combination of non-medicated ingredients that is sold as a specialized nutritional source for use in manufacturing other feeds.

● Grains or grain mixtures, provided that they contain no drugs and the seller makes no specific feed claim for them.

CUSTOM-MIXED FEED

Labeling Custom-Mixed Feed

A "custom-mixed" feed is a feed prepared at the request of a final retail purchaser according to a formula provided by that final retail purchaser. Under this rule, a "custom-mixed" feed is exempt from the labeling requirements that apply to other commercial feeds (see above). However, the manufacturer of a "custom-mixed" feed must provide the purchaser with all of the following information, in writing, when that manufacturer delivers that feed to the purchaser:

- The name and address of the manufacturer.
- The name and address of the purchaser.
- The name of the "custom-mixed" feed.
- The net quantity of the "custom-mixed" feed.
- The name and net quantity of every commercial feed and every other ingredient (e.g., grain) used to manufacture the "custom-mixed" feed.
- Applicable use directions and precautionary statements. If any commercial feed used in manufacturing a "custom-mixed" feed is labeled with use directions or precautionary statements, the manufacturer of the "custom-mixed" feed must provide a copy of those use directions and precautionary statements to the purchaser of the "custom-mixed" feed.
 - All of the following if the "custom-mixed" feed contains any drug:
 - A statement, following directly after the name of the "custom-mixed" feed, which discloses that the feed is "medicated."
 - A clear statement explaining the purpose for each drug.
 - A statement identifying the name and amount of each active drug ingredient.

The manufacturer of a "custom-mixed" feed must keep a copy of all of the above information for at least one year, and must make the information available for inspection and copying by the department upon request.

Guarantees and Disclaimers

The manufacturer of a "custom-mixed" feed is not responsible for the nutritional adequacy of that feed, provided that the manufacturer makes no claim of nutritional adequacy. The manufacturer may place a disclaimer on the label of the "custom-mixed" feed, stating that the manufacturer does not claim or warrant that the feed is nutritionally adequate or suitable for its intended purpose.

DOG AND CAT FOOD

Under this rule, dog and cat food is exempt from the labeling requirements that apply to other commercial feed (see above). However, a dog or cat food must be labeled with all of the following information:

- The words "dog food" or "cat food," or other words that clearly identify the product as dog or cat food.
- The product name and brand name if any.
- A guaranteed analysis.
- An ingredient statement.
- Drug labeling if the dog or cat food contains any drug.
- A statement of nutritional adequacy, if required under this rule.
- The name and principal mailing address of the manufacturer or distributor who is responsible for the content and labeling of the dog or cat food.
 - A declaration of net quantity.
 - Feeding instructions, if required under this rule.

Guaranteed Analysis

The guaranteed analysis for a dog or cat food must include all of the following:

- A minimum guarantee for crude protein.
- A minimum guarantee for crude fat.
- A maximum guarantee for crude fiber.
- A maximum guarantee for moisture.

● Mineral guarantees if the dog or cat food is sold wholly or in part for its mineral content.

● Vitamin guarantees if the dog or cat food label makes specific vitamin claims or vitamin-related performance claims.

● A minimum guarantee for other substances claimed on the label of the dog or cat food.

Guarantees must clearly identify the substances guaranteed. Except where a different format is required under this rule, guarantees must be expressed as a percentage by weight of the dog or cat food. This rule establishes specific requirements for vitamin and mineral guarantees.

Ingredient Statement

Under this rule, a dog or cat food must be labeled with an ingredient statement that lists the name of each ingredient from which the dog or cat food is manufactured. An ingredient name must be one of the following:

- The common or usual name of that ingredient.
- The official name of that ingredient as stated in AAFCO's official publication.

Medicated Dog or Cat Food

Under this rule, if a dog or cat food contains one or more drugs, its label must identify it as a "medicated" dog or cat food. The label must also include:

- A statement explaining the purpose for each drug.
- A statement identifying the name and amount of each active drug ingredient.
- Directions for use and precautionary statements needed for the safe administration and handling of the dog or cat food.

Statement of Nutritional Adequacy

Under this rule, every dog or cat food must be labeled with a statement of nutritional adequacy unless it is prominently labeled as a "treat" or "snack." The statement must conform to one of 4 specific alternatives specified in the rule.

Feeding Instructions

Under this rule, every dog or cat food must be labeled with feeding instructions unless one of the following applies:

- The dog or cat food is labeled for use only under a veterinarian's prescription.
- The dog or cat food is clearly labeled as a "snack" or "treat."

Feeding instructions must clearly state the amount of dog or cat food to be fed, and the purpose for which the dog or cat food may be fed. The feeding instructions must include any precautionary statements needed for safe feeding.

Statement of Calorie Content

This rule allows, but does not require, a calorie content statement on the label of a dog or cat food. A calorie content statement is allowed only if all of the following apply:

- The statement is separate and distinct from the guaranteed analysis.
- The statement appears under the heading, "Calorie Content."
- The statement reflects metabolizable energy, expressed as kilocalories per kilogram or kilocalories per other common household measure (e.g., per can, cup or pound).
- The calorie content is computed according to a method specified in this rule, or is determined by testing according to a procedure specified in AAFCO's official publication.

Product or Brand Names Using Ingredient Names

Under this rule, the product or brand name of a dog or cat food may not identify any ingredients of a dog or cat food to the exclusion of other ingredients unless the ingredients are present in quantities specified under this rule. A product or brand name may not misrepresent the amount of any ingredient that is present in a dog or cat food.

Prohibited Labeling

Under this rule, no labeling for a dog or cat food may do any of the following, either directly or by implication:

- Make any statement or representation which is false, deceptive or misleading.
- Misrepresent that a dog or cat food is suitable for a specified use.
- Make unsubstantiated health or nutritional claims, or fail to disclose pertinent qualifications or limitations on those claims.

- Claim that a dog or cat food provides a complete, perfect, balanced or nutritionally adequate ration for a dog or cat unless the dog or cat food complies with nutrition standards specified in this rule.

- Misrepresent the nature or amount of any ingredient.

GENERAL PROVISIONS

Good Manufacturing Practices

Under this rule, manufacturers of medicated commercial feeds and dog and cat food must comply with good manufacturing practices:

- Buildings and equipment must be designed, constructed and maintained to provide adequate sanitation.
- Work areas and equipment used for medicated feeds or dog and cat food may not be used for fertilizer or pesticides.
- Medicated feeds must be manufactured according to FDA requirements.
- Ingredients must be properly labeled.
- The manufacturer must keep records including product formulas, manufacturing dates, batch numbers and shipment dates.

Nutritional Content

Under this rule, the nutritional content of a commercial feed must be suitable for the intended use of that feed when the feed is used according to label directions. If a commercial feed intended for swine, poultry, fish, veal calves, or herd replacement calves, it must comply with applicable nutritional standards adopted by the national research council of the national academy of sciences, and incorporated by reference in this rule. Alternatively, the manufacturer must possess valid scientific evidence which demonstrates that the feed is suitable for its intended use.

Drugs and Other Additives

Under this rule, drugs and other special purpose or non-nutritive feed additives must be safe and effective for their intended use. Drugs must be approved by FDA if approval is required by federal law. Drugs and other additives may be used only as intended, and only according to label directions. Medicated feeds must be labeled according to this rule.

Adulteration and Misbranding

This rule prohibits the sale or distribution of adulterated or misbranded feed. A feed is adulterated if, among other things:

- It contains any poisonous or deleterious substance that make it injurious to health.
- It contains any prohibited pesticide residue.
- It contains any added substance which is poisonous, deleterious or unsafe.
- Its quality or composition differs from that stated on the label.
- It is manufactured or held under unsanitary conditions, or in violation of good manufacturing practices required under this rule.
- It contains weed seeds in excess of specified tolerances.
- It contains fluorine in excess of specified amounts.
- It contains organic material, such as sphagnum moss or sawdust, that has little or no feeding value.

Under this rule, a feed is misbranded if any of the following applies:

- Its labeling is false, deceptive or misleading in any particular.
- It is sold or distributed under the name of another feed.
- Its labeling violates this rule.

Non-Protein Nitrogen

This rule prohibits the use of non-protein nitrogen ingredients such as urea, di-ammonium phosphate, ammonium poly-phosphate, or ammoniated rice hulls, as sources of equivalent crude protein in commercial feeds intended for non-ruminant animals, because non-ruminants cannot digest them.

If a ruminant feed includes non-protein nitrogen, that non-protein nitrogen must be identified in the guaranteed analysis according to a format specified in this rule. Commercial feed products containing non-protein nitrogen in excess of specified amounts must include use directions and precautionary statements, with appropriate "caution" or "warning" labels.

Enforcement

This rule identifies the statutory enforcement provisions which may apply to a person who violates this rule.

STANDARDS INCORPORATED BY REFERENCE

The department has requested permission from the attorney general and the revisor of statutes to incorporate the following standards by reference in this rule:

- Portions of the official publication of the association of American feed control officials.
- Nutritional standards published by the committee on animal nutrition, national research council, national academy of sciences.

Fiscal Estimate

See November 15, 1995 Wisconsin Administrative Register, page 6.

Initial Regulatory Flexibility Analysis

See November 15, 1995 Wisconsin Administrative Register, page 6.

Notice to Dept. of Development

Notice of the proposed rule has been delivered to the Department of Development, as required by s. 227.114 (5), Stats.

Notice of Hearing Agriculture, Trade & Consumer Protection (Reprinted from 11-15-95 Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a revised draft of the proposed rule to create ch. ATCP 123, Wis. Adm. Code, relating to telecommunications and cable television services.

Written Comments

The public is invited to attend the hearings and make comments on the proposed rule. The hearing record will remain open until **December 10, 1995** for additional written comments.

A copy of this rule may be obtained, free of charge, from the Bureau of Consumer Protection, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911, or by calling 608/224-4955. Copies will also be available at the hearings.

If an INTERPRETER for deaf or hard of hearing people is required, please notify this office by **Nov. 15, 1995** either by writing to James Rabbit, P.O. Box 8911, Madison, WI 53708-8911, or by contacting the message relay system (TTY) at 608/246-5058.

Hearing Information

**November 29, 1995
Wednesday
commencing at 9:00 a.m.**

**Dept. of Agriculture, Trade
& Consumer Protection
Board Room
2811 Agriculture Drive
Madison, WI**

Handicapped Accessible

Written Comments

Written comments will be accepted until **Dec. 10, 1995**.

Analysis by the Dept. of Agriculture, Trade & Consumer Protection

Statutory authority: ss. 100.20 (2) and 100.207 (6) (e)

Statutes interpreted: ss. 93.01 (1) (m), 100.20 and 100.207

Coverage

This rule regulates subscription and billing practices related to telecommunications and cable television services provided to residential and small business consumers.

This rule does not apply to the following activities of telecommunications providers:

- Activities which are specifically authorized under ss. 196.194(1), 196.207, 196.20, or 196.499(4), Stats.

- Activities which the Wisconsin public service commission specifically authorizes by rule or order.

- Subscription changes which a provider implements by tariff under ch. 196, Stats., other than by a tariff change under s. 196.196(3) or 196.499(2), Stats.

This rule does not authorize any activity prohibited by ch. 196, Stats., or by the Wisconsin public service commission under ch. 196, Stats.

Disclosure to Subscribers

Under this rule, a provider of telecommunications or cable television services must disclose subscription terms to a consumer at or before the time that the consumer subscribes. The disclosure must include all of the following:

- A clear identification of each service offering included in the subscription, including relevant consumer features, functions or capabilities which comprise that service offering.

- The price which the consumer must pay for each service offering. Prices may be disclosed as price schedules, rates or formulas, provided that a consumer can readily determine the total amount which he or she must pay.

- All incidental charges that may affect the total amount payable by the consumer, including charges for connecting, changing or disconnecting service. (The provider may disclose any finance or late payment charges when the provider bills the consumer for the principal amount to which those charges may apply.)

- The effective date of the subscription.

- The expiration date of the subscription, if any.

- Any limitations on the consumer's right to cancel the subscription at any time.

A provider must disclose the subscription terms in context with each other, and may not separate those terms by promotional information. The provider must disclose the terms in writing except that, if a consumer subscribes orally or electronically, the provider may disclose the terms orally or electronically if both of the following apply:

- The provider confirms the disclosure in writing on or before the 15th day after the consumer subscribes, or on or before the day that the provider first bills the consumer under the subscription, whichever occurs later.

- The provider notifies the consumer that the consumer may cancel the subscription at any time, or at any time prior to a specified cancellation deadline which is not less than 3 days after the consumer receives the written confirmation of subscription terms, without paying any cancellation fee or disconnect charge.

A provider of long distance telecommunications services need not, as part of an initial disclosure, disclose specific rates for long distance calls if the provider discloses all of the following:

- Any discounts that will apply to that consumer's calls.

- A method by which the consumer may readily determine, without cost to the consumer, the specific rate for a long distance call (not counting the consumer's individual discounts, if any).

A provider of pay-per-view cable television service need not, as part of an initial disclosure of subscription terms, disclose specific charges per view if all of the following apply:

- The consumer does not incur the per-view charges unless the consumer specifically orders the services to which those charges pertain.

- The provider discloses the per-view charges at or before the time that the consumer orders the services to which those charges pertain.

- The provider discloses any subscription charges which the consumer must pay for the right to order pay-per-view services.

Subscription Changes

Under this rule, a "subscription change" means a change in an existing subscription which results in any of the following:

- An increase in the price charged or the total amount billed to the consumer.

- An intentional reduction in quantity or quality of service provided to the consumer.

- A change in the relevant consumer features, functions, or capabilities which comprise a service offering.

Under this rule, a provider must disclose to a consumer every proposed change in the consumer's subscription at least 30 days before that subscription change takes effect, unless one of the following applies:

- The consumer orders the subscription change.

- The subscription change merely expands a service offering currently billed to the consumer without doing any of the following:

- Increasing the price of that service offering.

- Combining that service offering with another service offering which the consumer can order separately, but which the consumer has not affirmatively ordered.

- Making other changes in the relevant consumer features, functions or capabilities which comprise that service offering.

- The subscription change results from the expiration of an introductory or other promotional offer, and the provider disclosed both of the following before the consumer subscribed:

- The duration of the promotional offer.

- The terms that would apply after the promotional offer expired.

- The subscription change is limited to a change in long distance rates that are exempt from disclosure under this rule (see above).

- The subscription change is limited to a change in pay-per-view cable television charges that are exempt from disclosure under this rule (see above).

- The subscription change is exempt from this rule, because it is regulated by the Wisconsin public service commission (see above).

Under this rule, a 30-day notice of a subscription change must be in writing. The notice must do all of the following:

- Clearly describe the proposed change, including any change in price, features, functions or capabilities.

- Specify the effective date of the proposed change.

- Disclose that the consumer may cancel any service offering affected by the change, without paying any cancellation charge or disconnect fee, before the change takes effect. This disclosure is not required if, under the prior disclosed terms of the subscription, the consumer is already free to cancel at any time without paying a cancellation charge or disconnect fee.

Negative Option Billing

This rule prohibits a provider from billing a consumer for a service offering that the consumer has not affirmatively ordered. A consumer's failure to reject a service offering is not an affirmative order for service. A consumer's affirmative order for service may be made orally, electronically or in writing.

This rule does not require a provider to obtain an affirmative order from a consumer before expanding a service offering currently billed to that consumer unless the expansion has the effect of combining that service offering with another service offering which the consumer can order separately but has not affirmatively ordered.

Automatic Renewal or Extension

Under this rule, no subscription for a definite period of time may be renewed or extended beyond its scheduled termination date, pursuant to an automatic renewal or extension provision, unless one of the following applies:

- The consumer is free to cancel the contract at any time.

- The provider gives the consumer a written notice reminding the consumer of the scheduled automatic renewal or extension. The reminder notice must be given at least 30 days but not more than 60 days prior to the scheduled effective date of the automatic renewal or extension, and may be included as part of any billing statement given to the consumer during this time period.

Prohibited Practices

Under this rule, no provider may do any of the following:

- Offer to a consumer any prize, prize opportunity, or free or reduced price goods or services whose receipt is conditioned upon the consumer entering into a contract for telecommunications service or cable television service unless the provider discloses that a purchase is required.

- Misrepresent the provider's identity.

- Misrepresent that a consumer has subscribed to or received a telecommunications service or cable television service.

- Misrepresent the terms of a subscription.

- Fail to identify, in each bill presented to a consumer, the service offerings for which the provider is billing the consumer.

- Fail to honor, on a timely basis, a consumer's request to cancel a telecommunications service or cable television service according to this chapter and the terms of the subscription.

- Charge a consumer a fee for canceling a subscription or service offering unless the fee is disclosed in the subscription according to this rule.

- Bill a consumer for a telecommunications service or cable television service in violation of this chapter.

- Propose or enter into any contract with a consumer that purports to waive a consumer's rights under this chapter, or that purports to authorize any violation of this chapter.

Effective Date

This rule takes effect on January 1, 1997, and first applies to contracts, subscriptions, contract changes and subscription changes made on or after that date.

Consultation with Department of Justice

The Department developed this rule in consultation with the Department of Justice, as required under s. 100.207 (6) (e), Stats.

Fiscal Estimate

See November 15, 1995 Wisconsin Administrative Register, page 9.

Initial Regulatory Flexibility Analysis

See November 15, 1995 Wisconsin Administrative Register, page 9.

Notice to Dept. of Development

The Department has given notice of this proposed rule to the Wisconsin Department of Development, as required by s. 227.114 (5), Stats.

Notice of Public Hearing

Industry, Labor & Human Relations

(Building & Heating, etc.,

Chs. ILHR 50-64)

(Multifamily Dwellings, Ch. ILHR 66)

Notice is given that pursuant ss. 101.02 and 101.973, Stats., the Department of Industry, Labor and Human Relations proposes to hold a public hearing to consider the revision of chs. ILHR 51, 57 and 66, Wis. Adm. Code, relating to the Uniform Multifamily Dwelling Code.

Hearing Information

December 11, 1995
Monday
1:00 p.m.

Madison
Rm. 103 Conference Room
GEF-1, 201 E. Washington Ave.

A copy of the rules to be considered may be obtained from the State Department of Industry, Labor and Human Relations, Division of Safety and Buildings, 201 E. Washington Ave., P.O. Box 7969, Madison, WI 53707, by calling (608) 266-1542 or at the appointed time and place the hearing is held.

Interested persons are invited to appear at the hearing and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearing may be submitted no later than **December 20, 1995**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Sam Rockweiler at the address noted above. Written comments will be given the same consideration as testimony presented at the hearing. Persons submitting comments will not receive individual responses.

This hearing is held in an accessible facility. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266-1542 or Telecommunication Device for the Deaf (TDD) at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators or materials in

audio tape format will, to the fullest extent possible, be made available on request by a persons with a disability.

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 and 101.973

Statutes Interpreted: ss. 101.14 (4m) and 101.971 to 101.978

The proposed rule would simplify the exiting requirements that apply where rescue platforms or egress windows are used, and clarify some minor problematic technical provisions. These rule changes would eliminate some unnecessary disruption of new housing construction that is being caused by the current rules.

Initial Regulatory Flexibility Analysis

1. Types of small businesses that will be affected by the rules.

Builders and owners of multifamily dwellings constructed under these proposed changes are expected to have slightly lower costs for that construction.

2. Reporting, bookkeeping and other procedures required for compliance with the rules.

No new requirements.

3. Types of professional skills necessary for compliance with the rules.

No new requirements.

Fiscal Estimate

The department currently regulates the construction of multifamily dwellings. The proposed rule replaces some current requirements with requirements that are somewhat less restrictive and easier to apply.

Notice of Hearing

Commissioner of Insurance

The Commissioner of Insurance, pursuant to the authority granted under s. 601.41 (3), Stats., and according to the procedures under s. 227.18, Stats., will hold a public hearing in **Room 23, 121 East Wilson Street, Madison, Wisconsin, on December 15, 1995, at 10:00 a.m.**, or as soon thereafter as the matter may be reached, to amend s. Ins 3.46 (4) (b) and (g); and to create s. Ins 3.455 (9), 3.46 (3) (cm), (4) (t), (9) (c) (11m), (15), (16), (17), and Appendices 2, 3, and 4, Wis. Adm. Code, relating to the requirements for long-term care insurance sold in Wisconsin.

Summary Of Proposed Rule

These revisions to the long-term care rule are mainly based on the new standards set in the NAIC model rule for long-term care. The specific changes are as follows:

SECTION 1: Premium increases are limited based on the insured's age. For ages over 80, the premium increase limit is 10% in any 5-year period. For ages between 65 and 79, the premium increase limit is 15% in any 5-year period. For ages under 65, the premium increase limit is 25% in any 4-year period.

SECTION 2: The term cognitive impairment is defined for the rule.

SECTION 3: The daily minimum coverage is increased from \$30 to \$60.

SECTION 4: Policies are required to allow reinstatement in the event of lapse if reinstatement is requested within 5 months of the lapse and the lapse was due to the loss of functional capacity or cognitive impairment.

A notice regarding the coverage and how it may duplicate Medicare must be given to the insured with the application. This is a requirement of federal law.

Minimum requirements for nonforfeiture benefits are set out when a policy terminates or lapses. The nonforfeiture benefit is a paid-up benefit period and equal to at least 100% of all premiums paid.

The insurer must attempt to obtain the name of another person to whom lapse or termination notice must be given in addition to the insured before the policy can lapse.

Suitability standards for the sale of long-term care insurance are required to be set by insurers based on the completion of a worksheet defined in the rule. Factors such as income, savings and other source of revenues must be considered.

Minimum standards for benefit triggers are defined to be a deficiency in at least 3 activities of daily living out of a list of 6. Insurers can define additional triggers.

Summary Of Fiscal Estimate

There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

Contact Person

A copy of the text of the proposed rule and fiscal estimate may be obtained from Meg Gunderson, Services Section, Office of the Commissioner of Insurance, 121 East Wilson Street, P. O. Box 7873, Madison, Wisconsin 53707-7873, (608) 266-0110.

Notice of Hearings

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

Notice is hereby given that pursuant to ss. 29.174(3) and 227.11(2)(a), Stats., interpreting ss. 29.174(2) and 29.085, Stats., the Department of Natural Resources will hold public hearings on the repeal and recreation of ss. NR 10.01(1)(g)1.L, 10.31(11) and 10.32 and the creation of s. NR 10.01(1)(g)1.m., Wis. Adm. Code, relating to migratory game bird hunting. The Department proposes to modify the existing duck zone boundary. The new zone boundary would place the Lake Michigan shoreline of Kewaunee and Door counties into the southern duck zone as well as the area of northwestern Wisconsin west of highway 13 to highway 77 and then north of highway 77 to the Michigan/Wisconsin state line. Highway 10 from Manitowoc to highway 13 in Wood County would continue to be the zone boundary in central Wisconsin.

The Department is also proposing a second subzone for the early Canada goose season with season dates concurrent with the existing subzone, but with reduced bag limits (3 birds per day). The new subzone contains a larger percentage of rural lands that are huntable and local birds are more vulnerable to hunting, thus the lower limit.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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.

Hearing Information

December 11, 1995 Monday at 7:00 p.m.	Conference Room DNR Office 1210 N. Palmatory Street Horicon
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December 12, 1995 Tuesday at 7:00 p.m.	Room 604, City Hall 100 N. Jefferson Green Bay
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December 13, 1995 Wednesday at 7:00 p.m.	Council Chambers City Hall 601 Main Street West Ashland
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December 14, 1995
Thursday
at 7:00 p.m.

Council Room
City Hall
400 4th Avenue South
Park Falls

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 Mr. Jon Bergquist at (608) 266-8841 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to Mr. Jon Bergquist, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than **December 15, 1995**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Bergquist.

Fiscal Estimate

This rule contains 2 rule changes that are primarily administrative. The fiscal impacts of each individual item are negligible.

Notice of Hearings

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

Notice is hereby given that pursuant to s. 227.11(2)(a), Stats., interpreting s. 28.11(11), Stats., the Department of Natural Resources will hold public hearings on the creation of ch. NR 48, Wis. Adm. Code, relating to the administration of county forest withdrawals. Section 28.11(11), Stats., is broad and merely requires the public benefits of the proposed use of the lands be weighed against the public benefits accruing under the continuation of the lands as county forest. If the Department determines that the benefits of withdrawal outweigh the benefits of continued entry, and that the land will be put to a better and higher use, the county application must be approved. The proposed rule specifies what information must be included in an application and clarifies what the Department's investigation must include. The rule clarifies that the Department may impose conditions on a withdrawal approval and identifies when state aids subject to reimbursement on the withdrawn land will be transferred to other county forest lands remaining under the law.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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.

Hearing Information

December 14, 1995 Thursday at 10:30 a.m.	Council Chambers City Hall Grant Street Wausau
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December 18, 1995 Monday at 10:30 a.m.	Room 611A GEF# 2, 101 S. Webster St. Madison
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Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bob Mather at (608)

266-1727 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to Mr. Bob Mather, Bureau of Forestry, P.O. Box 7921, Madison, WI 53707 no later than **December 31, 1995**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Mather.

Fiscal Estimate

1. The rule identifies County Forest Withdrawal application procedures and the Department's investigation process. This rule formalizes procedures that are presently being used for County Forest Withdrawals. The rule may require county staff to provide a more complete packet of information with the application than is presently being done. At present Department staff must interview county staff to obtain some of the information necessary to complete the application. The change in who gathers the application information will reduce Department professional staff time by approximately 0.5 FTE statewide at \$22.00/Hour (salary and fringes).

Conversely, this change will require the applicant, the county to provide this information. This increase in time will be spread over the 28 counties with county forest depending on which particular county is requesting the withdrawal. The Department is encouraging counties to require the person, company or agency who desire the lands withdrawn from the program to gather the information or pay the county to gather it for them to fulfil the application process.

2. The rule would allow the Department to put conditions on the withdrawal decision. This ability would in some instances reduce the number of denials the Department might otherwise issue due to increased flexibility in the decision making process and hence the number or lengthy county appeals that result.

3. The rule formalizes when the required reimbursement of state aids is to be transferred to other lands remaining under the law. This codifies the existing policy.

Notice of Hearings

Natural Resources

(Environmental Protection—General,

Chs. NR 100—)

Notice is hereby given that pursuant to ss. 144.241, 144.2415 and 227.11(2)(a), Stats., interpreting ss. 144.241 and 144.2415, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 161, 162, 163 and 165, Wis. Adm. Code, relating to the Clean Water Fund loan program. The Department has incorporated revisions required by changes in the law, streamlined the code to make it easier to read and understand, and removed sections which had become obsolete. The major changes resulting from changes to the law include:

1. When the Clean Water Fund has enough subsidy to fund all projects expected to apply for funding, municipalities may apply at any time in the biennium. They no longer have to apply by June 30. The amount of subsidy is considered sufficient if the legislature provides more than 85% of the amount requested in the biennial finance plan.

2. The Clean Water Fund will develop a funding list only in biennia in which there is not enough to fund all projects.

3. A municipality's notice of its intent to apply for funding is now valid for two years instead of one.

4. The financial assistance agreement must be signed within six months of application.

5. The Department of Administration, not the Department of Natural Resources, is now responsible for auditing completed Clean Water Fund projects.

6. New criteria for hardship eligibility have been established. The municipality's income must be less than 80% of the state's median household income and the annual residential wastewater charges must exceed 2% of the municipal median household income.

7. Steps 1 and 2 for hardship will be refinanced at Step 3, as is done in the remainder of the program. This provision carries out the legislature's intent to eliminate advance funding for Steps 1 and 2.

In addition, rules that apply to all applications have been consolidated in ch. NR 162 and are not repeated in the other rules. All rules regarding the hardship portion of the program have been transferred to ch. NR 163. The Natural Resources Board will no longer have to approve the annual funding policy or the project priority list.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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.

Hearing Information

December 15, 1995
Friday
at 10:00 a.m.

Room 611B, GEF #2
101 S. Webster St.
Madison

December 18, 1995
Monday
at 11:00 a.m.

Large Conference Room
Marathon County Cthse.
500 Forest St.
Wausau

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 Lynne Bartells at (608) 267-7152 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to Ms. Lynne Bartells, Bureau of Environmental Loans, P.O. Box 7921, Madison, WI 53707 no later than **December 31, 1995**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule and fiscal estimate may be obtained from Ms. Bartells.

Fiscal Estimate

Revisions to the codes are based on changes made to the Clean Water Fund Program by 1995 Wis. Act 27. The changes made are mostly procedural changes which affect the applicants and the administration of the program. The codes are also streamlined in an effort to make them more useable and clear for customers. There is no fiscal impact to the state of Wisconsin.

Notice of Hearing

Natural Resources

(Environmental Protection—Air

Pollution Control, Chs. NR 400—)

Notice is hereby given that pursuant to ss. 144.31(1)(a) and 227.11(2)(a), Stats., interpreting s. 144.31(1)(f), Stats., and the State Implementation Plan developed under that provision, the Department of Natural Resources will hold a public hearing on revisions to chs. NR 400 to 499, Wis. Adm. Code, and the State Implementation Plan relating to the delisting of acetone as a volatile organic compound and the updating, clarification and corrective changes throughout the NR 400 series.

The key objective of this rule is to restore consistency between the federal and state definitions of volatile organic compound by incorporating the specific exclusion of acetone in the federal VOC definition into the state definition in s. NR 400.02(100). The U.S. EPA has determined that acetone

has negligible photochemical reactivity, and has exempted acetone from regulation as a VOC.

Also proposed are changes to the eligibility criteria for variances from reasonably available control technology requirements. Additional changes in this rule update the air pollution control rules and improve their consistency. These changes do not involve the implementation of new policies. Changes to ch. NR 499 simplify the examination procedures for certification of incinerator operators at solid waste treatment facilities, following a decline in the number of persons seeking such certification.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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.

Hearing Information

December 19, 1995
Tuesday
at 10:00 a.m.

Room 611B, GEF #2 Bldg.
101 S. Webster St.
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 Robert Park at (608) 266-1054 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to Mr. Robert Park, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **December 29, 1995**. Written comments will have the same weight and effect as oral statements presented at the hearing.

A copy of the proposed rule AM-45-95 and its fiscal estimate may be obtained from:

Proposed Rule
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707
Phone:(608) 266-7718
FAX:(608) 267-0560

Fiscal Impact

Acetone can be used as a solvent for metal cleaning, polyurethane foam blowing, and various coating and adhesive processes. The delisting of acetone may have two fiscal impacts:

1) a reduction in reported VOC emissions for users of acetone.

In 1994 the Air Program collected \$30.07 per ton for billable air contaminants. VOC's are reported as one category of billable air contaminants, and approximately 49,000 tons were reported across Wisconsin in 1994. Analyses which identify particular VOC's in industrial processes show that acetone accounts for approximately 2,000 tons of Wisconsin's VOC's annually. Annual emissions from any particular source of less than 5 tons and any amount in excess of 4,000 tons are exempt from fees. Emissions Inventory information suggests that approximately 10% of VOC's come from sources which are exempt from fees because they emit less than 5 tons. There are no known sources of acetone which have fee exemptions because of the 4,000 tons limit. Therefore, **billable** acetone emissions are estimated to be 90% of reported acetone emissions, or 1,800 tons. An estimate of **direct** revenue loss from the delisting of acetone is (\$30.07/ton) X (1,800 tons) or \$54,000 annually (in 1994 dollars; the pollutant fee is adjusted for inflation each year).

2) A reduction is reported VOC's and/or other billable air contaminants from the substitution of acetone for other compounds currently used in applicable processes. It is difficult to speculate here, but air program engineers do not anticipate that the prospect of avoided fees will stimulate a major shift to acetone from billable compounds.

The other rule revisions in the order are expected to have no fiscal impact.

Notice of Hearing Public Instruction

Notice is hereby given that pursuant to s. 227.11 (2) (a), Stats., and interpreting s. 119.23, Stats., the Department of Public Instruction will hold a public hearing as follows to consider the amending of ch. PI 35, relating to the Milwaukee private school choice program.

Hearing Information

The hearing will be held as follows:

December 11, 1995
Monday
5:00 to
7:00 p.m.

Auditorium
Administration Building
5225 West Vliet Street
Milwaukee

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation, which may include materials prepared in an alternative format, as provided under the Americans with Disabilities Act, to access any meeting, please call Paul Endres, Director, School Financial Resources, at (608) 266-2804 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date.

Written Comments & Contact Person

A copy of the proposed rule and the fiscal estimate may be obtained by calling or writing to:

Mr. Paul Endres, (608) 266-2804
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received at the above address no later than **December 15, 1995**, will be given the same consideration as testimony presented at the hearing.

Analysis by the Dept. of Public Instruction

1989 Wis. Act 336 created s. 119.23, Stats., establishing a program for parental choice of private schools in Milwaukee.

The proposed rules:

- Require that random selection of participating pupils be taken from a new pool of applicants each school year.
- Clarify what fees are and are not allowed to be charged under the program.
- Clarify transportation requirements that must or may be provided to participating pupils.

Fiscal Estimate

The proposed rules require that random selection of participating pupils be taken from a new pool of applicants each school year and clarify when transportation must or may be provided to participating pupils. The proposed rules also specify items or services for which private schools may or may not charge fees to pupils participating in the Milwaukee parental school choice program. The private schools may only charge fees that may be charged by public schools to indigent pupils.

The proposed rules are not expected to have a state fiscal effect nor a fiscal effect on the Milwaukee public schools.

It is assumed that most of the private schools participating in the program under the current law will not be affected since their current practices of charging fees conform to the charges in the proposed rule. One private

school does charge a \$400 registration fee which is prohibited under the proposed rule.

It is anticipated that approximately 100 religious private schools will participate in the program in the future if the language under 1995 Wis. Act 27 is found constitutional. Fees charged by these religious private schools vary. Therefore, costs to these schools is indeterminable.

Notice of Proposed Rule

Department of Transportation

Notice is hereby given that pursuant to the authority of s. 347.48(4), Stats., and according to the procedure set forth in s. 227.16(2)(b), Stats., the Wisconsin Department of Transportation will adopt the following rule as proposed in this notice, without public hearing unless, within 30 days after publication of this notice, on **December 1, 1995**, the Department of Transportation is petitioned for a public hearing by 25 natural person who will be affected by the rule; a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Questions about this rule may be addressed to Don Hagen, Office of Transportation Safety, Room 806, P. O. Box 7910, Madison, Wisconsin 53707-7910, telephone (608) 267-7520.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: s. 347.48(4)

STATUTE INTERPRETED: s. 347.48(4)

General Summary of Proposed Rule. 1991 Wis. Act 198, relating to requiring the use of safety belts or child safety restraint systems for certain children in motor vehicles, amended s. 347.48(4)(a)2, Stats.; 1991 Wis. Act 39 amended s. 347.48(4)(a)1 and 2, Stats.; and 1985 Wis. Act 182 repealed s. 227.025 and also created s. 227.21, Stats. As a result of these statutory changes, it is necessary to amend ch. Trans 310 to be in compliance with the statutes.

This proposed rule making will amend ss. Trans 310.01(2), 310.03 and 310.04, and to repeal s. Trans 310.02(4), to require that "no person may transport a child who is at least 4 years old but less than 8 years old in a motor vehicle..." (currently the law applies only to children under the age of 4); to eliminate reference to the word "resident" and replacing it with the word "person" where applicable, to repeal the definition of "resident"; and to correct some grammatical inconsistencies.

Fiscal Impact

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

Initial Regulatory Flexibility Analysis

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

Copies of Rule

Copies of this rule may be obtained upon request, without cost, by writing to Don Hagen, Office of Transportation Safety, 4802 Sheboygan Avenue, P. O. Box 7910, Room 806, Madison, WI 53707-7910, or by calling (608) 267-7520. Alternate formats of the rule will be provided to individuals at their request.

Text Of Proposed Rule

Under the authority vested in the state of Wisconsin, department of transportation, by s. 347.48(4), Stats., the department of transportation hereby proposes an order to amend a rule interpreting s. 347.48(4), Stats., relating to child restraint standards.

SECTION 1. Trans 310.01(2) is amended to read:

Trans 310.01(2) **APPLICABILITY.** This chapter applies to the use of safety restraint systems or safety belts by children under the age of 4 ~~g~~, being transported in a motor vehicle ~~by a resident of the state of Wisconsin~~. The term motor vehicle includes, but is not limited to, automobiles, station wagons, vans, trucks and motor homes.

SECTION 2. Trans 310.02(4) is repealed.

SECTION 3. Trans 310.03(intro.), 310.04 and 310.05(1)(intro.) are amended to read:

Trans 310.03 ADOPTION OF STANDARDS. Pursuant to s. ~~227.025~~ 227.21, Stats., the attorney general and the revisor of statutes have consented to the incorporation by reference of the following standards. Copies of the standards are on file in the offices of the department of transportation, the secretary of state and the revisor of statutes. Copies ~~can~~ may be purchased from the U.S. superintendent of documents, government printing office, Washington, D.C. 20402.

Trans 310.04 PROVISIONS FOR USE. (1) No ~~resident~~ person subject to the provisions of s. 347.48(4)(a)1, Stats., may transport a child under the age of ~~2~~ 4 in a motor vehicle unless the child is properly restrained ~~by~~ in a child safety restraint system.

(2) No ~~resident person~~ subject to the provisions of s. 347.48(4)(a)2, ~~Stats.~~, may transport a child who is at least ~~2~~ 4 years old but less than ~~4~~ 8 years old in a motor vehicle unless the child is properly restrained in a child safety restraint system or a safety belt.

Note: A Family Shopping Guide to Infant/Child Automobile Safety Seats will be available for distribution at the following locations:

Office of Transportation Safety
P.O. Box 7910
Madison, WI 53707;
All State Patrol District Headquarters;
All Driver Licensing Examination Stations.

Trans 310.05 EXEMPTIONS. (1)(intro.) A child who, because of a medical condition, body size or a physical disability, is incapable of being transported in a child safety restraint system, may be transported without a safety restraint system or safety belt providing:

Notice of Hearing

Department of Transportation

Notice is hereby given that pursuant to ss. 85.16(1) and 343.02, Stats., and implementing ss. 343.03, 343.06(1)(e), 343.12, 343.135, 343.16, 343.20, 343.25 and 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 13th day of December, 1995, at 1:00 PM**, to consider the repeal and recreation of ch. Trans 104, Wis. Adm. Code, relating to examination procedures for operator's license.

The public record on this proposed rulemaking will be held open until **December 15, 1995**, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to Wes Geringer, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7920, Madison, Wisconsin 53707-7920.

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

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1) and 343.02

STATUTES INTERPRETED: ss. 343.03, 343.06(1)(e), 343.12, 343.135, 343.16, 343.20, 343.25 and 343.32

General Summary of Proposed Rule. This proposed rulemaking repeals and recreates the Department's rules regarding the conduct of motor vehicle knowledge tests, skills tests and special examinations. These examinations are administered by the department and authorized third party examiners prior to a person being licensed to operate a motor vehicle. Section 343.16(2)(c), Stats., provides that this proposed rule cannot go into effect absent a joint hearing by Senate and Assembly transportation committees followed by approval by joint resolution of the Senate and Assembly.

The proposed rule requires that all persons take and pass the appropriate tests required for any operating privilege they seek. Class D (regular vehicle) drivers need to take the standard knowledge and driving exams offered by the

department. Drivers of other types and classes of vehicles are required to complete special knowledge and skills tests related to those vehicles. Statutory waivers for persons who have completed certain motorcycle training is, of course, permitted under this proposed rule. A test result is valid for one year from the date of testing.

The knowledge required for a driver license is set forth in s. Trans 104.03(5) and (6). Special knowledge required for commercial motor vehicles is described in s. Trans 104.03(7) and (8). Cheating on a knowledge test results in an automatic failing grade on the exam.

Prior to conducting a skills test in a vehicle, an examiner gives the vehicle a cursory safety inspection. If the vehicle is unsafe for highway operation, the test is not conducted until the applicant provides a safe vehicle for testing (either by correcting the defects in the original vehicle or by providing a different vehicle). Skills tests are not conducted with drivers who refuse to wear seat belts or follow required safe driving practices.

Skills tests may be conducted in Class A, B or C commercial motor vehicles or in Class D vehicles. If the person passes the test, the person's license will authorize operation of the vehicle class in which the exam was conducted on all lower classes, except motorcycles. For example, a driver who takes a skills test in a Class B vehicle would be authorized to operate Class B, C and D vehicles. The person would be required to undergo other skills tests to obtain Class A or M operating privileges.

Special skills tests are required for drivers who seek authority to operate passenger vehicles, school buses or air-brake equipped vehicles.

From time to time, the department needs to conduct special exams of drivers to determine the person's continued ability to drive or capacity to compensate for any functional impairment. The grounds for such examinations and the means by which they are conducted are laid out at length in s. Trans 104.07.

Persons who fail skills tests or special exams are required to wait minimum periods before being retested in order to ensure they have had time to practice their driving skills. In cases where a long delay in retesting would cause hardship to a driver or the driver's family, the Secretary may waive these mandatory waiting periods.

School bus drivers, hazardous materials haulers and specially restricted license holders are subject to repeated skills testing at each license renewal. School bus drivers over age 70 are subject to repeat skills testing every two years.

This proposed rulemaking would not noticeably change the department's current driver testing practices. Its primary effect will be to more clearly codify the procedures and practices currently used by the department to examine drivers.

Fiscal Estimate

The Department estimates that there will be no fiscal effect on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district. The Department estimates that there will be no fiscal effect on state revenues or liabilities.

Initial Regulatory Flexibility Analysis

This proposed rule will have no significant effect on small businesses.

Copies of Proposed Rule

This proposed rule can be obtained upon request, without cost, by writing to Wes Geringer, Wisconsin Department of Transportation, Division of Motor Vehicles, Bureau of Driver Services, P. O. Box 7920, Room 351, Madison, Wisconsin 53707-7920, or by calling (608) 266-0614. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. If you are hearing-impaired and would require an interpreter at the hearing, please make reservations for a hearing interpreter at least 10 days before the hearing by contacting Wes Geringer at the address or phone number above. Also, alternative formats of the proposed rule will be provided to individuals at their request.

Notice of Proposed Rule Department of Transportation

Notice is hereby given that pursuant to the authority of ss. 85.16(1) and 85.20(3), Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending ch. Trans 4 without public hearing unless, within 30 days after publication of this notice, on **December 1, 1995**, the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Questions about this rule and any petition for public hearing may be addressed to Dick Martin, Wisconsin Department of Transportation, Division of Transportation Assistance, Room 701, P. O. Box 7914, Madison, WI 53707-7914, or by calling (608) 266-6812.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1) and 85.20(3)

STATUTE INTERPRETED: s. 85.20

General Summary of Proposed Rule. This proposed rule amends ch. Trans 4 to clarify the definition of "required local contribution" as allowing only state transit aid recipients to contribute the minimum 20 percent local share of state aid and to expressly prohibit private transportation providers under contract with the provider from contributing to such local share. The proposed rule is also amended to clarify that the minimum local share applies to the total amount of transit aids provided to the recipient under the State Urban Mass Transit Operating Assistance Program.

Fiscal Impact

The Department estimates that there will be no substantial fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

Initial Regulatory Flexibility Analysis

This proposed rule should have no significant adverse impact on small businesses.

Copies of Proposed Rule and Contact Person

Copies of this proposed rule are available without cost upon request by writing to Dick Martin, or by calling (608) 266-6812. Alternate formats of the proposed rule will be provided to individuals at their request. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351.

Text of Proposed Rule

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 85.16(1) and 85.20(3), Stats., the department of transportation hereby proposes an order to amend ch. Trans 4, Wis. Adm. Code, interpreting s. 85.20, Stats., relating to Urban Mass Transit Operating Assistance Program.

SECTION 1. Trans 4.06(4) is amended to read:

Trans 4.06(4) Except as provided in sub. (5), each eligible applicant shall provide a local contribution, exclusive of user fees, toward operating expenses in an amount equal to at least 20% of all state allocations to that applicant under this chapter. No in-kind services, federal or state categorical financial aids or passenger revenues are allowed as a part of the local contribution. No part of the local contribution may be paid by a private transportation provider contracting with the applicant public body. The local contribution shall be determined by audit and calculated by subtracting passenger revenues, federal aids and state aids from eligible operating expenses.

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 Milwaukee Sentinel. 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.

EMERGENCY RULES NOW IN EFFECT

Employment Relations—Merit Recruitment & Selection

Rules adopted revising **ch. ER—MRS 22**, relating to layoff procedures for employees in the permanent classified civil service not covered by a collective bargaining agreement.

FINDING OF EMERGENCY

The Division of Merit Recruitment and Selection in the Department of Employment Relations finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The Division of Merit Recruitment and Selection is responsible for promulgating rules relating to layoffs and alternative procedures in lieu of layoff. The layoff procedures in the administrative rules are meant to be fair and understandable to all affected employees. However, the Department has recently learned that the current administrative rules are deficient, because an important alternative procedure in lieu of layoff that was granted to affected employees by the State Legislature was omitted when the layoff procedures were initially promulgated as rules in 1983.

Layoff procedures and alternative procedures in lieu of layoff are integral parts of the classified civil service personnel system as applied to nonrepresented employees. The primary purpose of the layoff procedures and alternative procedures in lieu of layoff is to ensure that when a reduction in force is necessary, the State retains the most well-qualified and experienced employees within the classified civil service. The current layoff procedures do not allow an affected employee to exercise the statutory right of displacing laterally (to a comparable position) as an alternative to layoff. By omitting this right in the administrative rules the State inadvertently may be laying off employees who might otherwise be retained by the State as being the most qualified employees, but for this lack of alternative to displace laterally.

The problem is urgent because numerous permanent positions in the classified civil service are being eliminated because of a reduction in force due to a lack of work or funds or owing to material changes in duties or organization. Incumbents of those targeted positions will soon face critical career decisions and alternatives to termination from state service as outlined in the administrative rules.

The Department believes that the State Legislature intended to provide permanent classified civil service employees with certain employment alternatives to layoff when the State found itself in a position to reduce its

work force. The current administrative rules are deficient and omit an important right that employees are entitled to by law.

Because employee layoffs are occurring and will continue to occur before the Department could promulgate these changes under regular rulemaking procedures, the Department believes a finding of emergency is warranted to preserve the welfare of individual employees and the civil service system.

Publication Date: June 12, 1995
Effective Date: June 12, 1995
Expiration Date: November 9, 1995
Hearing Date: July 26, 1995
Extension Through: January 7, 1996

EMERGENCY RULES NOW IN EFFECT

Wisconsin Gaming Commission

Rules were adopted revising **chs. WGC 9 and 24**, relating to twin trifecta, superfecta and tri-superfecta pools, deduction approvals, animal drug testing, and intertrack and simulcast wagering.

FINDING OF EMERGENCY

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

For FY 1995–96, projected program revenues (breakage, outs, licensee fees, general program operations deductions and forfeitures) other than the pari-mutuel tax will barely exceed the Racing Division's budgeted operating expenses. (NOTE: FY 1994–95 pari-mutuel tax revenues are projected at \$5,200,000; however, this money is deposited directly into the general fund.)

As a result of the increased competition for the gambling dollar, pari-mutuel revenues attributed to greyhound racing in Wisconsin, both to the associations and the state, have been adversely affected. Since the 1990–91 inaugural season and projecting through the end of the 1995 season for each of the four racetracks, the average daily handle has decreased as follows: Wisconsin Dells Greyhound Park – down 58%; Geneva Lakes Kennel Club – down 59%; St. Croix Meadows – down 60%; and Dairyland Greyhound Park – down 44%. (NOTE: Fox Valley Greyhound Park filed bankruptcy and ceased operations on August 12, 1993.)

In conjunction with the decrease in handle, the revenue generated for the state per race performance has also decreased at each of the previously cited facilities.

In an attempt to fund operating expenditures and reduce the revenue shortfall, the Racing Division proposed to implement a variety of measures to increase revenues and decrease expenditures in FY 1995–96.

The pari-mutuel rules being submitted for emergency rule promulgation adopt rules relating to twin trifecta, superfecta, and tri-superfecta pools, deduction approvals, animal drug testing, and intertrack and simulcast wagering.

The current rules for the twin trifecta and the tri-superfecta do not allow the racetracks to cap the jackpot level and form a secondary jackpot for a subsequent payout. The cap and seed feature may generate an additional \$25,000 in handle which will result in approximately \$670.00 in general fund money and \$185.00 in program revenues.

The new superfecta rules are created to establish the progression of payouts regarding the order of finish in superfecta pools. The three proposed rules were inadvertently omitted from orders of finish provided for under current WGC 9.12 (4), Wis. Adm. Code. There will be no increase in revenues as a result of this rule.

WGC 9.17 is created to form a regulatory framework that would require the racetracks to seek approval from the Commission prior to implementing any deduction rate changes in accordance with Wisconsin Statutes.

WGC 14.11 currently requires that the winning greyhound plus a random greyhound be subject to drug testing after each race. The amended rule will require that one greyhound (as determined by the Commission) shall be subject to drug testing.

Current Wis. Adm. Code ch. WGC 24 pertains mainly to intertrack wagering. With the passage of 1995 Assembly Bill 150, unlimited simulcasting is available to Wisconsin greyhound racetracks. Wisconsin greyhound racetracks will now be allowed to accept greyhound and horse races from out-of-state racetracks and offer wagering on these races to Wisconsin patrons. Chapter WGC 24, Wis. Adm. Code, created and amends the duties and responsibilities for Wisconsin racetracks when functioning as either the host or guest track during simulcasting and the commingling of wagering pools.

Publication Date: August 25, 1995
Effective Date: August 25, 1995
Expiration Date: January 22, 1996
Hearing Date: September 11, 1995

EMERGENCY RULES NOW IN EFFECT (2)

Health and Social Services

(Community Services, Chs. HSS 30--)

1. Rules were adopted creating **ch. HSS 38**, relating to treatment foster care for children.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 182 (1) of 1993 Wis. Act 446 directed the Department to promulgate rules under s. 48.67 (1), Stats., as amended by Act 446, for licensing treatment foster homes, to take effect on September 1, 1994, by using the emergency rule making procedures under s. 227.24, Stats., but without having to make a finding of emergency. They will remain in effect until replaced by permanent rules.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

This rule making order implements s. 48.67 (1), Stats., as amended by 1993 Wis. Act 446, which directs the Department to promulgate rules establishing minimum requirements for issuing licenses to treatment foster homes, including standards for operation of those homes.

Treatment foster care is a family-based and community-based approach to substitute care and treatment for children who are medically needy or emotionally disturbed and for some developmentally disabled children, and could be an alternative to institutionalization for some children. Treatment foster care is provided in a foster home by foster parents who meet education and training requirements which exceed the requirements for regular foster care, and by social service, mental health and other professional staff.

A number of public and private agencies have recently begun providing "treatment foster care," but since there are no standards currently for this type of care, those programs vary considerably in the type and quality of services they provide. These rules establish minimum standards that agencies, professional staff and foster parents would have to meet in order to claim that they are providing treatment foster care.

The rules require treatment foster homes to comply with ch. HSS 56 for regular foster homes except when there is a conflict between a provision of these rules and ch. HSS 56, in which case these rules take precedence.

The rules cover making application to a licensing agency for a treatment foster home licensee, licensee qualifications, licensee responsibilities,

respite care for foster parents, responsibilities of the providing agency, the physical environment of a treatment foster home, care of the children and training for treatment foster parents.

Publication Date: September 1, 1994
Effective Date: September 1, 1994
Expiration Date: 1993 Wis. Act 446, s. 182
Hearing Dates: January 24, 25 & 26, 1995

2. Rules adopted amending **ch. HSS 82** and creating **ch. HSS 88**, relating to licensed adult family homes.

FINDING OF EMERGENCY

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

A recent session law, 1993 Wis. Act 327, created ss. 50.01 (1) (b) and 50.033, Stats., which establish a new type of adult family home as a regulated residential placement. Until now the only type of adult family home for 3 or 4 adults was one that was originally licensed under s. 48.62, Stats., as a foster home for 3 or 4 developmentally disabled children prior to the children becoming adults and is now certified under s. 50.032, Stats., and ch. HSS 82. An adult family home covered by s. 50.033, Stats., as created by Act 327, is to be a licensed home providing care, treatment or services above the level of room and board but not including nursing care to 3 or 4 residents.

Licensed adult family homes before November 1, 1994, were regulated as 3- and 4-bed community-based residential facilities (CBRFs). Act 327, effective November 1, 1994; renamed them adult family homes, so that they no longer came under Department rules for CBRFs, ch. HSS 3. For the period November 1, 1994, through May 31, 1995, Act 327 provided that licensed adult family homes were to be regulated under ch. HSS 82, rules for certified adult family homes, and directed the Department to promulgate rules specifically for licensed adult family homes and to have these take effect on June 1, 1995.

These are the rules required under s. 50.02 (2) (am) 2., Stats., for licensed adult family homes. They are being published as emergency rules to protect the health and safety of residents. The rules must be in effect by June 1, 1995. No one may operate this type of adult family home unless licensed under Department rules. Department use of ch. HSS 82 rules may not continue after May 31, 1995. Nearly identical permanent rules were submitted to the Legislative Council on April 21, 1995, but the permanent rule-making process will not be completed until late 1995.

An adult family home under s. 50.033, Stats., must be licensed under the Department rules by an agency of the county in which the home is located or by the Department if no agency in that county has been designated by the county board to license adult family homes. An adult family home will be licensed if it is found to comply with the statute and these rules. The rules establish procedures for applying for licensure, reviewing and approving an application, licensing a home and delicensing a home; list requirements for licensees; include standards and requirements for the home, the agreement for services, the individualized service plan, resident care and termination of placement; and establish resident rights, provide for a grievance procedure for residents and provide for reporting of known or suspected resident abuse or neglect and for investigation of those reports.

This rule-making order also amends ch. HSS 82, the Department's rules for certified adult family homes under s. 50.032, Stats., to clearly distinguish the standards for certified adult family homes from the standards for licensed adult family homes.

Publication Date: June 1, 1995
Effective Date: June 1, 1995
Expiration Date: October 29, 1995
Hearing Dates: June 13 & 15, 1995
Extension Through: December 27, 1995

EMERGENCY RULES NOW IN EFFECT (2)

Health and Social Services

(Health, Chs. HSS 110--)

1. Rules adopted creating **s. HSS 110.045**, relating to qualifications of ambulance service medical directors.

FINDING OF EMERGENCY

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

Ambulance service providers are required under rules of the Department to have medical directors if they use emergency medical technicians (EMT's)—intermediate or EMT's—paramedic for the delivery of emergency care or if they use EMT's—basic qualified under s. HSS 110.10 to administer defibrillation or under s. HSS 110.11 to use advanced airways.

There are about 450 ambulance service providers in Wisconsin. About 400 of them have medical directors.

Section 146.50 (8m), Stats., provides that, beginning July 1, 1995, no ambulance service provider offering services beyond basic life support may employ, contract with or use the services of a physician to act as medical director unless the physician is qualified under the rules promulgated by the Department.

This new section of ch. HSS 110 is being published by emergency order to protect public health and safety. The Department's rules for emergency medical technicians require that an ambulance service offering services beyond basic life support have a medical director, and s. 146.50 (8m), Stats., provides that, beginning July 1, 1995, no one may serve as a medical director unless qualified under rules promulgated by the Department. The rules must be in effect by July 1, 1995, so that ambulance service providers will not be forced to stop providing services beyond basic life support pending promulgation of permanent rules. The permanent rules will not likely take effect before March 1, 1996.

These rules require that a person serving as medical director be licensed under ch. 448, Stats., as a physician to practice medicine and surgery.

This qualification for ambulance service medical directors is intentionally minimal. In some areas of the state there are few physicians, which has meant that some ambulance service providers have appointed a general practitioner or a family practitioner to be medical director. If the Department in this order established additional qualifications for medical directors at this time, some local ambulance service providers would not be able to find a physician to serve as medical director and could be forced out of business, leaving those areas of the state without emergency medical services beyond basic life support services. This is what the Department has been told by several physicians, with confirmation by the Emergency Medical Services (EMS) program's Physician Advisory Committee and the new Emergency Medical Services Board (the EMS Advisory Board) under s. 146.58, Stats.

In the permanent rules that will replace these emergency rules in March 1996, the Department will add a qualification that a medical director have completed a course of instruction developed by the Department on the role and responsibilities of the medical director. By then, the Department will have issued a manual on the role and responsibilities of ambulance service medical directors. The course of instruction will be based on the manual.

Publication Date: July 1, 1995
Effective Date: July 1, 1995
Expiration Date: November 28, 1995
Hearing Dates: October 16 & 18, 1995

2. Rules adopted revising **chs. HSS 152, 153 and 154**, relating to estate recovery under certain aid programs.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 9126 (32g) (b) of 1995 Wis. Act 27 directed the Department to promulgate rules for implementation of s. 49.482 (5), Stats., as created by Act 27, using emergency rulemaking procedures, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

1995 Wis. Act 27 created s. 49.482, Stats., to require the Department to file a claim against the estate of a person who received assistance under s. 49.48, Stats., and ch. HSS 152 in paying for treatment of chronic renal disease, under s. 49.483, Stats., and ch. HSS 154 in paying the medical costs of adult cystic fibrosis, or under s. 49.485, Stats., and ch. HSS 153 in paying for blood products and supplies used in the home treatment of hemophilia, or against the estate of the surviving spouse of a person who received the assistance.

Section 49.482 (5), Stats., as created by Act 27, requires the Department to promulgate rules that establish standards for determining whether the recovery of the assistance would work an undue hardship in individual cases. If an undue hardship is found to exist, the Department is directed to waive application of the recovery requirement in that case.

This rulemaking order contains standards on the basis of which the Department will decide if recovery of assistance from the estate of a recipient or the estate of the recipient's surviving spouse would constitute an undue hardship in individual cases. If an undue hardship is found to exist, the Department is directed to waive application of the recovery requirement in that case.

This rulemaking order contains standards on the basis of which the Department will decide if recovery of assistance from the estate of a recipient or the estate of the recipient's surviving spouse would constitute an undue hardship to an heir or beneficiary of the estate. The order also establishes the application and review processes for an undue hardship waiver and the applicant's appeal rights. The provisions are identical to those currently used for undue hardship waivers from estate claims made to recover Medical Assistance benefits.

Publication Date: October 31, 1995
Effective Date: November 1, 1995
Expiration Date: March 30, 1996

EMERGENCY RULES NOW IN EFFECT

Health & Social Services

(Youth Services, Chs. HSS 300--)

- Rules were adopted revising **ch. HSS 343**, relating to youth aftercare conduct and revocation.

FINDING OF EMERGENCY

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

Youths released from juvenile correctional institutions are ordinarily released to a status called "aftercare," which means that for a period of time after release they are supervised in the community by agents of the Department or of a county department of social services or human services. About 1,030 youth are on aftercare supervision in Wisconsin at any one time.

Administrative rules relating to the expected conduct of youth on aftercare supervision and to actions that an agent may take in response to a youth's alleged violation of a rule or special condition of aftercare, including initiation of proceedings to revoke the aftercare status of a youth on state after care or to file a petition for change in placement for a youth on county aftercare, and return the youth to the correctional institution, are found in ch. HSS 343, Wis. Adm. Code.

This rulemaking order repeals and recreates ch. HSS 343 to implement changes made effective July 1, 1995 by 1993 Wis. Act 385 in provisions of ch. 48, Stats., relating to the administration of aftercare.

The principal change made by Act 385 in the administration of aftercare is to permit a county department providing aftercare supervision for a youth to revoke the youth's aftercare using the administrative revocation procedure currently used by the Department and set out in ch. HSS 343.

Act 385 also directs the Department to promulgate rules setting standards to be used by a hearing examiner to determine whether to revoke a youth's aftercare. There are already standards in ch. HSS 343. These are updated by this order and made to apply also to county revocation cases.

Rule changes are necessary so that the rules of conduct for youth on either state or county aftercare supervision are the same and so that standards and procedures for dealing with violations of the expected conduct, including procedures to revoke a youth's aftercare status, are also the same.

The rule changes are being made by emergency order on public safety and welfare grounds because beginning July 1, 1995, when the Act 385 changes in ch. 48, Stats., are effective, a county responsible for the aftercare supervision of a youth may no longer petition the court for a change in placement to return the youth to a correctional institution for a violation of a condition of aftercare, but will be expected to seek revocation through the same administrative process that the Department uses. To enable counties to use that administrative process, the Department's administrative rules that establish procedures and criteria for revocation of aftercare must be modified immediately to add county aftercare.

A revocation hearing must be conducted within 30 days after a youth is taken into custody for an alleged violation. However, the time limit may be waived on the agreement of the aftercare provider, that is, the Department or county, the youth and the youth's attorney, if any. The party seeking revocation must prove to a hearing examiner, by a preponderance of the evidence, that the youth violated a condition of his or her aftercare. The hearing examiner determines whether to revoke a youth's aftercare and whether a youth found to have violated a condition of his or her aftercare needs to be confined in order to protect the public or to provide for the youth's rehabilitation.

Publication Date: June 21, 1995
Effective Date: July 1, 1995
Expiration Date: November 28, 1995
Hearing Date: July 27, 1995

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Petroleum Products, Ch. ILHR 48)

Rules were adopted revising **ch. ILHR 48**, relating to labeling of oxygenated fuels.

FINDING OF EMERGENCY

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

1995 Wis. Act 51 requires reformulated fuels to be labeled with the oxygenate that they contain. The labels are to be constructed and displayed in a manner specified by the department by rule. The act takes effect on the 14th day after the day of publication.

In order to permit compliance with the law, the department must adopt rules using the emergency rule procedure.

Publication Date: September 13, 1995
Effective Date: September 13, 1995
Expiration Date: February 10, 1996
Hearing Date: November 15, 1995

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Building & Heating, etc., Chs. ILHR 50-64)
 (Multi-Family Dwellings, Ch. ILHR 66)

Rules were adopted revising **chs. ILHR 57 & 66**, relating to multifamily dwellings.

FINDING OF EMERGENCY

The Department of Industry, Labor and Human Relations finds that an emergency exists and that adoption of a rule is necessary for the immediate preservation of public health, safety and welfare.

The facts constituting the emergency are as follows. As required by ss. 101.14 (4m) and 101.971 to 101.978, Stats., the Department adopted rules earlier this year establishing uniform construction standards for multifamily dwellings. The rules include some minor technical provisions which have been difficult to apply and which are needlessly disrupting new construction.

The proposed rules essentially reinstate the existing requirements that applied to smaller apartments prior to adoption of the current rules, and clarify and simply other problematic minor technical provisions.

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

Publication Date: August 14, 1995
Effective Date: August 14, 1995
Expiration Date: January 11, 1996
Hearing Date: December 11, 1995
 [See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Barrier-Free Design, Ch. ILHR 69)

Note: On August 17, 1995 the Joint Committee for Review of Administrative Rules suspended this emergency rule.

A rule was adopted amending **s. ILHR 69.18 (4)**, relating to barrier-free design unisex toilet rooms.

FINDING OF EMERGENCY

The Department of Industry, Labor and Human Relations finds that an emergency exists within the state of Wisconsin that will affect the peace and welfare of its citizens. A statement of the facts constituting the emergency is:

1. In accordance with s. 101.13, Stats., the Department of Industry, Labor and Human Relations has the responsibility for developing rules ensuring access to and use of public buildings and places of employment by people with disabilities.

2. On December 1, 1994, ch. ILHR 69, Barrier-Free Design, became effective. Section ILHR 69.18 (4) (b) requires that new and remodeled buildings be provided with at least one unisex toilet room in addition to the required number of toilet fixtures in the following occupancies;

- a. All shopping malls or shopping centers;
- b. Rest-area building located off of major highways;
- c. Schools;
- d. Restaurants with a capacity of 100 or more people; or
- e. Large assembly areas such as, but not limited to, stadiums and outdoor or indoor theaters, with a capacity of more than 100 persons.

3. The purpose of the unisex toilet room requirement is to provide a toilet room to accommodate people with disabilities having attendants of the opposite sex and to accommodate families with children.

4. There has been public concern that minimum capacity for requiring a unisex toilet room in restaurants and assembly halls should be increased.

There are many chain-type restaurants where the basic design used throughout the nation could not accommodate the installation of a unisex toilet room in addition to the standard toilet rooms. Modifications to include a unisex toilet room would eliminate usable floor areas from either the employment area or the business area.

5. This emergency rule is being created to exempt certain sized restaurants and theaters and assembly halls from making major building design changes to accommodate a unisex toilet room.

Publication Date: July 17, 1995
Effective Date: July 17, 1995
Expiration Date: December 14, 1995

EMERGENCY RULES NOW IN EFFECT (2)

Insurance

Note: On August 17, 1995, the Joint Committee for Review of Administrative Rules suspended a portion of this emergency rule relating to service corporations.

1. Rules adopted revising **ch. Ins 17**, relating to the patients compensation fund.

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:

The commissioner was unable to promulgate a permanent rule corresponding to this emergency rule 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, 1995. The amount of the fees established by this rule could not be determined until after the governor signed 1995 Wis. Act 10, which imposes a \$350,000 cap on noneconomic damages in medical malpractice actions and therefore affects the level of funding needed for the fund.

The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect October 1, 1995. Because this rule first applies on July 1, 1993, it is necessary to promulgate the rule on an emergency basis.

Publication Date: June 14, 1995
Effective Date: June 14, 1995
Expiration Date: November 11, 1995
Hearing Date: July 21, 1995
Extension Through: December 10, 1995

2. Rules adopted amending **ss. Ins 6.57 (4), 6.58 (5) (a) and 6.59 (4) (a)**, relating to the fees for listing insurance agents and renewal of corporation licenses and other licensing procedures.

FINDING OF EMERGENCY

The Commissioner of Insurance finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows: In the biennial budget passed by the legislature, the permissible fees collected by OCI were raised for certain activities. The implementation of the increased fees require a rule change. These increased fees were utilized in preparing OCI's budget. Without the increased fees, OCI may not have the revenue needed to balance its budget. The normal rulemaking procedure has been started but, even without unforeseen delays, the changes will not take effect until near the end of the current fiscal year. Therefore, it is necessary to

change the rules with an emergency rule in order to provide adequate and necessary revenues.

Publication Date: October 9, 1995
Effective Date: October 9, 1995
Expiration Date: March 8, 1996

EMERGENCY RULES NOW IN EFFECT

Natural Resources

(Fish, Game, etc., Chs. NR 1--)

Rules adopted revising **ch. NR 10**, relating to the 1995 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 into 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.

The foregoing rules are approved and adopted by the Natural Resources Board on August 18, 1995.

Publication Date: September 1, 1995
Effective Date: September 1, 1995
Expiration Date: January 29, 1996
Hearing Date: October 16, 1995

EMERGENCY RULES NOW IN EFFECT (2)

State Public Defender

1. Rules adopted creating **s. PD 3.039**, relating to redetermination of indigency.

FINDING OF EMERGENCY

The State Public Defender Board 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:

It is essential that the Office of the State Public Defender that only eligible persons receive agency services and that persons determined to be eligible remain eligible during the pendency of representation. The proposed rule is needed to establish authority for the agency to redetermine indigency when a person has a change in financial circumstances during the course of representation and to withdraw from representation if a person is determined non-indigent and ineligible for services during the course of representation. Without the proposed rule, persons who become non-indigent during representation could continue to receive agency representation, which would not serve the public interest.

Publication Date: August 29, 1995
Effective Date: August 29, 1995
Expiration Date: January 26, 1996
Hearing Date: September 26, 1995

2. Rules adopted revising **ch. PD 6**, relating to repayment of cost of legal representation.

FINDING OF EMERGENCY

The State Public Defender Board finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace,

health, safety or welfare. The statement of facts constituting the emergency is as follows:

It is essential that the Office of the State Public Defender collect for the cost of representation from persons who have the present or future ability to reimburse the agency for the cost of providing counsel. The proposed rules are needed for the agency to establish fixed amounts as flat payments for the cost of representation that a person may elect to pay. The rules are also needed to establish authority for the agency to collect for the cost of representation from parents of juveniles who received services, unless the parents have been determined to be indigent. The 1995-97 biennial budget calls upon the agency to collect approximately \$2.9 million from clients in the first year of the biennium and approximately \$3.3 million in the second year of the biennium. Thus, it serves the public interest that the proposed emergency rules be created.

Publication Date: August 31, 1995
Effective Date: August 31, 1995
Expiration Date: January 28, 1996
Hearing Date: September 26, 1995

EMERGENCY RULES NOW IN EFFECT (3)

Public Instruction

1. Rules adopted revising s. PI 11.07, relating to transfer pupils with exceptional educational needs (EEN).

FINDING OF EMERGENCY

Currently school districts and Department of Health and Social Services (DHSS) operated facilities are not required by rule to implement an exceptional education needs (EEN) transfer pupil's Individualized Educational Program (IEP) from the sending district or facility nor are they permitted to formally adopt the M-team evaluation and IEP from the sending district. This results in an interruption of special education and related services for such transfer pupils identified as having an EEN. The interruption of services is prohibited by federal law under the Individuals with Disabilities Education Act.

The emergency rules require school districts and facilities implement an EEN transfer pupil's IEP from the sending school or facility. The emergency rules also allow the receiving school district or facility to adopt the sending district or facility's M-team evaluation and IEP.

Therefore, the state superintendent finds that an emergency exists and that promulgation of emergency rules is necessary to preserve the public health and welfare.

Publication Date: April 24, 1995
Effective Date: April 24, 1995
Expiration Date: September 21, 1995
Hearing Dates: July 19 & 20, 1995
Extension Through: January 19, 1996

2. Rules adopted revising chs. PI 3 and 4, relating to substitute teacher permits, special education program aide licenses, principal licenses and general education components.

FINDING OF EMERGENCY

Current rule requirements relating to substitute teacher permits and special education program aide licenses are prescriptive and, in some cases, have caused a shortage of qualified individuals to teach as substitutes or special education aides. The emergency rule provides flexibility in licensing and hiring qualified substitute teachers, special education aides, and principals.

Current rule requirements provide for two levels of school principal licensure, with different requirements for each level. The two levels of licensure are "elementary/middle level" and "middle/secondary level." 1995 Wisconsin Act 27 (the 1995-97 biennial budget bill) provides that a school principal license must authorize the individual to serve as a principal for any

grade level. The emergency rule conforms principal licensure rules with statutory language requirements.

Current provisions relating to general education components/professional education program requirements are overly prescriptive for campuses. The UW-System has initiated a requirement that puts a ceiling on the number of credits in an undergraduate program (140) and the department is moving to a performance-based approach to licensing where the knowledge and skills of license candidates will be assessed rather than just counting the credits that they have taken in college. The emergency rule provides flexibility for university systems to offer quality educational programs without prescribing what must or must not be included in their general education component.

In order for teachers to apply for or renew a substitute teacher permit, special education aide license or principal license to be effective for the upcoming school year (licenses are issued July 1 through June 30) and for schools to hire qualified staff from a sufficient pool of applicants, rules must be in place as soon as possible. Also, in order to allow the UW-system more flexibility to offer education programs for the upcoming school year, rules need to be in place as soon as possible.

Therefore, the state superintendent finds that an emergency exists and that promulgation of emergency rules is necessary to preserve the public welfare.

Publication Date: August 21, 1995
Effective Date: August 21, 1995
Expiration Date: January 18, 1996
Hearing Date: November 1, 1995

3. Rules adopted creating s. PI 11.13(4) and (5), relating to interim alternative educational settings for children with EEN who bring firearms to school.

FINDING OF EMERGENCY

In order to apply the new federal "stay-put" exception in Wisconsin, as described in the analysis and relating to children with EEN who bring a firearm to school, the administrative rule regarding placement of children during due process proceedings must be changed and in place before the next school year begins.

Therefore, the state superintendent finds that an emergency exists and that promulgation of emergency rules is necessary to preserve the public welfare.

Publication Date: August 21, 1995
Effective Date: August 21, 1995
Expiration Date: January 18, 1996
Hearing Dates: November 1 & 7, 1995

EMERGENCY RULES NOW IN EFFECT

Regulation and Licensing

- Rules adopted amending s. RL 2.02, and creating ch. RL 9, relating to establishing a procedure for determining whether an applicant for credential renewal is liable for any delinquent taxes.

FINDING OF EMERGENCY

Under statutes created by 1995 Wis. Act 27, the Department of Regulation and Licensing must deny applications for license renewal filed by applicants who are liable for delinquent state taxes. These provisions first apply to applications submitted to the Department of Regulation and Licensing or to an examining board or affiliated credentialing board attached to the department to renew credentials that expire on or after January 1, 1996.

Section 440.03 (12), Stats., as created by 1995 Wis Act 27, requires the department to establish a procedure for making a determination concerning the liability of credential holders for delinquent taxes owned to this state. Newly created s. 440.08 (2r), Stats., provides that before granting an application to renew a credential issued under chs. 440 to 480, Stats., the department shall determine in accordance with the procedure established

under s. 440.03 (12), Stats., whether the applicant for a credential renewal is liable for any delinquent taxes owned to this state. If the department determines that an applicant is liable for any delinquent taxes owed to this state, the department is required to deny the application, subject to the right of the applicant to have the denial reviewed at a hearing before the department.

Because the treatment of these provisions first apply to renewals applications that expire on or after January 1, 1996, and the department has determined that there are at least 40,000 credential holders whose credential will expire on January 1, 1996, preservation of the public peace, health, safety or welfare necessitates putting these rules into effect prior to the time it would take effect if the department complied with the notice, hearing and publication requirements set forth in ch. 227, Stats.

In this order the Department of Regulation and Licensing creates ch. RL 9 to establish a procedure for making the determination whether an applicant for credential renewal is liable for any delinquent taxes owned to this state and to describe the procedures available to a credential holder whose application for renewal is denied because the applicant is liable for delinquent state taxes.

The proposed rules define terms including "liable for any delinquent taxes owned to this state," the term used in ss. 440.03 (12) and 440.08, Stats., as created by 1995 Wis. Act 27. The rules describe the method to be used for determining whether an applicant for renewal is liable for delinquent taxes. Under the procedures, the name and social security number or federal employer identification number of an applicant is compared with information at the Wisconsin Department of Revenue to identify individuals and organizations liable for delinquent taxes. If an applicant is identified as owing taxes, a notice is mailed to the applicant stating that the application shall be denied unless delinquent taxes are paid within 10 days. If delinquent taxes are not paid following a notice of intent to deny or if an applicant fails to complete an application form, the department shall deny the renewal application.

The rules provide for an applicant who has been denied renewal because of liability for delinquent taxes to request a hearing. Procedural rules include rules governing a notice of hearing, service of documents and the conduct of the hearing.

Publication Date: November 14, 1995
Effective Date: November 14, 1995
Expiration Date: April 13, 1996

EMERGENCY RULES NOW IN EFFECT

State Fair Park

Rules were adopted revising **chs. SFP 1 to 7**, relating to the regulation of activities at the state fair park.

FINDING OF EMERGENCY AND RULE ANALYSIS

The Wisconsin State Fair Park Board finds that an emergency exists and that the adoption of rules is necessary for the immediate preservation of the public peace, health, safety and welfare of its citizens. The facts constituting this emergency are as follows:

During the annual State Fair, which is scheduled to begin on August 3, 1995, the Wisconsin State Fair Park is host to over 100,000 people per day and millions of dollars in merchandise and property. Initially, chs. SFP 1-7 were designed primarily to protect the property of the State Fair Park.

However, crime patterns at the State Fair Park have changed dramatically since those rules adopted in 1967. With the increases in attendance and number of events in the intervening years, the number and severity of crimes against State Fair visitors, patrons, and property have

necessarily increased. Also, a general rise in gang-related activity at Park events and during skating hours at the Pettit National Ice Center has occurred over the last several years. Consequently, there is a greater need for Park Police Department arrest authority on the Park grounds in order to ensure prosecutorial cooperation by Milwaukee County.

Due to excessive workloads, the Milwaukee County District Attorney's Office and the Milwaukee County Circuit Court System are reluctant to process and charge offenders for relatively minor property-type acts prohibited under the current SFP rules. Area and suburban Milwaukee County Police Departments have alleviated similar problems by conforming their ordinances to the county and state codes, authorizing their Police Departments to make lawful standing arrests for acts which the county will prosecute.

The State Fair Park Board seeks the same level of cooperation from Milwaukee County by conforming its rules to the county code. Therefore, these proposed emergency rules prohibit such activities as loitering, spray painting, theft, battery, and resisting/obstructing an officer, as well as various weapons prohibitions. There is also included provisions to protect the police horses, which are not only an integral part of Park enforcement but are also a major public relations tool. With these changes, the Park administration can ensure a safe and family-oriented environment at this year's State Fair and other Park events.

Publication Date: August 2, 1995
Effective Date: August 2, 1995
Expiration Date: December 30, 1995

EMERGENCY RULES NOW IN EFFECT

Commissioner of Transportation [Commissioner of Railroads]

Rules adopted revising **ch. OCT 5**, relating to intrastate railroad rate regulation.

FINDING OF EMERGENCY

The office of the commissioner of railroads (OCR) finds that an emergency exists and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

By state law, the OCR regulates intrastate rail rates. Every five years, the Interstate Commerce Commission (ICC) must certify that the OCR's rules conform to federal law. The OCR's current certification expires on September 23, 1995. These rules conform the rules to changes in federal law. The rule changes need to be in effect so that the OCR can submit them to the ICC for its approval by the certification's expiration date. If the OCR follows the non-emergency procedures to adopt these rule changes, the rules would not be in effect in time for the ICC to recertify the OCRF before expiration.

The OCR did not commence these proceedings earlier because the governor's 1995-1997 budget proposed to eliminate the OCR and repeal the statutes authorizing intrastate rate regulation. While final action on the budget is not complete, the legislature's Joint Committee on Finance has adopted a motion to retain the OCR and its regulatory authority. The OCR intends to adopt these rules as permanent and is commencing that process concurrently with the adoption of these emergency rules.

Publication Date: July 6, 1995
Effective Date: July 14, 1995
Expiration Date: December 11, 1995
Hearing Date: October 6, 1995

EMERGENCY RULES NOW IN EFFECT***Department of Transportation***

A rule was adopted amending s. Trans 4.06 (4), relating to the Urban Mass transit Operating Assistance Program.

FINDING OF EMERGENCY

Under the current administrative rule, ch. Trans 4, recipients of state transit aid must contribute a minimum local share of 20% towards such aid. Under current practice, private transportation providers who contract with

the recipient have been permitted to contribute the local share. Public policy considerations require amendment of the rule to make certain that only the recipient is permitted to contribute the local share of transit aid.

The Wisconsin Department of Transportation finds that an emergency exists regarding the public welfare. Without the emergency rule, there would be insufficient lead time for recipients to respond to the rule's impact on their budgets. Also, additional lead time may be required for recipients to re-bid contracts with private transportation providers, if necessary.

Publication Date: September 28, 1995
Effective Date: September 28, 1995
Expiration Date: February 25, 1996
Hearing Date: November 3, 1995

**NOTICE OF SUBMISSION OF PROPOSED RULES TO THE PRESIDING OFFICER OF
EACH HOUSE OF THE LEGISLATURE, UNDER S. 227.19, STATS.**

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

Development (CR 95-164):

Ch. DOD 13 – Relating to a volume cap on private activity bonds.

Industry, Labor and Human Relations (CR 95-172):

Ch. ILHR 272 – Relating to the minimum wage, subminimum wage licenses for rehabilitation facilities and employment in home care premises.

Insurance, Office of the Commissioner of (CR 94-24):

SS. Ins 3.49, 4.10 & 17.001 and chs. Ins 5 and 18 – Relating to administrative procedures for contested cases under the jurisdiction of the Office of the Commissioner of Insurance and related boards.

Insurance, Office of the Commissioner of (CR 95-175):

SS. Ins 6.57 (4), 6.58 (5) (a) and 6.59 (4) (a) – Relating to the fees for listing insurance agents, fees for the renewal of corporation licenses and other licensing procedures.

Medical Examining Board (CR 95-78):

SS. Med 19.02, 19.03 and 19.08 – Relating to occupational therapists and occupational therapy assistants.

Natural Resources (CR 93-203):

Ch. NR 203 – Relating to changes to public notice procedures for nonsubstantive WPDES permit modifications.

Natural Resources (CR 95-76):

Chs. NR 700, 708, 712, 714, 716, 718, 720, 722, 724, 726, 728 and 750 – Relating to assessment and collection of fees and the establishment of application and review procedures for the contaminated lands recycling program.

Natural Resources (CR 95-77):

S. NR 1.40 (2) – Relating to Natural Resources Board policies for land acquisition.

Natural Resources (CR 95-91):

S. NR 728.11 – Relating to actions taken by the Department to implement chs. NR 700 to 736.

Natural Resources (CR 95-108):

Ch. NR 120 – Relating to nonpoint source pollution abatement program.

Natural Resources (CR 95-132):

SS. NR 1.21, 1.212 and 1.213 – Relating to the administration of private forestry assistance.

Pharmacy Examining Board (CR 95-135):

SS. Phar 6.02 (1m), 8.05 (4) and 13.02 (11) (f) – Relating to licensing outpatient hospital pharmacies, to the time in which a controlled substance listed in schedule II must be dispensed; and to exempting certain pharmacies from the distributor licensing requirements when selling prescription drugs to practitioners for office dispensing.

Transportation, Dept. of (CR 91-98):

SS. Trans 149.03, 149.04 & 149.06 and chs. MVD 5 & Trans 305 – Relating to standards for vehicle equipment.

Veterans' Affairs (CR 95-160):

SS. VA 2.01 and 2.03 – Relating to the health care aid grant and retraining grant programs.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

The following administrative rules 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 of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.

Agriculture, Trade & Consumer Protection (CR 95-57):

An order affecting ss. ATCP 92.01, 92.02 and 92.03, relating to commercial weighing and measuring devices.

Effective 01-01-96.

State Emergency Response Board (CR 95-51):

An order repealing and recreating ch. ERB 4, relating to hazardous material transportation registration and fee.

Effective 12-01-95.

Employment Relations--Division of Merit Recruitment and Selection (CR 95-101):

An order affecting ss. ER-MRS 22.02, 22.08 and 22.09, relating to layoff procedures for employes in the permanent classified civil service not covered by a collective bargaining agreement.

Effective 01-01-96.

Environmental Education Board (CR 95-5):

An order affecting ss. EEB 2.03, 2.04 and 2.05, relating to Environmental Education Board grants.

Effective 01-01-96.

Health & Social Services (CR 94-200):

An order amending ch. HSS 50 (title) and repealing and recreating ch. HSS 51, relating to adoption of children with special needs.

Effective 01-01-96.

Insurance, Office of the Commissioner of (CR 95-129):

An order affecting chs. Ins 41 & 50 and ss. Ins 52.02, 52.03 & 52.05, relating to changes in rules governing financial regulation of insurers and reinsurers and risk retention and purchasing groups.

Effective 01-01-96.

Public Instruction (CR 95-84):

An order affecting ss. PI 11.04 and 11.07, relating to collaborative agreements for multidisciplinary team membership and transfer pupils with exceptional educational needs (EEN).

Effective 01-01-96.

Savings & Loan, Office of the Commissioner of (CR 94-169):

An order affecting s. SB 16.03, relating to authorizing savings banks to invest their funds in specified financial products.

Effective 01-01-96.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Health & Social Services (CR 95-067)

SS. HSS 201.055 & 201.28 (4m) – Emergency assistance for low-income families under the Aid to Families with Dependent Children (AFDC) program.

Summary of Final Regulatory Flexibility Analysis:

These rules will not affect small businesses, as “small business” is defined in s. 227.114 (1) (a), Stats. The rules relate to county and tribal administration of a state and federal program.

Summary of Comments:

No comments were reported.

2. Industry, Labor & Human Relations (CR 94-172)

Chs. ILHR 20-25 – Uniform Dwelling Code.

Summary of Final Regulatory Flexibility Analysis:

In accordance with s. 101.63 (5), Stats., the department has the responsibility to review the Uniform Dwelling Code every two years. The proposed rules of Clearinghouse Rule No. 94-172 are based on the latest review. Input was received from small businesses through the Uniform Dwelling Code Council and at public hearings. The proposed rules should result in no additional costs or measures by small businesses, the department or the public.

Summary of Comments:

The rules were reviewed by the Assembly Committee on Housing and the Senate Committee on Human Resources, Labor, Tourism, and Veterans and Military Affairs. No comments were received.

3. Commissioner of Insurance (CR 95-043)

S. Ins 6.63 (1) & Ch. Ins 28 – Requiring continuing education for insurance intermediaries.

Summary of Final Regulatory Flexibility Analysis:

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses and therefore a final regulatory flexibility analysis is not required.

Summary of Comments:

The legislative standing committees had no comments on this rule.

4. Medical Examining Board (CR 95-050)

S. Med 13.03 – Biennial training requirement for physicians.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

5. Natural Resources (CR 95-028)

Ch. NR 45 – State land use regulations.

Summary of Final Regulatory Flexibility Analysis:

The rules pertain to individuals using state lands and do not regulate small business. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Tourism and Recreation and the Senate Committee on Environment and Energy. There were no comments.

6. Natural Resources (CR 95-029)

S. NR 10.01 (2) (g) – Crow hunting.

Summary of Final Regulatory Flexibility Analysis:

The rules regulate individual hunters; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and energy. On June 22, 1995, the Senate Committee held a public hearing and requested the Department to modify the rule to reduce the proposed daily bag limit to 10 and to evaluate the hunting season after its initial year.

On July 12, 1995, the Assembly Committee held a public hearing and requested the Department to modify the rule to reduce the proposed daily bag limit to 15. On July 19, 1995, the Natural Resources Board modified the rule to reduce the bag limit to 15 and to mandate a study at the end of the initial season. No further comments were received from the committees.

7. Natural Resources (CR 95-033)

SS. NR 20.02, 20.03 & 20.04 – Sport fishing.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules regulate individual fishers; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments:

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

8. Natural Resources (CR 95-034)

Chs. NR 20 & 26 – Sport fishing and fish refuges.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules regulate individual fishers; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

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

9. Natural Resources (CR 95-075)

S. NR 20.03 – Hook and line sturgeon angling.

Summary of Final Regulatory Flexibility Analysis:

The rule applies only to sport anglers and, therefore, will not have an impact on small businesses.

Summary of Comments by Legislative Review Committees:

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

10. Natural Resources (CR 95-099)

Ch. NR 46 – Administration of the Forest Crop Law and Managed Forest law.

Summary of Final Regulatory Flexibility Analysis:

This rule does affect small business. Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law are required to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood product volume cut from their land. No new compliance and/or reporting requirements are imposed on small business.

Summary of Comments by Legislative Review Committees:

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

11. Department of Transportation (CR 95-109)

SS. Trans 115.02 (1) & 115.11 (4) – Third party testing.

Summary of Final Regulatory Flexibility Analysis:

This rule will have no adverse impact on small businesses.

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

The following is a listing of recent Executive Orders issued by the Governor.

Executive Order 263. Relating to a Proclamation that the Flags of the United States and the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Memory of Yitzhak Rabin, the Late Prime Minister of the State of Israel.

PUBLIC NOTICE

Public Notice
Natural Resources
(Environmental Protection-WPDES, Chs. NR 200--)

Notice of intent to implement and enforce federal pretreatment standards and requirements related to Pesticide Chemicals, and Organic Chemicals, Plastics, and Synthetic Fibers pursuant to s. NR 211.34 (1), Wis. Adm. Code.

The Department of Natural Resources will implement and enforce the following federal regulations relating to wastewater pretreatment standards and requirements that limit concentrations or quantities of wastewater pollutants that may be introduced into publicly-owned treatment works. The adoption of pesticide chemical regulations, and the amendments to the organic chemicals, plastics, and synthetic fibers regulations will be implemented and enforced as of December 1, 1995. As provided in s. NR 211.34 (2), Wis. Adm. Code, the Department of Natural Resources will adopt these standards and requirements into the Wisconsin Administrative Code as soon as possible.

- 1. Organic Chemicals, Plastics, and Synthetic Fibers Point Source Category

Amendments to standards and limitation for industrial wastewater discharges for existing and new sources.

(Codified in 40 CFR part 414)
57 FR 41843-41844 (1992) and
58 FR 36892-36894 (1993)

- 2. Pesticide Chemicals Category

Adoption of standards and limitations for industrial wastewater discharges for existing and new sources

(Codified in 40 CFR part 455)
43 FR 17785-17787 (1978),
43 FR 44846 (1978),
58 FR 50689-50700 (1993), and
60 FR 33971 (1995)

The regulations referenced above are available at:

Department of Natural Resources Central Office
101 South Webster Street, Madison, WI

Office of the Secretary of State
10th Floor, 30 West Mifflin Street, Madison, WI

Office of the Revisor of Statutes
Suite 800, 131 West Wilson, Madison, WI

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