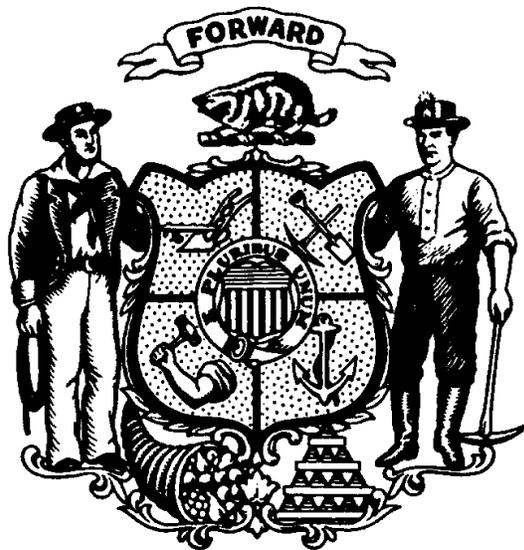


WISCONSIN ADMINISTRATIVE REGISTER

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EMERGENCY RULES NOW IN EFFECT

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

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

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 (2)

Agriculture, Trade & Consumer Protection

1. Rules adopted amending ss. **ATCP 81.50 (2), 81.51 (2), and 81.52 (2)**, relating to grade standards for colby and monterey (jack) cheese.

Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection (DATCP) finds that an emergency exists and that an emergency rule is necessary for economic reasons to protect the public welfare of the citizens of Wisconsin. The facts constituting the emergency are as follows:

(1) DATCP has adopted standards for grades of cheese manufactured and sold in Wisconsin under s. 97.177, Stats., and ch. ATCP 81, Wis. Adm. Code. Any cheese which carries a state grade mark must conform to the standards and characteristics of the labeled grade.

(2) Under current rules, colby and monterey (jack) cheese must contain numerous mechanical openings in order to be labeled or sold as Wisconsin certified premium grade AA or Wisconsin grade A (Wisconsin state brand).

(3) Changes in cheese manufacturing technology, packaging and equipment have made it extremely difficult for many processors and packagers to achieve the numerous mechanical openings or open body character required by these top two grade categories. A majority of today's wholesale buyers and packagers prefer a closed body cheese for a variety of reasons, including ease of shredding and the ability to package "exact-weight" pieces with minimal variation and waste.

(4) Currently, a closed body cheese may be labeled or sold as Wisconsin grade B or "not graded." It cannot be labeled or sold as

Wisconsin certified premium grade AA or Wisconsin grade A (Wisconsin state brand), nor can it command the premium price associated with these top two grade categories.

(5) Wisconsin is the only state with its own grade standards for colby and monterey (jack) cheese. The United States Department of Agriculture modified its grade standards for colby and monterey jack cheese in 1995 and 1996, respectively, in response to industry requests to allow an open or closed body. Buyers who cannot obtain the desired graded product in Wisconsin will likely switch to suppliers from other states. Once customers are lost they are difficult to regain.

(6) Wisconsin's dairy industry plays a major role in our state's economy. Approximately \$3 billion or 90% of Wisconsin's milk production goes into the manufacture of cheese. Lost business revenues harm the dairy industry, cause increased unemployment, and have a negative impact on the state's economy.

(7) Pending the adoption of rules according to the normal administrative rulemaking procedures, it is necessary to adopt emergency rules under s. 227.24, Stats. to protect the public welfare based on an economic emergency for the state's dairy industry and the subsequent impact on the general economy and citizens of this state.

Publication Date: August 8, 1998
Effective Date: August 8, 1998
Expiration Date: January 4, 1999
Hearing Date: September 14, 1998
Extension Through: May 3, 1999

2. Rules were adopted creating ss. **ATCP 10.68 and 11.58**, relating to fish farms and imports of live fish.

Finding of Emergency

(1) This emergency rule implements s. 95.60, Stats., which was created by 1997 Wis. Act 27.

(2) Under s. 95.60, Stats., a person who operates a fish farm must register annually with the Wisconsin department of agriculture, trade and consumer protection (DATCP). A person who imports live fish or fish eggs into Wisconsin must meet fish health requirements and obtain an import permit from DATCP. DATCP must establish registration and import permit standards by rule.

(3) On December 9, 1998, the Board of Agriculture, Trade and Consumer Protection (DATCP Board) approved final draft "permanent" rules to implement s. 95.60, Stats. Among other things, the rules establish fish farm registration standards and fish import standards. Before DATCP may adopt these final draft "permanent" rules, it must submit them for legislative committee review under s. 227.19, Stats. DATCP must then adopt and file the rules under s. 227.20, Stats., and publish them under s. 227.21, Stats. As a result, the final draft "permanent" rules will not take effect for several months.

(4) Current fish farm registration certificates will expire on December 31, 1998, before the final draft "permanent" rules take effect. The department must adopt a temporary emergency rule so it can process registration renewals pending the effective date of the final draft "permanent" rules. This emergency rule adopts, on a temporary basis, registration provisions contained in the department's proposed final draft "permanent" rules.

(5) This emergency rule also adopts, on a temporary basis, rules to prevent imports of diseased live fish and fish eggs that threaten the health of fish in Wisconsin fish farms and the Wisconsin natural environment. These temporary import requirements are based on requirements previously administered by the Wisconsin department of natural resources (DNR). The final draft "permanent" rules, when adopted, will expand upon these interim requirements.

(6) This emergency rule is needed to protect the public peace, health safety and welfare. Without this rule, DATCP would not be able to process fish farm registrations for 1999, or issue permits for live fish imports. Without the protections afforded by this emergency rule, Wisconsin fish farms and wild fisheries would also be exposed to an unnecessary risk of disease.

Publication Date: December 28, 1998
Effective Date: December 28, 1998
Expiration Date: May 27, 1999
Hearing Date: February 3, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce

(Flammable & Combustible Liquids, Ch. Comm10)

Rules adopted revising **ch. Comm 10**, relating to regulation of flammable and combustible liquids.

Finding of Emergency

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

The facts constituting the emergency are as follows. Under ss. 101.09, 101.142 and 101.144, Stats., the Department protects public health, safety, welfare and the environment by promulgating rules for and administering the regulation of petroleum product storage tank systems and the storage and handling of flammable and combustible liquids. The purpose of the regulatory effort is to guarantee that storage tank systems and their contents are managed in a manner that is protective of life safety and the environment.

On December 22, 1998, a ten-year upgrade deadline comes to an end, and all tank systems falling under the United States Environmental Protection Agency's rules are required to have been upgraded to comply with new and environmentally protective construction standards. After the final compliance date, the Department and its contracted agents will conduct inspections to guarantee that tank systems which are not in compliance have been shut down in accordance with state and federal rules. In those instances where owners or operators have not complied with the upgrade or shutdown requirements, immediate action must be taken to either prevent the tank systems from continuing to be used or prevent the delivery of additional petroleum product to the systems.

The shut down of noncomplying tank systems is a core environmental and financial issue. The tank systems that are not in compliance pose a continuing high-risk threat to the environment, and delay in action will continue an unnecessary environmental hazard. Additionally, new releases from these non-upgraded tank systems will add to the financial burden of the PECFA program, which is significantly over-subscribed. The rule included with this order is in response to environmental issues associated with non-upgraded tank systems.

Publication Date: December 11, 1998
Effective Date: December 11, 1998
Expiration Date: May 10, 1999
Hearing Date: March 3, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce

(Uniform Dwelling, Chs. Comm 20-25)

Rules adopted revising **Chs. Comm 20,21,22 and 23**, relating to energy efficiency in one- and 2-family dwellings.

Finding of Emergency

The Department of Commerce 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:

The rule change that was to go into effect on February 1, 1999 consists of a complete rewrite of chapter Comm 22, which relates to energy efficiency in one- and 2-family dwellings, as well as miscellaneous changes to chapters Comm 20, 21 and 23. The department planned for a lead time of approximately 2 months between the time the code was made available and the code effective date. Because of difficulties in preparing and printing the code, the anticipated lead time could not be achieved. Several constituent groups, including builders, inspectors, and the Uniform Dwelling Code Council have asked for extra time to become familiar with the changes, once the complete code is made available. If this is not done, a great deal of confusion and economic hardship could result for builders, as well as homeowners. Enforcement of the new requirements could vary greatly from one municipality to the next.

This emergency rule delays the effective date of the proposed changes to chs. Comm 20, 21, 22 and 23 from February 1, 1999 to May 1, 1999.

Publication Date: January 23, 1999
Effective Date: February 1, 1999
Expiration Date: July 1, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce & Natural Resources

(Petroleum Environmental Cleanup Fund Interagency Responsibilities, Ch. Comm 46)

Rules adopted revising **ch. Comm 46**, relating to the Petroleum Environmental Cleanup Fund Interagency Responsibilities.

Finding of Emergency

The Departments of Commerce and Natural Resources find that an emergency exists and that adoption of a rule included in this order is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under sections 101.143 and 101.144, Wisconsin Statutes, the Department of Commerce protects public health, safety, and welfare by promulgating rules for and administering the Petroleum Environmental Cleanup Fund (PECFA Fund). The purpose of the fund is to reimburse property owners for eligible costs incurred because of a petroleum product discharge from a storage system or home oil tank system. In administering this fund, the Department has relied upon a Memorandum of Understanding with the Department of Natural Resources for classifying contaminated sites, disbursing funds, and addressing other statements of policy that affect the two Departments.

On September 17, 1998, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26(2)(b),

Stats., that directed the Department and the Department of Natural Resources to jointly adopt the above portions of the Memorandum of Understanding and related policy issues as an Emergency Rule. An emergency rule in response to that directive was adopted by the Department and became effective on January 1, 1999. Since that date, further improvements for jointly administering the PECFA fund have been developed, which are consistent with the JCRAR directive and which are expected to significantly mitigate the backlog of claims to this oversubscribed fund.

Publication Dates: February 23 & March 1, 1999
Effective Date: February 23, 1999
Expiration Date: July 23, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Commerce

(Financial Resources for Communities, Chs. Comm 105 to 128)

1. Rules adopted revising **ch. Comm 113**, relating to the annual allocation of volume cap on tax-exempt private activity bonds.

Finding of Emergency & Rule Analysis

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

Several areas in the State of Wisconsin have recently experienced severe economic distress due to large plant closings which have put hundreds of Wisconsin residents out of work. As a result of two large paper mills being shut down a year ago, 1997 Wisconsin Act 237 created s. 560.147, Stats., authorizing the Rapid Response Fund within the Wisconsin Development Fund. The fund is part of the Rapid Response Initiative, which assists areas affected by these and future closings. Commerce is now proposing as part of this initiative a Rapid Response Set Aside within the volume cap allocation process which will enable businesses in these distressed areas to obtain the financing they need to make the necessary capital investments to create and retain jobs. Several projects are pending in that need this change in order to move forward with their plans. Allocation of volume cap is in highest demand in the spring and summer due to the construction cycle. The Rapid Response set-aside must be in place as soon as possible in order for projects to receive allocation and begin construction as soon as possible. Jobs cannot be created or retained until projects go forward.

Publication Date: February 17, 1999
Effective Date: February 17, 1999
Expiration Date: July 17, 1999
Hearing Date: April 12, 1999

2. Rules adopted creating **ch. Comm 112**, relating to the Wisconsin Development Zone Program.

Finding of Emergency

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

Pursuant to ss. 560.70 to 560.797, Stats., the Department of Commerce is responsible for administering Wisconsin Development Zone Program. These rules are being adopted to incorporate in the administrative code the recent amendments contained in 1997 Wis. Act 27 that entirely changed the eligibility and the criteria for certified development zone businesses and the process for the verification and the claiming of tax credits. Section 560.785, Stats., directs the Department of Commerce to develop

rules and exceptions to those rules concerning the eligibility for tax benefits. After a review and evaluation of all the certified businesses and their projects a number of exceptions have been identified in order to meet the needs of different areas of the state and to fulfill our commitments to businesses that were made prior to this legislation. In order to process claims for tax years beginning on or after January, 1, 1998, these rules must be made available immediately.

Publication Date: February 25, 1999
Effective Date: February 25, 1999
Expiration Date: July 25, 1999

EMERGENCY RULES NOW IN EFFECT (3)

Department of Corrections

1. Rules were adopted amending **s. DOC 328.21**, relating to absconders.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety. A statement of the facts constituting the emergency is: A recent legislative enactment providing funding for the Department of Corrections to create an absconder unit in southeastern Wisconsin. Currently there are 7,694 probationers or parolees that have absconded from community supervision. To make community supervision more meaningful and promote accountability among offenders the legislature directed the Department of Corrections to make efforts to locate and apprehend offenders that have absconded from community supervision. The current administrative rule allows the Department of Corrections to search an offenders residence only for contraband. This rule amendment allows a search of an offender's residence for contraband or an offender.

Publication Date: December 3, 1998
Effective Date: December 3, 1998
Expiration Date: May 2, 1999
Hearing Dates: March 1 and 3, 1999

2. Rules were adopted revising **ch. DOC 349**, relating to holding juveniles in municipal lockup facilities.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that rules are necessary for the immediate preservation of public safety. A statement of the facts constituting the emergency is: A recent session law, 1997 Wis. Act 296, created s. 938.209(2m), Stats., which permits the holding of juveniles in municipal lockup facilities if the facilities meet certain criteria. This act took effect on July 1, 1998. A municipal lockup facility may only hold juveniles who are alleged to have committed a delinquent act if the department of corrections approves the facility for the holding of juveniles. In addition, the lockup facility may only hold the juvenile for no more six hours. Also, there must be sight and sound separation between any juveniles and adults being held in the lockup. Finally, the lockup facility may only hold the juvenile for investigative purposes.

Under current rule a municipal lockup facility may not hold juveniles. The act authorizes the department of corrections to promulgate rules establishing minimum requirements for the approval of a municipal lockup facility as a suitable place for holding juveniles who are alleged to have committed a delinquent act and for the operation of the facility. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to establish an approval process and operational standards for the safety of the public and juveniles while permanent rules are being developed.

This order:

1. Adopts the statutory definitions of adult, delinquent, and juvenile.
 2. Defines the term secure custody status.
 3. Establishes the authority and purpose of establishing minimum standards for the holding of juveniles in municipal lockup facilities.
 4. Prohibits the holding of juveniles in municipal lockup facilities, except if the juvenile is alleged to have committed a delinquent act.
 5. Requires that the lockup facility provide juveniles notification of policies and procedures of the facility regarding the holding of juveniles and facility programs, including health screening and care, suicide prevention, control and administration of medications, and communicable disease control.
 6. Provides that only juveniles who are alleged to have committed a delinquent act may be held in a municipal lockup facility.
 7. Provides that juveniles who are alleged to have committed a delinquent act may be placed in secure custody status for a period of time not to exceed 6 hours.
 8. Provides that the lockup administrator shall develop and implement policies and procedure to ensure sight and sound separation between juveniles and adults who are being held in the lockup facility.
 9. Provides that lockup facility staff shall physically observe juveniles at least once every 20 minutes at irregular intervals and shall document the observations. If the juvenile is identified by the facility staff as being at risk (for example, suicidal tendency, under the influence of drugs or alcohol, or mental disturbance) the observations shall be at least once every 15 minutes at irregular intervals.
 10. Requires that juvenile records be maintained in a confidential manner and kept separate from adult records, in accordance with s. 938.396, Stats.
- The order provides for including in chapter DOC 349, Municipal Lockup Facilities, the rules for holding juveniles who are alleged to have committed a delinquent act.

Publication Date: December 10, 1998
Effective Date: December 10, 1998
Expiration Date: May 9, 1999
Hearing Date: February 15, 1999

3. Rules adopted creating **ch. DOC 330**, relating to pharmacological treatment of serious child sex offenders.

Finding of Emergency

The Department of Corrections 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: A recent session law, 1997 Wis. Act 284, created s. 304.06(1q) Stats., which will become effective January 1, 1999, and authorizes the department to require pharmacological treatment (chemical castration) for certain child sex offenders as a condition of probation or parole to accomplish the objectives of protection of the public or treatment of serious child sex offenders. Pharmacological intervention cannot begin without administrative rules. Development and promulgation of permanent rules will take approximately six months to complete. Emergency rules are necessary to implement the program for the safety of the public while permanent rules are being developed.

Publication Date: January 1, 1999
Effective Date: January 1, 1999
Expiration Date: May 31, 1999
Hearing Dates: March 1, 2 and 3, 1999

EMERGENCY RULES NOW IN EFFECT

Emergency Response Board

Rules adopted revising **s. ERB 1.04**, relating to reporting requirements for gasoline and diesel fuel present at 10,000 pounds or more at retail gas stations.

Finding of Emergency and Rule Analysis

The Wisconsin Division of Emergency Management finds that an emergency exists and that adoption of this rule is necessary for the immediate preservation of public health, safety, and welfare. The facts constituting the emergency are as follows:

The U.S. Environmental Protection Agency has stated in writing, its intent to implement a rule change effective March 1, 1999. The rule change will increase the 42 USC 11021 and 11022 reporting threshold for gasoline to 75,000 gallons and for diesel fuel to 100,000 gallons, when stored in below ground tanks at retail gas stations. This change will have the effect of exempting most gasoline stations from EPCRA reporting requirements. It will also mean that gasoline and diesel fuel that is present in 10,000 pounds or more will not be uniformly reported under EPCRA. If implemented, this rule change will occur during a reporting period and will take effect on the deadline for submission of 1999 reporting information, which applies to chemicals that were present in 1998. This will create a situation where facilities reporting prior to the rule change would be reporting under one requirement and those reporting after the March 1, 1999 deadline would be reporting under a different requirement. It is not clear which requirement would affect those facilities that submit documentation prior to the intended rule change, that is, by the reporting deadline, and whether these facilities would have to amend their submissions to be in compliance with the law.

The most commonly spilled substances in Wisconsin are petroleum products, gasoline and diesel fuel. This information is important to fire departments as well as Local Emergency Planning Committees as an emergency response planning tool. The Tier Two chemical information is provided to the local fire department with jurisdiction over the facility and to the appropriate Local Emergency Planning Committee. This is the only comprehensive list of hazardous materials that is available to fire departments and Local Emergency Planning Committees.

Further, in Wisconsin, individual preprinted forms are printed in mid December and mailed out by the first week of January to assist facilities in meeting reporting requirements. This is well before the time when U.S. EPA has stated that they intend to implement a rule change. Because EPA intends to implement the change on the March 1, 1999 reporting deadline, it is not possible to mail forms out at that time and have facilities make the necessary submissions by the March 1, 1999 deadline. Wisconsin facilities have come to expect that inventory reporting materials will be mailed out in a time frame that will allow adequate time for the facility to meet the March 1, 1999 reporting deadline. Facilities that fail to submit the necessary reporting materials by the March 1, 1999 reporting deadline would be in non-compliance with federal and state EPCRA reporting requirements.

Individual states do not have the authority to implement requirements under EPCRA which are less stringent than the federal requirements. This emergency rule would maintain the existing reporting requirements that have been in place since the inception of the program in 1986. Specifically, this rule states that the reporting thresholds for gasoline and diesel fuel would be maintained at 10,000 pounds for retail gas stations. This emergency rule will allow Wisconsin Emergency Management the ability to distribute reporting materials in a timely manner and will permit the facilities to submit the necessary paperwork prior to the March 1, 1999 deadline. By allowing facilities sufficient time prior to the March 1, 1999 deadline, they will have the opportunity to make the necessary submissions under EPCRA and to remain in compliance with federal and state law. This will also insure that all gasoline and

diesel fuel stored in amounts of 10,000 pounds or more in the state is reported under EPCRA. This in turn will insure that all fire departments and Local Emergency Planning Committees will continue to have access to a comprehensive listing of hazardous materials under the Emergency Planning and Community Right-to-Know Act.

Publication Date: January 20, 1999
Effective Date: January 20, 1999
Expiration Date: June 19, 1999
Hearing Dates: March 16 & 19, 1999

EMERGENCY RULES NOW IN EFFECT

Financial Institutions

(Division of Banking)

Rules adopted renumbering and revising **ch. RL 41** to be **ch. DFI-Bkg 41**, relating to mortgage banking.

Exemption From Finding of Emergency

Statutory Authority: ss. 224.72 (8) and 224.73 (3); and 1997 Wis. Act 145, Section 72.

This emergency rule sets forth the registration and renewal of registration fees for mortgage bankers, loan originators and mortgage brokers; the transfer fee for loan originators; and the registration periods for all registrations and renewals of registrations.

Publication Date: December 4, 1998
Effective Date: December 4, 1998
Expiration Date: May 3, 1999
Hearing Date: March 3, 1999

EMERGENCY RULES NOW IN EFFECT

Financial Institutions

(Division of Securities)

Rules adopted creating **s. DFI-Sec 2.01(1)(c)6 and (d)6.**, relating to designating alternative accounting guidelines for the preparation of financial statements for certain governmental issuers of securities.

Finding of Emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin 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 follows.

These emergency rules are necessitated by a new accounting guideline relating to disclosures about Year 2000* issues applicable to the preparation of financial statements for governmental issuers of securities as required by Governmental Accounting Standards Board Technical Bulletin 98-1, *Disclosures about Year 2000 Issues* ("GASB TB 98-1", or "Guideline"). The existence of this issue and the need for emergency rule treatment to assist governmental issuers was brought to the attention of the Division by representatives of Wisconsin public accounting groups and Wisconsin bond attorneys who recently learned about a Report by the American Institute of Certified Public Accountants regarding GASB TB 98-1.

As a result of that Report (and as particularized below) many Wisconsin governmental issuers would have the audit opinions for their financial statements for years ending after October, 1998, qualified with respect to disclosures about Year 2000 issues. Thus beginning in approximately March and April of 1999 and continuing through the accounting period ending 12/31/99, that new accounting Guideline will adversely impact the ability of Wisconsin and other state and local governmental securities issuers to continue to use on an "automatic"/self-executing basis, the existing securities registration exemption in s. 551.22(1)(a) of the Wisconsin Securities Law to offer and sell their debt securities to public investors in Wisconsin.

Over the years and to date, Wisconsin and other state and local governmental securities issuers having "full-GAAP" financial statements (e.g. prepared in accordance with generally accepted accounting principles) have been able to sell their debt securities to Wisconsin public investors in reliance on automatic use of the registration exemption in s. 551.22(1)(a), Wis. Stats., without the need for any exemption or other filing with the Division.

GASB TB 98-1 requires footnote disclosure of Year 2000 information regarding a governmental issuer's preparedness in terms of making its systems and equipment Year 2000 compliant. GASB TB 98-1 applies to financial statements dated October 31, 1998, and terminates for financial statements issued for purposes of the accounting period ending December 31, 1999, unless systems and equipment are not Year 2000 compliant as of the balance sheet date. In response to GASB TB 98-1, members of the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) issued a Report under the title "AICPA Illustrative Reporting Guidance on Year 2000 Disclosures Made Under GASB TB 98-1, Issued October 22, 1998." That Report raised the concern that in light of the unprecedented nature of the Year 2000 issue, the required disclosures will be neither ascertainable by management nor verifiable by auditors. As a result, the AICPA strongly recommended that auditors issue qualified opinions (scope limitations) with respect to such Year 2000 issue disclosures.

Consequently, all Wisconsin and other governmental securities issuers whose financial statements would contain such qualified opinions, would not meet (in the absence of the emergency rules) the "full-GAAP" financial statement requirement for automatic use of the registration exemption in 551.22(1)(a), Wis. Stats. Thus, such issuers would either have to go through a regulatory filing and review procedure with the Division prior to each offering, or would have to restrict the initial offering to securities law provisions that would preclude underwriters from reoffering those securities to investors in the primary and secondary markets.

In the absence of the emergency rules, governmental securities issuers would be adversely affected by the costs of making securities filings with their attendant delays. Also, even though Year 2000 issues equivalently affect private corporate issuers of securities, because there is no counterpart to GASB TB 98-1 within the standards promulgated by the Financial Accounting Standards Board applicable to private corporate securities issuers, the additional costs and filing delays would be singularly borne by governmental securities issuers (if the emergency rules were not adopted).

Finally, having a filing requirement under the Wisconsin Securities Law be triggered for Wisconsin and other state and local governmental securities offerings solely because of an auditor's qualification in an audit report on the Year 2000 issue, would result in added regulatory filing and review processes and procedures under the Wisconsin Securities Law that would not provide any "value added" investor protection benefits.

Therefore, in similar fashion to emergency rule-making action taken by the Division in 1994 and 1996 regarding specific accounting issues which occurred at those times, and for the purpose of alleviating the disruption that would occur in the borrowing/bonding plans of Wisconsin and other state and local governmental issuers that regularly claim exemption status under sec. 551.22(1)(a), Wis. Stats., for the offer and sale of their debt securities in Wisconsin, the Division, in consultation with representatives of Wisconsin accounting groups and Wisconsin

bond attorneys, is adopting these emergency rules designating an alternative-to-full-GAAP financial statement requirement (when the governmental issuer's financial statements are full-GAAP) where the auditor's opinion is qualified in accordance with GASB TB 98-1 with respect to disclosures concerning Year 2000 issues. As a result of such emergency rules, those Wisconsin and other state and local governmental securities issuers affected by GASB TB 98-1 will be able to continue to rely on the "automatic" registration exemption under 551.22(1)(a), Wis. Stats., for their securities offerings.

[Because this issue which has been triggered by GASB TB 98-1 has a limited "shelf life" such that no permanent rules relating to it will be needed after December 31, 2000, when action is taken by the Division to promulgate identical permanent rules to become effective upon expiration of the emergency rules, the permanent rules will provide for a December 31, 2000 "sunset" date, after which the permanent rules on the issue will no longer be effective.]

*The Year 2000 problem is the result of shortcomings in electronic data-processing systems and equipment that may adversely affect operations in the year 2000 and beyond. The problem stems from the use within electronic systems and equipment of two-digit storage for calendar years. Affected and uncorrected systems and equipment may be unable to distinguish the year 2000 from the year 1900; as a result, such systems may process inaccurately or stop processing altogether.

Publication Date: February 25, 1999
Effective Date: March 1, 1999
Expiration Date: July 29, 1999

EMERGENCY RULES NOW IN EFFECT (4)

Health & Family Services

(Management, Technology & Finance,

Chs. HFS 1---)

(Health, Chs. HFS 110--)

1. Rules adopted creating **ch. HFS 13** and revising **ch. HSS 129**, relating to reporting and investigating caregiver misconduct.

Finding of Emergency

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

Since July 1, 1991, the Department has had rules, s. HSS 129.10, which establish and provide for the maintenance of a registry of persons eligible by training and testing to be employed in Wisconsin as nurse assistants working in hospitals, nurse assistants working in nursing homes, home health agency aides and, since October 1, 1991, hospice program aides. The rules implemented s. 146.40 (4g), Stats. The rules were amended by emergency order effective April 1, 1992, to add to the registry, as directed by s. 146.40 (4g) and (4r), Stats., all substantiated findings of allegations that persons working in any of these caregiver capacities had abused or neglected a resident or patient or misappropriated a resident's or patient's property, and making that information available to prospective employers and other interested persons on request.

This rulemaking order amends ch. HFS 129 to take out of it the misconduct part of the current registry, that is, the part consisting of substantiated findings of misconduct toward clients by caregivers working as nurse aides in hospitals or nursing homes or for home health agencies or hospice programs, and to include that part in a new ch. HFS 13 created by this order.

A recent session law, 1997 Wis. Act 27, amended s. 146.40 (4g) and (4r), Stats., to provide for expansion of the misconduct part of the registry so that, beginning October 1, 1998, the Department would add to the registry substantiated findings of allegations that any other person employed by or under contract with a hospital, nursing home, home health agency or hospice program or any person employed by or under contract with any of several other types of facilities, agencies and programs or services licensed, certified or registered by the Department abused or neglected a client served by the facility, agency or program or service or misappropriated a client's property. The other types of "entities" covered by the expanded misconduct part of the registry and the reporting, review and investigation, entering findings and appeal procedures under s. 146.40 (4r), Stats., are the following: community-based residential facilities, residential care apartment complexes (formerly called assisted living facilities), certified adult family homes (only if certified by the Department), licensed adult family homes (only if licensed by the Department), certified community mental health and substance abuse programs or services, rural medical centers and ambulance service providers.

The new ch. HFS 13 covers the structure of the misconduct part of the caregiver registry, the information included in it and release of registry information; a requirement that an entity upon learning of an incident of alleged caregiver misconduct take whatever measures are necessary to protect clients pending a finding; mandatory reporting by entities of allegations of caregiver misconduct, with penalties for failure to report incidents; reporting by other persons; review by the Department of reports received from entities and concerned individuals alleging abuse or neglect of a client or misappropriation of a client's property, and follow-up investigation by the Department as necessary; determination by the Department either that an allegation is or is not substantiated, and notice to the subject of the report, if an allegation is substantiated, that the finding will be entered on the misconduct part of the caregiver misconduct registry, and the consequences of that action (which for some persons employed by or under contract with an entity may mean being barred indefinitely from similar employment and for others being barred from similar employment unless rehabilitation is demonstrated), unless he or she contests that determination by requesting a hearing; notice to the subject of a report that if the finding is included in the registry, he or she may add a rebuttal statement which will be included with the finding; and how to request a hearing, how the hearing will be conducted and the hearing decision.

This order creating ch. HFS 13 and amending ch. HSS 129 is being published as an emergency rulemaking order to take effect on October 1, 1998. That is the date on which the amendments to s. 146.40 (4g) and (4r), Stats., that expand the misconduct part of the registry will take effect. The rules are necessary for implementation of the amended statutes. The intent of the amended statutes and new rules is to better protect clients of the specified Department-regulated facilities, agencies, programs and services from being harmed. The rules are being published as emergency rules so that they can go into effect when the amended statutes take effect rather than up to 9 months later which is how long it will take to promulgate permanent rules.

Publication Date: October 1, 1998
Effective Date: October 1, 1998
Expiration Date: February 28, 1999
Hearing Dates: January 12, 20 & 26, 1999
Extension Through: May 4, 1999

2. Rules adopted creating **ch. HFS 12**, relating to caregiver background checks.

Finding of Emergency

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

Sections 48.685 and 50.065, Stats., recently created by 1997 Wisconsin Act 27, apply to the Department in its functions of

licensing, certifying, registering or approving some persons to provide care or treatment to other persons; to county social service and human service departments that license foster homes or treatment foster homes for children and carry out adoption home studies; to private child-placing agencies licensed to do the same; and to school boards that contract for day care programs under s. 120.13(14), Stats. The law also applies to the entities licensed, certified, registered or approved and their employees or contracted service providers.

An agency is prohibited from licensing, certifying, registering or approving a person if the agency knew or should have known that the person has been convicted of, or has a pending charge for, a serious crime, is found to have abused or neglected a client or child or to have misappropriated a client's property; or is required to be credentialed by the Department of Regulation and Licensing (DRL) but whose credential is not current or is limited so as to prevent the provision of adequate client care. Similarly, entities planning to hire or contract with a person expected to have access to clients or children may not hire or contract with the person if the entity knew or should have known of the existence of a prohibited condition.

With respect to a person applying for a license to operate an entity or for approval to reside at an entity, an agency is required to obtain a criminal history search, information contained in the Department's caregiver misconduct registry, DRL information regarding credential status, if applicable, and Department information regarding any substantiated reports of child abuse or neglect and licensing history information. That information must also be obtained by entities for prospective employees and contractors.

The Department is required to develop a background information form and provide it to any regulated or approved person, and a county department and licensed child-placing agency is required to provide it to a foster home or treatment foster home applicant or pre-adoptive applicant and a school board is to provide the Department's background information form to any proposed contracted day care applicant or provider under s. 120.13 (14), Stats. Likewise, an entity is to provide the background information form to any employe or prospective employe having or expected to have access to any of its clients. If the background information form returned to an entity by an employe or prospective employe indicates that the person is not ineligible to be employed or contracted with or permitted to reside at an entity for a reason specified under the statutes or as provided in rule, an entity may employ or contract with the person or permit the person to reside at the entity for not more than 60 days pending the receipt of background check information.

For some serious crimes that would otherwise bar a person from regulatory approval or from being employed by or under contract with or residing at an entity, the statutes permit a person convicted of a crime, provided certain conditions are met, to ask an agency for rehabilitation review, that is, for an opportunity to demonstrate that he or she is rehabilitated and so the bar can be lifted.

These are the Department's rules for administration of ss. 48.685 and 50.065, Stats., as created by Act 27 and amended by 1997 Wisconsin Act 237. The rules repeat the statutory requirements and add more detail for administering them, add procedures for handling rehabilitation review requests, add definitions for "serious crime" and "under the entity's control" and other pertinent definitions and add a crimes list as Appendix A.

The rules are being published by emergency order to take effect on October 1, 1998, the same date that the statutes they implement will take effect, rather than up to 9 months later which is how long it will take to promulgate permanent rules. The rules are necessary for implementation of the new statutes. The intent of the statutes and rules is to better protect clients of the regulated service providers from being harmed.

The new background check statutes and rules apply beginning October 1, 1998 to entities initially approved on or after that date, persons that entities hire or contract with on or after that date and nonclients who take up residence at an entity on or after that date. The statutes and rules apply beginning October 1, 1999 to entities initially approved prior to October 1, 1998, persons that entities

hired or contracted with prior to October 1, 1998 and nonclients who lived at an entity prior to October 1, 1998.

Publication Date: October 1, 1998
Effective Date: October 1, 1998
Expiration Date: February 28, 1999
Hearing Dates: January 12, 20 & 26, 1999
Extension Through: May 4, 1999

3. Rules adopted amending **chs. HFS 12**, relating to background checks.

Finding of Emergency

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

The Department on October 1, 1998 published an emergency rulemaking order creating ch. HFS 12, relating to uniform procedures for checking the backgrounds of persons who apply to provide or are providing care or treatment to persons who need that care or treatment, and for barring persons because of specified convictions, findings or charges substantially related to the care of clients from operating a service provider organization, providing care or treatment to the clients of a service provider or otherwise having contact with the clients of a service provider. Chapter HFS 12 includes an appendix which consists of a list of crimes. Some of the listed crimes **permanently** bar a person who was ever convicted of the crime from receiving regulatory approval from the Department to provide care or treatment to vulnerable people; from being licensed by a county human service or social service department or by a private child-placing agency to operate a foster home for children; from contracting with a school board to provide a day care program; from being employed by or under contract to a service provider to provide care or treatment to the service provider's clients; and from residing as a nonclient at the service-providing entity. Others of the listed crimes temporarily bar a person convicted of the crime from doing any of those things, pending demonstration that the individual has been rehabilitated. While the remaining few crimes in the Crimes List, called "less serious crimes," do not bar a person with a conviction from providing care or treatment to others, they do require the regulatory agency or employer to impose special precautionary measures to ensure the protection of persons receiving care or treatment.

This order modifies the Crimes List published on October 1, 1998 as Appendix A to ch. HFS 12.

The original Crimes List consists of 159 crimes listed by statute number, 45 of which are permanent bar crimes for all programs. Some 105 crimes are rehabilitation review-eligible crimes (bar with rehab crimes), and 3 are less serious crimes (crimes of lesser significance than serious crimes). As for unlisted crimes, a regulatory agency, employer or contractor is supposed to consider whether conviction for any unlisted crime is substantially related to caregiving and, if so, can treat it as a permanent bar crime or a crime of lesser significance, and take action accordingly.

The modified Crimes List consists of 156 crimes listed by statute number, name and program sanction, 26 of which are permanent bar crimes for all programs. Some crimes have been moved from permanent bar status to bar with rehab status, crimes of lesser significance status or substantially related (unlisted) status, and some crimes have been moved from bar with rehab status to crimes of lesser significance status or substantially related (unlisted) status. The crimes of lesser significance are removed altogether from the Crimes List and made a separate list under s. HFS 12.11(5) (a) 3., so that the Crimes List is left with only "serious crimes."

The Department is modifying the Crimes List at this time because after publication of the original list, that is, as the Crimes List began to be used to make decisions about licensing or certifying service providers and hiring or contracting for caregiver staff, and especially in anticipation of agencies having to withdraw some current licenses and certifications and entities having to dismiss some current caregiver staff and terminate some caregiver contracts,

Department staff heard from and met with many affected individuals and representatives of affected programs and discussed with them the need, reasonableness and practicality of categorizing some criminal convictions in ways they had been categorized. These discussions led the Department to reconsider the appropriateness of the sanctions for some of the specified crimes, in particular some of the crimes that the Department had designated permanent bar crimes. The Department also determined once the Crimes List began to be used that corrections and clarifications were needed in it.

The Department is modifying the ch. HFS 12 emergency rules by emergency order because of the critical importance of the appended Crimes List for proper implementation of the statutory caregiver background check requirements. Those requirements are directed at protecting people receiving care and treatment from being harmed. The revised Crimes List is part of the proposed permanent rules that will replace the emergency rules, but the replacement permanent rules will not take effect until about June 1, 1999.

Publication Date: December 12, 1998

Effective Date: December 12, 1998

Expiration Date: May 11, 1999

- Rules adopted revising **chs. HFS 12 and 13**, created as an emergency rules relating to caregivers background checks and reporting of caregiver misconduct.

Finding of Emergency

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

The Department on October 1, 1998 published an emergency rulemaking order creating ch. HFS 12, relating to uniform procedures for checking the backgrounds of persons who apply to provide or are providing care or treatment to persons who need that care or treatment, and for barring persons because of specified convictions, findings or charges substantially related to the care of clients from operating a service provider organization, providing care or treatment to the clients of a service provider or otherwise having contact with the clients of a service provider. Chapter HFS 12 included an appendix which consisted of a list of crimes. That Crimes List was modified by emergency order published on December 12, 1998. This order, which is being published following the Department's public hearings on the emergency rules and the proposed replacement permanent rules, makes further significant changes in the Crimes List and other parts of the ch. HFS 12 emergency rules.

The Crimes List appended to ch. HFS 12 is modified by this order to move several crimes from "permanent bar" status to "bar with rehabilitation" status, to place time limits on having to demonstrate rehabilitation for certain other crimes, and to remove some crimes altogether from the Crimes List. Also in ch. HFS 12, definitions have been added for "access" and "Department-designated tribe" and have been significantly revised for "caregiver" and "under the entity's control." Indian tribes designated by the Department are permitted to conduct rehabilitation reviews for bar with rehabilitation crimes.

This order also makes changes in ch. HFS 13, emergency rules for reporting caregiver misconduct and for maintenance of a caregiver misconduct registry. Those emergency rules were also published on October 1, 1998. Changes made in ch. HFS 13 by this order include addition of definitions for "access" and "course of conduct" and significantly revised definitions for "abuse," "caretaker," and "under the entity's control," and permission is given for the subject of a report to have a representative present when the subject has any contact with Department investigators.

The Department is modifying the chs. HFS 12 and 13 emergency rules by emergency order at this time because of their critical importance for proper implementation of the statutory caregiver background check and caregiver misconduct reporting requirements. Those requirements are directed at protecting people

receiving care and treatment from being harmed. The rule changes, including revision of the Crimes List, have been incorporated in the proposed permanent rules that will replace the emergency rules, but the replacement permanent rules will not take effect until June 1, 1999 at the earliest.

Publication Date: February 27, 1999

Effective Date: February 27, 1999

Expiration Date: May 11, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Health and Family Services

(Health, Chs. HSS/HFS 110--)

- Rules adopted amending ss. **HFS 119.07 (6) (b) and 119.15**, relating to the Health Insurance Risk-Sharing Plan.

Exemption From Finding of Emergency

Section 149.143 (4), Stats., as affected by 1997 Wisconsin Act 27, permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats., as affected by Act 27, by using emergency rulemaking procedures except that the Department is specifically exempted from the requirement under s. 227.24(1) and (3), Stats., that it make a finding of emergency. These are the rules. Department staff consulted with the HIRSP Board of Governors on December 11, 1998 on the proposed rules, as required by s. 149.20, Stats.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,123 HIRSP policies in effect on October 31, 1998 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates by just over 10% in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule and the rates must be calculated in accordance with generally accepted actuarial principles.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a)3. and 4., Stats., as affected by Act 27.

Publication Date: December 31, 1998

Effective Date: January 1, 1999

Expiration Date: May 31, 1999

Hearing Date: March 11, 1999

- Rules adopted creating **ch. HFS 114**, relating to neonatal intensive care unit training grants.

Exemption From Finding of Emergency

The Legislature in s. 9122 (3tz) of 1997 Wisconsin Act 237 directed the Department to promulgate rules required under s. 9122 (3ty) of 1997 Wisconsin Act 237 by 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. These are the rules.

Analysis Prepared by the Department of Health and Family Services

Section 9122 (3ty) (b) of 1997 Wisconsin Act 237 directs the Department to distribute up to \$170,000 each year in state fiscal

years 1999 and 2000 to provide up to 10 grants to public or private hospitals to pay for specialized training and on-site consultation and support of medical personnel of neonatal intensive care units in the principles and practice of developmentally supportive and family-centered care for high-risk infants and their families. Section 9122 (3ty) (c) of Act 237 directs the Department to promulgate rules that establish criteria and procedures for awarding grants. The rules are to define "specialized training and on-site consultation and support," which must include a minimum of 40 hours of formal training and 160 hours of practice work.

This order creates ch. HFS 114 relating to distribution of grants to applicant public or private hospitals' neonatal intensive care units to pay for training of staff in the principles and practice of developmentally supportive and family-centered care. The rules include a process by which hospitals may apply for training funds, requirements relating to the training and requirements relating to training center record-keeping and reporting.

Publication Date: January 21, 1999
Effective Date: January 21, 1999
Expiration Date: June 20, 1999
Hearing Date: April 7, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Insurance

1. Rule adopted amending s. **Ins 2.80 (2) (intro.) and (a)**, relating to delaying effective date for NAIC valuation of life insurance policies model regulation, ("XXX"), from January 1, 1999 to July 1, 1999.

Finding of Emergency

Statutory authority: ss. 601.41 (3), 227.24
 Statute interpreted: none

The Commissioner of Insurance finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

On December 16, 1997 the Commissioner created Ins 2.80, Wis. Adm. Code in order to adopt the 1995 National Association of Insurance Commissioners ("NAIC") valuation of life insurance policies model regulation, or "XXX". This new rule concerning requirements for determining the valuation of reserve liabilities for life insurance policies is currently to take effect on January 1, 1999. Recently the NAIC agreed to consider a revised model regulation and the NAIC is expected to formally approve such a model early in 1999. Wisconsin is the only state that has set January 1, 1999 as an effective date for the 1995 model regulation. This emergency order is necessary to allow time to consider implementation of the revised model regulation once it is adopted by the NAIC.

Publication Date: December 23, 1998
Effective Date: January 1, 1999
Expiration Date: May 31, 1999
Hearing Date: March 12, 1999

2. Rules adopted amending s. **Ins 3.39 (34)(b)1. and 2., 3.b., and 6.,** relating to guarantee issue eligibility for Medicare Supplement insurance.

Finding of Emergency

The Commissioner of Insurance finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. Facts constituting the emergency are as follows:

These changes clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC (National Association of Insurance commissioners) model Medicare Supplement regulations. In order to provide more certainty and provide guarantee issue to the appropriate persons in Wisconsin, it is necessary that the change be put into effect as soon as possible. In addition, other permanent changes to the Medicare Supplement requirements are effective February 1, 1999 and this change effective the same date will allow insurers to modify their policies one time rather than two.

Publication Date: January 28, 1999
Effective Date: February 1, 1999
Expiration Date: July 1, 1999
Hearing Date: March 3, 1999

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted creating s. **NR 20.33 (5)**, relating to special closure of the sturgeon spearing season if harvest reaches or exceeds 80% of the total allowable harvest.

Finding of Emergency

The department of natural resources finds that an emergency exists and rule is necessary for the immediate preservation of the public health, safety or welfare. The facts constituting this emergency are:

Winter water clarity in Lake Winnebago has been improving steadily over the last decade at a rate faster than anticipated, which has substantially increased the potential for overharvest of sturgeon by spearers. Even with the new harvest restrictions passed in 1996, exceptionally clear water during the 1998 spearing season resulted in a total harvest of 2,051 fish, which was in excess of our total allowable harvest goals. An emergency order is needed to prevent overharvest of sturgeon during the 1999 season while permanent rules are being developed for implementation in the year 2000.

Publication Date: February 5, 1999
Effective Date: February 5, 1999
Expiration Date: July 5, 1999
Hearing Date: March 16, 1999

EMERGENCY RULES NOW IN EFFECT

Public Instruction

Rule adopted revising s. **PI 3.03 (6) (b) 3.**, relating to alternate teaching permits.

Finding of Emergency

The Department of Public Instruction finds an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

1997 Wis. Act 237, the budget adjustment bill, modified several provisions relating to professional teaching permits. Specifically, an individual who holds a bachelor's degree in engineering, music, art, foreign language, computer science, mathematics or science from an accredited institution of higher education, has at least 5 years of experience as a professional in the subject area in which his or her degree was awarded and demonstrates, to the satisfaction of

the state superintendent, competency in that subject area may apply to the state superintendent for enrollment in a 100 hour alternative teacher training program. The state superintendent shall grant a professional teaching permit to any person who satisfactorily completes the alternative teaching program.

Since the provisions under the Act became effective this summer, and alternative teaching programs will be offered in the near future, rules must be in place as soon as possible in order to notify potential applicants of the alternative teaching permit program requirements.

Publication Date: November 1, 1998
Effective Date: November 1, 1998
Expiration Date: March 31, 1999
Hearing Dates: January 4, 5, 6 & 7, 1999
Extension Through: May 29, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Public Service Commission

1. Rules adopted creating **ch. PSC 187**, relating to Sewer Main Extension: Cost Recovery.

Exemption From Finding of Emergency

Pursuant to the legislature's instruction in s. 66.076 (1) (b), Stats., as created by 1997 Wis. Act 213, and section 5 of that Act, the Public Service Commission is adopting emergency rules, establishing standards for the compensation of subdivision developers when a person outside the subdivision seeks to connect to a sewer system constructed by the developer.

Section 5 (1)(b) of 1997 Wis. Act 213, the legislature specifically exempted the commission from finding of emergency required by s. 227.24, Stats.

Publication Date: November 1, 1998
Effective Date: November 1, 1998
Expiration Date: March 31, 1999
Hearing Dates: January 13 & 14, 1999

2. Rules adopted revising **ch. PSC 4**, relating to small generating plants.

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin ratepayers by ensuring a reliable energy supply in 2000 and beyond, the Commission's review process of proposed new generating plants that are less than 100 MW in size must be amended. A revision is needed so the review process for such projects can be completed in time to allow construction of necessary projects, if approved, by June 1, 2000. Permanent rules cannot be adopted in time to affect the

Commission's review period. An emergency rule is necessary to change the Commission's review process immediately.

Publication Date: January 19, 1999
Effective Date: January 19, 1999
Expiration Date: June 18, 1999

EMERGENCY RULES NOW IN EFFECT

Regulation & Licensing

Rules were adopted creating **chs. RL 131 to 135**, relating to the registration and regulation of home inspectors.

Exemption From Finding of Emergency

The Department of Regulation and Licensing 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:

Section 3 of 1997 Wis. Act 81 states that the department is not required to make a finding of emergency; however, the department offers the following information relating to the promulgation of these rules as emergency rules. The new regulation of home inspectors was created in 1997 Wis. Act 81. The Act was published on April 27, 1998; however, the Act created an effective date for the new regulation as being the first day of the 7th month beginning after publication. That date is November 1, 1998. Nonstatutory provisions in Section 3 of the Act require the department to create a committee, consisting of 6 home inspectors and 3 public members, to advise the department in promulgating rules. This section also authorizes the department to promulgate rules as emergency rule before November 1, 1998. The advisory committee was formed and met 7 times to develop administrative rules which must be in effect on the effective date of the new regulation.

Publication Date: November 1, 1998
Effective Date: November 1, 1998
Expiration Date: March 31, 1999
Hearing Date: December 17, 1998
Extension Through: May 29, 1999

EMERGENCY RULES NOW IN EFFECT

Revenue

A rule was adopted creating **s. Tax 11.20**, relating to the sales and use tax treatment of machinery and equipment used in waste reduction and recycling activities.

Exemption From Finding of Emergency

On February 25, 1999, the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26, (2) (b), Stats., directed the Department of Revenue to use the emergency rule making process to promulgate as an emergency rule, within 30 days, its policies interpreting s. 77.54 (26m), Stats.

Analysis by the Department of Revenue

Statutory authority: ss. 227.11 (2) (a) & 227.26 (2) (b)
 Statute interpreted: s. 77.54 (26m)

Section Tax 11.20 is created to address the sales and use tax exemptions for waste reduction and recycling activities.

Publication Date: March 27, 1999
Effective Date: March 27, 1999
Expiration Date: August 24, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Workforce Development

(Economic Support, Chs. DWD 11–59)

1. Rules adopted renumbering **ss. HFS 55.55 to 55.62** and revising **ch. DWD 55**, relating to background checks for persons involved with certified day care.

Finding of Emergency

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

Beginning on October 1, 1998, recently enacted provision in ch. 48, Stats., require the completion of background reviews on caregivers and others who come into contact with clients in the programs operated by caregivers. Although most of these provisions are administered by the Department of Health and Family Services, they also include day care programs certified by the Department of Workforce Development. DWD is adopting this emergency rule so that county and tribal social services agencies and human services agencies will be able to implement the new background review requirements in relation to certified day care programs as they become effective.

Publication Date: October 1, 1998
Effective Date: October 1, 1998
Expiration Date: February 28, 1999
Extension Through: May 4, 1999

2. Rules adopted renumbering **chs. HSS 80 to 82** as **chs. DWD 40 to 42**, and creating **ch. DWD 43**, relating to child support administrative enforcement.

Finding of Emergency

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

State and federal legislation have created new procedures for the administrative enforcement of child support obligations. To place the new procedures into effect, the Department of Workforce Development has scheduled public hearings on a proposed permanent rule during the month of October, 1998. While the permanent rulemaking process proceeds, DWD is adopting the provisions in the current draft as an emergency rule so that county child support agencies will be able to utilize the new statutory enforcement and collection procedures for the benefit of custodial parents as soon as possible.

Publication Date: October 1, 1998
Effective Date: October 1, 1998
Expiration Date: February 28, 1999
Hearing Dates: October 13, 20 & 27, 1998
Extension Through: March 29, 1999

3. Rules adopted renumbering **ch. HFS 55** and revising **DWD 55**, relating to criminal background checks in daycare.

Finding of Emergency

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

This represents the most recent amended version of this emergency rule which was first adopted on October 1, 1998. Beginning on October 1, 1998, recently enacted provisions in ch. 48, Stats., require the completion of background reviews on caregivers and others who come into contact with clients in the programs operated by caregivers. Although most of those provisions are administered by the Department of Health and Family Services, they also include day care programs certified by the Department of Workforce Development. DWD is adopting this emergency rule so that county and tribal social services agencies and human services agencies will be able to implement the new background review requirements in relation to certified day care programs as they become effective.

Publication Date: March 26, 1999
Effective Date: March 26, 1999
Expiration Date: August 23, 1999

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Prevailing Wage Rates, Chs. DWD 290–294)

Rules adopted amending **s. DWD 290.155**, relating to the annual adjustment of the minimum estimated project costs for the application of the requirement to obtain a determination of prevailing wage rates for workers employed on state or local public works projects.

Finding of Emergency

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

The Department of Workforce Development, acting under its statutory authority to adjust threshold limits in accordance with changes in construction costs, has determined that the increase in construction costs between November 1997 and December 1998 requires that the threshold limits for prevailing wage rate determinations be raised from \$32,000 to \$33,000 for single-trade projects and from \$160,000 to \$164,000 for multi-trade projects.

If these new threshold limits are not put into effect by an emergency rule, the old limits will remain in effect for approximately six months, until the conclusion of the regular rulemaking process. The practical effect of this would be that, between now and 7/1/99, a single-trade project costing more than \$32,000 but less than \$33,000, or a multi-trade project costing more than \$160,000 but less than \$164,000, would not be exempt from the requirement to get a prevailing wage rate determination. A local unit of government or state agency proceeding with a public works project in this cost range during this period would incur the added complication of complying with the state prevailing wage laws, despite the fact that the threshold limit adjustment is based on national construction cost statistics and is very unlikely to be changed by the regular rulemaking process. The Department is proceeding with this emergency rule to avoid imposing this

additional administrative burden on local governments and state agencies.

Publication Date: January 4, 1999
Effective Date: January 4, 1999
Expiration Date: June 3, 1999
Hearing Date: February 11, 1999

STATEMENTS OF SCOPE OF PROPOSED RULES

Agriculture, Trade and Consumer Protection

Subject:

Chs. ATPC 10 and 11 – Relating to chronic wasting disease (CWD) in deer and elk, and scrapie in sheep and goats.

Description of policy issues:

Preliminary objectives:

To establish a state policy which will allow Wisconsin producers to retain access to interstate and international markets for their deer, elk, sheep and goats.

To develop a way for producers to communicate meaningful information regarding the disease status of their herds and to permit buyers of Wisconsin animals to use the information to make informed choices about what animals they will purchase and the source from which they will purchase them.

Preliminary policy analysis:

CWD is a transmissible spongiform encephalopathy in deer and elk. CWD is progressive and always fatal. There is sparse scientific knowledge about CWD, and, at present, no test is available which allows diagnosis of the disease in a living animal. The disease was first identified in wild deer and elk in Colorado and Wyoming. It has recently been identified in farm-raised deer or elk in South Dakota and Nebraska. Because of concern about spreading the disease through interstate shipments of farm-raised deer and elk, several states have enacted provisions prohibiting importation of animals originating from a herd which has not been under formal surveillance for CWD and testing of all dead animals from the herd for a period of 5 years.

Wisconsin currently does not have a program for herd surveillance and dead animal testing for CWD. Therefore, Wisconsin producers will be prohibited from selling their animals into those states. The Department seeks to work with the farm-raised deer industry to develop a program which will open these markets to Wisconsin producers.

Scrapie is a transmissible spongiform encephalopathy in sheep and goats. The federal government is currently proposing a prohibition on interstate shipment of sheep and goats from states which do not have state authority to quarantine flocks of sheep or goats when scrapie is identified in the flock. Wisconsin currently has statutory authority to quarantine the herd, but it has not yet adopted a policy which establishes how a quarantine can be released after it is imposed. Without such a policy, Wisconsin producers will be unable to ship their animals in interstate commerce.

In addition, the Department believes Wisconsin producers and purchasers of these animals need to be able to obtain meaningful information about the source herds for animals they intend to purchase so they can make informed decisions about which animals to purchase and what prices to pay for the animals. The Department intends to work with the affected industries to develop a herd classification system which will provide basic information to potential purchasers about the status of the herd of origin.

Policy alternatives:

◆ Do nothing. If the Department does nothing, it expects to see an ever-increasing reduction in the marketability of Wisconsin farm-raised deer, sheep and goats. As interstate and international markets close, Wisconsin producers will see a decreasing value placed on their animals. In addition, Wisconsin producers will have no means of protecting themselves from introducing the disease into their herd or flock through the purchase of infected animals.

◆ Establish a regulatory program requiring sacrifice and testing of a statistically significant portion of a herd or flock annually to determine the status of the herd or flock. Since the disease can only be definitively diagnosed following microscopic examination of the brain of the animal, this would be the only way to determine presence of the disease in the herd or flock. This would be a very expensive process, and for small herds (under 30 animals) might require annual depopulation of the herd to create a statistically significant sample. If the Department were to take this approach, it may need to obtain statutory authority to impose such significant costs on producers.

Statutory authority:

The Department proposes to develop animal health rules under authority of ss. 93.07 (1) and 93.07 (10), Stats. The rules would interpret s. 93.07 (10), Stats., particularly the requirement that the Department, “determine and employ the most efficient and practical means for the prevention, suppression, control and eradication of communicable diseases among domestic animals ...”

Staff time required:

The Department estimates that it will use approximately 1 FTE (Full-Time Equivalent) staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions and communicating with affected persons and groups. The Department will assign existing staff to develop this rule.

Agriculture, Trade and Consumer Protection

Subject:

Ch. ATPC 81 – Relating to cheese grading, packaging and labeling.

Description of policy issues:

Preliminary objectives:

Current Department rules under ch. ATPC 81, Wis. Adm. Code, regulate cheese grading, packaging and labeling. These rules prevent fraud and deception, and assist wholesale and retail purchasers of cheese in making informed value comparisons and purchase decisions. Grade standards contained in the rules set the benchmarks for determining cheese quality.

The Department recently adopted an emergency rule and proceeded with permanent rule-making to amend the grade standard for colby and monterey (jack) cheese. At this time, the Department proposes to modify and update additional sections of ch. ATPC 81 to accommodate changes in cheese manufacturing and packaging technology, and customer expectations. The Department also proposes to clarify portions of the current rules so they will be easier to understand.

In its rule proposal, the Department plans to address rule changes recommended by the grading sub-committee of the Food Safety Task Force. This sub-committee was formed to examine ways to enhance the dairy grading program, including providing suggestions for rule revision.

Preliminary policy analysis:

Current rules under ch. ATPC 81, Wis. Adm. Code, establish standards for cheese grading, packaging and labeling. Among other things, ch. ATPC 81 addresses:

- General grading and marking requirements
- Recordkeeping requirements
- Cheese style and container requirements
- Grade standards for several commodity cheeses
- Wisconsin’s standard of identity for Baby Swiss cheese

The Department proposes to update and clarify ch. ATCP 81 to accommodate changes in cheese manufacturing and packaging technology, and customer expectations. Protection of the “added value” attributable to Wisconsin grade labels for Wisconsin-made cheese is also an important consideration. Rule amendments may address the following subjects, among others:

- Cheese packaging requirements
- Cheese labeling requirements
- Wisconsin grade standards
- Wisconsin grade labels on cheese manufactured outside of this state
- Recordkeeping requirements

Policy alternatives:

● **Do nothing.** Failure to update the current rules may pose risks to Wisconsin’s cheese industry and dairy economy, with a possible negative impact on the general economy and citizen’s of this state. The Department believes that periodic rule updates are necessary for Wisconsin’s dairy industry to remain competitive on a nationwide basis.

Statutory authority:

The Department proposes to revise ch. ATCP 81, Wis. Adm. Code, under authority of ss. 93.07 (1), 97.09 (1) and 97.177 (1) and (4), Stats.

Staff time required:

The Department estimates that it will use approximately 0.1 FTE (Full-Time Equivalent) staff time to develop this rule change. This includes research, drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. The Department will assign existing staff to develop this rule.

Commerce

Subject:

Ch. Comm 111 – Relating to certified capital companies.

Description of policy issues:

Description of the objective of the rule:

Sections 560.30 to 560.37, Stats., authorize the Department of Commerce to promulgate administrative rules establishing procedures to certify and decertify certified capital companies, certify and allocate investments in certified capital companies, and determine qualified investments. The rules will also include reporting requirements, fees, and compliance reviews of the certified capital companies.

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:

These rules will be new rules and are authorized with the passage of recent legislation.

Statutory authority for the rule:

Section 560.31, Stats.

Estimate of the amount of time that state employes will spend to develop the rule and of other resources necessary to develop the rule:

The time estimated to develop the rule is as follows:

Rule drafting and internal processing to announce public hearings	50 hours
Conducting public hearings and summarizing hearing comments	20 hours
Preparing rules in final draft form for legislative review	15 hours
Meet with Legislators on subject rules	8 hours
Prepare rule for adoption and file adopted rule	4 hours
<hr/>	
TOTAL	97 hours

**Financial Institutions
(Div. of Securities)**

Subject:

DFI–Sec Code – Relating to the annual rule revision process for the Rules of the Division of Securities, Department of Financial Institutions, relating to the Wisconsin Uniform Securities Law and the Wisconsin Franchise Investment Law.

Description of policy issues:

Description of the objective of the rule:

The Division’s annual rule revision process is conducted for the following purposes:

- 1) Revising several securities law definitional rules to clarify language;
- 2) Developing new securities registration exemptions and making modifications to existing securities registration exemptions to reflect new legal or interpretive issues under the federal and state securities laws;
- 3) Adopting new rules or amending existing rules, relating to the securities broker–dealer, agent, investment adviser, and investment adviser representative licensing procedures, examination and examination waiver requirements, securities agent customer record requirements, and rules of conduct provisions, to effectively regulate new securities licensing developments that have occurred in the securities industry and marketplace that require regulatory treatment;
- 4) Making clarifications and amendments to several securities and franchise rules relating to fees and forms to be used for making filings.

Description of existing relevant policies and new policies proposed to be included in the rule and an analysis of policy alternatives:

Existing and new policies contained in the proposed rules include:

- 1) Addition of a reference to the Internet in definitional rule s. DFI–Sec 1.02 (1) (a) 1., relating to the use of media advertising;
- 2) Deletion of “sunset dates” for use of the registration exemptions in s. DFI–Sec 2.02 (9) (a) and (9) (L) and the notice filing provision in s. DFI–Sec 2.04 (1) (a);
- 3) Designation under current rule s. DFI–Sec 2.01 (3) [relating to securities traded on certain exchanges] of warrants and rights for securities traded on the major stock exchanges;
- 4) Adding to the existing rule in s. DFI–Sec 2.02 (5) (d) that limits use of the “10 offeree” securities registration exemption in s. 551.23 (11), Wis. Stats., in certain circumstances, a provision that would impose a 10–day–prior–to–first–offer, notice filing requirement for use of the exemption in offerings made for federal purposes pursuant to Rule 504 under Regulation D of the Securities Act of 1933;

5) Addition of the NASD Series number to the examination description of all of the prescribed securities agent examinations listed in s. DFI–Sec 4.01 (3), (4) and (5), and adopting three new limited activity agent examinations;

6) Repeal of existing rule s. DFI–Sec 4.035 that requires securities agents to keep certain customer records and provides that agents receive copies thereof from the agent's employing broker–dealer;

7) Adoption of the North American Securities Administrator's Association Model Rules applicable to securities broker–dealers providing securities services on the premises of financial institutions, which Model Rules follow both equivalent rules adopted by the National Association of Securities Dealers (applicable to securities broker–dealers), and regulatory Guidelines in an Interagency Statement jointly developed by federal financial institution regulatory authorities (the Office of the Comptroller of the Currency, the Federal Reserve Board, and the Federal Deposit Insurance Corporation);

8) Addition of a rule requiring licensed investment advisers to create and maintain a record of customer information that would facilitate determining suitability of investment recommendations.

9) Addition of a rule requiring an investment adviser to notify the Division if it opens an office in a financial institution in Wisconsin.

Statutory authority for the rules:

SS. 551.22 (7), 551.23 (11) (b) and (18), 551.29 (1), 551.32 (4), 551.33 (1), (2), and (6), 551.63 (1) and (2) and 553.58 (1) and (2), Stats.

Estimate of the amount of time state employees will spend to develop the rule and other resources necessary to develop the rule:

Estimated time to be spent by state employees to develop the rule— 40 hours. No other resources are necessary.

***Professional Geologists, Hydrologists and
Soil Scientists Examining Board***

Subject:

New Code – Relating to establishing requirements and standards for the practice of professional geology, hydrology and soil science.

Description of policy issues:

Specify the educational, experience and examination requirements for the professions of geology, hydrology and soil science.

Policy analysis:

To implement the provisions of 1997 Wis. Act 300, which created the Examining Board of Professional Geologists, Hydrologists, and Soil Scientists.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2), Stats., and s. 470.03, Stats., as created by 1997 Wis. Act 300.

Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:

200 hours.

***Health and Family Services
(Community Services,
Chs. HFS/HSS 30––)***

Subject:

Ch. HFS 36 – Relating to community–based psychosocial services programs for persons with mental illness and children with emotional disturbance.

Description of policy issues:

Description of objective(s):

To establish a new type of community mental health program that will provide services to adults with mental illness and children with emotional disturbance whose needs exceed outpatient therapy but are less than the level of services provided by Community Support Programs under s. 51.421, Stats., and ch. HFS 63, and that will be fully or partially funded by Medical Assistance with county match.

Description of policies — relevant existing policies, proposed new policies and policy alternatives considered:

This is a new type of certified community mental health program, and so the rules will be a new chapter in the Wisconsin Administrative Code. The Department as it updates its rules for the several types of community mental health programs is taking those rules out of ch. HFS 61, where they have been co–located, and is making individual chapters of them by type of program. This has already been done for Emergency Service Programs and Day Treatment Programs for Children, and was originally done for Community Support Programs. All of the separate rule chapters have or will have some common parts, including sections on certification procedures, waivers, patient rights and patient satisfaction, and a subsection on qualifications of clinical or professional staff.

The rules for community–based psychosocial service programs will also cover program–specific clinical supervision, eligibility standards, admission requirements, treatment services and administration of medications.

The Department will propose in the rules to allow only counties that have existing certified Community Support Programs to also operate or contract for the operation of a Community Psychosocial Services Program. This limitation will prevent existing Community Support Programs from reducing their services to the Psychosocial Services level.

Statutory authority:

Section 51.42 (7), Stats., directs the Department to certify, review and evaluate county–provided and county–contracted community mental health programs, and to promulgate rules for administration of the programs. The specification and certification of community mental health programs is the responsibility of the Department, with rules drafted by Bureau of Community Mental Health staff and surveying, certification and enforcement conducted by Program Certification staff of the Bureau of Quality Assurance. Section 49.45 (30e) (b), Stats., as created by 1997 Wis. Act 27, directs the Department to promulgate rules specifically for community–based psychosocial service programs and for the purpose of reimbursement by the Medical Assistance Program for services provided to Medical Assistance (Medicaid) recipients. The rules are to establish standards for determining program eligibility, identify the services that may be provided and specify requirements for program certification. Section 49.46 (2) (b) 6. Lm., Stats., as created by 1997 Wis. Act 27, makes psychosocial services provided by staff of a community–based psychosocial service program a covered benefit under the Medical Assistance Program.

Estimates of staff time and other resources needed to develop the rules:

Estimated hours of staff time to draft the rules – 120 staff hours. A non–Departmental advisory committee will provide opportunities for consumer and provider input to the drafting process.

***Health and Family Services
(Health, Chs. HFS/HSS 110––)***

Subject:

Ch. HFS 115 – Relating to screening of newborn children for congenital and metabolic disorders.

Description of policy issues:

Description of objective(s):

To incorporate into Wisconsin's Newborn Screening Program under s. 253.13, Stats., and ch. HFS 115 rules an additional test to

screen for 14 fatty oxidation and branched chain amino acid disorders, the most common of which is called Medium Chain Acyl-CoA Dehydrogenase Deficiency (MCAD). The same blood sample taken from a newborn child that is now used to screen for 7 other conditions, including PKU, will be used to screen for these disorders.

Description of policies—relevant existing policies, proposed new policies and policy alternatives considered:

The Department of Health and Family Services administers the Newborn Screening Program under s. 253.13, Stats. Under that program a sample of blood is drawn from nearly every newborn infant in the state before a child is discharged from the hospital, if the child was born in a hospital, or within one week of birth, if the child was born elsewhere, and tests are conducted by the State Laboratory of Hygiene on each blood sample to detect any of the congenital or metabolic disorders specified in ch. HFS 115, the Department's rules for the program. The conditions for which testing is done were specified by statute before November 1, 1992. Since then, s. 253.13 (1), Stats., has directed the Department to specify those conditions by rule.

The Department adds or deletes conditions for testing of blood samples on the advice of the Newborn Screening Advisory Group made up of medical consultants, State Laboratory of Hygiene staff and other persons with expertise and experience in dealing with congenital and metabolic disorders, and in accordance with 6 criteria listed in s. HFS 115.06. The criteria include the availability of effective therapy for the condition and potential for successful treatment, the availability of mechanisms for determining the effectiveness of test procedures, and the expected benefits to children and society in relation to the risks and costs of the testing.

The Newborn Screening Advisory Group has unanimously supported the recommendation of Department staff to add at this time MCAD and 13 other fatty oxidation and branched chain amino acid disorders as a new condition for which testing of blood samples drawn from newborns is conducted. It is estimated that through this testing 15 to 20 babies a year in Wisconsin will be identified as having one of the disorders. Morbidity and mortality are high for persons with the condition if treatment is not begun before the onset of clinical symptoms. Prompt initiation of treatment results in nearly 100% survival and normal development. Treatment is simple (diet supplementation and regulation) and inexpensive. The screening technology has only recently been developed.

Statutory authority:

SS. 253.13 (1) and 227.11 (2), Stats.

Estimates of staff time and other resources needed to develop the rules:

Estimated 12 hours of staff time to draft and clear the rule-making order.

Natural Resources

**(Environmental Protection—General,
Chs. NR 100—)**

Subject:

Ch. NR 140 – Relating to groundwater quality standards for toluene and xylenes.

Description of policy issues:

In 1994 the Board requested that a study be conducted to identify what concentrations of toluene and xylene pose a concern from a taste and odor perspective. An advisory committee was formed and designed the study. UW–River Falls conducted a study to determine the concentrations of toluene and xylenes in drinking water that the average adult can smell or taste. The proposed amendments would

revise the standards for toluene and xylene so they are protective of public health while also addressing taste and odor concerns. Interested parties are likely to include consultants, Petroleum Marketers and Wisconsin Manufacturers and Commerce. Changes are also proposed to clarify exemption criteria for health and welfare standard exceedances.

This action does not represent a change from past policy.

Statutory authority:

SS. 160.07, 160.11, 160.13, 160.15 and 281.12 (1), 281.15 (1) and (2) and 281.19 (1), Stats.

Anticipated time commitment:

The anticipated time commitment is 466 hours. Four hearings are proposed to be held in July, 1999 at Eau Claire, Green Bay, Madison and Rhinelander.

Natural Resources

**(Environmental Protection—Investigation
and Remediation of Environmental
Contamination, Chs. NR 700—)**

Subject:

Chs. NR 720, 722, 726 and 746 (Comm 46) – Relating to PECFA (Petroleum Environmental Cleanup Fund) site assessment and closure.

Description of policy issues:

Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:

The major policy issue to be resolved is assuring the permanent rule is in compliance with ch. 160, Wis. Stats. Affected parties include the Department of Commerce, environmental consultants, environmental groups and numerous petroleum-related industries. These constituencies will be represented during the Advisory Committee meetings that will occur during the rule development process.

This action represents a change from past policy.

Explain the facts that necessitate the proposed change:

Adoption of a permanent rule will assure uniform application of detailed procedures for assessing risks posed by PECFA sites and for determining conditions under which sites may be closed, especially in regard to clay sites.

This action represents an opportunity for pollution prevention and/or waste minimization.

Statutory authority:

SS. 227.11 (2) (a), 292.11 and 292.31, Stats.

Anticipated time commitment:

The anticipated time commitment is 543 hours. Four public hearings are proposed to be held during July 12 to July 15 at Madison, Milwaukee, Green Bay and Eau Claire.

Public Service Commission

Subject:

Ch. PSC 2 and ss. PSC 113.134, 134.064 and 165.053 – Relating to rules of practice and procedure before the Commission.

Description of policy issues:

Description of objective:

Ch. PSC 2 was first promulgated in 1956. It has not undergone a systematic revision since then, despite many legislative changes and judicial decisions. This revision will update and modernize the rules of practice and procedure before the Commission to bring them into compliance with current law. This revision will also harmonize ch. PSC 2 with other rules dealing with practice before the agency.

Description of policy issues:

The rules will implement provisions of ch. 227, Stats., the Administrative Procedure Act, and the procedural provisions of ch. 196, Stats., entitled "Regulation of Public Utilities," as construed by the courts. The revision will also repeal provisions related to subjects no longer regulated by the Commission.

Groups likely to be impacted:

The revision will impact all public utilities, other regulated companies, customer groups, consumer and other community groups and the general public, all of whom participate in proceedings before the Commission.

Statutory authority:

SS. 196.02 (3), 227.10 and 227.11, Stats.

Estimate of time and resources needed to revise the rule:

Based on time estimates collected for other Commission rule-making dockets, it is probable that staff will spend less than \$15,000 in equivalent staff time to create a draft of the rule and complete the public processes required in rule-making. Existing staff would absorb the time spent, and no new resources would be necessary. The Commission believes that the time spent by staff on this effort will ultimately provide a significant improvement for those who participate in Commission proceedings.

For more information, please contact John Cappellari, (608) 261-8523.

Revenue**Subject:**

S. Tax 11.20 – Relating to Wisconsin sales and use tax treatment of waste reduction and recycling machinery and equipment and motor vehicles used in waste reduction and recycling activities.

Description of policy issues:*Objective of the proposed rule:*

The objective of the proposed rule is to:

- Provide guidelines that explain what machinery and equipment and motor vehicles qualify for exemption from Wisconsin sales and use tax under the waste reduction and recycling exemptions provided in s. 77.54 (5) (c) and (26m), Stats.
- Provide guidelines that explain where waste reduction and recycling processes begin and end.
- Provide examples of machinery and equipment and motor vehicles which qualify for the waste reduction and recycling exemptions provided in s. 77.54 (5) (c) and (26m), Stats.
- Provide examples of machinery and equipment and motor vehicles which do not qualify for the waste reduction and recycling exemptions provided in s. 77.54 (5) (c) and (26m), Stats.

Policy analysis:

The rule is being created to reflect current Department policy.

Statutory authority:

Section 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 200 hours to develop this rule order.

If you have any questions regarding the scope statement, please contact Mark Wipperfurth at (608) 266-8253.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

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

Agriculture, Trade & Consumer Protection

Rule Submittal Date

On April 12, 1999, the Wisconsin Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. ATCP 160, Wis. Adm. Code, relating to county and district fairs.

Agency Procedure for Promulgation

A public hearing is required, and the Department will hold public hearings on this rule after the Wisconsin Legislative Council Rules Clearinghouse completes its review. The Division of Marketing is primarily responsible for promulgation of this rule.

Contact Information

If you have questions regarding this rule, you may contact:

Bob Williams
Division of Marketing
Telephone (608) 224-5131

or

Attorney Karl Marquardt
Telephone (608) 224-5031

Commerce

(Financial Resources for Businesses and Communities, Chs. Comm 105-128)

Rule Submittal Date

On April 14, 1999, the Wisconsin Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. Comm 112, Wis. Adm. Code, relating to the Wisconsin Development Zone program.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled.

Contact Information

If you have questions regarding this rule, please contact:

Richard Meyer
Department of Commerce
Telephone (608) 266-3080

Health and Family Services

(Community Services, Chs. HFS/HSS 30--)

Rule Submittal Date

On April 9, 1999, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority:

SS. 48.57 (3m) (ar) and 227.11 (2), Stats.

The proposed rule affects ch. HFS 58, Wis. Adm. Code, relating to eligibility for the kinship care program.

Reason for rules, intended effects, requirements:

These are rules for the Kinship Care Program under s. 48.57 (3m), (3n), (3p) and (3t), Stats. The program authorizes a county or tribal child welfare agency or, in the case of Milwaukee County, the Department, to make a monthly payment of \$215 to an approved nonparent relative of a child to help the relative provide care and maintenance for the child. The program began July 1, 1996. Amendments to the program statute included in 1997 Wis. Act 237 and effective in June 1998 directed the Department to promulgate rules which set forth criteria for determining the eligibility of a relative to receive the monthly kinship care payment. These are the rules.

Agency Procedure for Promulgation

Public hearings under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

Contact Information

For questions regarding this rule, please contact:

Mark Mitchell
Division of Children and Family Services
Telephone (608) 266-2860

Insurance, Commissioner of

Rule Submittal Date

In accordance with ss. 227.14 and 227.15, Stats., the Wisconsin Office of the Commissioner of Insurance is submitting a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on April 6, 1999.

Analysis

These changes will affect ss. Ins 17.01 (3) (intro.), 17.275 and 17.28 (5) (c), (6) and (6a), Wis. Adm. Code, relating to annual patients compensation and mediation fund fees.

Agency Procedure for Promulgation

A public hearing is required, and the date for the public hearing is May 17, 1999 at Madison.

Contact Information

A copy of the proposed rule may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/rule.htm> or by contacting:

Tammi Kuhl
OCI Central Files
Telephone (608) 266-0110

For additional information, please contact:

Alice M. Shuman
OCI Legal Unit
Telephone (608) 266-9892
Email-- ashuman@mail.state.wi.us

Natural Resources**(Air Pollution Control, Chs. NR 400--)****Rule Submittal Date**

On April 1, 1999, the Wisconsin Department of Natural Resources submitted a proposed rule [Board Order No. AM-14-99] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 460, 466 and 484, relating to national emission standards for hazardous air pollutants for the printing and publishing industry.

Agency Procedure for Promulgation

A public hearing is required, and the date for the public hearing is May 18, 1999 at Oshkosh.

Contact Information

For questions, please contact:

Robert Eckdale
Bureau of Air Management
Telephone (608) 266-2856

Natural Resources**(Air Pollution Control, Chs. NR 400--)****Rule Submittal Date**

On April 1, 1999, the Wisconsin Department of Natural Resources submitted a proposed rule [Board Order No. AM-15-99] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 428 and 484, relating to nitrogen oxides (NO_x) emission reduction requirements.

Agency Procedure for Promulgation

A public hearing is required, and the dates for the public hearings are: May 17, 1999 at Milwaukee; May 18, 1999 at Eau Claire; May 19, 1999 at Stevens Point; May 20, 1999 at Green Bay; and May 21, 1999 at Madison.

Contact Information

For questions, please contact:

Allen Hubbard
Bureau of Air Management
Telephone (608) 266-3450

Physical Therapists Affiliated Credentialing Board**Rule Submittal Date**

On April 1, 1999, the Physical Therapists Affiliated Credentialing Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority:

SS. 15.08 (5) (b), 227.11 (2) and 448.40, Stats.

The proposed rule--making order relates to the definition of physical therapy aide, the tests of English, written English and spoken English, general supervision of physical therapist assistants, and direct supervision of physical therapist assistants and physical therapy aides.

Agency Procedure for Promulgation

A public hearing is required and will be held May 4, 1999 at 9:30 a.m. in Room 180 at 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

If you have questions regarding this rule, please contact:

Pamela Haack
Administrative Rules Coordinator
Telephone (608) 266-0495

Public Defender**Rule Submittal Date**

On April 12, 1999, the Office of the State Public Defender submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates s. PD 1.04 (10), relating to certification criteria.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for May 12, 1999. The organizational unit primarily responsible for promulgation of the rule is the SPD's Office of Legal Counsel.

Contact Information

If you have questions regarding this rule, you may contact:

Gina Pruski
Deputy Legal Counsel
Telephone (608) 266-6782

NOTICE SECTION

Notice of Hearing

Agriculture, Trade and Consumer Protection

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on its emergency rule related to dairy plant security. The emergency rule, which is effective on **May 1, 1999**, amends ch. ATPC 100, Wis. Adm. Code.

Written Comments

The public is invited to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until **June 10, 1999**.

Copies of Emergency Rule and Contact Information

A copy of the emergency rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Trade and Protection, 2811 Agriculture Drive, P. O. Box 8911, Madison, WI 53708, or by calling (608) 224-4934.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter by contacting Judy Jung (608) 224-4972 or by contacting the TDD at the Department at (608) 224-5058.

Hearing Information

The hearing is scheduled as follows:

<u>Date and Time</u>	<u>Location</u>
May 18, 1999 Tuesday Commencing at 10:00 a.m.	Board Room, #SR-106 State Agriculture Bldg. 2811 Agriculture Dr. MADISON, WI
	Handicapped accessible

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

Statutory authority: ss. 93.07 (1), 97.20 (4), and 100.06

Statutes interpreted: ss. 97.20 and 100.06

This emergency rule reduces the amount of security which dairy plant operators file with the Department to secure payment of milk producer payrolls. This adjustment reflects a large decline in producer payrolls resulting from the recent drop in milk prices. This emergency rule will restore security requirements to normal levels, and will relieve dairy plant operators of excessive security requirements based on *last year's* high milk prices.

This adjustment will save dairy processors millions of dollars which they can put to other productive uses. It will maintain normal protection for milk producers based on this year's milk prices, and will help Wisconsin's dairy processing industry to remain financially viable.

Dairy Plant Security Program

The Department of Agriculture, Trade and Consumer Protection ("department") currently administers a dairy plant licensing and security program under ss. 97.20 and 100.06, Stats. The Department adopts rules under ch. ATPC 100, Wis. Adm. Code (Dairy Plant Payments to Milk Producers; Security).

Dairy plant operators are currently licensed under s. 97.20, Stats., with an annual license year beginning May 1. As a condition to licensing, dairy plant operators must comply with financial requirements under s. 100.06, Stats. These financial requirements are designed to provide "reasonable assurance" that dairy farmers will be paid for the milk which they produce and ship to dairy plants.

Currently, under ss. 97.20 (2) (d) 2. and 100.06, Stats., no dairy plant operator may purchase milk from producers in this state unless the dairy plant operator does one of the following:

- Files audited financial statements with the department showing that the operator meets minimum financial standards.
- Files security with the Department.
- Enters into a dairy plant trusteeship. (A trusteeship is not a viable option for many plants.)

Current Security Requirements

Under s. ATPC 100.45 (5), Wis. Adm. Code, if a dairy plant operator is required to file security, the security must be equal to at least 75% of the operator's "maximum liability to producers." An operator's "maximum liability to producers" is based on the operator's highest monthly producer payroll during the preceding license year.

Because of record high prices during the last quarter of 1998, dairy plants had unusually high producer payroll during that period. The Basic Formula Price ("BFP") reached an all time record high of \$17.34 per hundredweight in December 1998. Since then, the average market price for raw milk has fallen by approximately 41 percent. (Dairy economists expect an average BFP for 1999 to be 12 to 16.2% below last year's average of \$14.20.)

As a result of this dramatic price drop, dairy plant producer payrolls have decreased sharply. Current dairy plant security requirements, calculated according to last year's "maximum liability to producers," are therefore excessive in relation to current payrolls. (Security amounts are 31 to 48% higher than they would be if calculated at current prices.)

Prices received by Wisconsin dairy plants for processed dairy products have also fallen dramatically since the end of last year. This has created serious financial hardships for many dairy plant operators, and has impaired the ability of some operators to meet the financial standards under s. 100.06, Stats., or file security in the (excessive) amount currently required. If a dairy plant operator is unable to meet minimum financial standards, and is unable to file security, the dairy plant may be forced to close. The forced closing of a plant may, in turn, result in serious financial losses to producer patrons.

Security Adjustment

Excessive security requirements, based on last year's milk prices, impose an added burden on financially stressed plant operators. This emergency rule reduces security requirements by 15% for the license year beginning May 1, 1999, to reflect the reduction in milk prices and producer payrolls. This will make it easier for dairy plant operators to meet the minimum security requirements and stay in business.

Producer Protection

The emergency rule will continue to provide reasonable protection for milk producers. The emergency rule merely adjusts security levels to be commensurate with current milk prices and producer payrolls. This emergency rule will relieve financially stressed dairy plants from unnecessary financial burdens, and will make it easier for those plants to file security with the Department. That will reduce the risk of dairy plant financial failures, or forced closings of unsecured plants, which may adversely affect milk producers.

Under current rules, if the amount of security filed by a dairy plant operator falls below 75% of the operator's current monthly

producer payroll, the dairy plant must immediately notify the Department. The Department may require the operator to file additional security. This emergency rule does not change these current rule provisions.

Fiscal Estimate

Under current rules, dairy plant operators who are required to file security with the Department must maintain minimum security amounts equal to 75% of their maximum liability to producers. Because of recent extraordinary decreases in the price of raw milk, this rule is placing unnecessary financial hardships on dairy plants that are not providing any increased benefit to producers.

This rule would temporarily reduce the amount of security to 85% of current levels, thereby reducing financial strain on dairy plant operators.

Expenses incurred by the Department's dairy plant security program are funded by program revenue fees collected from dairy plants. This proposed emergency rule in no way affects revenues or expenses.

Initial Regulatory Flexibility Analysis

This emergency rule reduces the amount of security which dairy plant operators file with the Department to secure payment of milk producer payrolls. This adjustment reflects a large decline in producer payrolls resulting from the recent drop in milk prices. This emergency rule will restore security requirements to normal levels, and will relieve dairy plant operators of excessive security requirements based on *last year's* high milk prices.

This adjustment will save dairy processors, many of whom are "small businesses" as defined by s. 227.114 (1) (a), Stats., millions of dollars which they can put to other productive uses. It will maintain normal protection for milk producers, many of whom are "small businesses" as defined by s. 227.114 (1) (a), Stats., based on this year's milk prices.

It will also help Wisconsin's dairy processing industry to remain financially viable, which benefits processors and milk producers, many of whom are "small businesses" as defined by s. 227.114 (1) (a), Stats.

Notice of Hearings

Agriculture, Trade & Consumer Protection **[CR 99-72]**

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed revisions to ch. ATCP 160, Wis. Adm. Code, relating to County and District Fairs. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **May 28, 1999**, for additional written comments.

A copy of this rule may be obtained free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Marketing, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, or by calling (608) 224-5100 or (608) 224-5131. Copies will also be available at the public hearings.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **May 3, 1999**, either by writing to Cindy Rein, 2800 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, (608) 224-5100 or by contacting the message relay system (TTY) at (608) 224-5058. Handicap access is available at both locations for the hearings.

Hearing Information

Two hearings are scheduled:

May 13, 1999
Thursday
9:30 a.m. until 11:30 a.m.

State of Wisconsin
WI Dept. of Agriculture, Trade
& Consumer Protection Bldg.
2811 Agriculture Drive
Madison, WI 53718
Room 172

May 13, 1999
Thursday
3:00 p.m. until 5:00 p.m.

Marathon County Courthouse
500 Forest Street
Wausau, WI 54403
Room 149

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

Statutory Authority: ss. 93.07(1) and 93.23(1)(a)2.

Statute Interpreted: s. 93.23

This rule updates the department's current rules related to county and district fairs. Among other things, this rule establishes new and revised entry classes for county and district fair exhibits, and specifies uniform premium awards for various entry classes.

Background

Under s. 93.23, Stats., the department of agriculture, trade and consumer protection ("department") is authorized to distribute state aid moneys to county and district fairs. Currently, about 76 county and district fairs receive state aids from the department. State aid moneys, appropriated under s. 20.115(4)(b) and (g), Stats., are used to reimburse county and district fairs for premiums awarded to fair exhibitors. In each year of the 1997-99 biennium, the Legislature earmarked \$585,000 of the state's gaming revenues for that purpose.

Under s. 93.23, Stats., the department may reimburse a county or district fair for 95% of the first \$8,000 in net premiums awarded by the fair, and 75% of all net premiums over \$8,000. The maximum amount of reimbursement is \$15,000. In order to qualify for state aids under s. 93.23, Stats., a county or district fair must award premiums according to a uniform premium list which the department adopts by rule.

The department's current rules under ch. ATCP 160, Wis. Adm. Code specify detailed entry classes for county and district fair exhibits. For each entry class, current rules specify uniform premiums for first place to fourth place premium awards. The department will pay state aids only on that portion of a premium award that is within the maximum amount specified by department rule. Under this rule, premiums for most exhibits range from \$1.00 to \$3.00, although higher amounts may be awarded for some classes of exhibits.

The department updates its county and district fair rules every 5 years, based on recommendations from the Wisconsin association of fairs. The Wisconsin association of fairs is a state association of organizations that sponsor county and district fairs in this state. This rule is adopted as part of the department's regular 5-year update cycle, and incorporates the most recent recommendations of the Wisconsin association of fairs.

Rule Contents

This rule specifies a number of new and revised entry classes for county and district fair exhibits. It also specifies a number of new and revised premium awards in various entry classes. This rule makes the following changes to current rules, among others:

- It adds a specific department or entry class for computers and computer programs.
- It changes the basis for entry classes in the junior fair division from the age of exhibitors to the academic grade level of exhibitors. Current rules specify that junior fair division exhibitors may be 8 to 19 years of age. This rule establishes entry classes for exhibitors who have completed kindergarten to grade 13 by June 30 in the year in which the fair is held.

- It eliminates specific breeds as entry classes in the dairy goats, poultry and rabbits departments for both the open division and junior fair division. The new rules allow the local fair to establish entry classes comprised of a single breed, or a combined breed class consisting of two or more breeds within the same group, none of which are offered by the fair as a separate entry class.

- It adds a poultry market entry class in the open class division.

- It simplifies the rule by eliminating specific entry classes for departments 18 to 32 in the open fair division. The affected departments include exhibits such as flowers and house plants, clothing, home furnishings, and foods and nutrition. The new rules simply list the premium levels and authorize the local fair board to establish specific classes and groupings under each premium level.

- It eliminates all bull calf entry classes from the dairy cattle department in the junior fair division. This change is made for safety reasons because of the potential for injury to youth exhibitors when showing a bull calf.

- It amends the showmanship class in each department in which it occurs in the junior fair division by eliminating exhibitor classes for beginners, intermediates, and seniors. The revision also gives the local fair board discretion to establish specific entry classes and subdivisions of entry classes.

- It creates an entry class for dairy sheep in the junior fair division's sheep department.

- It repeals and recreates rules for departments 14 to 34 in the junior fair division. The affected departments include exhibits such as flowers and house plants, clothing, home furnishings, and foods and nutrition. The new rules simply list the premium levels and authorize the local fair board to establish specific classes and groupings under each premium level.

This rule also makes a substantial number of technical and drafting changes to current rules.

Fiscal Estimate

This rule will have not significant fiscal impact on the department or local units of government nor will it have any significant impact on small business.

Initial Regulatory Flexibility Analysis

The proposed rule, ch. ATCP 160, Wis. Adm. Code, County and district Fairs, has been reviewed pursuant to s. 227.114, Wis. Stats., and it has been determined that the rule will not have a significant economic impact on a substantial number of small businesses.

Notice of Hearing

Chiropractic Examining Board

[CR 99-40]

Notice is hereby given that pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 446.02 (8), Stats., and interpreting s. 446.02 (8), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. Chir 3.08, relating to use of limited liability entities in chiropractic practice.

Hearing Information

May 20, 1999
Thursday
10:00 a.m.

Room 179A
1400 East Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing

without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **May 30, 1999** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 446.02 (8), Stats.

Statute interpreted: s. 446.02 (8), Stats.

Since January 1, 1994, Wisconsin has permitted use of limited liability companies and since December 1995, limited liability partnerships. The law regulating the practice of chiropractic in Wisconsin does not specifically prohibit or authorize a chiropractor to organize a chiropractic practice as a limited liability company or limited liability partnership. The rule proposed is intended to provide a clear statement of the Board's position as to whether it is permissible for a chiropractor to organize a practice under any of the limited liability organizations recognized in current state law.

Under the rule a chiropractor may practice with or in a business that is organized as a limited liability organization under Wisconsin law with certain restrictions that are based on current statutory practice requirements. The chiropractor shall not practice with or in a business organized so that a person other than a chiropractor has the right to direct or control the professional judgment of the chiropractor. The chiropractor shall have in effect professional liability insurance in the amounts required by the Board in s. Chir 3.07.

The rule explicitly recognizes legal principle that chiropractic practice with or in a business that is organized as a limited liability organization does not relieve the chiropractor from personal liability for any acts, errors or omissions of the chiropractor arising out of the performance of professional services.

Text of Rule

SECTION 1. Chir 3.08 is created to read:

Chir 3.08 Limited liability entities. (1) A chiropractor may practice with or in a business that is organized as a limited liability organization under the laws of this state, including a limited liability partnership, a service corporation, and limited liability company.

(2) A chiropractor may not practice with or in a business organized so that a person other than a chiropractor has the right to direct or control the professional judgment of the chiropractor. This restriction does not prohibit a chiropractor from working with or in a business organized so that someone other than the patient pays the chiropractor's fee or salary, provided the fee or salary arrangements do not modify the chiropractor's obligation to his or her patient.

(3) Nothing in this section shall relieve a chiropractor from personal liability for any acts, errors or omissions of the chiropractor arising out of the performance of professional services.

(4) Nothing in this section shall relieve a chiropractor from the requirement that every practicing chiropractor shall have in effect professional liability insurance in the amounts required by the board in s. Chir 3.07.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

Copies of this proposed rule are available without cost upon request to:

Pamela Haack
Department of Regulation and Licensing
Office of Administrative Rules
1400 East Washington Ave., Room 171
P.O. Box 8935
Madison, WI 53708

Telephone (608) 266-0495

Notice of Hearing

Chiropractic Examining Board [CR 98-190]

Notice is hereby given that pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting ss. 446.01 (2) and 446.03 (5), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend s. Chir 4.03; and to create s. Chir 6.03, relating to referral of patients to other health care practitioners.

Hearing Information

May 20, 1999
Thursday
10:00 a.m.

Room 179A
1400 East Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **May 30, 1999** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

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

Statutes interpreted: ss. 446.01 (2) and 446.03 (5), Stats.

A chiropractor has a responsibility recognized under common law to determine whether a patient presents a problem that is treatable through chiropractic means and refrain from further chiropractic treatment if the patient's condition will not be responsive to chiropractic treatment. This responsibility was recognized in *Kerkman v. Hintz*, 142 Wis. 2d 404, 418 N.W.2d 795 (1988) and is codified in this rule.

In the *Kerkman* decision and more recently in *Goldstein v. Janusz Chiropractic Clinics, S.C.*, 218 Wis. 2d 683, 582 N.W.2d 78, (Ct. App. 1998) rev. den. 220 Wis. 2d 364 (1998) the courts have relied on the description of the practice of chiropractic in s. Chir 4.03, Wis. Adm. Code, to limit the responsibility and liability of a chiropractor who does not refer a patient to a medical doctor. In this rule the description of the practice of chiropractic is amended to recognize:

1) That chiropractors treat body tissues other than those adjacent to the spine; and

2) That diagnosis by a chiropractor involves using chiropractic science and the principles of education and training common to the chiropractic and medical professions.

This rule establishes a duty requiring a chiropractor to advise a patient to consult another appropriate health care provider if the chiropractor determines that correct treatment for the patient is outside the practice of chiropractic or if the chiropractor knows or should know that he or she does not have the skill, knowledge or facilities to treat the patient's condition. As established in this rule, the responsibility of a chiropractor to advise a patient to consult another appropriate health care provider is broader than the duty recognized in the *Kerkman* decision.

Text of Rule

SECTION 1. Chir 4.03 is amended to read:

Chir 4.03 Practice. The practice of chiropractic is the application of chiropractic science in the adjustment of the spinal column, skeletal articulations and ~~adjacent tissue~~ other body tissues which includes diagnosis and analysis to determine the existence of spinal subluxations and associated nerve energy expression and the use of procedures and instruments preparatory and complementary to treatment of the spinal column, skeletal articulations and ~~adjacent tissue~~ other body tissues. Diagnosis and analysis involves the use of chiropractic science as described in s. Chir 4.02 and the principles of education and training common to the chiropractic and medical professions and may include physical examination, specimen analysis, drawing of blood, blood-analysis and the use of x-ray and other instruments.

SECTION 2. Chir 6.03 is created to read:

Chir 6.03 Duty to evaluate and refer. (1) A chiropractor shall determine whether a patient presents a condition which is treatable by the practice of chiropractic and refrain from chiropractic treatment if the chiropractor knows, or should know, that a patient's condition will not be responsive to chiropractic treatment.

(2) A chiropractor shall advise his or her patient to consult another appropriate health care provider if the chiropractor determines during diagnosis and analysis or treatment of a patient that the correct treatment for the patient's condition is outside the practice of chiropractic as described in s. Chir 4.03.

(3) A chiropractor shall advise his or her patient to consult another appropriate health care provider if the chiropractor knows, or should know, that he or she does not have the skill, knowledge, or facilities to treat the patient's condition.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.

2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.

3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

Copies of this proposed rule are available without cost upon request to:

Pamela Haack
Department of Regulation and Licensing
Office of Administrative Rules
1400 East Washington Ave., Room 171
P.O. Box 8935
Madison, WI 53708

Telephone (608) 266-0495

Notice of Hearing

Commerce

(Wisconsin Development Zone Program, Ch. Comm 112)

Notice is hereby given that pursuant to s. 560.875, Stats., the Department of Commerce announces that it will hold public hearings on proposed rules relating to the Wisconsin Development Zone Program and the emergency rule adopted on the same subject.

Hearing Information

May 12, 1999
Wednesday
9:00 a.m.

Conference Room 3C
201 W. Washington Ave.
Madison, WI

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **May 17, 1999**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY 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 upon request by a person with a disability.

A copy of the proposed rules may be obtained without cost from Richard Meyer, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701, telephone (608) 266-3080 or (608) 264-8777 (TTY). Copies will also be available at the public hearings.

Analysis of Rules

Statutory Authority: ss. 560.70 through 560.797

Statutes Interpreted: ss. 560.70 through 560.797

Pursuant to ss. 560.70 through 560.797, Stats., the Department of Commerce is responsible for administering Wisconsin Development Zone Program. These rules are being adopted to incorporate in the administrative code the recent amendments contained in 1997 Wisconsin Act 27 that entirely changed the eligibility and the criteria for certified development zone businesses and the process for the verification and the claiming of tax credits. Section 560.785, Stats., directs the Department of Commerce to develop rules and exceptions to those rules concerning the eligibility for tax benefits. After a review and evaluation of all the certified businesses and their projects a number of exceptions have been identified in order to meet the needs of different areas of the state and to fulfill our commitments to businesses that were made prior to this legislation. In order to process claims for tax years beginning on or after January, 1, 1998, these rules must be made available immediately.

Contact Person

William Wheeler, Director, (608) 267-2045

Initial Regulatory Flexibility Analysis

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

The proposed rule is not expected to have any impact on small businesses except for businesses located within the state that desire to obtain the economic benefits associated with the development zone program.

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

No special reporting and bookkeeping skills are required by these rules.

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

None.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearing

Health & Family Services

(Health, Chs. HFS 110-)

[CR 99-55]

Notice is hereby given that, pursuant to ss. 250.04 (7) and 254.13 (2), Stats., the Department of Health and Family Services will hold a public hearing to consider the creation of ch. HFS 181, Wis. Adm. Code, relating to reporting of blood lead test results.

Hearing Information

May 18, 1999
Tuesday
Beginning at 10 a.m.

Room 233
Washington Square Building
1414 East Washington Avenue
MADISON, WI

Enter the building through Entrance 11 on Dickinson Street, and take stairway or elevator at that entrance to get to Room 233.

The hearing site is fully accessible to people with disabilities. Enter the building through Entrance 77 on Dickinson Street (the 3rd entrance from East Washington), go straight ahead and take elevator to get to Room 233.

Analysis Prepared by the Department of Health and Family Services

These rules specify time periods and forms for reporting to the Department or a local health officer the results of tests made on human blood samples to determine the amount of lead in the blood.

Requirements to report cases of lead poisoning or lead exposure and the results of screening children under the age of 6 for lead poisoning or lead exposure are found in s. 254.13, Stats. Every physician who diagnoses lead poisoning or lead exposure, every person who screens a child under six years of age for lead poisoning or lead exposure, and any nurse, hospital administrator, director of a clinical laboratory or local health officer who has verified information of any person found to have or suspected of having lead poisoning or lead exposure is expected to report this information.

The reporting of all blood lead tests, as required by the rules, will serve the purposes stated in s. 254.13, Stats., and the broader purposes served by establishment of an adequate surveillance system authorized under s. 250.04(3), Stats.

The rules require that the results of all blood lead tests performed on blood samples taken from Wisconsin residents be reported to the Department or, at the request of a local health department and with agreement of the Department, to that local health department which then must forward the results to the Department. The way this will work is that whoever submits the sample of a person's blood to a laboratory for analysis to determine the amount of lead in the person's blood must send along with the sample specified information about the patient and how the sample was collected. That information will form part of the report to the Department or local health officer. Except in the case of an out-of-state laboratory or when a laboratory and health care provider agree in writing that the health care provider, after obtaining the test results from the laboratory, will report them to the Department, the laboratory is responsible for submitting the required report to the Department. The report will consist of the information submitted by the health care provider to the laboratory with the blood sample and information supplied by the laboratory that identifies the laboratory and states when the analysis was completed and the results of the blood lead test.

Contact Person

To find out more about the hearing or to request a copy of the proposed rules, write or phone:

Joseph Schirmer
Bureau of Environmental Health
1414 East Washington Ave.
Room 132
Madison, Wisconsin 53703
608-266-5885 or,
if you are hearing impaired,
1-800-947-3529

If you are hearing or visually impaired, do not speak English, or have other personal circumstances which might make communication at the hearing difficult and if you, therefore, require an interpreter, or a non-English, large-print or taped version of the hearing document, contact the person at the address or phone number above. A person requesting a non-English or sign language interpreter should make that request at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on the proposed rules received at the above address no later than **May 25, 1999** will be given the same consideration as testimony presented at a hearing.

Fiscal Estimate

These are rules for reporting to the Department and local health officers the results of tests performed to determine the amount of lead in human blood samples drawn for this purpose. Blood lead test reporting requirements are found in s. 254.13, Stats. These include requirements to be established by the Department. The Department has, in addition, broad responsibilities under s. 250.04(3), Stats., to establish, for public health protection purposes, surveillance systems relating to toxic substances.

Reporting of blood lead tests has been statutorily required since 1980. The rules are being promulgated at this time in part because s. 254.13(2), Stats., as created by 1993 Wisconsin Act 450, directs the Department to have rules that specify time periods for reporting and the form of the reports when blood lead screening is done for children under 6 years of age, and in part because there is a program need to clarify who is responsible for reporting and what information must be included in order for a report to be complete.

In the 1995-96 state fiscal year the Department and local health officers received reports on 72,500 blood lead tests. Reporting is mainly by clinical laboratories. Four of the 35 reporting laboratories are publicly owned, the State Laboratory of Hygiene, and the laboratories operated by the Milwaukee, Racine and Minneapolis Health Departments.

The rules will not affect the expenditures or revenues of state government or local governments. The State Laboratory of Hygiene already complies with the process set out in the rules, as do the Milwaukee, Racine and Minneapolis Health departments. Reporting by the Milwaukee City Health Department Laboratory is to the local health officer, which will continue under the rules.

Initial Regulatory Flexibility Analysis

About half of the 31 or so non-public laboratories that do blood lead testing for Wisconsin health care providers are small businesses as "small business" is defined in s. 227.114 (1) (a), Stats., as are many of the health care providers, in particular, physicians and nurses working independently or in a group practice who may obtain a blood sample or order that a blood sample be taken to measure the concentration of lead in blood.

Reporting to the Department or a local health officer the results of blood lead tests has been taking place under s. 254.13, Stat., for several years. It has not always been clear who is responsible for reporting, whether the health care provider or the clinical laboratory, and it has sometimes been difficult to get laboratories in particular

to report everything that the Department wants reported. The rules make clear that the reporting responsibility is with the laboratories, unless a laboratory is out of state or the health care provider and the laboratory agree in writing that the health care provider will report, and make clear also what must be reported, by when and how.

The rules will not impose new requirements on laboratories or health care providers. No new professional skills are necessary for laboratories or health care providers to comply with the rules.

Notice of Hearing

Insurance, Commissioner of [CR 99-70]

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in s. 227.18, Stats., the Office of the Commissioner of Insurance (OCI) will hold a public hearing to consider the adoption of the proposed rule-making order affecting ss. Ins 17.01 (3) (intro.), 17.275 and 17.28 (5) (c), (6) and (6a), Wis. Adm. Code, relating to annual patients compensation and mediation fund fees, open records law and exceptions applicable to fund records and imposing late fee for late or improper filing of certificates of insurance.

Analysis Prepared by the Office of the Commissioner of Insurance

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

Statutes interpreted: ss. 655.23 (3) (b) and (c) and 655.27 (3)

The Commissioner of Insurance, with the approval of the Board of Governors (Board) of the patients compensation fund (fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 1999. These fees represent a 7% decrease compared with fees paid for the 1998-99 fiscal year. The Board approved these fees at its meeting on March 17, 1999, based on the recommendation of the Board's actuarial and underwriting committee.

The Board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the Director of State Courts. This rule implements the Director's funding level recommendation by establishing mediation panel fees for the next fiscal year at \$16.00 for physicians and \$ 1.00 per occupied bed for hospitals, representing no increase from 1998-99 fiscal year mediation panel fees.

This rule provides that open records law and exceptions apply to fund records. This rule imposes a \$100 late fee per week per certificate on insurers or self-insured providers who fail to comply with the format and filing date requirements of s. Ins 17.28 (5), Wis. Adm. Code. This late fee is intended to reduce the number of late filings and filings not in compliance with the format specified by the Commissioner.

Hearing Information

May 17, 1999
Monday
10:00 a.m.

Room 23, OCI
121 East Wilson St.
Madison, WI

Written Comments

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI by 4:30 p.m. on the date of the hearing. Written comments should be addressed to:

Alice M. Shuman, OCI
P. O. Box 7873
Madison, WI 53707

Summary of Proposed Rule and Fiscal Estimate

For a summary of the rule see the analysis. 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 full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/rule.htm> or by contacting Tammi Kuhl, Services Section, Office of the Commissioner of Insurance, at (608) 266-0110 or at 121 East Wilson Street, P. O. Box 7873, Madison, WI 53707-7873.

Notice of Hearings

Natural Resources

(Air Pollution Control, Chs. NR 400-) [CR 99-68]

Notice is hereby given that pursuant to ss. 227.11 (2) (a) and 285.11 (1), Stats., interpreting s. 285.11(6), Stats., and revising the State Implementation Plan (SIP) developed under that section, the Department of Natural Resources will hold public hearings on revisions to chs. NR 428 and 484, Wis. Adm. Code, relating to nitrogen oxides (NO_x) emission reduction requirements.

Agency Analysis

The U.S. Environmental Protection Agency required states to adopt new regulations in response to its NO_x SIP Call to Reduce Ozone Transport. The SIP call established a nitrogen oxides (NO_x) emissions budget for Wisconsin (and 21 other states) and gave the state some discretion as to how the reductions in NO_x emissions would be achieved.

The proposed rule allocates a specified amount of NO_x emissions during each ozone season (May 1 – September 30) to each affected source. The emission allocation or credits become tradeable across all sources affected by the reduction requirements which participate in a trading program such that the aggregate emission allocation is not exceeded with certain limitations in terms of allocation duration. Monitoring and reporting requirements ensure regional attainment of the reduction objectives. The trading structure allows facilities flexibility in the actual level of investment in controls versus acquisition of emission credits via the market of participating sources.

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.

Environmental Assessment

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 documents would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearings will be held on:

Date & Time

May 17, 1999
Monday
at 1:00 p.m.

May 18, 1999
Tuesday
at 1:00 p.m.

May 19, 1999
Wednesday
at 1:00 p.m.

May 20, 1999
Thursday
at 1:00 p.m.

May 21, 1999
Friday
at 10:00 a.m.

Location

Room 140-141
DNR Southeast Region Office
2300 N. Martin L. King, Jr. Dr.
MILWAUKEE, WI

Room 103 (Auditorium)
Chippewa Valley Tech. College
620 W. Clairemont Ave.
EAU CLAIRE, WI

(Parking is available in Lots P3
and P4 on the south side of
Clairemont Ave., and in P7
on the north side of
Clairemont Ave.)

Pinery Room
Portage Co. Public Library
1001 Main St.
STEVENS POINT, WI

Room 152A
Green Bay State Office Bldg.
200 N. Jefferson St.
GREEN BAY, WI

Room D240 (2nd Floor)
Madison Area Tech. College
211 N. Carroll St.
MADISON, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Allen Hubbard at (608) 266-3450 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Allen Hubbard, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **June 4, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearings.

Copies of Rule

A copy of proposed rule [AM-15-99] and its fiscal estimate may be obtained from:

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Phone: (608) 266-7718
FAX: (608) 267-0560

Fiscal Estimate

Fiscal impact:

The proposed rule will affect state government in terms of the Department of Administration's cost of compliance with the emissions reductions required for Boiler B25 at the University of Wisconsin's Charter Street Heating Plant. Boiler B25 is a core source under the proposed rule, meaning it must reduce NO_x emissions by 60 percent from 1995 levels. Using EPA cost estimates, the total annual cost of compliance for Boiler B25 is \$225,000.

The proposed rule will also affect local government, specifically the Manitowoc municipality, because Manitowoc Public Utilities

owns and operates two core sources. Using EPA cost estimates, the total annual cost of compliance for the two affected units at Manitowoc Public Utilities is \$140,000.

Long-range fiscal implications:

None.

Notice of Hearing

Natural Resources

(Air Pollution Control, Chs. NR 400–)
[CR 99–67]

Notice is hereby given that pursuant to ss. 227.11 (2) (a), 285.11 (1) and 285.27 (2), Stats., interpreting s. 285.27 (2), Stats., the Department of Natural Resources will hold a public hearing on the amendment of s. NR 484.04 (9) and (24) and the creation of NR 460 Appendix KK, ch. NR 466 and s. NR 484.04 (21m), Wis. Adm. Code, relating to national emission standards for hazardous air pollutants for the printing and publishing industry.

Agency Analysis

The State Implementation Plan (SIP) developed under s. 285.27 (2), Stats., is also revised. The proposed rule will incorporate into state rules existing national emission standards for hazardous air pollutants (NESHAP) for the printing and publishing industry which took effect on May 30, 1996.

This federal standard applies to both new and existing major hazardous air pollutant (HAP) sources which operate publication rotogravure, product and packaging rotogravure, and wide-web flexographic printing presses. Publication rotogravure printers produce saleable paper products such as catalogues, magazines, newspaper inserts and telephone directories. Product and packaging rotogravure and wide-web flexographic facilities print on paper, plastic film, metal foil and vinyl for use in products such as flexible packaging, labels, gift wrap, floor coverings and decorative laminates. Inks and coatings used in this industry are a significant source of HAP emissions. The standard requires affected sources to control HAP emissions using the maximum achievable control technology (MACT). Flexible compliance options are provided including pollution prevention methods, which allow printers to eliminate the use of toxic chemicals by substituting nontoxic chemicals for toxic ones.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. Types of small businesses affected:

Printers and publishers.

b. Description of reporting and bookkeeping procedures required:

No procedures not already required by federal regulation.

c. Description of professional skills required:

No skills that are not already required by federal regulation.

Environmental Assessment

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 documents would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

Notice is hereby further given that the hearing will be held on:

May 18, 1998
Tuesday
at 1:00 p.m.

Council Chambers
Oshkosh City Hall
215 Church Ave.
OSHKOSH, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Robert Eckdale at (608) 266-2856 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Robert Eckdale, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **May 28, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearing.

Copies of Rule

A copy of proposed rule [AM-14-99] and its fiscal estimate may be obtained from:

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Phone: (608) 266-7718
FAX: (608) 267-0560

Fiscal Estimate

Summary of rule:

The proposed rules incorporate into Wisconsin Administrative Code existing national emission standards for hazardous air pollutants (NESHAP) for the printing and publishing industry. This NESHAP became final when published in the Federal Register on May 30, 1996 under section 112 (d) of the Clean Air Act, as amended in 1990. This federal standard applies to both new and existing major hazardous air pollutant (HAP) sources which operate publication rotogravure, product and packaging rotogravure, and wide-web flexographic printing presses. Inks and coatings used in this industry are a significant source of HAP emissions. Affected sources are required to control HAP emissions using the maximum achievable control technology (MACT). Flexible compliance options are provided, including pollution prevention methods which allow printers to eliminate the use of toxic chemicals by substituting non-toxic chemicals for toxic ones. Section 285.27 (2), Stats., requires that the Department promulgate NESHAPs by rule.

Fiscal impact:

The Department is already responsible for implementing this NESHAP, and does so through the operation permit program under ch. NR 407, Wis. Adm. Code. Incorporating this NESHAP into Wisconsin Administrative Code does not impose additional costs on the Department.

Local governments have no role in implementing this standard, and therefore will not incur any costs as a result of this proposed rule action.

Long-range fiscal implications:

None.

Notice of Hearing

Podiatrists Affiliated Credentialing Board
[CR 99-38]

Notice is hereby given that pursuant to authority vested in the Podiatrists Affiliated Credentialing Board in ss. 15.085 (5) (b) and 227.11 (2) Stats., and s. 448.695, Stats., as created by 1997 Wis.

Act 175, and interpreting ch. 448, subch. IV, Stats., the Podiatrists Affiliated Credentialing Board will hold a public hearing at the time and place indicated below to consider an order to create chs. Pod 1 to 6, relating to the regulation and licensure of podiatrists.

Hearing Information

May 17, 1999
Monday
9:30 a.m.

Room 179A
1400 East Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **May 31, 1999** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.695

Statutes interpreted: ch. 448, subch. IV

In this proposed rule-making order the Podiatrists Affiliated Credentialing Board creates rules relating to the practice of podiatric medicine. These rules are as a result of 1997 Wis. Act 175 which created the Podiatrists Affiliated Credentialing Board and gave the Board the authority to promulgate rules.

Section Pod 1.01 sets forth the statutory authority for the proposed rules. Section Pod 1.02 specifically outlines the application and credentialing process. Section Pod 1.03 outlines the process for the translation of documents into English. Section Pod 1.04 outlines the application deadlines and fees. Pod 1.05 creates the oral examination procedure to be used by applicants who may be required to take an oral examination before the Podiatrists Affiliated Credentialing Board. It further spells out the requirements to take state board examinations. Section Pod 1.06 spells out the process to be used for examination failure. Section Pod 1.07 creates and spells out the process for temporary educational permits. Section Pod 1.08 outlines the process to be used for the issuance of a *locum tenens* license. Section Pod 1.09 creates and spells out the process for a temporary certificate and who may practice under such temporary certificate. Section Pod 1.10 establishes the rules regarding the review of an examination by an applicant. Section Pod 1.11 outlines the procedures that the board must use to review an examination error.

Section Pod 2.01 sets forth the statutory authority for developing an unprofessional conduct section. Section Pod 2.02 defines unprofessional conduct as it applies to the profession of podiatric medicine.

Section Pod 3.01 sets forth the statutory authority for developing continuing education requirements. Section Pod 3.02 outlines the continuing education that is required and provides for a waiver in special circumstances. Section Pod 3.03 establishes the acceptable continuing education programs.

Section Pod 4.01 sets forth the statutory authority for developing the biennial registration section. Section Pod 4.02 creates the definitions for this section. Section Pod 4.03 specifically outlines the requirements and methods of registration. Section Pod 4.04 specifically outlines when registration is prohibited, annulled and the process for reregistration. Section Pod 4.05 outlines the process regarding the failure to be registered and the status of a credential holder who is not currently registered and how they may register.

Section Pod 5.01 sets forth the statutory authority for developing standards for dispensing and prescribing drugs. Section Pod 5.02 defines dispensing and prescribing of drugs. Section Pod 5.03

outlines the packing requirements for dispensing of drugs. Section Pod 5.04 outlines the labeling requirements for dispensing of drugs. Section Pod 5.05 outlines the recordkeeping requirements for prescribing and dispensing of drugs. Section Pod 5.06 outlines the delegation of prescription orders to others.

Section Pod 6.01 sets forth the statutory authority for developing patient health care records. Section Pod 6.02 defines patient health care records. Section Pod 6.03 establishes the minimum standards for patient health care records.

Text of Rule

SECTION 1. Chapters Pod 1 to 6 are created to read:

Chapter Pod 1

LICENSE TO PRACTICE PODIATRIC MEDICINE AND SURGERY

Pod 1.01 Authority and purpose. The rules in this chapter are adopted by the podiatrists affiliated credentialing board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., and govern application and examination for a license to practice podiatric medicine and surgery under s. 448.63, Stats.

Pod 1.02 Application and credentials. Every person applying for a license to practice podiatric medicine and surgery shall make application on forms provided by the board and shall submit all of the following:

(1) A completed and verified application form.

(2) Verified documentary evidence of graduation from a school of podiatric medicine and surgery approved by the board and a verified photographic copy of the diploma conferring the degree of doctor of podiatric medicine or its equivalent as determined by the board granted to the applicant by the school. The board recognizes as approved those podiatric medical schools recognized and approved at the time of the applicant's graduation by the council on education of the American podiatry association.

Pod 1.03 Translation of documents. If any of the documents required under this chapter are in a language other than English, the applicant shall also submit a verified English translation and the cost of translation shall be borne by the applicant.

Pod 1.04 Application deadline and fees. The completed application and all required documents must be received by the board at its offices not less than 30 days prior to the date of examination. The required fees must accompany the application.

Pod 1.05 Examinations. (1) (a) An applicant shall complete the written examination under sub. (2), and an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin. In addition, an applicant may be required to complete an oral examination if the applicant:

1. Has a medical condition which in any way impairs or limits the applicant's ability to practice podiatric medicine and surgery with reasonable skill and safety.

2. Uses chemical substances so as to impair in any way the applicant's ability to practice podiatric medicine and surgery with reasonable skill and safety.

3. Has been disciplined or had licensure denied by a licensing or regulatory authority in Wisconsin or another jurisdiction.

4. Has been found to have been negligent in the practice of podiatric medicine or has been a party in a lawsuit in which it was alleged that the applicant had been negligent in the practice of podiatric medicine.

5. Has been convicted of a crime the circumstances of which substantially relate to the practice of podiatric medicine.

6. Has lost, had reduced or had suspended his or her hospital staff privileges, or has failed to continuously maintain hospital privileges during the applicant's period of licensure following postgraduate training.

7. Has been graduated from a school of podiatric medicine not approved by the board.

8. Has been diagnosed as suffering from pedophilia, exhibitionism or voyeurism.

9. Has within the past 2 years engaged in the illegal use of controlled substances.

10. Has been subject to adverse formal action during the course of medical education, postgraduate training, hospital practice, or other medical employment.

11. Has not practiced podiatric medicine and surgery for a period of 6 months prior to application, unless the applicant has been graduated from a school of podiatric medicine within that period.

(b) An application filed under s. Pod 1.02 shall be reviewed by an application review panel of at least 2 board members designated by the chairperson of the board. The panel shall determine whether the applicant is eligible for a license without completing an oral examination.

(c) All examinations shall be conducted in the English language. Each examination is scored separately, and the applicant must achieve passing scores on each examination to become qualified for grant of license.

(2) The board utilizes as its written examinations the national board examination, part I and part II, and the PMLexis examination of the national board of podiatric examiners. The passing scores are set by the professional geologist section and represent the minimum competency required to protect public health and safety. The board may accept the recommendations of the examination provider.

(3) The board may deny release of scores or issuance of a credential if the board determines that the applicant violated rules of conduct of the examination or otherwise acted dishonestly in the examination process.

(4) An applicant who has received passing grades in written examinations for a license to practice podiatry conducted by another licensing jurisdiction of the United States, may submit to the board documentary evidence. The board will review the documentary evidence to determine whether the scope and passing grades of the examinations are substantially equivalent to those of this state at the time of the applicant's examination, and if the board finds equivalency, the board will accept this in lieu of requiring the applicant to achieve passing grades in the national board examination and the PMLexis examination of the national board of podiatry examiners. The burden of proof of equivalency shall lie upon the applicant.

(5) The oral examination of each applicant is conducted by members of the board and is scored as pass or fail.

(6) The board will notify each applicant found eligible for examination of the time and place scheduled for that applicant's oral examination. Unless prior scheduling arrangements have been made with the board by the applicant, failure of an applicant to appear for examination as scheduled will void that applicant's application and require the applicant to reapply for licensure.

(7) Any applicant who is a graduate of a school of podiatric medicine and surgery in which English is not the primary language of communication may be examined by the board on his or her proficiency in the English language.

(8) Otherwise qualified applicants with disabilities, as defined by the Americans with disabilities act, shall be provided with reasonable accommodations.

Pod 1.06 Failure and reexamination. An applicant who fails to achieve a passing grade in the examinations required under this chapter may apply for reexamination. An applicant who fails to achieve a passing grade in the examinations required under this chapter may be reexamined twice at not less than 4 month intervals. If the applicant fails to achieve a passing grade on the second reexamination, the applicant shall not be admitted to further examination until he or she reapplies for licensure and also presents to the board evidence of further professional training or education as the board may deem appropriate in each applicant's particular case.

Pod 1.07 Temporary educational license. (1) An applicant who has been appointed to a postgraduate training program in a

facility in this state approved by the board may apply to the board for a temporary educational license to practice podiatric medicine and surgery and shall submit to the board all of the following:

(a) A completed and verified application form provided by the board.

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(b) The documentary evidence and credentials required under ss. Pod 1.02, 1.03 and 1.04.

(c) The required fees.

(2) An applicant shall complete an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin.

(3) The holder of a temporary educational license to practice podiatric medicine and surgery may, under the direction of a person licensed to practice podiatric medicine and surgery in this state, perform services requisite to the training program in which that holder is serving. Acting under such direction, the holder of a temporary educational license shall also have the right to prescribe drugs other than controlled substances and to sign any certificates, reports or other papers for the use of public authorities which are required of or permitted to persons licensed to practice podiatric medicine and surgery. The holder of a temporary educational license shall confine his or her entire practice to the facility in which he or she is taking the training.

(4) Violation by the holder of a temporary educational license to practice podiatric medicine and surgery of any of the provisions of the Wisconsin administrative code or of subch. IV of ch. 448, Stats., which apply to persons licensed to practice podiatric medicine and surgery, shall be cause for the revocation of the temporary educational license.

(5) Temporary educational licenses granted under this chapter shall expire one year from date of issuance.

Pod 1.08 Locum tenens license. (1) An applicant who holds a valid license to practice podiatric medicine and surgery issued by another licensing jurisdiction of the United States may apply to the board for a locum tenens license to practice podiatric medicine and surgery and shall submit to the board all of the following:

(a) A completed and verified application form provided by the board.

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(b) A letter from a podiatrist licensed to practice podiatric medicine and surgery in this state requesting the applicant's services.

(c) A verified photostatic copy of a license to practice podiatric medicine and surgery issued by another licensing jurisdiction of the United States to the applicant.

(d) The required fees.

(2) An applicant shall complete an open book examination on statutes and rules governing the practice of podiatric medicine and surgery in Wisconsin.

(3) The application and documentary evidence submitted by the applicant will be reviewed by the board, acting through a designated member of the board and, upon the finding of the member that the applicant is qualified, the board, acting through the designated member, may issue a locum tenens license to practice podiatric medicine and surgery to the applicant.

(4) The holder of a locum tenens license to practice podiatric medicine and surgery may practice podiatric medicine and surgery as defined in s. 448.01 (8), Stats., providing the practice is confined to the geographical area for which the license is issued.

(5) A locum tenens license to practice podiatric medicine and surgery shall expire 90 days from the date of its issuance. For cause shown to its satisfaction, the board, acting through its designated member, may renew the locum tenens license for additional periods of 90 days each, but no license may be renewed more than 3 consecutive times.

Pod 1.09 Temporary license. (1) (a) An applicant for a license to practice podiatric medicine and surgery who is a graduate of a school of podiatric medicine and surgery approved by the board may apply to the board for a temporary license to practice podiatric medicine and surgery. An applicant for a temporary license shall submit to the board the documentary evidence and credentials required under ss. Pod 1.02 and 1.03, a completed application for a temporary license, and the required fees. An application for a temporary license shall be made not less than 30 days before the date set by the board for the holding of its next examinations for licensure.

(b) The application and information submitted under par. (a), shall be reviewed by the board through a designated member. The board, acting through the designated member, shall issue a temporary license to practice podiatric medicine and surgery if the applications and information submitted under par. (a) are satisfactory.

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(2) (a) A temporary license to practice podiatric medicine and surgery granted under this section expires on the earliest of the following dates:

1. Sixty days after the next examination for a license is given by the board if the temporary licensee submits to the examination.

2. The first day the board begins its examination of applicants for a license to practice podiatric medicine and surgery after the temporary license is issued, if the temporary licensee does not submit to the examination on that date.

3. The date following the examination on which the board grants or denies the temporary licensee a license to practice podiatric medicine and surgery.

(b) A license to practice podiatric medicine and surgery is deemed denied by the board under par. (a) 3., on the date the applicant is notified that he or she has failed the examination for a license to practice podiatric medicine and surgery.

Pod 1.10 Examination review by applicant. (1) An applicant who fails the oral examination or statutes and rules examination may request a review of that examination by filing a written request and the required fee with the board within 30 days of the date on which examination results were mailed.

(2) Examination reviews are by appointment only.

(3) An applicant may review the statutes and rules examination for not more than one hour.

(4) An applicant may review the oral examination for not more than 2 hours.

(5) An applicant may not be accompanied during the review by any person other than the proctor.

(6) At the beginning of the review, the applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet or oral tape and a copy of the master answer sheet.

(7) An applicant may review the examination in the presence of a proctor. The applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. An applicant shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination or attempt to refute claims of error during the review.

(8) An applicant may not review the examination more than once.

Pod 1.11 Board review of examination error claim. (1) An applicant claiming examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

(a) The applicant's name and address.

(b) The type of license for which the applicant applied.

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specifics or procedures claimed to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim, make a determination of the validity of the objections and notify the applicant in writing of the board's decision and any resulting grade changes.

(3) If the board confirms the failing status following its review, the application shall be deemed incomplete, and the applicant may be reexamined under s. Pod 1.05.

Chapter Pod 2

UNPROFESSIONAL CONDUCT

Pod 2.01 Authority and purpose. The definitions of this chapter are adopted by the podiatrists affiliated credentialing board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats.

Pod 2.02 Definitions. (1) For the purposes of this chapter:

(a) "Board" means the podiatrists affiliated credentialing board.

(b) "License" means any license issued by the board.

(2) The term "unprofessional conduct" is defined to mean and include but not be limited to the following, or aiding or abetting the same:

(a) Violating or attempting to violate any provision or term of subch. IV of ch. 448, Stats., or of any valid rule of the board.

(b) Violating or attempting to violate any term, provision, or condition of any order of the board.

(c) Knowingly making or presenting or causing to be made or presented any false, fraudulent, or forged statement, writing, certificate, diploma, or other thing in connection with any application for license.

(d) Practicing fraud, forgery, deception, collusion, or conspiracy in connection with any examination for license.

(e) Engaging or attempting to engage in practice under any license under any given name or surname other than that under which originally licensed or registered to practice in this or any other state. This subsection does not apply to change of name resulting from marriage, divorce, or order by a court of record.

(f) Engaging or attempting to engage in the unlawful practice of podiatric medicine and surgery or treating the sick.

(g) Any practice or conduct which tends to constitute a danger to the health, welfare, or safety of patient or public.

(h) Practicing or attempting to practice under any license when unable to do so with reasonable skill and safety to patients.

(i) Practicing or attempting to practice under any license beyond the scope of that license.

(j) Offering, undertaking, or agreeing to treat or cure a disease or condition by a secret means, method, device, or instrumentality; or refusing to divulge to the board upon demand the means, method, device, or instrumentality used in the treatment of a disease or condition.

(k) Representing that a manifestly incurable disease or condition can be or will be permanently cured; or that a curable disease or condition can be cured within a stated time, if such is not the fact.

(L) Knowingly making any false statement, written or oral, in practicing under any license, with fraudulent intent; or obtaining or attempting to obtain any professional fee or compensation of any form by fraud or deceit.

(m) Willfully divulging a privileged communication or confidence entrusted by a patient or deficiencies in the character of patients observed in the course of professional attendance, unless lawfully required to do so.

(n) Engaging in uninvited, in-person solicitation of actual or potential patients who, because of their particular circumstances, are vulnerable to undue influence, or engaging in false, misleading or deceptive advertising.

(o) Administering, dispensing, prescribing, supplying, or obtaining controlled substances as defined in s. 961.01 (4), Stats., otherwise than in the course of legitimate professional practice, or as otherwise prohibited by law.

(p) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice medicine and surgery, which becomes limited, restricted, suspended, or revoked, or having been subject to other adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

(q) Conviction of any crime which may relate to practice under any license, or of violation of any federal or state law regulating the possession, distribution, or use of controlled substances as defined in s. 961.01 (4), Stats. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence thereof.

(r) Prescribing, ordering, dispensing, administering, supplying, selling, or giving any amphetamine, sympathomimetic amine drug or compound designated as a schedule II controlled substance pursuant to the provisions of s. 961.16 (5), Stats., to or for any person except for use as an adjunct to opioid analgesic compounds for treatment of cancer-related pain.

(s) Aiding or abetting the unlicensed practice of podiatric medicine or representing that unlicensed persons practicing under supervision are licensed.

(t) Failure of a licensee whose principal place of practice is in this state to submit to the board on or before June 30 of each year evidence that the podiatrist has in effect malpractice liability insurance coverage in the amount of at least \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

(u) Using in advertising the term "board certified" or a similar phrase of like meaning by a licensee unless certified by the council on podiatric medicine of the American podiatric medical association and unless disclosure is made in the advertising of the complete name of the board which conferred the certification.

(v) Violating or aiding and abetting the violation of any law or administrative rule or regulation, the circumstances of which substantially relate to the circumstances of the practice of podiatric medicine and surgery.

(w) Failure by a licensee to maintain patient health care records consistent with the requirements of ch. Pod 6.

Chapter Pod 3

CONTINUING PODIATRIC MEDICAL EDUCATION

Pod 3.01 Authority and purpose. The rules in this chapter are adopted by the podiatrists affiliated credentialing board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., and govern the biennial training requirements for podiatrists as provided under s. 448.465, Stats.

Pod 3.02 Continuing podiatric medical education required; waiver. (1) Each podiatrist required to complete the biennial training requirement provided under s. 448.465, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.465, Stats., sign a statement on the application for registration certifying that the podiatrist has completed at least 50 hours of acceptable continuing educational programs relevant to the practice of podiatrist medicine within the 2 calendar years immediately preceding the calendar year for which application for registration is made.

(2) A licensee may apply to the board for waiver of the requirements of this chapter on grounds of prolonged illness or

disability or other similar circumstances, and each case will be individually considered on its merits by the board.

Pod 3.03 Acceptable continuing medical educational programs. (1) In satisfaction of the biennial training requirement under s. 448.465, Stats., the board shall accept an educational program approved at the time of the podiatrist's attendance by any of the following:

(a) The council on podiatric medical education of the American podiatric medical association.

(b) The council on medical education of the American medical association.

(c) The council on medical education of the American osteopathic association.

(d) The accreditation council for continuing medical education.

(2) An educational program provided outside the United States may be used for continuing education credit if the program is approved by the board.

(3) One hour of attendance by a podiatrist at a continuing education program is the equivalent of one hour of continuing podiatric medical education for purposes of s. Pod 3.02 (1).

Pod 3.04 Evidence of compliance. (1) Certification by the providing organization or by one of the approved accrediting bodies of attendance at and completion of continuing medical education programs approved under s. Pod 3.03 is satisfactory evidence for purposes of sub. (2) and s. Pod 3.05.

(2) Evidence of compliance shall be retained by each podiatrist through the biennium for which 50 hours of credit are required for registration.

Pod 3.05 Audit. The board may require any podiatrist to submit evidence to the board of his or her compliance with continuing education requirements during the preceding biennium.

Chapter Pod 4

BIENNIAL REGISTRATION

Pod 4.01 Authority and purpose. The rules in this chapter are adopted by the podiatrists affiliated credentialing board pursuant to the authority delegated by ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., and govern biennial registration of licensees of the board.

Pod 4.02 Definitions. For the purposes of this chapter:

(1) "Board" means the podiatrists affiliated credentialing board.

(2) "License" means any license issued by the board.

(3) "Licensee" means any person validly possessing any license granted and issued to that person by the board.

Pod 4.03 Registration required; method of registration. Each licensee shall register biennially with the board. Prior to November 1 of each odd-numbered year the department shall mail to each licensee at his or her last known address as it appears in the records of the board an application form for registration. Each licensee shall complete the application form and return it with the required fee prior to November 1 of that year. The board shall notify the licensee within 30 business days of receipt of a completed registration form whether the application for registration is approved or denied.

Pod 4.04 Registration prohibited, annulled; reregistration. Any podiatrist required to comply with the provisions of s. 448.665, Stats., and of ch. Pod 3, and who has not so complied, will not be permitted to register. Any person whose license has been suspended or revoked will not be permitted to register, and the registration of any person shall be deemed automatically annulled upon the effective date of the board's order suspending or revoking the license. A person whose license has been suspended or revoked and subsequently restored shall be reregistered by the board upon receipt by the board of a completed registration form.

Pod 4.05 Failure to be registered. (1) A licensee who fails for whatever reason to be registered as required under this chapter may not exercise the rights or privileges conferred by any license granted by the board.

(2) Failure to renew a license by November 1 of odd-numbered years shall cause the license to lapse. A licensee who allows the license to lapse may apply to the board for reinstatement of the license as follows:

(a) If the licensee applies for renewal of the license less than 5 years after its expiration, the license shall be renewed upon payment of the renewal fee and fulfillment of the continuing education requirements.

(b) If the licensee applies for renewal of the license more than 5 years after its expiration, the board shall make an inquiry as it finds necessary to determine whether the applicant is competent to practice under the license in this state, and shall impose any reasonable conditions on reinstatement of the license, including oral examination, as the board deems appropriate. All applicants under this paragraph shall be required to pass the open book examination on statutes and rules, which is the same examination given to initial applicants.

Chapter Pod 5

STANDARDS FOR DISPENSING AND PRESCRIBING DRUGS

Pod 5.01 Authority and purpose. (1) The rules in this chapter are adopted pursuant to authority in ss. 15.085 (5) (b), 227.11 (2) and 448.065, Stats.

(2) The rules in this chapter are adopted to specify standards practitioners shall follow in dispensing prescription drugs for the protection of the public.

Pod 5.02 Definitions. (1) "Controlled substance" has the meaning under s. 961.10 (4), Stats.

(2) "Practitioner" means a person holding a license to practice podiatric medicine and surgery.

(3) "Prescription drug" has the meaning under s. 450.01 (20), Stats.

Pod 5.03 Packaging. A prescription drug dispensed by a practitioner shall be dispensed in a child-resistant container if it is a substance requiring special packaging under 16 CFR 1700.14 (1982) of the federal poison prevention packaging act.

Pod 5.04 Labeling. (1) A prescription drug dispensed by a practitioner shall contain a legible label affixed to the immediate container disclosing all of the following:

(a) The name and address of the facility from which the prescribed drug is dispensed.

(b) The date on which the prescription is dispensed.

(c) The name of the practitioner who prescribed the drug or device.

(d) The full name of the patient.

(e) The generic name and strength of the prescription drug dispensed unless the prescribing practitioner requests omission of the name and strength of the drug dispensed.

(f) Directions for use of the prescribed drug and cautionary statements, if any, contained in the prescription or required by law.

(2) The labeling requirement specified in sub. (1) does not apply to complimentary samples dispensed by a practitioner in original containers or packaging supplied to the practitioner by a pharmaceutical manufacturer or distributor.

Pod 5.05 Recordkeeping. (1) PRESCRIPTION DRUGS. (a) A practitioner shall maintain complete and accurate records of each prescription drug received, dispensed or disposed of in any other manner.

(2) CONTROLLED SUBSTANCES. (a) Records required by the federal controlled substances act and ch. 961, Stats., shall be maintained at the location where the drug is received, distributed or dispensed and be available for inspection by authorized persons for at least 5 years from the date of the record.

(b) Controlled substances dispensed by a practitioner shall be recorded as follows:

1. As provided in this section; and

2. On a separate log, in a separate bound log book in which each schedule of controlled substances dispensed is recorded separately and in chronological order with the following information:

a. The name of the substance.

b. Dosage form and strength of the substance.

c. Name and address of the person for whom dispensed.

d. Date of dispensing.

e. Quantity dispensed.

f. Name or initials of practitioner who dispensed the substance.

Pod 5.06 Prescription orders by nurses and ancillary health care personnel. Prescription orders prepared by professional nurses and ancillary health care personnel, as delegated and supervised by a practitioner under s. 448.62 (2), Stats., shall contain in addition to other information required by this chapter, the name, address and telephone number of the delegating practitioner and the name, address and signature of the person preparing the prescription order.

Chapter POD 6

PATIENT HEALTH CARE RECORDS

Pod 6.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.085 (5) (b), 227.11 (2) and 448.695, Stats., to govern the practice of podiatrists in the preparation and retention of patient health care records.

Pod 6.02 Definitions. As used in this chapter:

(1) "Board" means the podiatrists affiliated credentialing board.

(2) "Patient" means a person who receives health care services from a podiatrist.

(3) "Patient health care record" has the meaning given in s. 146.81 (4), Stats.

Pod 6.03 Minimum standards for patient health care records.

(1) A podiatrist shall maintain patient health care records on every patient administered to for a period of not less than 5 years after the date of the last entry, or for a longer period as may be otherwise required by law.

(2) A patient health care record shall contain all of the following clinical health care information which applies to the patient's medical condition:

(a) Pertinent patient history.

(b) Pertinent objective findings related to examination and test results.

(c) Assessment or diagnosis.

(d) Plan of treatment for the patient.

(3) Each patient health care record entry shall be dated, shall identify the podiatrist, and shall be sufficiently legible to allow interventions by other health care practitioners.

Fiscal Estimate

These rules increase the Department's expenditures because 250 new code books will have to be printed and mailed. The total cost to process these code books will be approximately \$2,500 (\$10.00 each). There will also be an additional cost of approximately \$1,250 (\$5.00 per certificate) to print new wall certificates for all podiatrists issued by the Podiatrists Affiliated Credentialing Board. These rules do not appear to have any impact on local government costs.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

Copies of this proposed rule are available without cost upon request to:

Pamela Haack
Department of Regulation and Licensing
Office of Administrative Rules
1400 East Washington Ave., Room 171
P.O. Box 8935
Madison, WI 53708

Telephone (608) 266-0495

Notice of Hearing

Public Defender [CR 99-74]

Notice is hereby given that pursuant to s. 977.02 (5) Stats., and interpreting s. 977.05 (5) (e), Stats., the Office of the State Public Defender will hold a public hearing at the time and place indicated below to consider the creation of a rule related to certification criteria.

Hearing Information

May 12, 1999 Wednesday 9:00 a.m. to 11:00 a.m.	2nd Floor State Public Defender 315 N. Henry St. MADISON, WI
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Reasonable accommodations will be made at the hearing for persons with disabilities.

Analysis by Agency

Statutory authority: s. 977.02 (5), Stats.

Statute interpreted: s. 977.05 (5) (e), Stats.

The Office of the State Public Defender (SPD) is authorized by s. 977.05 (5) (e), Stats., to sponsor conferences and training. The use of the word "sponsor" indicates a commitment of agency resources. In addition, s. 977.05 (5) (e), Stats., contemplates that the agency might obtain revenue from such conferences and training by authorizing the SPD to charge tuition for attendance at such programs. Any revenue received must be deposited in s. 20.550 (1) (i), Stats.

Chapter PD 1, Wis. Adm. Code, expands upon the SPD's training function as it relates to private attorneys who seek public defender certification. For instance, pursuant to s. PD 1.04 (2m), an attorney must complete a certain number of credits of "state public defender provided legal education" in order to be certified for specific types of cases, such as chapter 51 or 55, Stats., cases and termination of parental rights cases. Further, pursuant to s. PD 1.04 (9), an attorney must complete 6 hours of SPD-approved continuing legal education each calendar year in order to remain certified to accept public defender cases. Finally, in order to be certified to accept appellate cases under s. PD 1.04 (5), an attorney must complete a certain number of credits of State Public Defender-approved education prior to applying for appellate certification.

The proposed rule will ensure that the legal education and training required for public defender certification is offered to private attorneys by the agency. The proposed rule also defines "sponsor" and "tuition" as those terms are used in s. 977.05 (5) (e), Stats.

Promoting conferences and training programs for staff and private attorneys as well as recouping some of the costs associated with conferences and training sponsorship is consistent with the agency's mission and statutory authorization.

Initial Regulatory Flexibility Analysis

This rule would not have a regulatory effect on small businesses.

Fiscal Estimate

The proposed rule would have no fiscal impact on the agency.

Contact Information

For copies of the proposed rule, or if you have questions, please contact:

Gina Pruski, Deputy Legal Counsel
315 North Henry St.
Madison, WI 53703-3018

Telephone (608) 266-6782

Written Comments

Written comments regarding this rule may be submitted in addition to or instead of verbal testimony at the public hearing. Such comments should be addressed to the contact person at the address stated above, and must be received by **May 12, 1999**.

Notice of Hearing (Supplemental)

Public Service Commission [CR 99-57]

Supplemental Notice Extending Comment Period

The Wisconsin Public Service Commission has proposed an order to revise chs. PSC 2, 12, 100, 164, 165, 166, 174 and 176, relating to telecommunications and:

- Miscellaneous rule wording changes;
- Abandonment of facilities and services by a utility;
- Agreements with affiliates;
- Issuance of securities;
- Mergers and other reorganizations; and
- Nondiscrimination.

Analysis

Change in Comments Deadline

The Commission approved a Notice of Hearing concerning these rules at its open meeting on March 4, 1999. In that Notice of Hearing, the Commission set the following dates: April 12, 1999, for the hearing and April 23, 1999, for comments. At its open meeting on March 16, 1999, the Commission approved an Amended Notice of Hearing to extend the time for comments from April 23, 1999 (by noon), to May 21, 1999 (by noon). At its open meeting today the Commission approved this Supplemental Notice extending the time for comments from May 21, 1999 (by noon), to **June 8, 1999 (by noon)**. Comments filed by **FAX will now be due on June 7, 1999 (by noon)** instead of May 20, 1999 (by noon). The date for hearing was not changed.

Copies of Proposed Rules

A copy of the full Notice of Hearing, including the text of the proposed rules, was previously published in the Administrative Register. Copies of the Notice and proposed rules may be obtained from the contact person listed below.

Written Comments

Any person may submit written comments on these proposed rules. The hearing record will remain open for written comments from the public until **June 8, 1999, at noon (June 7, 1999, at noon)**, if filed by fax).

All written comments must include a reference on the filing to docket (1-AC-147). **File by one mode only.**

If filing by mail, courier, or hand delivery: Address as shown below:

Address comments to:

Lynda L. Dorr, Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

FAX (608) 266-3957

Industry parties should submit **an original and 15 copies**. Members of the general public need **only file an original**. File by **June 8, 1999, at noon**.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet MUST state "**Official Filing**," the docket number (1-AC-147), and the number of pages (limited to 20 pages for fax comments). File by **June 7, 1999, at noon**.

Contact Information

Questions regarding this matter should be directed to Anne Wiecki, Telecommunications Division, at (608) 267-0913, or by email at wiecka@psc.state.wi.us. Hearing- or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to provide comments or who needs to get this document in a different format should contact Anne Wiecki, as indicated in the previous paragraph, as soon as possible.

Notice of Hearing

Public Service Commission
[CR 99-19]

The Public Service Commission of Wisconsin (Commission) proposes an order to make various changes to ch. PSC 160, relating to the provision of universal telecommunications service and administration of the universal service fund.

Analysis

Rules now in ch. PSC 160 were effective May 1, 1996. The Commission opened this rule-making to consider necessary changes to the rules as required by s. 196.218, Stats.

As required by statutes, the Commission has appointed a Universal Service Fund Council (USFC) to advise the Commission on administration of s. 196.218, Stats., and on the universal service fund rules. The USFC has recommended various changes to the rules in ch. PSC 160; most of those recommendations are reflected in the proposed rules. In those instances where the Commission has suggested changes that are not part of the recommendations of the USFC, it is noted in the plain language analysis that is part of the notice previously issued in this rule-making.

Notice of Continuation of Hearing and Extension of Comment Period

The Commission approved a Notice of Hearing concerning these rules at its open meeting on February 9, 1999. Pursuant to that Notice, a hearing was held on April 6, 1999. Due to the number of people appearing to speak at that hearing, it ran much longer than expected and the Hearing Examiner set a date to on which to continue and complete the hearing. The comment period has also been extended since people may wish to submit written comments based on what is said at the continued hearing.

Hearing Information

Notice is hereby given that the Commission will hold a continuation of the public hearing:

Date and Time:

May 11, 1999
Tuesday
9:00 a.m.

Location:

Amnicon Falls Hrg. Rm.
1st Floor, PSC Bldg.
610 North Whitney Way
MADISON, WI

The examiner may continue the hearing at such times and places as necessary to complete the hearing.

The building at 610 North Whitney Way is accessible to people in wheelchairs through the main floor entrance (Lobby) on the Whitney Way side of the building. Handicapped parking is available on the south side of the building and the building has some wheelchair accessible rest rooms. Interpreters for the deaf and hard of hearing will be provided.

Input Expressly Invited

The Commission invites all parties potentially affected by these proposed universal service fund rules to comment on them. The purpose of the proposed rules is to solicit comments so that the Commission can make a full and informed decision on additions to, deletions from, or modifications of the current universal service fund rules in ch. PSC 160.

The Commission is not modifying the data transmission speed rule in s. PSC 160.031. The Commission will be examining this issue and other Internet related matters in another forum, so comments on data speed matters should not be filed in this rulemaking proceeding.

Copies of Proposed Rules

A copy of the full Notice of Hearing, including the text of the proposed rules, was published in the February 28, 1999, *Wisconsin Administrative Register*. Copies of the Notice and proposed rules may also be obtained from the contact person listed at the end of this notice.

Written Comments

Any person may submit written comments on these proposed rules. The hearing record will remain open for written comments from the public until **June 18, 1999, at noon (June 17, 1999, at noon, if filed by fax)**.

All written comments must include a reference on the filing to docket (1-AC-166). **File by one mode only.**

If filing by mail, courier, or hand delivery: Address as shown below:

Address comments to:

Lynda L. Dorr, Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707-7854

FAX (608) 266-3957

Industry parties should submit **an original and 15 copies**. Members of the general public need **only file an original**. File by **June 18, 1999, at noon**.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet MUST state "**Official Filing**," the docket number (1-AC-166), and the number of pages (limited to 20 pages for fax comments). File by **June 17, 1999, at noon**.

Contact Information

Questions regarding this matter should be directed to Gary Evenson, Assistant Administrator, Telecommunications Division, at (608) 266-6744 or evensg@psc.state.wi.us. Hearing- or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

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

should contact Gary Evenson, as indicated in the previous paragraph, as soon as possible.

Notice of Proposed Rule

Revenue [CR 99-11]

Notice is hereby given that pursuant to s. 227.11(2)(a), Stats., and interpreting ss. 73.03(50), 77.52(7), (9), (12), (13), (14) and (19), 77.53(10) and (11) and 77.61(2), Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **May 1, 1999**, it 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.

Contact Person

Please contact Mark Wipperfurth at (608) 266-8253, if you have any questions regarding this proposed rule order.

Analysis by the Department of Revenue

Statutory authority: s. 227.11(2)(a)

Statutes interpreted: ss. 73.03(50), 77.52(7), (9), (12), (13), (14) and (19), 77.53(10) and (11) and 77.61(2)

SECTIONS 1 TO 16. Tax 11.14(title), (1), (2)(a) and (c), (3)(a) and (b), (5)(b), (6)(title), (a)(title) and 2. and (b)(title), (intro.) and 3., the example following sub. (6) and subs. (7) to (12) and the second note at the end of Tax 11.14 are revised, to reflect a change in department policy to discontinue the issuance of various types of exemption certificates and replace them with Form S-211, a multipurpose exemption certificate. Form S-211 may be used for any sales and use tax exemption provided by law, except the exemption for construction contracts entered into before the effective date of county/stadium tax, and direct pay permits.

Tax 11.14(1) is further revised and the first note at the end of Tax 11.14 is revised, to reference all of the subsections of ss. 77.52 and 77.53, Stats., which relate to exemption certificates.

Tax 11.14(3)(b) is further revised, to place a nonsubstantive statement in a note rather than in the text of the rule.

Tax 11.14(5)(b) is further revised, to clarify that a seller is not liable for tax on transactions covered by a valid exemption certificate.

Tax 11.14(6)(b)4.c. is created, to reflect department policy that a person who makes exempt sales only may use a certificate of exemption (Form S-211) to claim exemption on tangible personal property or taxable services the person resells.

Tax 11.14(15) is renumbered Tax 11.14(13) and revised, to place the subsection in a more logical order and to add references to the stadium tax. Consequently, subs. (13) and (14) are renumbered (14) and (15).

Tax 11.14(16) is created and the second note at the end of Tax 11.14 is further revised, to reflect a change in exemption certificate requirements for sales of certain commodities, as a result of amendments to ss. 77.52(13) and 77.53(10), Stats., by 1997 Wis. Acts 27 and 237.

SECTIONS 17 AND 19 TO 22. Tax 11.53(1)(a),(b) and (e) are repealed, subs. (2) to (5) are revised, and a note is added at the end of sub. (3), to reflect a change in department policy, to no longer issue temporary seller's permits and concessionaire permits.

SECTION 18. Tax 11.53(1)(c) and (d) are renumbered Tax 11.53(1)(a) and (b), because of the repeal of Tax 11.53(1)(a) and (b). Tax 11.53(1)(a) as renumbered is revised, to reflect a change in department policy, to now permit use of a mobile seller's permit simultaneously at multiple locations.

SECTION 23. Tax 11.53(6) is revised, to clarify the conditions under which the permit violation provisions apply.

Text of Rule

SECTION 1. Tax 11.14(title), (1) and (2)(a)(intro.) are amended to read:

Tax 11.14(title) **Exemption certificates, including resale certificates.**

(1) STATUTES. The sales tax status of exemption certificates is contained in s. 77.52(13) to ~~(16)~~ (17), Stats., and the use tax status of exemption certificates is contained in s. 77.53(10) ~~and (11) to (13)~~, Stats.

(2)(a)(intro.) Exemption certificates are signed by purchasers or lessees and are given to sellers or lessors to verify that a transaction is exempt. Sellers and lessors shall exclude from taxable gross receipts transactions for which they have accepted a valid exemption certificate in good faith from a purchaser. The department has provided retailers with ~~7 types of the following 2 sales and use tax exemption certificates, each of which is designed for use in specific types of transactions. These certificates, discussed individually in this section, are the following:~~

SECTION 2. Tax 11.14(2)(a)1. and 2. are repealed and recreated to read:

Tax 11.14(2)(a)1. Wisconsin sales and use tax exemption certificate, form S-211. This is a multipurpose form which may be used for any sales and use tax exemption provided by law, except as provided in subs. (13) and (14).

2. Construction contract entered into before the effective date of county/stadium tax, form S-207CT-1. This is a certificate which may be used by a contractor to purchase building materials without a county or stadium tax under the circumstances described in sub. (13).

SECTION 3. Tax 11.14(2)(a)3. to 7. are repealed.

SECTION 4. Tax 11.14(2)(c), (3)(a) and (b), (5)(b) and (6)(title), (a)(title) and 2. and (b)(title), (intro.) and 3. are amended to read:

Tax 11.14(2)(c) ~~Under s. 77.57, Stats., if~~ If a purchaser certifies in writing by using an exemption certificate, ~~other than a resale certificate,~~ that the property purchased will be used for activities or under circumstances which make the purchase of the property exempt from the sales tax or for resale, and the property is subsequently used in a manner that makes the property ineligible for exemption from tax, the purchaser shall pay the sales tax.

(3)(a) A seller is relieved of liability for the tax if the seller takes from the purchaser a valid, written ~~resale or~~ exemption certificate which certifies that the purchaser will use the property or service in a manner or for a purpose entitling the seller to accept the certificate in good faith.

(b) To be valid, a ~~resale or other~~ an exemption certificate shall upon its face disclose a proper basis for exemption. The use of phrases such as "nontaxable," "exempt" or similar terminology do not provide a proper basis for an exemption. A certificate shall be properly executed and dated and shall contain all the necessary information. ~~Thus, all retailers should be familiar with the instructions contained in the certificate.~~ A certificate claiming an exemption not provided by law is not valid.

Note to Revisor: Insert the following note at the end of sub. (3)(b):

Note: All retailers should be familiar with the instructions contained in an exemption certificate.

(5)(b) Continuous exemption certificates, ~~including continuous resale certificates,~~ approved by the department do not allow a purchaser to issue "this time only" purchase orders cancelling the continuous tax exemption certificate for the one transaction only. The notation "taxable" on a purchase order is not sufficient to relieve a purchaser of the responsibility for a previously issued continuous certificate, ~~unless it.~~ The seller is not liable for the tax on transactions covered by a valid exemption certificate, unless the purchase order is accompanied by a separate letter explaining the inapplicability of the previously issued certificate to a particular order.

(6)(title) ~~RESALE CERTIFICATE, FORM S-205.~~

(a)(title) ~~Effect of obtaining resale exemption certificate claiming resale.~~

2. If a purchaser gives a resale an exemption certificate claiming resale for property acquired and then makes any storage or use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first stored or used. The use tax shall be reported and paid by the purchaser with the tax return for the period in which the property is first so stored or used.

(b)(title) ~~Contents of resale exemption certificates claiming resale.~~

(intro.) ~~A resale certificate, form S-205, An exemption certificate claiming resale shall contain the following information for the seller to be relieved from the burden of proving the sale of property or services was not a taxable sale:~~

3. A general description of the property or service purchased for resale if a "continuous" resale exemption certificate is used, or an itemization of the property or service purchased if a "single purchase" certificate is used.

SECTION 5. Tax 11.14(6)(b)4.c. is created to read:

Tax 11.14(6)(b)4.c. A person who makes exempt sales only in the regular course of business may insert the words "exempt sales only" in the space for a seller's permit number.

Note to Revisor: Replace the example following sub. (6) with the following:

Example: A "continuous" exemption certificate claiming resale describing a business as a "tavern" normally should not be accepted for the sale of a radio, camera, auto part or other item not regularly sold by taverns.

SECTION 6. Tax 11.14(7)(title) is repealed.

SECTION 7. Tax 11.14(7)(a)(intro.) and 1. to 6. are renumbered Tax 11.14(12)(intro.) and (a) to (f), and as renumbered Tax 11.14(12)(intro.) and (d) are amended to read:

Tax 11.14(12)(intro.) ~~The certificate of exemption, form S-207, is a multiple purpose form which Wisconsin sales and use tax exemption certificate, form S-211, may also be used for purchasing any of any other sales and use tax exemption provided by law, including the following 6 exempt types of property or services:~~

(d) Property or services purchased directly by and used by a religious, charitable, educational, scientific or other organization or governmental unit holding a certificate of exempt status, CES. Sales to organizations holding a CES also can be shown to be exempt by a retailer's recording the certificate number on its bill of sale. A corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, which is located out-of-state, may use the certificate of exemption, form S-207 Wisconsin sales and use tax exemption certificate, form S-211, to purchase without tax even though it has not been issued a Wisconsin certificate of exempt status.

SECTION 8. Tax 11.14(7)(b) is repealed.

SECTION 9. Tax 11.14(8), (9) and (10)(title) and (a) are renumbered Tax 11.14(7), (8) and (9), and as renumbered Tax 11.14(7)(title) and (a), (8) and (9) are amended to read:

Tax 11.14(7)(title) MANUFACTURER'S MANUFACTURING EXEMPTION CERTIFICATE, FORM S-207M.

(a) A supplier which accepts a properly completed manufacturer's exemption certificate, form S-207m, claiming a manufacturing exemption in good faith marked for "continuous" use may make sales to the manufacturer without collecting the tax if the nature of the property or services sold qualifies for one of the exempt uses claimed by the manufacturer on the form. If a form S-207m an exemption certificate is a "continuous" form, each purchase order of the manufacturer shall refer to it. If an individual order contains both exempt and non-exempt purchases, the purchaser shall designate which items are taxable.

(8)(title) ~~FARMER'S EXEMPTION CERTIFICATE, FORM S-206.~~ A retailer shall have a signed ~~farmer's exemption certificate, form S-206,~~ for every exempt sale made to a farmer.

Note: Section Tax 11.12 describes the types of property which may be sold to farmers without tax, and the use of the exemption certificate to claim farming exemptions.

(9)(title) ~~CERTIFICATE OF EXEMPTION FOR FUEL OIL, PROPANE, COAL, STEAM AND WOOD FOR FUEL FOR RESIDENTIAL OR FARM USE, FORM S-016.~~ A retailer shall have a signed exemption certificate, ~~form S-016,~~ if the sale of fuel oil, propane, coal, steam or wood for residential or farm use is partially exempt from sales or use tax. If the sale is 100% exempt, an exemption certificate is not required.

SECTION 10. Tax 11.14(10)(b) is repealed.

SECTION 11. Tax 11.14(11)(title) and (a)(intro.) and 1. to 3. are renumbered Tax 11.14(10)(title) and (intro.) and (a) to (c), and as renumbered Tax 11.14(10)(title) and (intro.) are amended to read:

Tax 11.14(10)(title) ~~CERTIFICATE OF EXEMPTION FOR ELECTRICITY AND NATURAL GAS SOLD FOR RESIDENTIAL OR FARM USE, FORM S-017.~~

(intro.) A retailer of electricity or natural gas shall have a signed exemption certificate, ~~form S-017,~~ for all sales of electricity or natural gas for residential or farm use which are exempt from sales or use tax unless any, or all, of the following apply:

SECTION 12. Tax 11.14(11)(b) is repealed.

SECTION 13. Tax 11.14(12)(title), (a) and (b)(intro.) are renumbered Tax 11.14(11)(title), (a) and (b)(intro.) and amended to read:

Tax 11.14(11)(title) GOVERNMENT SALES AND USE TAX EXEMPTION CERTIFICATE, FORM S-209.

(a) A retailer of tangible personal property or taxable services may accept from a federal or Wisconsin governmental unit a government sales and use tax an exemption certificate, form S-209, as proof that a sale is exempt from sales or use tax.

(b)(intro.) In lieu of accepting a ~~form S-209 an exemption certificate~~ as provided in par. (a) a retailer may accept any either one of the following:

SECTION 14. Tax 11.14(12)(b)1. is repealed.

SECTION 15. Tax 11.14(12)(b)2. and 3., (13), (14) and (15) are renumbered Tax 11.14(11)(b)1. and 2., (14), (15) and (13) and as renumbered Tax 11.14(13)(title), (a)(intro.), 1. and 3. and (b) are amended to read:

Tax 11.14(13)(title) CONSTRUCTION CONTRACT CONTRACTS ENTERED INTO BEFORE THE EFFECTIVE DATE OF A COUNTY OR STADIUM TAX, FORM S-207CT-1.

(a)(intro.) The certificate for a construction contract entered into before the effective date of a county tax, or a stadium tax as defined in s. Tax 11.001(4), form S-207CT-1, is used by contractors to purchase building materials without the county or stadium tax. The certificate shall be used by a contractor only if the following 3 conditions are met:

1. The contractor entered into a written contract or made a formal bid before the effective date of the county or stadium tax to construct, alter, repair or improve real estate for another person.

3. The building materials purchased on or after the effective date of the county or stadium tax are affixed and made a part of real estate in fulfilling the written contract or formal written bid.

(b) The certificate shall give the descriptive name of the contract, job site, county or stadium tax effective date, date of prime contract and bid, date contract was signed, the seller's name, the date of performance of the contract and the contractor's name and address and shall be signed by the contractor.

SECTION 16. Tax 11.14(12)(title) and (16) are created to read:

Tax 11.14(12)(title) OTHER EXEMPTIONS.

(16) CERTAIN COMMODITIES. No exemption certificate is required for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on a contract for future delivery subject to the rules of

a commodity market regulated by the U.S. commodity futures trading commission if upon the sale the commodity is not removed from the warehouse.

Note to Revisor: 1) Replace the first note at the end of Tax 11.14 with the following:

Note: Section Tax 11.14 interprets ss. 77.52(13) to (17), 77.53(10) to (13) and 77.77(3), Stats.

2) In the second note at the end of Tax 11.14, remove the word "and" before part (b) and add the following at the end of the note:

; (c) The elimination of the exemption certificate requirement for sales of certain consigned commodities became effective December 1, 1997 as it relates to sales taxes on commodities consigned for resale, pursuant to 1997 Wis. Act 27, and June 17, 1998 as it relates to sales and use taxes on commodities consigned for sale, pursuant to 1997 Wis. Act 237; and (d) The multipurpose exemption certificate, form S-211, was created in November 1998 to replace various types of exemption certificates.

SECTION 17. Tax 11.53(1)(a) and (b) are repealed.

SECTION 18. Tax 11.53(1)(c) and (d) are renumbered Tax 11.53(1)(a) and (b) and as renumbered Tax 11.53(1)(a) is amended to read:

Tax 11.53(1)(a) "Mobile seller's permit" means a permit issued under s. 77.52(7) and (19), Stats., which is valid at any temporary event conducted by the permittee within Wisconsin ~~but which is valid at only one event at a time.~~ A mobile seller's permit may be used simultaneously at multiple locations that are not the retailer's fixed business locations. Except for its use at more than one place of operations, all provisions of s. ~~ss. 73.03(50) and~~ 77.52(7), (8), (9), (10), (11) and (12), Stats., apply to it.

SECTION 19. Tax 11.53(1)(e) is repealed.

SECTION 20. Tax 11.53(2) is repealed and recreated to read:

Tax 11.53(2) PERMITS FOR TEMPORARY EVENTS. Except as provided in sub. (3), a person conducting business as a retailer at a temporary event shall hold one of the following permits:

(a) A mobile seller's permit, if the event is not held at the retailer's fixed business location.

(b) A seller's permit, if the event is held at the retailer's fixed business location.

SECTION 21. Tax 11.53(3) and (4) are amended to read:

Tax 11.53(3) EXCEPTION. Persons, other than nonprofit organizations, not otherwise required to hold a seller's permit who have total taxable gross receipts from sales of tangible personal property or taxable services of less than \$1,000 during the calendar year are not required to hold ~~any of the permits listed in sub. (2) a seller's permit or mobile seller's permit.~~

(4) SECURITY. Application for ~~permits referred to in this section a seller's permit or mobile seller's permit shall be on forms as a form prescribed by the department.~~ The applicant shall be subject to security requirements of s. 77.61(2), Stats., ~~except that for events of 7 consecutive days or less retailers holding concessionaire permits shall deposit security of \$25 per concession for each event and deposits for events which exceed 7 consecutive days shall be \$50 per concession for each event and may be required to deposit security in an amount determined by the department, but not in excess of \$15,000.~~

SECTION 22. Tax 11.53(5) is repealed and recreated to read:

Tax 11.53(5) RETURNS. Sales and use tax returns due from persons holding seller's permits and mobile seller's permits are subject to the provisions of s. 77.58, Stats. The returns shall report the tax due for the period of time or event covered by the returns and shall be due quarterly, on the last day of the next month following a calendar quarter unless notified by the department to file on some other basis under s. 77.52(19) or 77.58(1) and (2), Stats., and shall include on the return gross receipts from all temporary events and other taxable transactions of the permittee during the reporting period.

SECTION 23. Tax 11.53(6) is amended to read:

Tax 11.53(6) VIOLATION. Under s. 77.52(12), Stats., any person required to hold a seller's permit who operates without a permit is guilty of a misdemeanor and shall immediately cease selling when requested by a department representative.

Note to Revisor: Replace the first note at the end of Tax 11.53 with the following:

Note: Section Tax 11.53 interprets ss. 73.03(38) and (50), 77.52(7), (9), (11), (12) and (19), 77.58 and 77.61(2), Stats.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Fiscal Estimate

This order revises rules relating to exemption certificates to reflect the creation by the Department of Revenue of a multipurpose exemption certificate, Form S-211, which will replace several single-use exemption certificates. In addition, it reflects a change in exemption certificate requirements for sales of certain commodities enacted in 1997 Wis. Act 27 and 237, and makes several clarifications regarding the use of exemption certificates.

The order also reflects a change in department policy eliminating temporary seller's permits and concessionaire permits, and allowing the simultaneous use at multiple locations of mobile seller's permits. It also clarifies the conditions under which permit violation provisions apply.

These changes will have no fiscal effect.

Notice of Proposed Rule

Revenue

[CR 99-26]

Notice is hereby given that pursuant to s. 227.11 (2)(a), Stats., and interpreting ss. 77.51 (4)(a)4., and (b)3., and 7., and (15)(a)4., and (b)4., and 6., 77.53 (1m)(a) and 77.54 (2), Stats., and according to the procedure set forth in s. 227.16 (2)(e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **May 1, 1999**, 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 rules.

Contact Person

Please contact Mark Wipperfurth at (608) 266-8253, if you have any questions regarding this proposed rule order.

Analysis by the Department of Revenue

Statutory authority: s. 227.11(2)(a)

Statutes interpreted: ss. 77.51(4)(a)4. and (b)3. and 7. and (15)(a)4. and (b)4. and 6., 77.53(1m)(a) and 77.54(2)

SECTIONS 1 AND 3. Tax 11.26(2)(c) is amended and Tax 11.26(3)(c) is created, to reflect the amendment to s. 77.51(4)(a)4. and (15)(a)4., Stats., by 1997 Wis. Act 27, which excludes from gross receipts and sales price motor fuel taxes refunded.

Tax 11.26(2)(d) is amended, to reflect current terminology relating to alternate fuels tax.

SECTION 2. Tax 11.26(2)(h) is created, to add the federal gas guzzler tax not previously listed in the rule.

SECTION 4. Tax 11.32(9) is created, to provide the tax treatment of sales of manufactured buildings, as a result of amendments to s. 77.51(4)(b)3. and (15)(b)4., Stats., and the creation of s. 77.51(4)(b)7. and (15)(b)6., Stats., by 1997 Wis. Act 27.

SECTION 5. Tax 11.41(1)(b)2.b. is amended, to clarify that the property manufactured must be destined for sale as tangible personal property to qualify for the manufacturing exemption in s. 77.54(2), Stats.

Tax 11.41(3)(b) and (h) are amended, to reflect proper punctuation per Legislative Council Rules Clearinghouse standards.

SECTIONS 6 THROUGH 11. The following changes are made to reflect the amendment to s. 77.53(1m)(a), Stats., by 1997 Wis. Act 27, allowing the use of an amount per plate per month as the measure of use tax for vehicles assigned to owners of a dealership, and to reflect the increase from \$96 to \$104 per plate per month as the measure of use tax.

Tax 11.83(1) is renumbered Tax 11.83(1)(b) and amended, and Tax 11.83(1)(title), (intro.) and (a) are created, to add a definition of "actively participates."

Tax 11.83(8)(b)1. is amended, subds. 2. and 3. are renumbered 3. and 4. and as renumbered subd. 3.(intro.) is amended, and new subd. 2. is created.

Tax 11.83(8)(c)(intro.) and 2. and (d) are amended.

Text of Rule

SECTION 1. Tax 11.26(2)(c) and (d) are amended to read:

Tax 11.26(2)(c) Any federal stamp tax and manufacturer's or importer's excise tax. Federal excise taxes include excise taxes on alcohol, tobacco, motor and aviation fuel except motor fuel taxes refunded, tires, firearms, sporting goods and air or ship transportation.

(d) A federal, county or municipal fuel tax included in the price of ~~special~~ alternate fuels and general aviation fuel subject to sales tax.

SECTION 2. Tax 11.26(2)(h) is created to read:

Tax 11.26(2)(h) The federal gas guzzler tax imposed under s. 4064 of the internal revenue code.

Note to Revisor: Replace the examples following sub. (3)(b) with the following:

Examples. Taxes which are not included in a retailer's gross receipts include:

1) The room taxes imposed under s. 66.75, Stats., which municipalities or local exposition districts impose on persons furnishing lodging to transients.

2) The federal excise tax imposed on the first retail sale of heavy trucks and trailers under s. 4051 of the internal revenue code.

3) The county and stadium sales and use taxes imposed under s. 77.71, Stats.

4) The local exposition district food and beverage and rental car taxes imposed under ss. 77.98 and 77.99, Stats.

5) The premier resort area taxes imposed under s. 77.994, Stats.

6) The state rental vehicle fee imposed under s. 77.995, Stats.

7) The federal luxury tax imposed under ss. 4001 through 4007 of the internal revenue code.

SECTION 3. Tax 11.26(3)(c) is created to read:

Tax 11.26(3)(c) Federal and Wisconsin motor vehicle excise taxes refunded.

Note to Revisor: Replace the second note at the end of Tax 11.26 with the following:

Note: The interpretations in s. Tax 11.26 are effective under the general sales and use tax law on and after September 1, 1969, except: The exclusion for federal and Wisconsin motor vehicle excise taxes refunded became effective December 1, 1997, pursuant to 1997 Wis. Act 27.

SECTION 4. Tax 11.32(9) is created to read:

Tax 11.32(9) MANUFACTURED BUILDINGS. (a) Gross receipts and sales price from the sale of a "manufactured building," as defined in s. 101.71(6), Stats., that is tangible personal property when sold, may be reduced by one of the following:

1. 35% of the sales price.

2. An amount equal to the sales price minus the cost of the materials that become an ingredient or component part of the manufactured building.

(b) No credit is allowed for trade-ins if gross receipts or sales price are reduced under par. (a).

(c) Once a retailer reduces gross receipts or sales price by the amount in par. (a)1. or 2., the retailer shall continue to use that method of reduction for all sales of manufactured buildings, that are tangible personal property when sold, until such time as the department approves in writing the use of the other method.

Example: Building Manufacturer sells a manufactured building, as defined in s. 101.71(6), Stats., in Wisconsin to Dealer. Dealer will affix the manufactured building to real property in Wisconsin for Customer under a contract between Dealer and Customer. This is the first manufactured building, as defined in s. 101.71(6), Stats., sold by Building Manufacturer pursuant to a contract entered into on or after December 1, 1997. Additional facts are as follows:

- \$40,000 is the cost of materials purchased by Building Manufacturer that become an ingredient or component part of the manufactured building.

- \$65,000 is the sales price of the manufactured building by Building Manufacturer to Dealer.

The amount subject to sales tax on the sale of the manufactured building to Dealer is one of the following:

(1) \$42,250, which is the \$65,000 sales price reduced by \$22,750 (35% of the sales price).

(2) \$40,000, which is the \$65,000 sales price reduced by \$25,000 (the sales price minus the cost of materials).

If Building Manufacturer chooses the method under (1) for computing gross receipts from the sale of this manufactured building, it must use the method under (1) for computing gross receipts from all future sales of manufactured buildings, until the department approves in writing the use of the method under (2).

Note to Revisor: Replace the first note at the end of Tax 11.32 with the following:

Note: Section Tax 11.32 interprets ss. 77.51(4)(a)(intro.) and 4., (b)1., 3., 6. and 7. and (c) 2. and (15)(a)(intro.) and 4., (b)1., 4., 5. and 6. and (c)1. and 77.61(3), Stats.

Note to Revisor: In the second note at the end of Tax 11.32, remove the word "and" before part (c) and add the following at the end of the note:

; and (d) The reduction of gross receipts and sales price for sales of manufactured buildings, as defined in s. 101.71(6), Stats., became effective for sales of property pursuant to contracts entered into on or after December 1, 1997, pursuant to 1997 Wis. Act 27.

SECTION 5. Tax 11.41(1)(b)2.b. and (3)(b) and (h) are amended to read:

Tax 11.41(1)(b)2.b. The property manufactured is not destined for sale as tangible personal property.

Note to Revisor: Replace example 2 following sub. (2)(b) with the following:

2) A manufacturer-contractor is not entitled to the exemption when purchasing tangible personal property consumed, destroyed or losing its identity in the manufacture of building components which it, as a contractor, will affix to real property in a real property construction activity.

(3)(b) Milling cutters.

(h) Wearing apparel for the comfort or welfare of the employee or for the protection of the employee's clothing, such as helmets, hard hats, work gloves, aprons, coveralls, pants, coats, and fur-lined boots and jackets.

Note to Revisor: In the third note at the end of Tax 11.41, delete the words "in sub. (5)."

SECTION 6. Tax 11.83(1) is renumbered Tax 11.83(1)(b) and amended to read:

Tax 11.83(1)(b) **DEFINITION.** ~~In this section, "motor~~ "Motor vehicle" means a self-propelled vehicle, such as an automobile, truck, truck-tractor or motorcycle, designed for and capable of transporting persons or property on a highway. In this section, "motor vehicle" does not include a self-propelled vehicle which is not designed or used primarily for transportation of persons or property, and is only incidentally operated on a public highway, such as a farm tractor, snowmobile, fork lift truck or road machinery as

defined in s. 340.01(52), Stats. "Motor vehicle" does not include a vehicle which is not self-propelled, such as a trailer or semitrailer.

SECTION 7. Tax 11.83(1)(title), (intro.) and (a) are created to read:

Tax 11.83(1)(title) DEFINITIONS.

(intro.) In this section:

(a) "Actively participates" means the person performs services for the dealership, including selling, accounting, managing and consulting, for more than 500 hours in a taxable year for which the person receives compensation. "Actively participates" does not include services performed only in the capacity of an investor, including studying and reviewing financial statements or reports on the operation of the business, preparing or compiling summaries or analyses of the finances of the business for the investor's own use or monitoring the finances or operations of the activity in a nonmanagerial capacity.

SECTION 8. Tax 11.83(8)(b)1. is amended to read:

Tax 11.83(8)(b)1. Motor vehicles held for sale which are assigned to and used by a specific dealer employe subject to withholding from federal income tax on wages are subject to Wisconsin use tax on \$96 ~~\$104~~ per motor vehicle registration plate per month. The \$104 amount is effective January 1, 1999 and is subject to change annually as explained in the notes following sub. (8)(b).

Note to Revisor: Remove the note at the end of Tax 11.83(8)(b)1.

SECTION 9. Tax 11.83(8)(b)2. and 3. are renumbered Tax 11.83(8)(b)3. and 4. and as renumbered Tax 11.83(8)(b)3.(intro.) is amended to read:

Tax 11.83(8)(b)3.(intro.) Motor vehicles held for sale and not assigned to and used by a specific dealer employe subject to federal withholding on wages are subject to Wisconsin use tax on the lease value of the motor vehicle computed on a calendar month basis. If a motor vehicle is used by the dealer for a period of less than one calendar month, the amount subject to use tax is the daily lease value calculated by multiplying the applicable monthly lease value by a fraction, the numerator of which is the number of days used by the dealer for a purpose in addition to retention, demonstration or display and the denominator of which is the number of days in the calendar month. Lease value is computed using the internal revenue service lease value table contained in ~~internal revenue service regulation s. 26 CFR~~ 1.61-21(d)(2). In the lease value table, the "automobile fair market value" is one of the following:

SECTION 10. Tax 11.83(8)(b)2. is created to read:

Tax 11.83(8)(b)2. Motor vehicles held for sale which are assigned to and used by persons holding an ownership interest in Wisconsin licensed motor vehicle dealerships who are not subject to withholding for federal income tax purposes, but who actively participate in the day-to-day operation of the dealership, are subject to Wisconsin use tax on \$104 per motor vehicle registration plate per month. The \$104 amount is effective January 1, 1999 and is subject to change annually as explained in the notes below.

Note: As provided in s. 77.53(1m), Stats., the department will annually adjust the amount per plate to the nearest whole dollar to reflect the annual percentage change in the U.S. consumer price index for all urban customers, U.S. city average, as determined by the United States department of labor, for the 12 months ending on June 30 of the year before the change. The department will publicize any rate change in an issue of the *Wisconsin Tax Bulletin* prior to the January 1, that the change becomes effective.

Note: The amount per plate subject to use tax under par. (b)1. and 2. was \$96 for the period September 1, 1995 through December 31, 1996, \$99 for the period January 1, 1997 through December 31, 1997, and \$102 for the period January 1, 1998 through December 31, 1998.

SECTION 11. Tax 11.83(8)(c)(intro.) and 2. and (d) are amended to read:

Tax 11.83(8)(c)(intro.) It is presumed that all dealer plates issued by the department of transportation to a licensed motor vehicle

dealer are used each month on motor vehicles assigned to employes subject to withholding for federal income tax purposes or owners who actively participate in the day-to-day operations of the dealership for a purpose in addition to retention, demonstration or display and are subject to use tax as provided in par. (b)1. and 2., unless one of the following applies:

2. The motor vehicle to which the dealer plate is assigned is subject to use tax as computed in par.(b)~~2.~~ or 3. or 4.

(d) Transitional provision. For motor vehicles, not assigned to employes or salespersons subject to federal withholding on wages or owners who actively participate in the day-to-day operations of the dealership, that are used by the dealer for a purpose in addition to retention, demonstration and display both prior to September 1, 1995, and on and after September 1, 1995, upon which a sales or use tax was paid on the purchase price of the motor vehicle by the dealer, the imposition of use tax as described in par.(b)~~2.~~ 3., does not apply.

Note to Revisor: In the second note at the end of Tax 11.83, replace the portion of the note beginning with the word "and" before part (h), with the following:

(h) The measure of use tax on motor vehicles as described in sub. (8)(b)1., 3. and 4. became effective September 1, 1995, pursuant to 1995 Wis. Act 27; and (i) The use of the amount per plate rather than the lease value, as described in sub. (8)(b)2., as the measure of use tax for motor vehicles assigned to owners of a dealership became effective December 1, 1997, pursuant to 1997 Wis. Act 27.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Fiscal Estimate

This rule reflects changes made in the sales and use tax treatment of refunded motor fuel taxes, manufactured buildings, and motor vehicles used by motor vehicle dealers by 1997 Wis. Act 27. It also clarifies existing rules and makes stylistic changes to conform to Legislative Council Rules Clearinghouse standards. It has no fiscal effect.

Notice of Proposed Rule

Revenue

[CR 99-62]

Notice is hereby given that pursuant to s. 227.11 (2)(a), Stats., and interpreting ss. 77.51 (9)(e), 77.52 (1) and 77.54, Stats., and according to the procedure set forth in s. 227.16 (2)(e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **May 1, 1999**, it 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.

Contact Person

Please contact Mark Wipperfurth at (608) 266-8253, if you have any questions regarding this proposed rule order.

Analysis by the Department of Revenue

Statutory authority: s. 227.11(2)(a)

Statutes interpreted: ss. 77.51(9)(e), 77.52(1) and 77.54(7)(a) and (7m)

SECTION 1. Tax 11.33(4)(a) is amended, to include the condition that an auction sale must be held at other than regular intervals to qualify for exemption as an occasional sale.

Tax 11.33(4)(g) is amended, to remove nonprofit organizations from the provisions of that paragraph.

Text of Rule

SECTION 1. Tax 11.33(4)(a) and (g) are amended to read:

Tax 11.33(4)(a) Auction sales of tangible personal farm property and or household goods which are not held at regular intervals.

(g) The sale of tangible personal property or taxable services by a person not otherwise required to hold a seller's permit, if the total taxable gross receipts from sales of tangible personal property and taxable services are less than \$1,000 during the calendar year. However, purchases of tangible personal property or taxable services which when resold are exempt under this paragraph, are taxable purchases by that person, ~~except when the person is able to claim exemption under s. 77.54(9a), Stats. This paragraph does not apply to nonprofit organizations.~~

Note to Revisor: 1) In the example following sub. (5)(a), replace the word "operator" with "retailer."

- 2) Remove the note following sub. (5)(b).
- 3) Replace the first note at the end of Tax 11.33 with the

following:

Note: Section Tax 11.33 interprets ss. 77.51(9), 77.52(1) and (2)(a)2. and 77.54(7) and (7m), Stats.

Initial Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Fiscal Estimate

The rule updates the Wisconsin Administrative Code with respect to auction sales of personal farm property and household goods when the sales are held at irregular intervals. The rule also clarifies the tax treatment of nonprofit organizations.

These changes have no fiscal effect.

*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.

Commerce (CR 99-10):

Ch. Comm 10 – Relating to flammable and combustible liquids.

Insurance, Commissioner of (CR 99-13):

S. Ins 3.39 (34) (b) – Relating to guarantee issue eligibility for Medicare Supplement insurance.

Insurance, Commissioner of (CR 99-34):

S. Ins 16.01 (6) (b) and (7) (a) – Relating to annual billings for the examination of domestic insurers.

Regulation and Licensing (CR 98-175):

Chs. RL 131 to 135 – Relating to the registration and regulation of home inspectors.

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.

Natural Resources (CR 98-146):

An order creating ch. NR 167, relating to the land recycling loan program.
Effective 06-01-99.

Natural Resources (CR 98-148):

An order repealing and recreating ch. NR 20 and amending s. NR 21.02 (16), relating to sport fishing regulations.
Effective 06-01-99.

Natural Resources (CR 98-195):

An order amending ss. NR 25.06 (2) (e) 2. and 25.09 (2) (b) 2. a., relating to commercial fishing for whitefish in Green Bay and Lake Michigan.
Effective 05-01-99.

Revenue (CR 97-29):

An order affecting s. Tax 11.12, relating to the sales and use tax treatment of certain items used in farming.
Effective 06-01-99.

Revenue (CR 98-128):

An order affecting ss. Tax 11.09 and 11.28, relating to medicines and to gifts and other advertising specialties.
Effective 06-01-99.

Social Workers, Marriage and Family Therapists, and Professional Counselors Examining Board (CR 98-53):

An order amending s. SFC 1.02 (intro.) and creating ch. SFC 8, relating to continuing education requirements for renewal of social worker certificates.
Effective 06-01-99.

Transportation (CR 98-145):

An order affecting ch. Trans 31, relating to excursion permits on state-owned rail lines.
Effective 06-01-99.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **April 30, 1999 Wisconsin Administrative Register**. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

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

Administration (CR 98-110):

An order affecting ch. Adm 19, relating to small cities community development block grants for housing.

Effective 05-01-99.

Dentistry Examining Board (CR 98-77):

An order affecting ch. DE 2 and ss. DE 1.02, 5.02, 6.01 and 11.11, relating to dentists and dental hygienists.

Effective 05-01-99.

Health and Family Services (CR 98-155):

An order repealing and recreating ch. HFS 163, relating to certification for the identification, removal and reduction of lead-based paint hazards, accreditation of training courses that prepare individuals for certification, and approval of training course managers, principal instructors and guest instructors.

Effective 05-01-99.

Health and Family Services (CR 98-160):

An order amending s. HFS 94.24 (2) (d) 1. d. and (e), relating to searches of the persons and of the rooms and personal belongings of patients residing in a secure mental health unit under s. 980.065, Stats., or the maximum security facility at the Mendota Mental Health Institute.

Effective 05-01-99.

Natural Resources (CR 98-55):

An order affecting ch. NR 16, relating to the development of fees, criteria and procedures to use when permitting the use of natural waters as fish farms.

Effective 05-01-99.

Natural Resources (CR 98-195):

An order amending ss. NR 25.06 (2) (e) 2. and 25.09 (2) (b) 2. a., relating to commercial fishing for whitefish in Green Bay and Lake Michigan.

Effective 05-01-99.

Regulation and Licensing (CR 98-173):

An order creating chs. RL 140 to 142, relating to the registration of music, art and dance therapists.

Effective 05-01-99.

Technical College System Board (CR 98-104):

An order affecting chs. TCS 6 to 9, relating to:

- 1) Procurement policies and procedures;
- 2) District budget, audit and finance;
- 3) Contracts for services; and
- 4) District reporting of student participation in compulsory school attendance, post-secondary options and technical preparation programs.

Effective 05-01-99.

Transportation (CR 98-143):

An order amending s. Trans 510.05, relating to eligibility of Transportation Facilities Economic Assistance and Development program (TEA) projects.

Effective 05-01-99.

Transportation (CR 98-147):

An order amending s. Trans 305.27 (3) (a), relating to vehicle restraining devices.

Effective 05-01-99.

Transportation (CR 98-153):

An order affecting ss. Trans 300.16 and 300.54, relating to school bus equipment standards.

Effective 05-01-99.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

The following administrative rule revisions and corrections have taken place in April, 1999, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

REVISIONS

Administration:

Ch. Adm 19

- S. Adm 19.02 (6) and (7)
- S. Adm 19.04 (entire section)
- S. Adm 19.05 (entire section)
- S. Adm 19.06 (entire section)
- S. Adm 19.07 (entire section)
- S. Adm 19.08 (entire section)

- S. NR 16.73 (entire section)
- S. NR 16.74 (entire section)
- S. NR 16.75 (entire section)

Ch. NR 25

- S. NR 25.06 (2) (e)
- S. NR 25.09 (2) (b)

Dentistry Examining Board:

Ch. DE 1

- S. DE 1.02 (4), (6) and (8)

Ch. DE 2

- S. DE 2.01 (1) (intro.), (a), (b), (c), (e) and (f)
- S. DE 2.02 (entire section)
- S. DE 2.03 (1) (b), (5) (a) and (6) (b)
- S. DE 2.04 (1) (intro.), (c), (e) and (2) (intro.), (c) and (d)
- S. DE 2.05 (entire section)
- S. DE 2.06 (entire section)
- S. DE 2.07 (entire section)
- S. DE 2.08 (entire section)

Ch. DE 5

- S. DE 5.02 (6), (18), (19), (21), (22) and (23)

Ch. DE 6

- S. DE 6.01 (entire section)

Ch. DE 11

- S. DE 11.11 (6) (b)

Health and Family Services:

(Community Services, Chs. HFS/HSS 30--)

Ch. HFS 94

- S. HFS 94.24 (2) (d) and (e)

(Health, Chs. HFS/HSS 110--)

Ch. HFS 163 (entire chapter)

Natural Resources:

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

Ch. NR 16

- S. NR 16.001 (intro.)
- S. NR 16.70 (entire section)
- S. NR 16.71 (entire section)
- S. NR 16.72 (entire section)

Regulation and Licensing:

Ch. RL 140 (entire chapter)

Ch. RL 141 (entire chapter)

Ch. RL 142 (entire chapter)

Technical College System:

Ch. TCS 6

- S. TCS 6.05 (2) (intro.), (c), (d), (f), (g), (h), (j), (L) and (m)

Ch. TCS 7

- S. TCS 7.03 (1) and (4)

Ch. TCS 8

- S. TCS 8.06 (entire section)

Ch. TCS 9

- S. TCS 9.01 (entire section)
- S. TCS 9.02 (7)
- S. TCS 9.03 (1) and (3)

Transportation:

Ch. Trans 300

- S. Trans 300.16 (1)
- S. Trans 300.54 (1) (am) and (4)

Ch. Trans 305

- S. Trans 305.27 (3) (a)

Ch. Trans 510

- S. Trans 510.05 (entire section)

EDITORIAL CORRECTIONS

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

Administration:

Ch. Adm 20

S. Adm 20.08 (8) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Adm 21

S. Adm 21.06 (entire section) had a correction made under s. 13.93 (2m) (b) 1., Stats.

Agriculture, Trade & Consumer Protection:

Ch. ATCP 60

S. ATCP 60.08 (2) and (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. ATCP 60.22 (1) (a) had a correction made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. ATCP 136

S. ATCP 136.10 (2) (c) and (3) (b) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.

Commerce:

*(Public Employe Safety and Health,
Ch. Comm 32)*

Ch. Comm 32

S. Comm 32.16 (15) and (16) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Wisconsin Emergency Management:

**(Entire code renumbered under
s. 13.93 (2m) (b) 1., Stats., and
corrections made under s. 13.93
(2m) (b) 6. and 7., Stats.)**

Health and Family Services:

(Community Services, Chs. HFS/HSS 30---)

Ch. HFS 46

S. HFS 46.10 (2) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.

(Medical Assistance, Chs. HFS/HSS 100---)

Ch. HFS 101

S. HFS 101.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 101.03 (21), (47) and (140) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. HFS 103

S. HFS 103.04 (1) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 103.07 (1) (a) and (2) (e) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 104

S. HFS 104.01 (5) (d) and (12) (d) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. HFS 105

S. HFS 105.255 (1), (2) (c) and (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 105.38 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 106

S. HFS 106.04 (3) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 107

S. HFS 107.02 (4) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 107.04 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 107.06 (4) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 107.09 (4) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 107.11 (6) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 107.113 (4) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 107.122 (1) (e) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 108

S. HFS 108.02 (9) (e) had a correction made under s. 13.93 (2m) (b) 6., Stats.

(Health, Chs. HFS/HSS 110---)

Ch. HFS 172

S. HFS 172.03 (1m) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. HFS 172.12 (3) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Natural Resources:

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

Ch. NR 16

S. NR 16.02 (1) and (4) to (6) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 16.10 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Technical College System:

Ch. TCS 9

S. TCS 9.02 (7) renumbered to be (11) under s. 13.93 (2m) (b) 1., Stats.

Ch. TCS 12

S. TCS 12.07 (entire section) had corrections made under s. 13.93 (2m) (b) 1., Stats.

Transportation:**Ch. Trans 131**

- S. Trans 131.02 (12) and (20m) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. Trans 131.03 (1) (d) and (7) (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. Trans 131.09 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Trans 258

- S. Trans 258.08 (4) and (5) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. Trans 305

- S. Trans 305.05 (2) and (11) had corrections made under s. 13.93 (2m) (b) 7., Stats.

ERRATA

Items reprinted to correct printing errors such as dropped copy (or other errors) are indicated in the following listing:

Commerce:

*(Flammable and Combustible Liquids,
Ch. Comm 10---*)

Ch. Comm 10 (cover page) reprinted to correct address.

Health and Family Services:

(Community Services, Chs. HFS/HSS 30---)

Ch. HFS 46

- S. HFS 46.06 (11) (b) reprinted to restore omitted copy.

(Health, Chs. HFS/HSS 110---)

Ch. HFS 172

- S. HFS 172.07 (5) reprinted to restore dropped text.

Transportation:**Ch. Trans 131**

- S. Trans 131.02 had a duplicative subsection deleted.

Ch. Trans 150

- S. Trans 150.03 reprinted to remove duplicative paragraph.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Administration (CR 98–110)

Ch. Adm 19 – Small cities community development block grants for housing.

Summary of Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Summary of Comments:

No comments were reported.

2. Dentistry Examining Board (CR 98–77)

Ch. DE 1, 2 & 6 – Dentists and dental hygienists.

Summary of Final Regulatory Flexibility Analysis:

These 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.

3. Health & Family Services (CR 98–155)

Ch. HFS163 – Relating to certification for the identification, removal and reduction of lead-based paint hazards, accreditation of training courses that prepare individuals for certification, and approval of training course managers, principal instructors and guest instructors.

Summary of Final Regulatory Flexibility Analysis:

These rules will affect small businesses as defined in s. 227.14(1)(a), Stats. Almost all the changes are being made so that the Department will meet U.S. Environmental Protection Agency (EPA) conditions for authorization and approval of the Department's lead (Pb) certification and training program. They are EPA requirements. The certification and accreditation fees have been established by the Department to cover program costs, and some of them are being amended by this order.

Certification of lead (Pb) companies is a new requirement because EPA requires it. Of the 200 non-government lead (Pb) companies currently identified by the Department, an estimated 75 % have fewer than 25 employees. Lead company certification fees were established at \$50, which is just sufficient to cover the administrative costs of certification.

The certification fee for nongovernment lead risk assessors is reduced because most are self-employed and have difficulty recovering the cost.

Seven training providers offer accredited courses in this state. Four are small businesses, 2 providing training on a limited basis and 2 providing a full range of courses. The current rules provide for a one-time course accreditation application fee of \$750 per initial course and \$250 per refresher course. The revised rules reduce the one-time course accreditation application fee to \$500 per initial course and \$125 per refresher course, and require reaccreditation of a course every 2 years and payment of an accreditation fee of \$500 per initial course and \$250 per refresher course for each 2-year accreditation period.

Within the flexibility allowed by EPA regulations, the Department developed rules that would cause minimal difficulty for small businesses. Forms collect the minimum information needed to support the program, and approved alternative forms may be used. Certification, accreditation, approval and training time periods (terms) were established that would be as simple and easy to track as allowed under EPA regulations.

During public review of the proposed rules, concerns were expressed by small businesses (a landlord, a lead consultant, a lead companies association representative) about the availability and cost of liability insurance for lead claims and insurance coverage. The Department's response to these concerns in part is that it will work with the Department of Commerce Small Business Ombudsman to bring the insurance issues to the attention of the Commissioner of Insurance.

Summary of Comments of Legislative Standing Committees:

No comments were received.

4. Health & Family Services (CR 98–160)

S. HFS 94.24 – Searches of the persons and of the rooms and personal belongings of patients residing in a secure mental health unit under s. 980.065, Stats., or the maximum security facility at the Mendota mental health institute.

Summary of Final Regulatory Flexibility Analysis:

The amendments to s. HFS 94.24 (2) apply to the Department, to the management and staff of the Wisconsin Resources Center and the Mendota Mental Health Institute and to the affected patients at the two facilities. The rules do not directly apply to small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

5. Natural Resources (CR 98–55)

Ch. NR 16, Subch. 2 – Natural waters as fish farms.

Summary of Final Regulatory Flexibility Analysis:

At present, there are 40–50 natural water bodies that are being used as fish farms. In order to continue this use, the fish farmers will need to obtain a permit from the Department. There is no reporting requirement for this permit. The information requested of the applicant is minimal and will be used by the Department in combination with on-site visits to make a determination regarding adverse impacts to public or private rights in the natural body of water. Small businesses cannot be exempt from this rule; however, natural waters that are currently being used as fish farms do not need an initial determination by the Department. This saves the fish farmer \$450, since the Department already permitted the use under the 1997 private fish hatchery license.

Summary of Comments of Legislative Review Committees:

The rules were originally reviewed by the Senate Committee on Environment and Energy and the Assembly Committee on Agriculture. The Assembly Committee extended their review period to meet with the Department. No further action was taken. On November 9, 1998, the Senate Committee on Environment and Energy requested the Department to modify the rule by reducing the fee for applications for the use of freeze-out ponds as fish farms, requiring the Department to issue a notice of its intent to use a natural pond for a hatchery, to hold a public hearing if any substantive objection was raised to the Department's notice and that the Department use be reviewed on a 10-year basis.

The Natural Resources Board adopted modifications regarding the Department's use of natural bodies of water for fish rearing. The Board declined to lower the fee for applications for the use of freeze-out ponds as fish farms.

The modifications were submitted to the Assembly Committee on Agriculture and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. The Committees did not comment on the proposed modifications.

5. Natural Resources (CR 98-195)

S. NR 25.06 (2)(e)2. – Commercial fishing for whitefish in Green Bay and Lake Michigan.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will affect commercial fishers for whitefish. No additional reporting monitoring requirements are imposed. The allowable commercial harvest is increased. The maximum depth at which pound nets and trap nets may be set is also increased.

Summary of Comments by Legislative Review Committees:

The rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agricultural, Environmental Resources and Campaign Finance Reform. There were no comments.

6. Regulation & Licensing (CR 98-173)

Chs. RL 140-142 – Registration of music, art and dance therapists.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

7. Technical College System Board (CR 98-104)

Chs. TCS 6 to 9 – Procurement policies and procedures; district budget, audit and finance; contracts for services; and district reporting of student participation in compulsory school attendance, post-secondary options and technical preparation programs.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules will have no significant economic impact on small businesses.

Summary of Comments:

No comments were reported.

8. Transportation (CR 98-143)

S. Trans 510.05 – Eligibility of TEA projects.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule will benefit many small businesses eligible under the TEA grant program. Small businesses such as manufacturers, wholesalers, distributors, etc., will be eligible to apply for needed infrastructure projects which promote better traffic circulation, improve accessibility to highway, rail, harbor and airport facilities and help to improve the overall transportation efficiency for the business and the local community.

Summary of Comments:

No comments were reported.

9. Transportation (CR 98-147)

S. Trans 305.27 (3)(a) – Vehicle restraining devices.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

10. Transportation (CR 98-153)

Ch. Trans 300 – School bus equipment standards.

Summary of Final Regulatory Flexibility Analysis:

This proposed 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 365. Relating to the Creation of the Governor's Blue Ribbon Task Force on Passenger Rail Service.

Executive Order 366. Relating to Issuance of General Obligation Bonds for the Veterans Home Loan Program and Appointment of Hearing Officer.

Executive Order 367. Relating to the Amendment of Executive Order No. 365.

PUBLIC NOTICE

Public Notice

Workforce Development

On the next page see a revised Child Care Co-Payment Schedule authorized under s. DWD 56.08, Wis. Adm. Code. The rule provides that adjustments to the Co-Payment Schedule shall be published in the Administrative Register. The newest adjustments to the schedule reflect changes in the Federal Poverty Guidelines. The new copay schedule will be effective on May 2, 1999.

Child Care Co-Payment Schedule for Licensed and Certified Care

Look down the column of the appropriate family size until you find the gross family monthly income level at or just less than the family income. Look to the right to find the appropriate co-payment by family and type of care.

FAMILY SIZE	WEEKLY LICENSED CARE CO-PAY AMOUNT										WEEKLY CERTIFIED CARE CO-PAY AMOUNT									
	CHILDREN IN SUBSIDIZED CARE:										CHILDREN IN SUBSIDIZED CARE:									
	1	2	3	4	5	6	7	8	9	10 or more	1	2	3	4	5 or more					
70% FPL	\$645	\$810	\$974	\$1,139	\$1,303	\$1,468	\$1,632	\$1,797	\$1,961	\$2,125	\$5	\$9	\$14	\$18	\$23	\$3	\$6	\$10	\$13	\$16
75% FPL	\$691	\$868	\$1,044	\$1,220	\$1,396	\$1,573	\$1,749	\$1,925	\$2,101	\$2,277	\$5	\$11	\$16	\$21	\$26	\$4	\$7	\$11	\$15	\$18
80% FPL	\$737	\$925	\$1,113	\$1,301	\$1,489	\$1,677	\$1,865	\$2,053	\$2,241	\$2,429	\$8	\$13	\$18	\$24	\$29	\$6	\$9	\$13	\$17	\$20
85% FPL	\$783	\$983	\$1,183	\$1,383	\$1,582	\$1,782	\$1,982	\$2,182	\$2,381	\$2,581	\$11	\$16	\$21	\$26	\$32	\$7	\$11	\$15	\$18	\$22
90% FPL	\$830	\$1,041	\$1,253	\$1,464	\$1,676	\$1,887	\$2,099	\$2,310	\$2,522	\$2,734	\$13	\$20	\$26	\$33	\$39	\$9	\$14	\$18	\$23	\$28
95% FPL	\$876	\$1,099	\$1,322	\$1,545	\$1,769	\$1,992	\$2,215	\$2,438	\$2,662	\$2,885	\$16	\$24	\$32	\$39	\$48	\$11	\$17	\$22	\$28	\$33
100% FPL	\$922	\$1,157	\$1,392	\$1,627	\$1,862	\$2,097	\$2,332	\$2,567	\$2,802	\$3,037	\$18	\$26	\$34	\$42	\$50	\$13	\$18	\$24	\$30	\$35
105% FPL	\$968	\$1,215	\$1,461	\$1,708	\$1,955	\$2,202	\$2,448	\$2,695	\$2,942	\$3,189	\$21	\$29	\$37	\$45	\$53	\$15	\$20	\$26	\$31	\$37
110% FPL	\$1,014	\$1,272	\$1,531	\$1,789	\$2,048	\$2,306	\$2,565	\$2,823	\$3,082	\$3,341	\$24	\$32	\$39	\$48	\$55	\$17	\$22	\$28	\$33	\$39
115% FPL	\$1,060	\$1,330	\$1,600	\$1,871	\$2,141	\$2,411	\$2,681	\$2,952	\$3,222	\$3,493	\$26	\$34	\$42	\$50	\$58	\$18	\$24	\$30	\$35	\$41
120% FPL	\$1,106	\$1,388	\$1,670	\$1,952	\$2,234	\$2,516	\$2,798	\$3,080	\$3,362	\$3,644	\$29	\$37	\$45	\$53	\$61	\$20	\$26	\$31	\$37	\$42
125% FPL	\$1,152	\$1,446	\$1,740	\$2,033	\$2,327	\$2,621	\$2,915	\$3,208	\$3,502	\$3,795	\$32	\$39	\$48	\$55	\$63	\$22	\$28	\$33	\$39	\$44
130% FPL	\$1,198	\$1,504	\$1,809	\$2,115	\$2,420	\$2,726	\$3,031	\$3,337	\$3,642	\$3,947	\$34	\$44	\$53	\$62	\$71	\$24	\$30	\$37	\$43	\$50
135% FPL	\$1,244	\$1,562	\$1,879	\$2,196	\$2,513	\$2,831	\$3,148	\$3,465	\$3,782	\$4,099	\$37	\$48	\$58	\$69	\$79	\$26	\$33	\$41	\$48	\$55
140% FPL	\$1,290	\$1,619	\$1,948	\$2,277	\$2,606	\$2,935	\$3,264	\$3,593	\$3,922	\$4,251	\$39	\$50	\$61	\$71	\$82	\$28	\$35	\$42	\$50	\$57
145% FPL	\$1,336	\$1,677	\$2,018	\$2,359	\$2,699	\$3,040	\$3,381	\$3,722	\$4,062	\$4,403	\$42	\$53	\$63	\$74	\$84	\$30	\$37	\$44	\$52	\$59
150% FPL	\$1,383	\$1,735	\$2,088	\$2,440	\$2,793	\$3,145	\$3,498	\$3,850	\$4,203	\$4,555	\$45	\$55	\$66	\$76	\$87	\$31	\$39	\$46	\$54	\$61
155% FPL	\$1,429	\$1,793	\$2,157	\$2,521	\$2,886	\$3,250	\$3,614	\$3,978	\$4,343	\$4,707	\$48	\$58	\$69	\$79	\$90	\$33	\$41	\$48	\$55	\$63
160% FPL	\$1,475	\$1,851	\$2,227	\$2,603	\$2,979	\$3,355	\$3,731	\$4,107	\$4,483	\$4,859	\$50	\$61	\$71	\$82	\$92	\$35	\$42	\$50	\$57	\$65
165% FPL	\$1,521	\$1,909	\$2,296	\$2,684	\$3,072	\$3,460	\$3,847	\$4,235	\$4,623	\$5,011	\$51	\$63	\$74	\$84	\$95	\$36	\$44	\$52	\$59	\$66
170% FPL	\$1,567	\$1,966	\$2,366	\$2,765	\$3,165	\$3,564	\$3,964	\$4,363	\$4,763	\$5,163	\$53	\$66	\$76	\$87	\$98	\$37	\$46	\$54	\$61	\$68
175% FPL	\$1,613	\$2,024	\$2,435	\$2,847	\$3,258	\$3,669	\$4,080	\$4,492	\$4,903	\$5,314	\$54	\$68	\$79	\$90	\$100	\$38	\$48	\$55	\$63	\$70
180% FPL	\$1,659	\$2,082	\$2,505	\$2,928	\$3,351	\$3,774	\$4,197	\$4,620	\$5,043	\$5,466	\$56	\$70	\$82	\$92	\$103	\$39	\$50	\$57	\$65	\$72
185% FPL	\$1,705	\$2,140	\$2,575	\$3,009	\$3,444	\$3,879	\$4,314	\$4,748	\$5,183	\$5,617	\$58	\$72	\$84	\$95	\$105	\$40	\$52	\$59	\$66	\$74
190% FPL	\$1,751	\$2,198	\$2,644	\$3,091	\$3,537	\$3,984	\$4,430	\$4,877	\$5,323	\$5,769	\$59	\$74	\$87	\$98	\$108	\$42	\$54	\$61	\$68	\$76
195% FPL	\$1,843	\$2,256	\$2,714	\$3,172	\$3,630	\$4,089	\$4,547	\$5,005	\$5,463	\$5,921	\$61	\$76	\$90	\$100	\$111	\$43	\$55	\$63	\$70	\$78
200% FPL	\$1,843	\$2,313	\$2,783	\$3,253	\$3,723	\$4,193	\$4,663	\$5,133	\$5,603	\$6,073	\$63	\$78	\$92	\$103	\$113	\$44	\$57	\$65	\$72	\$79

NOTE: The copayment rate for the following categories of parents is found by selecting the lowest income line (70% FPL) and then finding the copayment listed, under either licensed care or certified care, for the appropriate number of children: foster parents, kinship care parents, and minor teen parents who are not Leamifare participants

NOTICE OF NONACQUIESCENCE

NOTICE OF NONACQUIESCENCE

Tax Appeals Commission

HARRY MACCO,	:	
Petitioner,	:	NOTICE OF NONACQUIESCENCE
v.	:	Docket No. 97-T-314
WISCONSIN DEPARTMENT OF REVENUE,	:	
Respondent.	:	

Pursuant to s. 73.01 (4) (e) 2. of the Wisconsin Statutes, the respondent hereby gives notice that, although it is not appealing the decision or order of the Tax Appeals Commission rendered in the above captioned matter under date of March 19, 1999, it has adopted a position of nonacquiescence in regard to that decision or order. The effect of this action is that, although the decision or order is binding on the parties for the instant case, the Commission’s conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the respondent in other cases.

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DEPARTMENT OF ADMINISTRATION
BUREAU OF INTEGRATED DOCUMENT SERVICES
DOCUMENT SALES AND DISTRIBUTION SECTION
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