

# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 476**



Publication Date: August 31, 1995  
Effective Date: September 1, 1995

REVISOR OF STATUTES BUREAU  
SUITE 800, 131 WEST WILSON STREET  
MADISON, WISCONSIN 53703-3233



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## NOTICE SECTION

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### **Notice of Proposed Rule**

#### **Agriculture, Trade & Consumer Protection**

**(Reprinted from  
08-15-95 Wis. Adm. Register)**

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Notice is hereby given that pursuant to s 227.16 (2) (e), Stats., the state of Wisconsin Department of Agriculture, Trade and Consumer Protection will adopt the following rule without public hearing unless within 30 days after publication of this notice on **August 15, 1995**, the Department receives a petition for hearing signed by 25 persons who will be affected by the rule, a municipality which will be affected by the proposed rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

### **Proposed Order of the Wisconsin Dept. of Agriculture, Trade & Consumer Protection**

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection proposes the following order to repeal s. ATCP 27.06, ch. ATCP 106 (note), ch. ATCP 107 (note), ch. ATCP 108 (note), ch. ATCP 130 and s. ATCP 135.11 (note); to renumber ch. ATCP 26 (title), ss. ATCP 26.01 (title), (1) to (3), (5), (7), (8), (10) to (13) and (15), 26.02 (title), (1) and (3), 26.03, 26.04 (title), (1) to (4), (5) (title), (5) (a) (title) and 1 to 10, and (5) (b) (title) and 1 to 9, 26.05 (title), (1) (title) and (intro.), (1) (a), (1) (b) (intro.) and 1 to 6, and (2) to (5), 26.07 (title), (1) (title), (1) (a) (title), (1) (b) and (c), (2) (title), and (2) (a) (title), (b) and (c), 26.08 (title), 26.09, ch. 27 (title), 27.01 (title), (1), (3) to (5) and (7) to (9), 27.02, 27.03 (title), (1) to (4), (5) (a) and (b), and (6) (a) and (b), 27.04 and 27.05, 100.57 (1), (2), (3) and (4), 106.01 to 106.03, 107.01 and 107.02, 107.04 (title), 107.05 (title) and (1) (a), (c), (d) and (f), 107.06, ch. ATCP 108 (title), 108.01 (title) and (1) to (4), 108.02 and 108.03, ch. ATCP 135 (title), 135.05 (title), (2) and (3), ch. ATCP 156 (title), 156.01 (title) and (1) to (12), 156.02 to 156.08, ch. ATCP 157 (title) and 157.01 to 157.04; to renumber and amend ss. ATCP 26.01 (4), (6), (9) and (14), 26.02 (2), 26.04 (5) (a) (intro.) and (b) (intro.), 26.05 (1) (b) 7 and 8, 26.06 (1) (b) 6 and 7, 26.07 (1) (a) and (2) (a), 26.08 (1) and (2), 27.01 (2) and (6), 27.03 (5) (intro.), (6) (intro.) and (7), ch. ATCP 106 (title), ch. ATCP 107 (title), 107.03, 107.04 (1) and (2), 107.05 (1) (intro.), (b) and (e), 107.05 (2), 108.01 (intro.), 135.01, 135.03, 135.05 (1), 135.07, 135.11 and 156.01 (intro.); to amend ss. ATCP 1.06 (1), ch. ATCP 105 (title), 137.01, 137.02 (intro.), 137.04 (4), 137.05 (4), 137.07 (3), 140.15 and 161.23 (4) (b); and to create ss. ATCP 21.14 (1) (intro.), ch. ATCP 102 (title), ch. ATCP 102 (note), 102.01 (intro.), 102.11 (intro.), ch. ATCP 137, subch. I (title), and ch. ATCP 157 (title); relating to nonsubstantive rule organization and drafting changes.

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

Statutory authority: ss. 93.07(1), 93.09, 93.44, 96.15, 97.09 (4), 100.20 (2), 100.295, 100.33 (2), 227.11

Statutes interpreted: ss. 93.06 (1m), 93.09, 93.14, 93.18, 93.44, 94.01, 94.02, 94.03; ch. 96; ss. 97.09 (4), 100.06, 100.20, 100.295, 100.30, and 100.33; and subch. III of ch. 227

This rule makes nonsubstantive organizational and drafting changes to several rules which the Department currently administers. This rule consolidates, renumbers, and corrects typographical errors in the current rules, but does not change the substance of those rules. This rule does all of the following:

- Incorporates a current rule related to potato rot nematode (ATCP 27) into the Department's general rule related to plant inspection and pest control (ATCP 21).

- Renumbers the Department's certified seed potato rule from ATCP 26 to ATCP 156, so that it will be located among other rules administered by the Department's Marketing Division. The Marketing Division is primarily responsible for administering the rule, in cooperation with the College of Agricultural and Life Sciences.

- Consolidates 3 current price discrimination rules into a single new chapter (ATCP 102, Price Discrimination and Related Practices). The 3 current rules regulate price discrimination in the sale of fermented malt beverages (ATCP 106), soda water beverages (ATCP 107) and motor fuel (ATCP 108). Each of the current rules will comprise a subchapter in the consolidated rule.

- Retitles Ch. ATCP 105 from "Unfair Sales Act" to "Sales Below Cost." ATCP 105 interprets the unfair sales act, s. 100.30, Stats., but is not itself the unfair sales act. The rule interprets provisions of s. 100.30, Stats., related to sales below cost.

- Consolidates 2 current rules related to environmental labeling of products into a single chapter (ATCP 137, Environmental Labeling of Products). One of the current rules (ATCP 137) regulates claims that products are recycled, recyclable or degradable. The other (ATCP 135) requires that plastic containers be labeled to facilitate recycling. Each of the current rules will comprise a subchapter in the consolidated rule.

- Repeals ch. ATCP 130, an obsolete list of forms.

- Consolidates current grading rules for honey and maple syrup into a single chapter (ATCP 157, Honey and Maple Syrup). Within the consolidated rule, there will be separate subchapters for honey and maple syrup.

- Corrects miscellaneous typographical errors in current rules.

### **Text of Rule**

**SECTION 1.** ATCP 1.06 (1) is amended to read:

ATCP 1.06 (1) WHO MAY REQUEST. A person adversely affected by a department action may request a hearing on that action. Except as provided under s. ~~ATCP 1.03 (4) (a)~~ ATCP 1.03 (3) (a), a request for hearing shall be filed with the secretary and shall comply with sub. (2). A request for hearing on a department action does not stay or modify that action.

**SECTION 2.** ATCP 21.14 (1) (intro.) is created to read:

ATCP 21.14 (1) (intro.) In this section:

**SECTION 3.** Chapter ATCP 26 is renumbered chapter ATCP 156; and ATCP 156.01 (4), (6), (9) and (14), 156.02 (2), 156.04 (5) (a) (intro.) and (b) (intro.), 156.05 (1) (b) 7 and 8, 156.06 (1) (b) 6 and 7, 156.07 (1) (a) and (2) (a), and 156.08 (1) and (2), as renumbered, are amended to read:

ATCP 156.01 (4) "Damage" means any defect, except sunburn, greening and hollow heart, or any combination of defects which materially detracts from the internal or external appearance of the potato, or any defect which cannot be removed without a loss of more than 5% of the total weight of the potato. "Damage" may include one or more of the internal or external defects specified in s. ~~ATCP 26.04 (5) (a) and (b)~~ ATCP 156.04 (5) (a) and (b).

ATCP 156.01 (6) "External defect" means any defect under s. ~~ATCP 26.04 (5) (a)~~ ATCP 156.04 (5) (a) which can be detected by inspection of the outer surface of a seed potato, except that cutting may be required to determine the extent of internal injury related to the external defect.

ATCP 156.01 (9) "Internal defect" means any defect under s. ~~ATCP 26.04 (5) (b)~~ ATCP 156.04 (5) (b) which cannot be detected without cutting the potato.

ATCP 156.01 (14) "Serious damage" means any defect or combination of defects under s. ~~ATCP 26.04 (5)~~ ATCP 156.04 (5), except sunburn or greening, which seriously detracts from the internal or external appearance of the potato, or any defect which cannot be removed without a loss of more than 10% of the total weight of the potato.

ATCP 156.02 (2) ISSUANCE OF CERTIFICATES. Field and bin and grading inspections and certifications or reports shall be based upon visual inspections of fields, bins, plants and tubers in accordance with standards, procedures, and tolerances specified in ss. ~~ATCP 26.03 and 26.04~~ ATCP 156.03 and 156.04. In the issuance of inspection certificates or

reports, neither the department nor the college may make any express or implied warranties or representations as to freedom from disease or quality of the certified seed, but certifies only that at the time of inspection the sample plants and tubers of each lot inspected conform to standards and tolerances for certified seed or certified seed of a particular grade under this chapter.

ATCP 156.04 (5) (a) (intro.) External defects. The following external defects may individually or collectively constitute damage or serious damage as defined under s. ~~ATCP 26.01 (4)~~ ATCP 156.01 (4) and (14), respectively:

ATCP 156.04 (5) (b) (intro.) Internal defects. The following internal defects may individually or collectively constitute damage or serious damage as defined under s. ~~ATCP 26.01 (4)~~ ATCP 156.01 (4) and (14), respectively.

ATCP 156.05 (1) (b) 7 Damage as defined in s. ~~ATCP 26.01 (4)~~ ATCP 156.01 (4), including damage arising from external or internal defects under s. ~~ATCP 26.04 (5) (a)~~ ATCP 156.04 (5) (a) and (b), and

ATCP 156.05 (1) (b) 8 Serious damage as defined in s. ~~ATCP 26.01 (4)~~ ATCP 156.01 (4).

ATCP 156.06 (1) (b) 6 Damage by external defects as defined in s. ~~ATCP 26.04 (5) (a)~~ ATCP 156.04 (5) (a), and

ATCP 156.06 (1) (b) 7 Serious damage, except hollow heart, caused by internal defects as defined in s. ~~ATCP 26.04 (5) (b)~~ ATCP 156.04 (5) (b).

ATCP 156.07 (1) (a) Grade requirements. Badger State Brand Foundation certified seed potatoes shall consist of potatoes of one variety, certified by the college, which shall meet the grade requirements of Badger State Brand certified seed potatoes under s. ~~ATCP 26.05~~ ATCP 156.05.

ATCP 156.07 (2) (a) Grade requirements. Yellow Tag Grade Foundation seed potatoes shall consist of potatoes of one variety, certified by the college, which shall meet the grade requirements of Yellow Tag Grade certified seed potatoes under s. ~~ATCP 26.06~~ ATCP 156.06.

ATCP 156.08 (1) Seed potatoes produced and sold by the college as elite foundation seed potatoes may be used for the planting and production of potatoes to be entered for certification as foundation or certified seed without grading inspection by the department. Elite foundation seed shall conform to all of the requirements prescribed in s. ~~ATCP 26.03 (6)~~ ATCP 156.03 (6), and shall be the progeny from tuber-unit selections combined with clonal increase that have been rigidly screened for freedom from diseases by accepted indexing methods. No person may sell or represent potatoes as elite foundation seed potatoes unless the potatoes have been produced by the college and conform to the requirements of this section.

ATCP 156.08(2) Elite foundation seed potatoes shall consist of potatoes of one variety and as a minimum meet the standards for Yellow Tag Grade seed potatoes under s. ~~ATCP 26.06~~ ATCP 156.06, except for defects not affecting productivity such as shape, sunburn, insect damage, mahogany browning, and internal discoloration. Elite foundation seed potatoes shall be labeled with a white tag printed with the words "Wisconsin Certified Seed Potatoes" with the words "Elite Foundation" overprinted on the face of the tag.

**SECTION 4.** Chapter ATCP 27 (title) and ATCP 27.01 to 27.05 are renumbered ATCP 21.14 (title) and (1) to (5); and ATCP 21.14 (1) (b), (1) (f), (3) (e) (intro.), (3) (f) (intro.) and (3) (g), as renumbered, are amended to read:

ATCP 21.14 (1) (b) "Certified seed potatoes" means seed potatoes which have been inspected and certified by the college as having been produced under and meeting field and bin inspection standards and requirements under ~~ch. ATCP 26 ch. ATCP 156~~, and which have been graded and certified by the department as being of a grade specified under ~~ch. ATCP 26 ch. ATCP 156~~.

(1) (f) "Infested field" means any parcel of land which is declared to be an infested field under s. ~~ATCP 27.03 (4) sub. (3) (a)~~, or which is known to be currently infested in fact with potato rot nematode.

(3) (e) (intro.) If a field used in the production of table stock potatoes is designated as an infested field under ~~sub. (4) par. (a)~~, the department may withdraw that designation only if one of the following conditions is met:

(3) (f) (intro.) If any field used in the production of certified seed potatoes is designated as an infested field under ~~sub. (4) par. (a)~~, the department may not withdraw that designation unless both of the following conditions are met:

(3) (g) If a notice of infestation is withdrawn under ~~sub. (5) or (6) par. (e) or (f)~~, the department may continue to examine potatoes grown on the field to verify that there is no evidence of potato rot nematode infestation.

**SECTION 5.** ATCP 27.06 is repealed.

**SECTION 6.** ATCP 100.57 (1), (2), (3) and (4) are renumbered ATCP 100.57 (2) to (5).

**SECTION 7.** Chapter ATCP 102 (title) is created to read:  
**Chapter ATCP 102**

**PRICE DISCRIMINATION AND RELATED PRACTICES**

**SECTION 8.** Chapter ATCP 102 (note) is created to read:

**NOTE:** This chapter is adopted under authority of s. 100.20 (2), Stats., and is administered by the Wisconsin department of agriculture, trade and consumer protection. Violations of this chapter may be prosecuted under s. 100.26 (3) or (6), Stats. A person who suffers a monetary loss because of a violation of this chapter may sue the violator directly under s. 100.20 (5), Stats., and may recover twice the amount of the loss together with costs and reasonable attorneys' fees.

See also s. 133.04, Stats. (price discrimination; intent to destroy competition); s. 100.201, Stats., and ch. ATCP 103 (dairy trade practices); s. 100.22, Stats. (price discrimination in milk procurement); and s. 100.31, Stats. (drug price discrimination).

**SECTION 9.** ATCP 102.01 (intro.) is created to read:

**ATCP 102.01 Definitions.** In this subchapter:

**SECTION 10.** ATCP 102.11 (intro.) is created to read:

**ATCP 102.11 Definitions.** In this subchapter:

**SECTION 11.** Chapter ATCP 105 (title) is amended to read:

**Chapter ATCP 105**  
**SALES BELOW COST**

**SECTION 12.** Chapter ATCP 106 (title) is renumbered chapter ATCP 102, subchapter I (title), and amended to read:

Chapter ATCP 102, **Subchapter I—Fermented Malt Beverages**

**SECTION 13.** Chapter ATCP 106 (notes) are repealed.

**SECTION 14.** ATCP 106.01 to 106.03 are renumbered ATCP 102.01 to 102.03.

**SECTION 15.** Chapter ATCP 107 (title) is renumbered chapter ATCP 102, subchapter II (title) and amended to read:

Chapter ATCP 102, **Subchapter II—Soda Water Beverages**

**SECTION 16.** Chapter ATCP 107 (note) is repealed.

**SECTION 17.** ATCP 107.01 to 107.06 are renumbered ATCP 102.11 to 102.16; and 102.13, 102.14 (1) and (2), 102.15 (1) (intro.), (b) and (c), and 102.15 (2), as renumbered, are amended to read:

**ATCP 102.13 Prohibited acts of retailers.** No retailer or any officer, director, employe or agent thereof shall solicit or receive, directly or indirectly, from or through a wholesaler, broker, or another retailer, anything which is prohibited by s. ~~ATCP 107.02~~ ATCP 102.12, where it is known, or in the exercise of reasonable prudence should be known that it is prohibited.

ATCP 102.14 (1) No broker, or any officer or agent thereof, shall participate, directly or indirectly, in any trade practice prohibited by s. ~~ATCP 107.02~~ ATCP 102.12.

ATCP 102.14 (2) No wholesaler shall engage or offer to engage in any trade practice prohibited by s. ~~ATCP 107.02~~ ATCP 102.12, directly or indirectly, through a broker.

ATCP 102.15 (1) (intro.) Nothing in s. ~~ATCP 107.02 (4)~~ ATCP 102.12 (1) and (3) shall apply to the sale or offering for sale of soda water beverages:

ATCP 102.15 (1) (b) With differences in services or facilities under s. ~~ATCP 107.02 (3)~~ ATCP 102.12 (3), if made in good faith to meet services or facilities, or any compensation therefor, furnished by a competitor.

ATCP 102.15 (1) (e) To customers other than ~~wholesalers or retailers or wholesalers~~ as defined in s. ~~ATCP 107.04~~ ATCP 102.12 (2) or (3).

ATCP 102.15 (2) Equipment furnished, sold, given, lent, or rented prior to the effective date of this chapter shall, within 18 months after the effective date of this chapter, be either removed from the retailer's premises or brought into compliance with the requirements of s. ~~ATCP 107.02 (2)~~ ATCP 102.12 (2) and (3).

**SECTION 18.** Chapter ATCP 108 (title) is renumbered chapter ATCP 102, subchapter III (title) and amended to read:

Chapter ATCP 102, **Subchapter III—Motor Fuel**

**SECTION 19.** Chapter ATCP 108 (note) is repealed.

**SECTION 20.** ATCP 108.01 to 108.03 are renumbered ATCP 102.21 to 102.23; and ATCP 102.21 (intro.), as renumbered, is amended to read:



**ATCP 102.21 Definitions.** As used in this chapter and in ch. ATCP 113, the following terms are defined as follows In this subchapter:

**SECTION 21.** Chapter ATCP 130 is repealed.

**SECTION 22.** Chapter ATCP 135 (title) is renumbered chapter ATCP 137, subchapter II (title).

**SECTION 23.** ATCP 135.01 is renumbered ATCP 137.11 and amended to read:

**ATCP 137.11 Authority.** This chapter subchapter is promulgated pursuant to s. 100.33, Stats.

**SECTION 24.** ATCP 135.03 is renumbered ATCP 137.12, and ATCP 137.12 (intro.), as renumbered, is amended to read:

**ATCP 102.13 Prohibited acts of retailers.**

**ATCP 137.12 Definitions.** The definitions set forth in s. 100.33, Stats., apply to this chapter subchapter. For the purpose of interpreting s. 100.33, Stats., and this chapter subchapter:

**SECTION 25.** ATCP 135.05 is renumbered ATCP 137.13, and ATCP 137.13 (1), as renumbered, is amended to read:

ATCP 137.13 (1) TRIANGULAR SYMBOL. Each plastic container regulated under this chapter subchapter and under s. 100.33, Stats., shall have a triangular symbol molded, imprinted or otherwise attached. Inside the triangle shall be a number and below the triangle shall be a series of letters identifying the resin used in the plastic container, as specified in sub. (2).

**SECTION 26.** ATCP 135.07 is renumbered ATCP 137.14 and amended to read:

**ATCP 137.14 Variances.** The department may grant a variance from this chapter subchapter, as provided under s. 100.33 (3m), Stats., if the requester can prove that labeling a type of plastic container is technologically impossible.

**SECTION 27.** ATCP 135.11 is renumbered ATCP 137.15 and amended to read:

**ATCP 137.15 Penalty.** Each violation of these rules this subchapter is subject to a forfeiture of not more than \$500, as provided in s. 100.33 (4), Stats. Each day of violation constitutes a separate offense.

**SECTION 28.** ATCP 135.11 (note) is repealed.

**SECTION 29.** Chapter ATCP 137, subchapter I (title) is created to read:

**Subchapter I—Recycled, Recyclable or Degradable Products**

**SECTION 30.** ATCP 137.01 is amended to read:

**ATCP 137.01 Scope and authority.** This chapter subchapter is adopted under ss. 100.20 (2) and 100.295, Stats. This subchapter applies to representations made for any product that is sold or leased, offered for sale or lease, or promoted or distributed for sale or lease at wholesale or retail. This chapter subchapter applies to oral, written or graphic representations including advertisements, product labels, statements made in the print or broadcast media, and representations made in the form of trademarks, logos, symbols or trade names.

**SECTION 31.** ATCP 137.02(intro.) is amended to read:

**ATCP 137.02 Definitions.** In this chapter subchapter:

**SECTION 32.** ATCP 137.04 (4) is amended to read:

ATCP 137.04 (4) A label only used at wholesale by a manufacturer of connectors for beverage containers as defined in s. 134.77 (1) (b), Stats., representing compliance with s. 134.77 (3), Stats., to packagers of beverages as defined in s. 134.77 (1) (a), Stats., does not constitute a representation, for purposes of this section, that a plastic beverage container is degradable as defined in this chapter.

**SECTION 33.** ATCP 137.05 (4) is amended to read:

ATCP 137.05 (4) An identifying symbol placed on a plastic container to comply with ch. ~~ATCP 135~~ subchapter II does not constitute a representation, for purposes of this chapter subchapter, that the container is recyclable.

**SECTION 34.** ATCP 137.07 (3) is amended to read:

ATCP 137.07 (3) If a representation is required to include any disclosure or qualifying statements under this chapter subchapter, the disclosures and qualifying statements shall be clear and conspicuous in relation to the representation.

**SECTION 35.** ATCP 140.15 is amended to read:

**ATCP 140.15 List of affected producers or handlers; compilation prior to hearing.** If a decision is made to initiate proceedings for the

adoption, amendment or repeal of a marketing order, the secretary shall establish a current list of producers and handlers who will be affected by the proposal, as provided in s. 96.05 (3) through (5), Stats. The list shall be used in determining whether the proposal to adopt, amend or repeal a marketing order is approved in a referendum of producers and handlers, as provided in s. ~~ATCP 140.16~~ ATCP 140.19. The list shall be established and updated using the procedures under s. 96.05 (3) through (5), Stats., before any notice of public hearing is issued on the proposal.

**SECTION 36.** Chapter ATCP 156 (title) is renumbered chapter ATCP 157, subchapter I (title).

**SECTION 37.** ATCP 156.01 to 156.08 are renumbered ATCP 157.01 to 157.08, and ATCP 157.01(intro.), as renumbered, is amended to read:

**ATCP 157.01 Definitions.** ~~The following terms, wherever used in these standards or regulations, shall have the meaning here indicated~~ In this subchapter:

**SECTION 38.** Chapter ATCP 157 (title) is renumbered chapter ATCP 157, subchapter II (title).

**SECTION 39.** ATCP 157.01 to 157.04 are renumbered ATCP 157.11 to 157.14.

**SECTION 40.** Chapter ATCP 157 (title) is created to read:

**Chapter ATCP 157  
HONEY AND MAPLE SYRUP**

**SECTION 41.** ATCP 161.23 (4) (b) is amended to read:

ATCP 161.23 (4) (b) For each product or commodity identified under par. (a), information showing that the product or commodity complies with the eligibility requirements under s. ~~ATCP 161.28~~ ATCP 161.25.

### **Fiscal Effect**

There is no fiscal impact with the promulgation of this rule.

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## **Notice of Hearings Agriculture, Trade & Consumer Protection**

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The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed amendments to ch. ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides.

### **Written Comments**

The hearings will be held at the times and places shown below. The public is invited to attend the hearings and comment on the proposed rule. The Department also invites comments on the draft environmental impact statement which accompanies the rule. Following the public hearings, the hearing record will remain open until **October 13, 1995** for additional written comments.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **September 8, 1995** either by writing to:

Kris Modaff, (608) 224-4505  
2811 Agriculture Drive  
P.O. Box 8911  
Madison, WI 53708

or by contacting the message relay system (TTY) at (608) 224-5058. Handicap access is available at the hearings.

### **Hearing Information**

Four hearings are scheduled:

**September 18, 1995  
Monday  
1:00 to 4:00 p.m.  
evening session  
6:30 to 9:00 p.m.**

**County Board Room  
Courthouse  
West Decker St.  
VIROQUA, WI**

**September 19, 1995**  
**Tuesday**  
 1:00 to 4:00 p.m.  
 evening session  
 6:30 p.m. to 9:00 p.m.

**Point Room**  
**Best Western Royale**  
 5110 Main St.  
 STEVENS POINT, WI

**September 20, 1995**  
**Wednesday**  
 1:00 to 4:00 p.m.  
 evening session  
 6:30 to 9:00 p.m.

**Room D**  
**Chula Vista Resort**  
 4031 N. River Road  
 WISCONSIN DELLS, WI

**September 21, 1995**  
**Thursday**  
 1:00 to 4:00 p.m.  
 evening session  
 6:30 to 9:00 p.m.

**Yodel Hall**  
**Government Services Bldg.**  
**Pleasant View Complex**  
 N3150B Hwy. 81  
 MONROE, WI

Written comments will be accepted until **October 13, 1995**.

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

*Statutory authority:* ss. 93.07 (1), 94.69 (9), 160.19 (2), and 160.21 (1)

*Statutes interpreted:* ss. 94.69, 160.19 (2) and 160.21 (1)

In order to protect Wisconsin groundwater, current rules under ch. ATCP 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards.

Based on new groundwater test data, this rule expands the number of areas in which atrazine use is prohibited.

#### **Atrazine Prohibition Areas**

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 80 designated areas, including major prohibition areas in the lower Wisconsin river valley and much of Dane and Columbia counties.

This rule repeals and recreates 3 current prohibition areas to expand those areas, repeals 2 current prohibition areas and creates 1 new prohibition area to join them and creates 11 new prohibition areas, resulting in a new total of 90 prohibition areas throughout the state. The rule includes maps describing each of the new and expanded prohibition areas.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface which complies with s. ATCP 29.151 (2) to (4), Wis. Adm. Code.

### ***Fiscal Estimate***

The rule will be administered by the Agricultural Resource Management (ARM) Division of the Department of Agriculture, Trade and Consumer Protection (DATCP). The following estimate is based on enlarging 3 existing prohibition areas (PA's), joining two existing PA's and creating 11 additional PA's in 1996.

Administration and enforcement of the proposal will involve new costs for the Department. The Department estimates that 0.1 FTE of specialist and field investigator staff time will be needed for inspections and enforcement in the new PA's. Soil sampling conducted in the additional PA's to determine compliance with the rules will require an estimated \$2,000 in analytical services. In addition, a public information effort will be needed to achieve a high degree of voluntary compliance with the rule. Direct costs to produce and distribute the informational materials will be \$2,000.

In total the Department estimates an additional staff impact of 0.1 FTE and \$4,000 in sampling and public information costs. These costs can be

absorbed by the Department. The complete fiscal estimate is available upon request.

### ***Initial Regulatory Flexibility Analysis***

#### *1. Businesses Affected:*

The amendments to the atrazine rule will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition areas contain approximately 48,600 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 12,150 acres of corn will be affected. This acreage would represent between 60 and 135 producers, depending on their corn acreage. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

#### *2. Reporting, Recordkeeping and Other Procedures Required for Compliance:*

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Atrazine cannot be used in certain areas of the state where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10.

#### *3. Professional Skills Required to Comply:*

The rule affects how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in the state, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past, this type of assistance has been provided by University Extension personnel and farm chemical dealers. In recent years, many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The Department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

### ***Draft Environmental Impact Statement***

The Department has prepared a draft environmental impact statement (EIS) for proposed 1996 amendments to rules on the use of pesticides containing atrazine. Copies are available from the Department on request and will be available at the public hearings. Comments on the EIS should be directed to:

c/o Jeff Postle, (608) 224-4503  
 Agricultural Resource Management Division  
 Wis. Department of Agriculture, Trade and Consumer Protection  
 P.O. Box 8911  
 Madison, WI 53708

Written comments on the EIS will be accepted until **October 13, 1995**.

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## Notice of Hearing

### Banking

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Notice is hereby given that pursuant to s. 220.04(8), Stats., and interpreting s. 221.04(1)(f), Stats., the Office of Commissioner of Banking will hold a public hearing at **101 E. Wilson St., Room 531A in the city of Madison, Wisconsin, on the 12th day of September, 1995, at 10:00 a.m.** to consider the repeal of s. Bkg. 3.05 (4) and (5); and the repeal and recreation of s. Bkg. 3.05 (1), (2), and (3), relating to leasing of personal property.

### **Analysis Prepared by the Office of Commissioner of Banking**

Statutory authority: s. 220.04(8)

Statute interpreted: s. 221.04(1)(f)

Under s. 220.04(8), Stats., the commissioner of banking with the approval of the banking review board may authorize state banks to exercise any right, power or privilege permitted national banks under federal law, regulation or interpretation.

National banks are empowered to engage in lease transactions under two lines of authority.

First, 12 USC 24 (10), specifically allows national banks to invest in tangible personal property for lease financing transactions on a net lease basis, but such investment may not exceed 10% of the assets of the bank. 12 CFR 23 limits the initial term for leases made under this authority to not less than 90 days. There are no related provisions in Wisconsin statutes or regulations.

Second, 12 USC 24 (7), generally authorizes national banks to lease personal property as an incidental power necessary to carry on the business of banking. A limitation is that the estimated residual value of the leased property may not exceed 25% of the original cost. Related provisions are found in Bkg. 3.05. Significantly, however, 12 CFR 23 allows national banks to enter into lease transactions where the estimated residual value exceeds 25% if guaranteed by the manufacturer, lessee or an unaffiliated third party. There are no provisions in Wisconsin statutes or regulations allowing state banks to enter into lease transactions where the estimated residual value exceeds 25%.

The purpose of recreating s. Bkg. 3.05 is to give state banks parity with national banks in lease financing transactions.

### **Text of Rule**

**SECTION 1.** Bkg. 3.05(1) is repealed and recreated to read:

Bkg 3.05(1) GENERAL AUTHORITY. (a) A bank may engage in lease financing transactions by complying with this subsection and either sub. (2) relating to leases on a net lease basis or sub. (3) relating to leases on a net, full-payout lease basis.

(b) A bank may enter into a lease financing transaction only if it can reasonably expect to realize a return of its full investment in the leased property, plus the estimated cost of financing the property over the term of the lease from:

1. Rentals;
2. Estimated tax benefits; and
3. The estimated residual value of the property, at the expiration of the term of the lease.

(c) "Net lease" means a lease under which the bank will not, directly or indirectly, provide or be obligated to provide for:

1. The servicing, repair or maintenance of the leased property during the lease term;
2. The purchasing of parts and accessories for the leased property. However, improvements and additions to the leased property may be leased to the lessee upon its request in accordance with any applicable requirements for maximum estimated residual value;
3. The loan of replacement or substitute property while the leased property is being serviced;
4. The purchasing of insurance for the lessee, except where the lessee has failed in its contractual obligation to purchase or maintain the required insurance; or

5. The renewal of any license or registration for the property unless such action by the bank is necessary to protect its interest as owner or financier of the property.

(d) If, in good faith, a bank determines that there has been an unanticipated change in conditions which threatens its financial position by significantly increasing its exposure to loss, the bank may:

1. As the owner and lessor under a net lease or a net, full-payout lease, take reasonable and appropriate action to salvage or protect the value of the property or its interests arising under the lease; or

2. As the assignee of a lessor's interest in a lease, become the owner and lessor of the leased property pursuant to its contractual right, or take any reasonable and appropriate action to salvage or protect the value of the property or its interest arising under the lease.

(e) The limitations contained in sub. (1)(c) do not prohibit a bank from:

1. Including any provisions in a lease, or from making any additional agreements, to protect its financial position or investment in the circumstances set forth in sub. (1)(d); or

2. Arranging for any of the services listed in sub. (1)(c) to be provided by a third party to a lessee, at the expense of the lessee, with respect to property leased by the lessee.

(f) A bank may acquire specific property to be leased only after the bank has entered into either:

1. A legally binding written agreement which indemnifies the bank against loss in connection with its acquisition of the property; or

2. A legally binding written commitment to lease the property on terms which comply with the provisions of this subsection and either sub. (2) or sub. (3).

(g) At the expiration of the lease, including any renewal or extensions with the same lessee, or in the event of a default on a lease agreement prior to the expiration of the lease term, all of the bank's interest in the property shall either be liquidated or re-leased in conformance with this subsection and either sub. (2) or sub. (3), as soon as practicable, but in no event later than 2 years from the expiration of the lease. Property which the bank retains in anticipation of re-lease must be revalued at the lower of current fair market value or book value prior to any subsequent lease.

(h) On the return of leased property at the expiration of a conforming lease term, or on the default of a lessee, a short-term bridge or interim lease is permissible if it otherwise conforms with the net lease requirements of sub. (1)(c). Such leases need not comply with sub. (2) or sub. (3) and may be used pending the sale of off-lease property, or its re-lease as a conforming long-term financing transaction.

(i) Where a bank enters into leases pursuant to both sub. (2) and sub. (3), the bank must segregate the records it maintains with respect to each type of lease.

(j) Nothing in this section shall be construed to be in conflict with the duties, liabilities and standards imposed by the Consumer Leasing Act of 1976, 15 USC 1667 et. seq., or the Wisconsin Consumer Act, chs. 421 to 427, Stats.

(k) Leases permissible under this section are subject to the limitations on obligations under s. 221.29, Stats.

**SECTION 2.** Bkg. 3.05(2) is repealed and recreated to read:

(2) AUTHORITY TO LEASE PERSONAL PROPERTY ON A NET LEASE BASIS. (a) Subject to the limitations of this subsection and sub. (1), and provided that the aggregate book value of all tangible personal property held for lease under this subsection does not exceed 10% of the consolidated assets of the bank, a bank may:

1. Invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment or furniture for lease financing transactions on a net lease basis; or

2. Become the owner and lessor of such tangible personal property by purchasing the property from another lessor in connection with its purchase of the related lease.

(b) Lease financing transactions entered into under this subsection shall have an initial lease term of not less than 90 days. However, such period shall not be applicable to the acquisition of property subject to an existing lease with a remaining maturity of less than 90 days, provided that at its inception such lease complied with the provisions of this subsection and sub. (1).

**SECTION 3.** Bkg. 3.05(3) is repealed and recreated to read:

(3) AUTHORITY TO LEASE PERSONAL PROPERTY ON A NET, FULL-PAYOUT LEASE BASIS. (a) Subject to the limitations of this

subsection and sub. (1), and provided the lease is a net, full–payout lease representing a noncancelable obligation of the lessee, notwithstanding the possible early termination of that lease, a bank may:

1. Become the legal or beneficial owner and lessor of specific personal property or otherwise acquire such property; or

2. Become the owner and lessor of personal property by purchasing the property from another lessor in connection with its purchase of the related lease; and

3. Incur obligations incidental to its position as the legal or beneficial owner and lessor of the leased property.

(b) Any unguaranteed portion of the estimated residual value relied upon by the bank to yield a full return on a net, full–payout lease shall not exceed 25% of the original cost of the property to the lessor. The amount of any estimated value guaranteed by a manufacturer, lessee or a third party which is not an affiliate of the bank may exceed 25% of the original cost of the property where the bank has determined, and can provide, full supporting documentation that the guarantor has the resources to meet the guarantee.

(c) Calculations of estimated residual value of net, full–payout leases of personal property to federal, state or local government entities may be based on reasonably anticipated future transactions or renewals.

(d) In all net, full–payout leases, both the estimated residual value of the property and that portion of the estimated residual value relied upon by the lessor to satisfy the requirements of a full–payout lease must be reasonable in light of the nature of the leased property and all relevant circumstances so that realization of the lessor's full investment plus the cost of financing the property primarily depends on the creditworthiness of the lessee and any guarantor of the residual value, and not on the residual market value of the leased item.

**SECTION 4.** Bkg. 3.05(4) and (5) are repealed.

### ***Initial Regulatory Flexibility Analysis:***

This rule will not have a direct adverse effect on small business.

### ***Fiscal Estimate***

The proposed rule has no fiscal effect.

### ***Contact Person***

Michael J. Mach, Administrator  
Office of Commissioner of Banking  
101 E. Wilson Street  
P.O. Box 7876  
Madison, Wisconsin, 53707  
(608) 266–0451

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## ***Notice of Hearing Commissioner of Banking***

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Notice is hereby given that pursuant to s. 220.04(8), Stats., and interpreting s. 221.04(1)(f), Stats., the Office of Commissioner of Banking will hold a public hearing at **101 E. Wilson St., Room 531A in the city of Madison, Wisconsin, on the 12th day of September, 1995, at 10:00 a.m.** to consider the renumbering and amendment of s. Bkg. 3.01; and the creation s. Bkg. 3.01(2), relating to bank–owned banks, lending and depository authority.

### ***Analysis Prepared by the Office of Commissioner of Banking***

Statutory authority: s. 220.04(8)

Statutes interpreted: s. 221.57

Under s. 220.04(8), Stats., the commissioner of banking with the approval of the banking review board may authorize state banks to exercise any right, power or privilege permitted national banks under federal law, regulation or interpretation.

The Riegle Community Development and Regulatory Improvement Act of 1994 amended the enabling legislation for nationally chartered bankers' banks. The new law clarifies the customer limitations of a bankers' bank and

provides for services to be rendered by a bankers' bank at the request of a depository institution.

The purpose of amending Bkg. 3.01 is to give state bankers' banks parity with national bankers' banks.

### ***Text of Rule***

**SECTION 1.** Bkg. 3.01 is renumbered Bkg. 3.01(1) and is amended to read:

Bkg. 3.01 (1) A bank–owned bank organized under s. 221.57, Stats., may provide banking and bank related service to or for all of the following:

- (1) ~~(a)~~ **(a)** Subsidiaries or organizations owned by depository institutions;
- (2) ~~(b)~~ **(b)** Directors, officers or employes of depository institutions, including any subsidiary or organization owned by a depository institution;
- (3) ~~(c)~~ **(c)** Depository institution trade associations; and
- (4) ~~(d)~~ **(d)** Depository institutions or their holding companies.

**SECTION 2.** Bkg. 3.01(2) is created to read:

(2) A bank–owned bank organized under s. 221.57, Stats., may provide correspondent banking services at the request of other depository institutions or their holding companies.

### ***Initial Regulatory Flexibility Analysis***

This rule will not have any effect on small business.

### ***Fiscal Estimate***

The proposed rule has no fiscal effect.

### ***Contact Person***

Michael J. Mach, Administrator  
Office of Commissioner of Banking  
101 E. Wilson Street  
P.O. Box 7876  
Madison, Wisconsin 53707  
(608) 266–0451

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## ***Notice of Hearing Development***

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Notice is hereby given that pursuant to s. 560.02 (4), Stats., the Wisconsin Department of Development will hold a hearing to consider the amendment of s. DOD 16.035 (title) and (3), Wis. Adm. Code, interpreting s. 560.17, Stats., relating to the rural economic development program.

### ***Hearing Information***

Notice is hereby given that the hearing will be held at the following place and time:

**October 3, 1995  
Tuesday  
10:00 a.m.**

**Room 918  
123 West Washington Ave.  
MADISON, WI**

### ***Analysis Prepared by the Dept. of Development***

The rural economic development program provides for grants and loans to small businesses located in rural communities. First–stage grants and loans may be for up to \$30,000 each. Proceeds of this first–stage financing may be used for professional services related to the start–up or expansion of a business or for management assistance required for the continued operation of a business. The purposes of this first–stage financing are to provide for the costs of examining the feasibility of the business and to meet the initial expenses of starting the business.

The program also provides for second–stage financing in the form of loans to businesses that have received first–stage financing and that have demonstrated the feasibility of the business. This second–stage financing is for the purpose of supporting the continuing operation of the business and could be used for working capital and fixed asset financing.

1995 Wis. Act 27 created s. 560.17 (5m) (b), Stats., which allows the second-stage financing to also be used to pay employe relocation costs and s. 560.17 (5m) (bm), Stats., which requires the Department to insure that the employe has the option of accepting or declining any relocation assistance offered as a result of the loan. The proposed order makes the necessary changes to ch. DOD 17 so that the rules conform to the statutory change.

### **Initial Regulatory Flexibility Analysis**

Notice is hereby given that pursuant to s. 227.114, Stats., the proposed rule will have minimal impact on small business. The initial regulatory flexibility analysis as required by s. 227.17 (3) (f), Stats., is as follows:

1. *Type of small business affected by the rule:* Small businesses located in rural communities.
2. *The proposed reporting, bookkeeping and other procedures required for compliance with the rule:* None.
3. *The type of professional skills necessary for compliance with the rule:* None.

### **Fiscal Estimate**

The proposed rule has no fiscal effect.

### **Contact Person**

Dennis Fay, General Counsel, (608) 266-6747

### **Text of Rule**

Pursuant to the authority vested in the Department of Development by s. 560.02 (4), Stats., the Department of Development hereby amends rules relating to the rural economic development program.

**SECTION 1.** DOD 16.035 (title) and (3) are amended to read:

**DOD 16.035 Loans for working capital, employe relocation costs or fixed asset financing.**

(3) The proceeds of a loan made under this section may be used only for working capital, employe relocation costs or fixed asset financing related to the startup or expansion of the business for which application has been made and only in accordance with the terms of the contract required under s. DOD 16.06.

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## **Notice of Hearing Development**

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Notice is hereby given that pursuant to s. 560.02 (4), Stats., the Department of Development will hold a hearing to consider the repeal of s. DOD 17.02 (1) and the amendment of s. DOD 17.04 (1), (3) (intro.) and (4) (intro.), Wis. Adm. Code, interpreting s. 560.20, Stats., relating to the business development initiative program.

### **Hearing Information**

September 28, 1995 Thursday 10:00 a.m.	Room 918 123 West Washington Ave. MADISON, WI
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### **Analysis Prepared by the Dept. of Development**

The Business Development Initiative Program makes technical assistance grants available for the start-up or expansion of small businesses that are owned by or employ persons with severe disabilities and minority persons with severe disabilities. The proposed rule deletes the requirement that the Department hold an annual competition for the grants so that the Department is free to make grant determinations throughout the year. Applicants can apply for assistance when they are ready and when the assistance is needed rather than in accordance with a Department deadline.

The proposed rule also repeals a definition that relates to no substantive provision in the chapter.

### **Initial Regulatory Flexibility Analysis**

Notice is hereby given that pursuant to s. 227.114, Stats., the proposed rule will have a positive impact on small business. The initial regulatory flexibility analysis as required by s. 227.17 (3) (f), Stats., is as follows:

1. *Type of small business affected by the rule:* Small businesses which are owned by or employ persons with severe disabilities and minority persons with severe disabilities.
2. *The proposed reporting, bookkeeping and other procedures required for compliance with the rule:* None.
3. *The type of professional skills necessary for compliance with the rule:* None.

### **Fiscal Estimate**

The proposed rule has no fiscal effect.

### **Contact Person**

Dennis Fay, General Counsel, (608) 266-6747

### **Text of Rule**

Pursuant to the authority vested in the Department of Development by s. 560.02 (4), Stats., the Department of Development hereby repeals and amends rules relating to the business development initiative program.

**SECTION 1.** DOD 17.02 (1) is repealed.

**SECTION 2.** DOD 17.04 (1), (3) (intro.) and (4) (intro.) are amended to read:

DOD 17.04 (1) The department shall ~~hold an annual competition for technical assistance and technical assistance grants~~ and make an application manual available to all eligible applicants.

(3) Applications for technical assistance or technical assistance grants shall be submitted ~~by the deadline~~ and according to the procedures contained in the manual and, shall contain all of the following information:

(4) In deciding whether to provide technical assistance or make a technical assistance grant, the department shall compare the applications received during ~~each annual competition~~ the same fiscal year to the application being considered on each of the following:

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## **Notice of Hearing Development**

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Notice is hereby given that pursuant to s. 560.184 (5) (b), Stats., the Wisconsin Department of Development will hold a hearing to consider the repeal of s. DOD 28.01 (7), the amendment of ss. DOD 28.03 (1) and (2) (a), (b), (c), (d), (e) and (f) and 28.04 (1) (e), (f) and (g) and to create s. DOD 28.02 (1m), Wis. Adm. Code, interpreting s. 560.184, Stats., relating to the health care provider loan assistance program.

### **Hearing Information**

September 27, 1995 Wednesday 10:00 a.m.	Room 918 123 West Washington Ave. MADISON, WI
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### **Analysis Prepared by the Dept. of Development**

1995 Wis. Act 27 amended the statute governing the health care provider loan assistance program to make a change to the areas in the state which are eligible locations for practitioners to receive loan repayments and to provide that such practitioners must practice "primarily" rather than "exclusively" in such an area to be eligible. The rules are changed by the proposed order to conform to the altered statute.

### **Initial Regulatory Flexibility Analysis**

Notice is hereby given that pursuant to s. 227.114, Stats., the proposed rule will have a positive impact on small business. The initial regulatory flexibility analysis, as required by s. 227.17 (3) (f), Stats., is as follows:

1. *Type of small business affected by the rule:* Health care practices in those areas of the state where there is a shortage of primary health care.

2. *The proposed reporting, bookkeeping and other procedures required for compliance with the rule:* None.

3. *The type of professional skills necessary for compliance with the rule:* None.

### **Fiscal Estimate**

The proposed rule has no fiscal effect.

### **Contact Person**

Dennis Fay, General Counsel, (608) 266-6747

### **Text of Rule**

Pursuant to the authority vested in the Department of Development by s. 560.184 (5) (b), Stats., the Department of Development hereby repeals, amends and creates rules relating to the health care provider loan assistance program.

**SECTION 1.** DOD 28.02 (1m) is created to read:

DOD 28.02 (1m) "Eligible practice area" has the meaning contained in s. 560.184 (1) (am), Stats.

**SECTION 2.** DOD 28.02 (7) is repealed.

**SECTION 3.** DOD 28.03 (1) and (2) (a), (b), (c), (d), (e) and (f) are amended to read:

DOD 28.03 (1) Any health care provider who practices primarily in a ~~primary care health professional shortage~~ an eligible practice area and who provides primary care is eligible for educational loan repayment as provided in s. 560.184 (4), Stats.

(2) (a) Extremely high need for medical care. The degree to which there is an extremely high need for medical care in the ~~primary care health professional shortage~~ eligible practice area in which the eligible applicant proposes to practice.

(b) Health care provider retention. The likelihood that an eligible applicant will remain in the ~~primary care health professional shortage~~ eligible practice area in which he or she desires to practice after the loan repayment period.

(c) Per capita income. The per capita income of the ~~primary care health professional shortage~~ eligible practice area in which an eligible applicant desires to practice.

(d) Financial support for health care provider recruitment and retention. The financial or other support for health care provider recruitment and retention provided by individuals, organizations or local governments in the ~~primary care health professional shortage~~ eligible practice area in which an eligible applicant desires to practice.

(e) Geographic distribution. The geographical distribution of the health care providers who have entered into loan repayment agreements under this section and the geographical location of the ~~primary care health professional shortage~~ eligible practice area in which an eligible applicant desires to practice.

(f) Length of service. The degree to which the medical service is new to the ~~primary care health professional shortage~~ eligible practice area.

**SECTION 4.** DOD 28.04 (1) (e), (f) and (g) are amended to read:

DOD 28.04 (1) (e) Evidence that the provider practices or will practice primary care in a ~~primary care health professional shortage~~ eligible practice area.

(f) The length of time the health care provider has practiced in the ~~primary care health professional shortage~~ eligible practice area.

(g) Information about the likelihood that the applicant will remain in the ~~primary care health professional shortage~~ eligible practice area after the loan repayment period.

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## **Notice of Hearing**

### **Development**

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Notice is hereby given that pursuant to s. 560.081 (2) (f), Stats., the Wisconsin Department of Development will hold a hearing to consider a proposed order to amend s. DOD 27.03 (3) (f) and to create s. DOD 27.04 (4) (c), Wis. Adm. Code, interpreting s. 560.081 (2) (e) and (f), Stats., relating to the Main Street Program.

### **Hearing Information**

**October 3, 1995**  
**Tuesday**  
**2:00 p.m.**

**Room 918**  
**123 West Washington Ave.**  
**MADISON, WI**

### **Analysis Prepared by the Dept. of Development**

Section 560.081 (2) (e), Stats., requires the Department to develop rules to establish criteria for the annual selection, of up to five municipalities to participate in the Main Street Program and s. 560.081 (2) (f), Stats., gives the Department the authority and responsibility to make the selections.

The Department administers the Main Street Program to assist municipalities in planning, managing, and implementing programs for the revitalization of business areas. With the support of the program, Main Street communities engage in activities to increase economic activity, while preserving and building upon their historically-significant characteristics.

1995 Wis. Act 27 made changes to the statutes governing the Main Street Program that allow local programs selected after the effective date of the act to continue for 5 years, to require support of a local program manager for 5 years for those newly-selected programs and to allow a municipality to be selected more than one time for participation in the program. The proposed rule makes the necessary changes to conform to the amended statute.

### **Initial Regulatory Flexibility Analysis**

Notice is hereby given that pursuant to s. 227.114 Stats., the proposed rule will have no impact upon small businesses. The initial regulatory flexibility analysis as required by s. 227.17 (3) (f), Stats., is as follows:

1. *Type of small business affected by the rule:* None. The rule affects municipalities, the Department of Development, and the Council on Main Street Programs.

2. *The proposed reporting, bookkeeping and other procedures required for compliance with this rule:* Small businesses are not affected. Such procedures only affect municipalities selected to participate in the program.

3. *The types of professional skills necessary for compliance with this rule:* Small businesses are not affected. Only staff of municipalities that participate in the program are affected by the rule.

### **Fiscal Estimate:**

The proposed rule will produce no fiscal effect.

### **Contact Person:**

Dennis Fay, General Counsel, (608) 266-6747

### **Text of Rule**

Pursuant to the authority vested in the Department of Development by s. 560.081 (2) (f), Stats., the Department of Development hereby amends and creates rules interpreting s. 560.081 (2) (e) and (f), Stats., as follows:

**SECTION 1.** DOD 27.03 (3) (f) is amended to read:

DOD 27.03 (3) (f) Evidence of local organizational and financial commitment to fund a main street program, provide support for business area projects and employ a program manager for not less than 3 years.

**SECTION 2.** DOD 27.04 (4) (c) is created to read:

DOD 27.04 (4) (c) Whether the municipality has previously been selected to participate in the main street program.

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## Notice of Hearing

### Wisconsin Gaming Commission

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Notice is hereby given that pursuant to ss. 561.01, 561.02, 561.08, and 562.02(1)(a), Stats., and interpreting ss. 561.02(1)(a) and 562.065, Stats., the Wisconsin Gaming Commission will hold a public hearing at the **Wisconsin Gaming Commission's Capitol Office situated at 150 East Gilman Street, Suite 1000, in the city of Madison, Wisconsin, on the 11th day of September, 1995, at 10:00 a.m.** to consider repealing, renumbering, amending, recreating, and creating of rules related to twin trifecta, perfecta, tri-perfecta pools, deduction approvals, animal drug testing, and intertrack and simulcast wagering.

### **Analysis by the Wisconsin Gaming Commission**

**SECTION 1.** WGC 9.11 (17) is renumbered to WGC 9.11 (17) (intro.) and is amended to provide the association with 3 options to cap and seed twin trifecta wagering pools.

**SECTION 2.** WGC 9.11 (17) (a), (b) and (c) are created to provide options of capping and seeding the wagering pools.

Subsection (17) (a) provides for distributing 100% of the twin trifecta pool for each race during each subsequent performance after the jackpot carryover is frozen and until it is distributed to winners of the first half of twin trifecta.

Subsection (17) (b) creates a seed pool for the start of a second jackpot carryover from money designated for the second part of the divided pool from race performances in which the first jackpot is capped. It allows for the capped first jackpot carryover to be distributed on a mandatory basis during a specific race performance.

Subsection (17) (c) selects a race performance or race day in which the capped jackpot will be distributed on a mandatory basis. The reason for seeding the twin trifecta pool is so that after a jackpot is distributed, patrons are encouraged to continue participating in the wager. Otherwise, the pool returns to zero dollars and in some instances several weeks pass until the jackpot level reaches a level whereby increased wagering activity is noted.

**SECTION 3.** WGC 9.12 (4) (gc), (gm) and (gs) is created to establish the progression of payouts regarding the order of finish in perfecta pools. The 3 proposed rules were inadvertently omitted from the orders of finish provided for under the current s. WGC 9.12 (4). These created subsections will provide for a complete and specific progression of finishes to follow when no one correctly selects the exact order of finish for the first four finishers for the payout of pari-mutuel wagers for perfecta pools.

**SECTION 4.** WGC 9.14 (17) is renumbered WGC 9.14 (17) (intro.) and is amended to provide the association with 3 options to cap and seed tri-perfecta wagering pools.

**SECTION 5.** WGC 9.14 (17) (a), (b) and (c) are created to provide options of capping and seeding the tri-perfecta wagering pools.

Subsection (17) (a) provides for distributing 100% of the tri-perfecta pool for each race during each subsequent performance after the jackpot carryover is frozen and until it is distributed to winners of the first half of tri-perfecta.

Subsection (17) (b) creates a seed pool for the start of a second jackpot carryover from money designated for the second part of the divided pool from race performances in which the first jackpot is capped. It allows for the capped first jackpot carryover to be distributed on a mandatory basis during a specific race performance.

Subsection (17) (c) selects a race performance or race day in which the capped jackpot will be distributed on a mandatory basis. The reason for seeding the tri-perfecta pool is so that after a jackpot is distributed, patrons are encouraged to continue participating in the wager. Otherwise, the pool returns to zero dollars and in some instances several weeks pass until the jackpot level reaches a level whereby increased wagering activity is noted.

**SECTION 6.** WGC 9.17 creates deduction rates for pari-mutuel wagers and requires commission approval. The purpose of the requirement to notify the commission is to enable the NOMAD computer system which provides the accounting function identifying the monies due the state, retained by the racetracks and returned to the wagering public, to be programmed and tested prior to the implementation of any statutory deduction rate changes.

Deduction rates will be required to be published or posted to inform the public of the percentages being withheld at the racetrack and how much of each wager is being returned in winnings.

**SECTION 7.** WGC 14.11 is amended to require at least one animal be identified immediately after every race to be tested to determine if a medication or foreign substance has been administered to the animal. After each race performance which equals 15 races, the commission veterinarians attempt to collect one sample from each participating kennel and that one fourth to one half of the sample collected represent winning greyhounds. In the event of suspected medication usage or animals displaying reversals of racing performance, these samples are to be substituted in place of the prior protocol preference for sample selection.

**SECTION 8.** WGC 24.01 amends "intertrack racing" to read "intertrack and simulcast wagering."

**SECTION 9.** WGC 24.02 (1) is amended to add language to the definition of commingled pool allowing for the guest track to adopt the host track's takeout rate.

WGC 24.02 (8) is amended to add language to the definition of guest track to include the racetrack "or an out-of-state site" where broadcasts of races are received.

WGC 24.02 (16) amends "race meet" to read "race meeting."

**SECTION 10.** WGC 24.02 (2) (c) amends "track" to read "racetrack."

**SECTION 11.** WGC 24.05 (2) amends "track" to read "racetrack."

**SECTION 12.** WGC 24.07 (1) (intro.) amends "race program" to read "race performance." WGC 24.07 (1) (b) 1 and 2 amend "tracks" to read "racetracks."

**SECTION 13.** WGC 24.08 (2) amends "racing program" to read "official daily race program."

**SECTION 14.** WGC 24.095 amends "licensee" to read "license."

**SECTION 15.** WGC 24.11 (1), (2) and (3) are renumbered to WGC 24.11 (2), (3) and (4), as renumbered, amend "licensees" to read "host tracks."

WGC 24.11 (3) amends "shall" to "may" and changes the delay from occurring with "the approval of" the stewards to "informing" the stewards of a delay.

**SECTION 16.** WGC 24.11 (1) is created to require a Wisconsin racetrack proposing to be a host track for simulcasting provide notification to the commission at least 10 days prior to sending its races to out-of-state guest track locations. The Wisconsin racetrack shall include in its notification to the commission the identity and location of the out-of-state guest track, the manner in which the pools will be formed at the guest track and a copy of all simulcast contracts with the out-of-state guest track.

**SECTION 17.** WGC 24.12 (4) and (5) are repealed.

**SECTION 18.** WGC 24.12 (1), (2), (3) and (6) are renumbered to WGC 24.12 (3), (4), (5) and (8).

WGC 24.12 (3), as renumbered, amends "licensee" to read Wisconsin "racetrack" and allows the wagers from the out-of-state guest track to be transmitted to the host track to form a commingled pool when the Wisconsin racetrack is the host track.

WGC 24.12 (4), as renumbered, is amended to require each Wisconsin guest track to have individual contracts with each out-of-state host track and requires the Wisconsin guest track's pools to remain separate for accounting, reporting, purse calculations, tax liability and all other statutory obligation purposes.

WGC 24.12 (5), as renumbered, is amended to provide that when a commingled pool or a separate pool is formed in Wisconsin, the odds and payout price shall be calculated in accordance with ch. WGC 9.

WGC 24.12 (8), as renumbered, is amended to require taxes and other statutory obligations to be applicable to wagers placed at a Wisconsin pari-mutuel facility and received by Wisconsin host and guest tracks. Any jurisdiction imposing a surcharge or withholding in addition to the takeout is applicable only in the jurisdiction allowed to do so.

**SECTION 19.** WGC 24.12 (1) is created to require all contracts governing participation in interstate commingled pools be submitted to the commission for approval prior to commingling pools as a guest or host track.

WGC 24.12 (2) is created to require the rules established for pari-mutuel pools for the out-of-state host track be applicable to pari-mutuel pools offered at the Wisconsin guest track.

WGC 24.12 (6) is created to require any Pick (N) pool, exchange pool or other pari-mutuel pool that is rejected by an out-of-state host track a refund of these pools by the Wisconsin guest track.

WGC 24.12 (7) is created to require all applicable provisions in ch. 562, Stats., regarding breakage apply to a Wisconsin racetrack acting as the host track. If the Wisconsin racetrack is the guest track, the commission shall approve any agreement governing the distribution of breakage between the Wisconsin guest track and any out-of-state host track.

WGC 24.12 (9) is created to allow the Wisconsin guest track to adopt the takeout deduction of the out-of-state host track with prior approval of the commission in the event the Wisconsin guest track commingles its wagering pools with those of the out-of-state host track and the wagering deductions of the host track are outside the deductions set forth in s. 562.065 (3) (a), Stats. It allows a common takeout rate with other participants in the interstate commingled pool to produce a standard common payout price.

WGC 24.12 (10) is created to allow a Wisconsin guest track proposing to participate in an interstate commingled pool to request the commission approve a methodology whereby the states of the host and guest tracks with different takeout rates may effectively and equitably combine wagers from the different states into an interstate common pool and achieve a net price payout.

WGC 24.12 (11) is created to allow patrons of a Wisconsin guest track to wager on a specific race or race performance through more than one out-of-state host track.

**SECTION 20.** WGC 24.13 is repealed and recreated to provide approval for simulcast wagering, fees and charges.

Subsection (1) requires a licensee under s. 562.05 (1) (b), Stats., acting as a guest track, to notify its tote company 7 days prior to accepting commingled wagers, receive prior commission approval, and comply with the following paragraphs in this subsection: (a) file an application in the form and manner prescribed by the commission in which the Wisconsin guest track will receive simulcast races from each host track; (b) pay a fee of \$50 within 48 hours for each race performance received from an out-of-state host track but said fee is not applicable if the guest track schedules 3 or less races of a race performance from an out-of-state host track; (c) require the guest track at which \$25,000,000 or more was wagered to conduct at least 250 live race performances during the calendar year immediately preceding the year in which the Wisconsin guest track proposes to conduct wagering on simulcast races; (d) require the guest track at which \$25,000,000 or less was wagered to conduct at least 200 live race performances during the calendar year immediately preceding the year in which the Wisconsin guest track proposes to conduct wagering on simulcast races; (e) conduct wagering on simulcast races at the Wisconsin guest track only as an adjunct to, not in a manner to supplant, wagering on live on-track racing at that racetrack, and not allow wagering on simulcast races to be the primary source of revenue at that racetrack; and (f) shall not adversely affect the public health, welfare or safety by the conduct of simulcast wagering.

Subsection (2) allows the commission to deny or suspend approval to the Wisconsin guest track to receive simulcast races from an out-of-state host track based on the following paragraphs in this subsection: (a) if the out-of-state host track is not in good standing or licensed by the governing regulatory body entrusted with the oversight and licensing responsibilities of the host track; (b) if the jurisdiction from which the simulcast race originates does not have an animal drug testing program to test participating animals; and (c) if for any reason the commission determines the integrity of the wagering pools, totalizator system or pari-mutuel wagering is affected at either the host or guest track.

Subsection (3) requires that once commission approval is obtained to receive simulcast races from an out-of-state racetrack, any additions or deletions of race performances shall be submitted to the commission for separate approval at least 72 hours prior to the proposed implementation of the change.

**SECTION 21.** WGC 24.14 is renumbered WGC 24.21, and as renumbered, WGC 24.21 (intro.) is renumbered (1), and as renumbered, is amended by deleting the requirement for the Wisconsin host track to consult its general manager or designee prior to terminating the participation of any guest track facility or to conduct a manual merge of wagering information in the event of a failure in the totalizator system of any component of a commingled pool network. This rule will require consultation with a commission representative, mutuel manager of the host track or its designee, and the mutuel manager of the affected guest track facility or its designee.

**SECTION 22.** WGC 24.14 is created to list the duties of a Wisconsin host track in conducting simulcast wagering.

Subsection (1) requires the host track to do all of the following paragraphs: (a) conduct simulcast wagering via core to core or machine to tote transmissions with the out-of-state guest track; (b) be responsible for the content of the broadcasts for which ratings shall be at standards of the FCC and that the broadcasts offer viewers an accurate depiction of the race performance, a display of wagering information, and a continuity of programming between racing events; (c) provide an uplink system, a transponder or other systems or devices and security controls over the communication system as approved by the commission to protect the signals and the best interests of the public; (d) encrypt every audiovisual signal transmitted via satellite using a system approved by the commission and which may not be used until it has been approved by the commission; (e) maintain a facsimile machine from an independent private telephone line to be located near the mutuel or totalizator room; (f) maintain a direct telephone line in the totalizator room to be used to relay information when facsimile transmissions are not possible or timely due to the urgency of the communication; (g) ensure the primary means of transmitting wagering data is through a dedicated digital data line receiving prior approval from the commission; (h) communicate changes in wagering format or other relative information immediately upon receipt from the host track mutuel manager or designee to all guest track mutuel managers or designee; (i) not delay post times for purpose of accumulating wagers from guest track locations and post times shall be the same at the host and guest tracks taking into consideration the time zones; (j) keep at least one monitor in a location approved by the commission which is exclusively for reviewing the outgoing signal sent to the guest track during a simulcast performance; and (k) issue the stop bet command at the moment the lure begins its movement.

Subsection (2) requires the host track or audiovisual contractor ensure the date, a digital display of the actual time of day, name of the racetrack emanating the race, the minutes to post for each race, the number of the race being displayed, and an indication that a race is a replay of a previously run race if it is a replay.

Subsection (3) requires the host track or audiovisual contractor perform a test program of its transmitter to assure proper operation of the broadcast system no sooner than one hour or no later than 15 minutes before the commencement of the race performance transmission. Any irregularity shall be reported within 24 hours to the commission stewards.

**SECTION 23.** WGC 24.15 is renumbered 24.22. The rule previously required any association or totalizator company engaged in intertrack wagering to have an agreement. The proposed rule is amended to include any association or totalizator company engaged in either intertrack or simulcast wagering to have an agreement and submit it to the commission for approval prior to the commencement of intertrack or simulcast wagering.

**SECTION 24.** WGC 24.15 is created to list the accounting and reporting duties for the Wisconsin host track.

Subsection (1) requires breakage pools and minus pools be allocated pro-rata based on the percentage of winning dollars wagered at each location for each entry, pool and race.

Subsection (2) requires the host track to perform a daily reconciliation of their racing accounts and all amounts due to or from guest tracks, submit weekly report of the accounts payable and receivable incurred from simulcast activity to the commission listing the balance of the host track and all guest tracks commingling pools with the host track, and use forms approved by the commission to monitor the accounts.

**SECTION 25.** WGC 24.16 is created to list the duties of simulcast wagering for the Wisconsin guest track which include (1) conducting simulcast wagering via core to core or machine to tote transmissions with an out-of-state host track; (2) discontinuing simulcast wagering upon the issuance from the host track of the stop bet command, at the time the lure begins its movement in greyhound racing, when the first horse is loaded into the starting gate in thoroughbred racing or when the starting gate begins to move in harness racing; (3) offering only pools which are the same as offered by the host track but the guest track is not required to offer all of said pools, exclude pools offered by the host track through a contractual agreement, requires the host track to determine the minimum ticket price available for each pool; (4) displaying an explanation in prominent locations or in the daily race program indicating that odds and other wagering information may be delayed due to the accumulation and transfer of simulcast wagering data; (5) performing a daily reconciliation of racing accounts and all amounts payable or receivable to the host track and specify by contract the frequency of monies transferred between the host tracks and guest tracks; (6) ensuring tickets sold at Wisconsin guest tracks conform to s. WGC 10.06 (7) and are



identified as simulcast wagers; (7) performing a test program of its transmitter to assure proper operation of the broadcast system no sooner than one hour or no later than 15 minutes before the commencement of the race performance transmission and any irregularity shall be reported within 24 hours to the commission stewards; (8) providing sufficient television monitors in each totalizator room at the guest track to provide key employees a view of all animals starting in each race at any host track; (9) providing patrons a copy or facsimile of the official daily race program from each host track sending its signal to the Wisconsin guest track; (10) maintaining a facsimile machine from an independent private telephone line to be located near the mutuel or totalizator room; (11) maintaining a direct telephone line in the totalizator room to be used to relay information when facsimile transmissions are not possible or timely due to the urgency of the communication; (12) displaying the same post time as the host track for all simulcast races taking into consideration the time zones; (13) providing a downlink system and security controls over the communication system as approved by the commission to protect the signals and the best interests of the public and information windows or designated areas containing the administrative rules of the commission and rules of all out-of-state host tracks for patron review and to address patron complaints, questions and inquiries; (14) paying all purse payment monies generated from the simulcast wagering pools in accordance to the time frame specified in s. 562.065 (3) (b) 2, Stats., when conducting live on-track racing or when no live on-track racing occurs, submit a plan to the commission for approval to distribute purse monies generated from simulcast wagering pools prior to the start of the live on-track racing; and (15) ensuring the primary means of transmitting wagering data is through a dedicated digital data line receiving prior approval from the commission.

**SECTION 26.** WGC 24.17 is created to establish simulcast wagering emergency procedures. This section deals with (1) lost audio and visual signals and the ability to continue wagering until the scheduled post time of the current race at the out-of-state host track and may not resume until either the audio or visual signal is restored; and (2) the impaired ability of a totalizator to record, classify or accumulate wagering data or to do calculations or wagering data is lost, procedures are specified if the Wisconsin guest track's totalizator system fails, if the guest track's totalizator system is not reestablished by the start of the race, if the money wagered on the race did not enter into the host track's pools and such pool data is available in the guest track's totalizator system or if the host track's totalizator system fails but becomes operational before the start of the race and wagering data is available or is not operational before the start of the race and wagering data is lost.

**SECTION 27.** WGC 24.18 is created to list the ticket cashing requirements and procedures for simulcast wagering. Each Wisconsin guest track shall (1) honor tickets issued in conformity with the requirements of ch. WGC 10; (2) display publicly or explain in the official daily race program the amount of time patrons have to cash simulcast winning tickets at the guest track location and information about the location and method to remit the winning tickets for cash; (3) subject all outstanding tickets to the laws of the state in which they were sold and may only be redeemed in that jurisdiction; and (4) pay to the commission any outstanding winning tickets on a simulcast race in which the wagers were commingled and not claimed within 90 days after the end of the out-of-state host track's race meeting.

**SECTION 28.** WGC 24.19 is created to terminate approval if the entity offering simulcast wagering is no longer licensed under s. 562.05 (1) (b), Stats. If the entity also holds a license under s. 562.05 (1) (a), Stats., which is revoked or suspended, all prior simulcast approvals shall be terminated on the effective date of the disciplinary action.

**SECTION 29.** WGC 24.20 is created to specify the duration of the approval to offer simulcast wagering. It shall expire on the last date approved by the commission to conduct pari-mutuel wagering licensed under s. 562.05 (1) (b), Stats.

**SECTION 30.** WGC 24.21 (2) is created to require any contract for interstate common pools entered into by a Wisconsin host track to contain a provision that the host track shall not have any liability for measures taken resulting in the out-of-state guest track's wagers not being accepted into the pool. WGC 24.21 (3) is created to allow the Wisconsin guest track to alternatively determine to either pay winning tickets at the payout prices at the out-of-state host track or declare such accepted bets void and make refunds in accordance with the applicable rules. The Wisconsin guest track shall notify the commission in writing the method of payout prior to commencing simulcasting with an out-of-state host track. Only one method shall be applied to all simulcasts and displayed publicly at the Wisconsin guest track.

## **Emergency Rules**

The rules will be promulgated as emergency rules effective prior to the initialization of simulcast wagering at the racetracks for the 1995 season.

## **Initial Regulatory Flexibility Analysis**

There is no effect on small businesses.

## **Reference to Applicable Forms**

Not applicable.

## **Fiscal Estimate**

WGC 9.12 has no fiscal impact on the state. The rule clarifies the language pertaining to orders of finish regarding superfectas.

For WGC 9.11 and 9.14, to determine the fiscal impact that the inclusion of cap and seed features in twin trifecta and tri-superfecta wagering will have, the Division of Racing anticipates that early on, only Dairyland Greyhound Park will utilize this feature and, if it is successful, the three other tracks will follow suit. The State of Wisconsin is projected to receive approximately \$1,000 in additional revenues.

WGC 9.17 has no fiscal impact on the state. The rule sets forth requirements for approval of deduction rates.

WGC 14.11 reduces the numbers of greyhounds tested in a race to one animal per race. With the reduced number of tests conducted, appropriations supporting the testing will also be reduced from previous fiscal years.

Chapter 24 sets forth rules and requirements for simulcasting. The state will receive additional revenues for dollars wagered in Wisconsin only. The exact amount of revenues will be dependent on what types of out-of-state racing product the Wisconsin racetracks will be able to offer.

## **Agency Contact Person**

Daniel J. Subach, Racing Analyst  
Division of Racing  
Wisconsin Gaming Commission  
150 E. Gilman Street  
P.O. Box 8979  
Madison, Wisconsin 53708-8979  
Tel. (608) 264-6652  
Fax: (608) 267-4879

A copy of the proposed rule can be obtained from Mr. Subach at the address listed above.

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## **Notice of Public Hearing**

### **Industry, Labor & Human Relations**

### **(Unemployment Compensation,**

### **Chs. ILHR 100-150)**

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Notice is given that pursuant to ss. 101.02 (1), 108.14 (2), and 227.11 (2), Stats., the Department of Industry, Labor & Human Relations proposes to hold a public hearing to consider the amendment of ch. ILHR 145, Wis. Adm. Code, relating to active fresh perishable fruit or vegetable processing seasons.

## **Hearing Information**

**September 13, 1995**  
**Wednesday**  
**9:00 a.m. - 11:00 a.m.**

**Madison**  
**201 E. Washington Ave.**  
**Rm. 371 Conference Rm.**

A copy of the rules to be considered may be obtained from the State Department of Industry, Labor and Human Relations, Division of Unemployment Compensation, 201 E. Washington Ave., P.O. Box 8942, Madison, WI 53707, by calling (608) 266-8795 or at the appointed times and place the hearing is held.

Interested persons are invited to appear at the hearing and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, view and

suggested rewording in writing. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearings may be submitted no later than **September 13, 1995**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Greg Frigo at the address noted above. Written comments will be given the same consideration as testimony presented at the hearings. Persons submitting comments will not receive individual responses.

The hearing is held in an accessible facility. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266-3189 or Telecommunication Device for the Deaf (TDD) at 1-800-947-3529 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators or materials in audio tape format will, to the fullest extent possible, be made available on request by a person with a disability.

### Analysis

Statutory authority: ss. 101.02 (1), 108.14 (2) & 227.22 (2)

Statute interpreted: s. 108.02 (15) (k) 14

Under s. 108.02 (15) (k) 14, Stats., an individual who works for a processing employer, exclusively within that employer's active processing season, is not eligible for unemployment compensation benefits unless certain conditions are met. Chapter ILHR 145 changes the word "canning" to "processing" to accurately reflect current law, corrects statutory references and updates the outside limits of the active processing season for the crops grown in Wisconsin. This rule specifies which fruits and vegetables are considered "fresh perishable" within the meaning of s. 108.02 (15) (k) 14, Stats.

### Initial Regulatory Flexibility Analysis

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

The rule updates the definition of "processing season" with equal application to all affected employers, whether large or small.

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

All employers are still required to comply with the notification provisions set forth in ch. ILHR 120. This modification makes no changes to that provision.

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

No special skills necessary.

### Fiscal Estimate

No significant fiscal impact is expected from these changes.

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## Notice of Hearings

### Natural Resources (Environmental Protection-- General, Chs. NR 100--)

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Notice is hereby given that pursuant to ss. 87.30 (1) and 227.11 (2) (a), Stats., interpreting s. 87.30 (1), Stats., the Department of Natural Resources will hold public hearings on the creation of ss. NR 116.03 (1e), (1s) and (30m), 116.12 (2m) and 116.13 (3m), Wis. Adm. Code, relating to regulating camping in floodplain areas.

The proposed rules set standards for camping activities in floodplain areas outside of DNR-approved campgrounds. The proposed rule change would allow camping outside approved campgrounds in both the floodway and floodfringe, without a permit if the camping unit consists of nothing more than an easily removed tent or if the camping unit is a mobile recreational vehicle placed on a parcel of land that has less than four camping

sites and the vehicle does not occupy the site between December 1 and April 15.

### 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 document 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:

**September 12, 1995**  
**Tuesday**  
**At 1:30 p.m.**

**Room 611B, GEF #2**  
**101 South Webster St.**  
**MADISON, WI**

**September 13, 1995**  
**Wednesday**  
**At 1:30 p.m.**

**Conference Room A**  
**Portage Co. Courthouse**  
**1516 Church St.**  
**STEVENS POINT, WI**

**September 14, 1995**  
**Thursday**  
**At 1:30 p.m.**

**IM Conference Room**  
**LaCrosse Co. Office Bldg.**  
**300 North 4th St.**  
**LACROSSE, WI**

*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Gary Heinrichs at (608) 266-3093 with specific information on your request at least 10 days before the date of the scheduled hearing.*

### Contact Person and Written Comments

Written comments on the proposed rule [WZ-37-95] may be submitted to:

Mr. Gary Heinrichs  
Bureau of Water Regulation & Zoning  
P. O. Box 7921  
MADISON, WI 53707

Written comments must be received no later than **September 25, 1995**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Heinrichs.

### Fiscal Estimate

#### Summary:

The proposed rule change will have no effect on any funding or revenue sources. It merely clarifies administrative rules regarding camping in floodplain areas which are administered by local zoning authorities. No effects on workload levels for state or local government agencies is anticipated.

#### Fiscal Impact:

None.

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**Notice of Hearing**  
**Natural Resources**  
**(Environmental Protection--**  
**Water Regulation, Chs. NR 300--)**

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Notice is hereby given that pursuant to ss. 30.12 (3) (d) and 227.11 (2) (a), Stats., interpreting s. 30.12 (3) (a) 2. m. and (3) (bn), Stats., the Department of Natural Resources will hold a public hearing on the creation of ch. NR 323, Wis. Adm. Code, relating to bird nesting and similar habitat structures in navigable waters.

1993 Wis. Act 151 established an expedited permit process for the placement of bird nesting platforms, wood duck houses and similar structures on the beds of navigable waters for the purpose of improving wildlife habitat. Chapter NR 323 establishes design, location and information and notification standards that must be met by riparians to qualify for the expedited permit process. The proposed rule also establishes Department protocol for evaluating projects, including but not limited to provisions regarding unobstructed navigation, aesthetics and other public interest considerations.

### **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 document 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:

<b>September 18, 1995</b> <b>Monday</b> <b>At 1:00 p.m.</b>	<b>Room 611B, GEF #2</b> <b>101 South Webster St.</b> <b>MADISON, WI</b>
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*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Byron Dale Simon at (608) 267-9868 with specific information on your request at least 10 days before the date of the scheduled hearing.*

### **Written Comments**

Written comments on the proposed rule may be submitted to:

Byron Dale Simon  
Bureau of Water Regulation & Zoning  
P. O. Box 7921  
MADISON, WI 53707

Written comments must be received no later than **October 18, 1995**, and will have the same weight and effect as oral statements presented at the hearing.

### **Copies of Rule**

A copy of the proposed rule [WZ-15-95] and fiscal estimate may be obtained from:

Elly Lawry  
Bureau of Water Regulation & Zoning  
P. O. Box 7921  
MADISON, WI 53707

### **Fiscal Estimate**

The proposed code will not have any appreciable effect on any funding with exception to those permit applicants that have applied for department permits in the past and were required by law to publish a Class I public notice in the paper. The rule simplifies the regulatory process, saving applicant and Department staff time required to comply with the law. These types of regulated activities have not been numerous in the past; therefore, no significant change in staff workload is anticipated. The rule eliminates a formal permitting process for activities benefiting wildlife habitat and establishes minimum guidelines for habitat structures constructed in navigable waters.

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**Notice of Hearing**  
**Commissioner of Securities**

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Notice is hereby given that, pursuant to ss. 551.63(1), (2), and (3), 551.22(1)(a) and (b) and (7), 551.23(1),(8)(f), (11)(b) and (18), 551.26(2), 551.27(4), (8) and (10), 551.28(1)(e), (f) and (i), 551.32(1)(b), (4), (5), and (7), 551.33(1), (2) and (6), 551.52(3) and (4), Stats., the Office of the Commissioner of Securities will hold a public hearing **in Room 213 Southeast of the State Capitol in Madison, Wisconsin, at 10:00 a.m. on Monday, October 2, 1995** to consider the amendment, adoption and repeal of rules in connection with its annual review of the rules of the Commissioner of Securities relating to the operation of Ch. 551, Stats., the Wisconsin Uniform Securities Law.

### **Summary Analysis**

The statutory rulemaking procedures under Ch. 227 Stats., are being implemented for the purpose of effectuating the agency's annual review of the rules of the Commissioner of Securities. Proposed revisions are being made in a total of over 40 different SECTIONS. Some of the more significant revisions relate to:

(a) Creating a rule in s. SEC 3.001 limiting applicability of the "merit" review rules in ss. SEC 3.01 to SEC 3.20 for four separate categories of registration application filings in Wisconsin where the offerings will be either registered under the federal Securities Act of 1933 or offered pursuant to Regulation A thereunder, and meet additional criteria under each category. The four separate categories relate to equity securities offerings, debt securities offerings, offerings by an issuer with its principal office in Wisconsin, and offerings of open-end investment company (mutual fund) securities.

(b) Amending the prospectus requirement rule in s. SEC 3.23(3) to provide that a disclosure document for any offering qualifying under specified merit exclusion rules in s. SEC 3.001 for offerings either registered under the federal Securities Act of 1933 or qualified under Regulation A thereunder will not be subject to disclosure adequacy review or comment by the Commissioner's Office.

(c) Creating a Wisconsin "test the waters" transactional exemption following primarily the format in federal Rule 254 under Regulation A of the Securities Act of 1933, but expanded to cover registered or exempted offerings in Wisconsin. The rule would allow issuers of securities to publicly solicit indications of interest from prospective investors to assess the probability of success prior to incurring the expenses involved in making regulatory filings for registration or exemption purposes under federal or state securities laws.

(d) Adding to rule SEC 2.02(4) that designates additional categories of "institutional investors" for purposes of the registration exemption in s. 551.23(8), Stats., the four categories of entities (as contrasted with individuals) who are designated as "accredited investors" under the federal Regulation D exemption in Rules 501(a)(1), (2), (3) and (7) under the Securities Act of 1933.

(e) Creating a transactional registration exemption for offers and sales of securities by issuers pursuant to employee compensatory benefit plans qualifying for federal registration exemption status pursuant to Rule 701 under Section 3(b) of the federal Securities Act of 1933.

(f) Repealing (except for oil, gas or mining-related entities) the rule requiring a pre-filing for use of the "10 offeree per 12 month period" limited offering exemption in s. 551.23(11), Stats., for offerings made directly by limited partnership or investment contract issuers.

(g) Adding a "bad boy" disqualification-from-use rule to withdraw use of the "10 offeree" exemption in s. 551.23(11), Stats., by persons who have

been the subject of specified criminal, civil or administrative enforcement actions by federal or state regulatory authorities.

(h) Designating the Pacific Stock Exchange and the Philadelphia Stock Exchange for purposes of the "exchange listing" exemption in s. 551.22(7), Stats., but only for purposes of "Tier 1" securities traded thereon, and designating the Boston Stock Exchange but only with respect to securities listed thereon that meet "Tier 1" criteria specified in the Memorandums of Understanding between the Pacific and Philadelphia Stock Exchanges and NASAA.

(i) Amending the transactional registration exemptions in ss. SEC 2.027 and 2.02(9)(1) to facilitate their use.

(j) Creating and amending various securities broker-dealer, securities agent and investment adviser licensing requirements and procedures relating to: (1) deleting the \$5,000 net capital requirement for investment advisers based on fee-charging and collection considerations; (2) repealing the annual filing requirement for investment advisers of financial statement data demonstrating compliance with the net capital rule; (3) adopting the new Series 66 Uniform Combined State Law Examination; (4) amending various recordkeeping requirements to allow licensees flexibility to utilize alternative forms and formats of records to satisfy requirements.

Each Section that adopts, amends or repeals a rule is followed by a separate ANALYSIS which discusses the nature of the revision as well as the reason for it.

A copy of the entirety of the proposed rule revisions to be considered may be obtained upon request to the Office of the Commissioner of Securities, 101 East Wilson Street, 4th Floor, P.O. Box 1768, Madison, Wisconsin 53701.

**Initial Regulatory Flexibility Analysis**

1. Types of small businesses that could be affected by certain of the rule revisions are: (i) Any business looking to raise capital can seek to utilize the new rules regarding "testing the waters" and limiting applicability of "merit" review requirements which facilitate selling debt or equity securities to raise capital. (ii) Securities broker-dealer or investment adviser licensees under the Wisconsin Uniform Securities law with fewer than 25 full-time employees who meet the other criteria of s. 227.114(1)(a), Stats. The proposed amendments to the securities broker-dealer and investment adviser licensing provisions are applicable equally to all licensees because the requirements involved are for the protection and benefit of Wisconsin customers of those licensees. All Wisconsin customers of securities broker-dealers and investment advisers are entitled to the public investor protection benefits of the licensing requirements, irrespective of the size of the firm providing the securities services. Under the annual rule revision procedure of the Office of the Commissioner of Securities, a copy of the proposed revisions is mailed to each broker-dealer and investment adviser licensed in Wisconsin notifying them of the proposed revisions and soliciting written comments or attendance at the public hearing regarding the proposed rules.

2. Reporting, bookkeeping and other procedures required for compliance with the rules. An amendment to a broker-dealer bookkeeping rule requires blotters or other records of original entry to identify the account for which each receipt or disbursement of cash or securities is made. A new investment adviser bookkeeping rule creates an equivalent version of a U.S. Securities and Exchange Commission rule requiring records regarding securities transactions for the firm's account and information regarding customer's transactions in the same security. Several revisions reduce or eliminate reporting and bookkeeping requirements for investment advisers. The annual financial statement reporting requirement for investment advisers is repealed and replaced with an internal recordkeeping requirement and a requirement to file a report only if, as and when an investment adviser's net capital is less than the amount required by rule. A new rule provides regulatory flexibility by allowing a broker-dealer to utilize alternative forms and formats of records to satisfy the books-and-recordkeeping requirements for both its principal office and its branch offices.

**Fiscal Estimate Summary**

A summary of the fiscal effects of the proposed rule revisions is as follows: (i) No one-time revenue fluctuations. (ii) An estimated reduction of \$20,000 in annual exemption filing fee revenue as a result of rule revisions impacting four exemption filing rules. (iii) Long-range fiscal implications will result from the new rule in SEC 3.001 limiting application of merit requirements for certain categories of registration filings in terms of an expected increase in registration applications and annual filing fee revenue. However, although it is expected that there will be an increase of registration

applications filed in Wisconsin for those categories of offerings, it is too speculative to quantify. (iv) No fiscal effect on local units of government.

A copy of the full fiscal estimate may be obtained upon request to the Office of the Commissioner of Securities, 101 East Wilson Street, P.O. Box 1768, Madison, Wisconsin 53701.

**Notice of Hearing**  
**Department of Transportation**

Notice is hereby given that pursuant to ss. 85.16(1) and 348.07(4), Stats., interpreting s. 348.07(4), Stats., the Department of Transportation will hold a public hearing at the following location to consider the amendment of ch. Trans 276, Wis. Adm. Code, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.

**Hearing Information**

**September 13, 1995**  
**Wednesday**  
**10:00 a.m.**

**County Courthouse**  
**811 Harding Street**  
**Classroom #1068**  
**Waupaca, WI**

*The hearing locations are accessible to persons with disabilities.*

The public record on this proposed rule making will be held open until **September 22, 1995**, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to Mark Morrison, Regional Traffic Engineer, Room 601, P. O. Box 7916, Madison, Wisconsin, 53707-7916.

A copy of the proposed rule may be obtained upon request from the Wisconsin Department of Transportation, State Traffic Engineer, at the address noted above. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396.

**Analysis Prepared by the Wisconsin Department of Transportation**

Statutory Authority: ss. 85.16(1) and 348.07(4)

Statute interpreted: s. 348.07(4)

General Summary of Proposed Rule. This proposed rule amends s. Trans 276.07(5), (20) and (24), Wis. Adm. Code, to add three segments of highway to the designated highway system established under s. 348.07(4), Stats. The actual highway segments that this proposed rule adds to the designated highway system are:

Hwy.	From	To
STH 22	STH 54 E. of Waupaca	STH 29 in Shawano
STH 110	STH 22 W. of Symco	USH 45 in Marion
STH 161	USH 10 in Amherst Junction	STH 22 W. of Symco

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, double bottoms and the vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit: A single vehicle with an overall length in excess of 40 feet, a combination of vehicles with an overall length in excess of 65 feet, a semitrailer longer than 48 feet, an automobile haulaway longer than 66 feet plus allowed overhangs, or a double bottom. Certain exceptions are provided under s. 348.07(2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

**Note:** *The proposed rule text often achieves these objectives by consolidating individual segments into contiguous segments with new end points. In order to determine the actual highway segment added, it is necessary to compare the combined old designations with the combined new designation.*

*45-foot buses are allowed on the National Network and Interstate system by Federal law. Section 4006(b) of the Intermodal Surface Transportation Efficiency Act of 1991.*

The effect of this proposed rule will be to extend the provisions of s. 348.07(2)(f), (fm), (gm) and (gr), and s. 348.08(1)(e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the federal National Network in Wisconsin will also be allowed to operate on the newly-designated highways. Specifically, this means there will be no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulaway on the affected highway segments. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulaway. Double bottoms will be allowed to operate on the affected highway segments provided neither trailer is longer than 28 feet, 6 inches. Semitrailers up to 53 feet long may also be operated on these highway segments provided the kingpin to rear axle distance does not exceed 41 feet. This distance is measured from the kingpin to the center of the rear axle or, if the semitrailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semitrailers, including semitrailers which are part of an automobile haulaway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 5 miles or less from the designated

highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

### ***Fiscal Impact***

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

### ***Initial Regulatory Flexibility Analysis***

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

### ***Copies of Rule and Contact Person***

Copies of this proposed rule are available without cost upon request to the office of the State Traffic Engineer, P. O. Box 7916, Madison, Wisconsin, 53707, telephone (608) 266-1675. For questions about this rule making, please call Mark Morrison, Regional Traffic Engineer at (608) 266-1675. Alternate formats of the proposed rule will be provided to individuals at their request.



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## EMERGENCY RULES NOW IN EFFECT

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

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

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

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

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### EMERGENCY RULES NOW IN EFFECT

#### *Emergency Response Board*

A rule was adopted amending **s. ERB 4.03 (3)**, relating to fees for transporting hazardous materials.

#### FINDING OF EMERGENCY

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

The state emergency response board has been working for well over a year, with the department of transportation, in order to develop a fee structure which more equitably reflects hazards presented. This rule has completed the agency public hearing process, but will not be in effect by the effective date specified in s. ERB 4.03 (3).

The fee and hazardous materials transportation registration program for persons that are required to register under ch. ERB 4 must be in effect at all times. It was the intent of the legislature that funds must continue to be available to facilitate operation of the regional emergency response teams and to assure the protection of first responders and the general public in the event of a level A hazardous material incident.

Funds also need to be available in order to operate the grant program which assists counties with the purchase of level B hazardous material response equipment.

It is expected that the new fee structure will be in effect by September 30, 1995. The emergency rule will extend the effective date in order to assure continuity of the hazardous material transportation registration program and protect the health, safety and welfare of the citizens of the state of Wisconsin.

**Publication Date:** June 30, 1995  
**Effective Date:** June 30, 1995  
**Expiration Date:** November 27, 1995  
**Hearing Date:** August 25, 1995

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### EMERGENCY RULES NOW IN EFFECT

#### *Employment Relations—Merit Recruitment & Selection*

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

#### FINDING OF EMERGENCY

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

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

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

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

The Department believes that the State Legislature intended to provide permanent classified civil service employes with certain employment alternatives to layoff when the State found itself in a position to reduce its work force. The current administrative rules are deficient and omit an important right that employes are entitled to by law.

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

**Publication Date:** June 12, 1995  
**Effective Date:** June 12, 1995  
**Expiration Date:** November 9, 1995  
**Hearing Date:** July 26, 1995

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### EMERGENCY RULES NOW IN EFFECT (2)

#### *Health and Social Services*

(Community Services, Chs. HSS 30—)

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

## EXEMPTION FROM FINDING OF EMERGENCY

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

## ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

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

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

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

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

The rules cover making application to a licensing agency for a treatment foster home licensee, licensee qualifications, licensee responsibilities, respite care for foster parents, responsibilities of the providing agency, the physical environment of a treatment foster home, care of the children and training for treatment foster parents.

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

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

## FINDING OF EMERGENCY

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

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

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

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

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

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

**Publication Date:** June 1, 1995  
**Effective Date:** June 1, 1995  
**Expiration Date:** October 29, 1995

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## EMERGENCY RULES NOW IN EFFECT (2)

### Health and Social Services

(Health, Chs. HSS 110--)

- Rules adopted revising **ch. HSS 133**, relating to home health agencies.

## FINDING OF EMERGENCY

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

Section 50.49, Stats., directs the Department to develop, establish and enforce standards for operation of home health agencies, authorizes the Department to license home health agencies, requires the Department to make whatever inspections and investigations of home health agencies it considers necessary in order to administer this regulatory program and requires the Department to establish by rule an annual license fee for home health agencies.

In February, 1995 there were 188 home health agencies operating in Wisconsin.

The Department revised its licensing standards for home health agencies, ch. HSS 133, effective June, 1984. Chapter HSS 133 has not been significantly updated since then, although a general revision of those rules is under development. One part of the updating will be an increase in the annual license fee to cover increased costs of this regulatory program and basing the fee on annual net income of the home health agency, as required by s. 50.49 (2) (b), Stats., rather than gross annual income of the agency as provided for in the current rules.

Through this emergency rulemaking order the Department is revising its method of computing the annual license fee for home health agencies and generally increasing that fee in order to increase fee revenues. The regulatory program is financed by fee revenues. This change cannot wait on promulgation of revised rules for home health agencies following regular rule making procedures because the paperwork associated with the billing of home health agencies for a license for the June 1, 1995 through May 31, 1996 licensing period must get underway in April 1995. Unless license renewal fees are increased immediately, the Department will not be able to adequately carry out its regulatory activities under s. 50.49, Stats., and ch. HSS 133,



which are intended to promote safe and adequate care and treatment of home health agency patients.

**Publication Date:** April 15, 1995  
**Effective Date:** April 15, 1995  
**Expiration Date:** September 12, 1995  
**Hearing Date:** June 16, 1995

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

## FINDING OF EMERGENCY

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

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

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

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

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

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

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

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

have issued a manual on the role and responsibilities of ambulance service medical directors. The course of instruction will be based on the manual.

**Publication Date:** July 1, 1995  
**Effective Date:** July 1, 1995  
**Expiration Date:** November 28, 1995

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## EMERGENCY RULES NOW IN EFFECT (2)

### Health & Social Services

(Economic Support, Chs. HSS 200—)

1. Rules adopted creating **ch. HSS 207**, relating to work not welfare demonstration project.

## EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 113 (2) of the 1993 Wis. Act 99 directed the Department to promulgate rules for the implementation of s. 49.27, Stats., as created by 1993 Wis. Act 99, using emergency rule-making procedures but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency.

## ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

Under s. 49.19, Stats., a family can apply and be determined eligible for the Aid to Families with Dependent Children (AFDC) program. As long as the family continues to meet all eligibility criteria under s. 49.19, Stats., eligibility for AFDC benefits continues. While many AFDC recipients remain on public assistance for relatively short periods of time, at any given point in time, 65% of AFDC recipients are individuals who will spend 8 years or more on welfare.

Wisconsin has obtained approval from the Food and Consumer Service of the U.S. Department of Agriculture and from the Administration for Children and Families and the Health Care Financing Administration of the U.S. Department of Health & Human Services to conduct a Work Not Welfare demonstration project beginning January 1, 1995. The demonstration project will be conducted in 2 counties, Fond du Lac and Pierce. The demonstration project will test whether requiring recipients to work for their public assistance benefits in a time-limited program will reduce the time recipients are on welfare and foster self-sufficiency.

The Work Not Welfare (WNW) demonstration project will place a strictly enforced 24-month time limit on cash assistance payments and require AFDC recipients to participate in a combination of education, training and work under the Job Opportunities and Basic Skills (JOBS) program to receive monthly cash benefits. Recipients will receive a combination of AFDC and cashed-out Food Stamp benefits for up to 24 months. Except under very limited circumstances, WNW benefits will not increase when a second or subsequent child is born to an adult enrolled in the WNW program. When WNW participants are no longer eligible for cash benefits, WNW participants may be eligible for 12 months of transitional Medical Assistance and child care benefits. The 24 months of cash benefits and 12 months of transitional benefits must be used within a 4-year period. When the 24 months of cash benefits are exhausted, the recipient will be ineligible for the WNW program, the AFDC program, the General Relief program or the Relief to Needy Indian Persons program for 3 consecutive years from the last date the recipient draws a cash benefit. During this period of ineligibility, the household may apply for Food Stamp coupons, Medical Assistance and shelter payments and for services provided under a Children's Services Network.

The rules for the Work Not Welfare demonstration project include various requirements affecting individual participants, calculation of the participation requirement for WNW employment and training activities, good cause for nonparticipation in WNW employment and training activities and how sanctions are applied for failure to meet the monthly participation requirement.

**Publication Date:** December 30, 1994  
**Effective Date:** January 1, 1995  
**Expiration Date:** May 31, 1995  
**Hearing Dates:** February 28 & March 2, 1995  
**Extension Through:** October 30, 1995

2. Rules adopted creating ss. **HSS 201.055** and **201.28 (4m)**, relating to emergency assistance for low-income families.

## FINDING OF EMERGENCY

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

Under s. 406 (e) of the Social Security Act of 1935, as amended, and the implementing federal regulations at 45 CFR 233.120, a state may provide a program of emergency assistance under the Aid to Families with Dependent Children (AFDC) program to a child under age 21 and his or her family when the child is without available resources and the payments, care or services involved are necessary to avoid destitution of the child or are needed to provide living arrangements in a home for the child. The destitution or need for living arrangements may not be the result of the child or his or her caretaker relative refusing without good cause to accept employment or training for employment. AFDC emergency assistance grants are limited to one 30-day period only within 12 consecutive months. Section 49.19 (11) (b), Stats., directs the Department of Health and Social Services to implement this program for families that have emergency needs due to fire, flood, a natural disaster, homelessness or an energy crisis.

Under s. 49.19 (11) (b), Stats., the AFDC emergency payment amount may not exceed \$150 per eligible family member except when the need is the result of an energy crisis. Through this rulemaking order, the Department is establishing a maximum AFDC emergency payment amount of \$96 per eligible family member for emergencies other than energy crisis. The rules provide that the Department may revise this amount if necessary to stay within the funding available for this purpose by publishing a public notice in the Wisconsin Administrative Register and by issuing a revised Emergency Assistance chapter for its Other Programs Eligibility Handbook.

A needy family may apply for AFDC emergency assistance through the local county or tribal economic support agency. The agency must determine if the family's need is the result of fire, flood, natural disaster, homelessness or energy crisis. Assistance is available to either a family currently receiving AFDC or to a family that is not receiving AFDC if the family meets the emergency assistance program eligibility requirements. If the family is eligible, the agency must provide assistance to the family, now called an AFDC emergency assistance group, taking into consideration the group's available income and assets, within 5 working days after the date of application for the assistance.

The Department has been operating this program on the basis of s. 49.19 (11) (b), Stats., which references the federal regulations, a Division of Economic Support Operations memo, and policy handbook material. However, the lack of policy established through administrative rules has caused confusion for applicants, recipients and economic support agencies responsible for administering the program. Section 49.19 (11) (b), Stats., provides that the AFDC emergency assistance payment amount, except when the need is the result of an energy crisis, may not exceed \$150 per eligible family member, but does not provide how a payment less than \$150 is to be determined nor does it establish a lesser amount. Yet sum certain funds appropriated for the program are not sufficient to permit the program to pay out as much \$150 per eligible family member without turning away some eligible applicants. A recent Dane County Court decision (93-CV-4004) held that rules are needed to set a fixed amount for the AFDC emergency assistance benefit level. The Department is now proceeding to publish the rules by emergency order to ensure that the funds available for the program are used to assist people who are most in need.

**Publication Date:** April 4, 1995  
**Effective Date:** April 4, 1995  
**Expiration Date:** September 1, 1995  
**Hearing Date:** May 19, 1995

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## EMERGENCY RULES NOW IN EFFECT

### Health & Social Services

(Youth Services, Chs. HSS 300—)

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

## FINDING OF EMERGENCY

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

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

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

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

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

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

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

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

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

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

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**EMERGENCY RULES NOW IN EFFECT****Industry, Labor & Human Relations****(Building & Heating, etc., Chs. ILHR 50–64)****(Multi-family Dwellings, Ch. ILHR 66)**

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

**FINDING OF EMERGENCY**

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

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

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

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

**Publication Date: August 14, 1995****Effective Date: August 14, 1995****Expiration Date: January 11, 1996**

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**EMERGENCY RULES NOW IN EFFECT****Industry, Labor & Human Relations****(Barrier-Free Design, Ch. ILHR 69)**

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

**FINDING OF EMERGENCY**

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

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

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

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

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

4. There has been public concern that minimum capacity for requiring a unisex toilet room in restaurants and assembly halls should be increased. There are many chain-type restaurants where the basic design used throughout the nation could not accommodate the installation of a unisex toilet room in addition to the standard toilet rooms. Modifications to include a

unisex toilet room would eliminate usable floor areas from either the employment area or the business area.

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

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

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**EMERGENCY RULES NOW IN EFFECT****Industry, Labor & Human Relations****(Contractor Registration, Ch. ILHR 74)**

Rules adopted creating **s. ILHR 2.36 and ch. ILHR 74**, relating to contractor registration and certification.

**FINDING OF EMERGENCY**

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

1. During the 1993–1994 legislative session, the legislature passed 2 acts relating to registration and certification of contractors. The acts imposed specific requirements on the Department, municipalities and contractors.

2. 1993 Wis. Act 126 requires the Department to promulgate rules for certifying the financial responsibility of contractors who must obtain a building permit to perform work on a one- or 2-family dwelling covered under the Uniform Dwelling Code. The act prohibits municipalities from issuing a building permit to a contractor who is required to be certified unless the contractor has the certificate of financial responsibility from the Department. The law applies to applications for a building permit after March 31, 1995.

3. 1993 Wis. Act 243 prohibits contractors from installing or servicing heating, ventilating or air conditioning equipment unless the contractor registers with the Department. The acts also requires the Department to promulgate rules for a voluntary program for certification of heating, ventilating and air conditioning contractors. The effective date for the registration requirement was August 1, 1994.

4. The 1995 building construction season will be starting soon. In order to ensure consistent and uniform application of the laws and rules for the entire 1995 construction season, the building construction industry has asked the Department to have the rules in effect at the start of the building season.

5. The Department initiated its rule making efforts in response to these laws in May, 1994. The year 1994 was an election year. Chapter 227, Stats., prohibits the forwarding of proposed final rules to the legislature after November 1 of an election year. This 2 month period of time was not available to the Department. The Department has held the required public hearings and will be forwarding the final rules to the standing committees shortly. However, the required timeframes will not permit adoption of the permanent rules by April 1, 1995.

**ANALYSIS**

The rules consist of the necessary provisions to comply with the mandates in 1993 Wis. Acts 126 and 243. The rules for the dwelling contractor certification require the submittal of basic identification information in addition to the requirements in Act 126 relating to a surety bond, general liability insurance, worker's compensation insurance and unemployment compensation contributions. The rules apply to a contractor who must obtain a local building permit in order to perform construction or erosion control work on a one- or 2-family dwelling covered under the Uniform Dwelling Code.

The rules contain requirements for mandatory registration and voluntary certification of contractors who perform heating, ventilating, or air conditioning work. The mandatory registration consists of the submittal of basic identification information. The voluntary certification requires qualified persons to pass a Department examination.

The rules also include requirements relating to denial, suspension and revocation of the registrations and certifications. All of the registrations and

certifications issued under the rules will expire annually and may be renewed. In order for the Department to cover the costs of administering the respective programs, the rules also include the establishment of program fees.

**Publication Date:** March 17, 1995  
**Effective Date:** March 17, 1995  
**Expiration Date:** August 14, 1995  
**Hearing Date:** April 27, 1995  
**Extension Through:** October 12, 1995

## EMERGENCY RULES NOW IN EFFECT

### Insurance

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

## FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of an emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate a permanent rule corresponding to this emergency rule in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1995. The amount of the fees established by this rule could not be determined until after the governor signed 1995 Wis. Act 10, which imposes a \$350,000 cap on noneconomic damages in medical malpractice actions and therefore affects the level of funding needed for the fund.

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

**Publication Date:** June 14, 1995  
**Effective Date:** June 14, 1995  
**Expiration Date:** November 11, 1995  
**Hearing Date:** July 21, 1995

## EMERGENCY RULES NOW IN EFFECT

### Natural Resources

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

Rules adopted amending **ss. NR 20.02 (1) (c) and 25.06 (2) (b)**, relating to sport fishing for yellow perch on Lake Michigan and commercial fishing for yellow perch in zones 2 and 3 on Lake Michigan and Green Bay.

## ANALYSIS

The order affects Lake Michigan sport fishing rules and Green Bay and Lake Michigan commercial fishing rules. SECTION 1 decreases the sport fishing daily bag limit for yellow perch taken from Lake Michigan from 50 to 25 fish and closes the sport fishing season for yellow perch in Lake Michigan during June (effective June 1, 1995). SECTION 2 decreased the total allowable annual commercial harvests of yellow perch from zones 2 and 3 of Green Bay and Lake Michigan. For zone 2 the commercial yellow perch harvest limit is reduced from 13,300 pounds to 4,655 pounds and for zone 3 the harvest limit is reduced from 306,700 pounds to 107,345 pounds (effective July 1, 1995).

## FINDING OF EMERGENCY

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

The yellow perch population in Lake Michigan is rapidly declining. This decline reflects five consecutive years of extremely poor reproduction. Sport and commercial harvests of adult yellow perch must be limited immediately in order to maximize the probability of good reproduction in the near future. The harvest limitations proposed here are part of a four-state yellow perch protection plan.

**Publication Date:** May 31, 1995  
**Effective Dates:** June 1, 1995 (part) & July 1, 1995 (part)  
**Expiration Dates:** October 29, 1995 & November 28, 1995

## EMERGENCY RULES NOW IN EFFECT (2)

### State Public Defender

1. Rules adopted revising **ch. SPD 3**, relating to indigency evaluation and verification.

## FINDING OF EMERGENCY

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

It is essential that the Office of the State Public Defender ensure that only eligible applicants receive agency services. The proposed changes are needed to establish authority for the agency to revise its indigency evaluation procedures and to initiate verification of income. Without these changes it will be difficult to access and verify an applicant's eligibility with accuracy; and thus the public interest will not be served.

## ANALYSIS

These proposed rules implement recommendations made by the Legislative Audit Bureau in its recent audit of the Office of the State Public Defender. Specifically, the rules: 1) codify the agency's verification of indigency evaluation procedures; 2) specify the anticipated cost of retaining counsel for involuntary termination of parental rights cases for purposes of the indigency calculation; 3) provides for additional verification for applicants who have equity in real estate; 4) specifies which emergency and essential costs may be calculated in the indigency formula; 5) clarifies under what circumstances an applicant's spouse income must be counted; 6) provides that persons whose sole income is SSI are eligible for the program; 7) prohibits voluntary termination of employment for purposes of qualifying for SPD representation; and 8) clarifies trial court access to agency indigency evaluations during the pendency of a case.

**Publication Date:** May 12, 1995  
**Effective Date:** May 12, 1995  
**Expiration Date:** October 9, 1995  
**Hearing Date:** July 11, 1995

2. Rules adopted revising **ch. SPD 4**, relating to limiting the allowable billable hours for private bar attorneys.

## FINDING OF EMERGENCY

The State Public Defender Board finds that an emergency exists and that a rule is necessary for the immediate preservation of the public health, safety or welfare. A statement of the facts constituting the emergency is:

The Office of the State Public Defender assigns approximately 40% of its cases annually to private bar attorneys. To ensure that assignments are made within budgetary expenditures that provide efficient and effective representation of the public, the proposed rule is necessary.

## ANALYSIS

This proposed rule caps private attorney billable hours at 2080 hours per year. This number is equivalent to the hours worked in a full-time job.

Under the proposed rule, any private bar attorney who foresees exceptional circumstances what will cause an excess of 2080 billable hours a year, may petition the state public defender board for advance approval for payment of those excess hours. In addition, any private attorney who is denied payment for hours worked in excess of 2080 per year may appeal the denial of payment to the state public defender board.

**Publication Date:** June 14, 1995  
**Effective Date:** June 16, 1995  
**Expiration Date:** November 13, 1995  
**Hearing Date:** July 11, 1995

## **EMERGENCY RULES NOW IN EFFECT**

### **Public Instruction**

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

### **FINDING OF EMERGENCY**

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

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

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

**Publication Date:** April 24, 1995  
**Effective Date:** April 24, 1995  
**Expiration Date:** September 21, 1995  
**Hearing Dates:** July 19 & 20, 1995

## **EMERGENCY RULES NOW IN EFFECT**

### **State Fair Park**

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

### **FINDING OF EMERGENCY AND RULE ANALYSIS**

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

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

However, crime patterns at the State Fair Park have changed dramatically since those rules adopted in 1967. With the increases in attendance and number of events in the intervening years, the number and severity of crimes against State Fair visitors, patrons, and property have necessarily increased. Also, a general rise in gang-related activity at Park events and during skating hours at the Pettit National Ice Center has occurred over the last several years. Consequently, there is a greater need for Park Police Department arrest authority on the Park grounds in order to ensure prosecutorial cooperation by Milwaukee County.

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

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

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

## **EMERGENCY RULES NOW IN EFFECT**

### **Commissioner of Transportation**

#### **[Commissioner of Railroads]**

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

### **FINDING OF EMERGENCY**

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

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

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

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

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

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

**Agriculture, Trade and Consumer Protection**

**(CR 95-57):**

Ch. ATCP 92 – Relating to commercial weighing and measuring devices.

**Health and Social Services (CR 92-55):**

Ch. HSS 46 – Relating to group day care centers for children.

**Health and Social Services (CR 95-67):**

SS. HSS 201.055 and 201.28 (4m) – Relating to emergency assistance for low-income families and eligibility for the Aid to Families with Dependent Children (AFDC) program.

**Insurance, Office of the Commissioner of (CR 95-43):**

S. Ins 6.63 and ch. Ins 28 – Relating to implementing the requirement of continuing education for insurance intermediaries.

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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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*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.*

**Corrections, Dept. of (CR 94-192):**

An order affecting s. DOC 309.56, relating to monitoring and recording of inmate telephone calls.  
Effective 10-01-95.

**Health & Social Services (CR 95-8):**

An order repealing and recreating ch. HSS 207, relating to a Work-Not-Welfare (WNW) demonstration project for Aid to Families with Dependent Children (AFDC) recipients.  
Effective 10-01-95.

**Hearing and Speech Examining Board (CR 95-94):**

An order affecting ss. HAS 1.01 and 2.01, relating to the issuance of temporary trainee permits to audiology interns.  
Effective 09-01-95.

**Industry, Labor and Human Relations (CR 95-7):**

An order creating s. ILHR 2.36 and ch. ILHR 74, relating to contractor registration and certification.  
Effective 10-01-95.

**Natural Resources (CR 94-218):**

An order affecting ss. NR 422.02, 422.127 and 422.132, relating to the control of volatile organic compound (VOC) emissions from the application of industrial source adhesives.  
Effective 09-01-95.

**Natural Resources (CR 95-24):**

An order affecting ss. NR 484.04 and 484.05 and creating ch. NR 489, relating to general conformity of major federal projects with the state implementation plan.  
Effective 10-01-95.

**Natural Resources (CR 95-27):**

An order creating s. NR 468.30, relating to emission standards for hazardous air pollutants generated from industrial process cooling towers.  
Effective 10-01-95.

**Technical College System Board (CR 95-31):**

An order amending s. TCS 6.05 (2) (c) and (L), relating to competitive bidding requirements for public construction.  
Effective 10-01-95.

**Technical College System Board (CR 95-32):**

An order creating ch. TCS 9, relating to district reporting of attendance and other participation in technical college courses or programs by secondary school students under the Wisconsin statutory provisions relating to compulsory school attendance, post-secondary enrollment options, and technical preparation programs.  
Effective 10-01-95.

**Transportation, Dept. of (CR 95-82):**

An order repealing ch. Trans 78, relating to the transportation system management program.  
Effective 10-01-95.

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## *FINAL REGULATORY FLEXIBILITY ANALYSES*

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### 1. Accounting Examining Board (CR 95-003)

S. Accy 3.07 – Certified public accounting examination.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments reported.

### 2. Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board (CR 95-009)

S. A-E 4.08 (3) – Examination application deadline.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

### 3. Barbering and Cosmetology Examining Board (CR 95-039)

S. BC 2.07 (2) (e), (f) & (g) – Supervision of apprentices, temporary permit holders, and training permit holders in licensed establishments.

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.

### 4. Chiropractic Examining Board (CR 94-158)

SS. Chir 2.02 (4) and 3.03 – Licensure by endorsement.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

### 5. Hearings and Appeals (CR 95-58)

Chs. HA 1 & 2 – Hearing procedures and stenographic records.

Summary of Final Regulatory Flexibility Analysis:

There is no fiscal effect on “small business” as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

### 6. Hearing and Speech Examining Board (CR 94-215)

SS. HAS 6.02 (4m) and 6.09 (2) (w) – The performance of cerumen management by audiologists.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

### 7. Hearing and Speech Examining Board (CR 95-094)

SS. HAS 1.01 & 2.01 – Issuance of temporary trainee permits to audiology interns.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

### 8. Industry, Labor & Human Relations (CR 93-158)

Ch. ILHR 30 – Fire Department Health and Safety Standards.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules will not affect any small business as defined in s. 227.114 (1) (a), Stats. The proposed rules apply to public sector employers and employees. Pursuant to s. 227.114 (8) (b), Stats., rules relating to county or municipal administration of a state program are exempted from small business impact consideration.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Labor and Job Training and the Senate Committee on Human Resources, Labor, Tourism, and Veterans and Military Affairs.

The Assembly committee took no action and submitted no comments. The Senate committee passed a motion requesting that the department modify the rules as follows: 1) Under ILHR 30.14 (3) (a), add an exception to the need for a backup team when fires are in the initial stage; 2) Under ILHR 30.14 (3) (a), clarify that an additional monitoring person is needed only when self-contained breathing apparatus is being used; and 3) Make modifications to allow certification of fire fighter who meet the training requirements specified in s. ILHR 30.08.



**9. Industry, Labor & Human Relations (CR 94-163)**

Chs. ILHR 31 & 32 – Public Employee Safety and Health.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules will not affect any small businesses as defined in s. 227.114 (1) (a), Stats. The proposed rules apply to a public sector employers and employees. Pursuant to s. 227.114 (8) (b), Stats., rules relating to county or municipal administration of a state program are exempted from small businesses impact consideration.

Summary of Comments of Legislative Standing Committees:

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

**10. Industry, Labor & Human Relations (CR 95-046)**

S. ILHR 50.115 – Notice of intent regarding certain construction sites.

Summary of Final Regulatory Flexibility Analysis:

This notice of intent form is the same form used by the Department of Natural Resources (DNR) for construction sites other than non building sites. The form must be filed only for construction sites involving a public building or place of employment. The reporting requirements are not elaborate. No issues were raised by small business during the public hearings. Projects of this size are normally designed by professional architects and engineers who file the information on behalf of the owner and are familiar with the requirements. Owners who file the form with DILHR are exempt from the DNR \$200 filing fee.

Summary of Comments of Legislative Standing Committees:

No comments were received.

**11. Commissioner of Insurance (CR 94-224)**

S. Ins 21.01 (4) – Notice requirements for terminating worker's compensation insurance policies.

Summary of Final Regulatory Flexibility Analysis:

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

No issues were raised by small businesses and no changes were made to the rule because all agents must be treated equally whether they are part of a large agency or a small one.

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

**12. Natural Resources (CR 94-141)**

Ch. NR 422 – Setting RACT VOC emission limits for wood furniture coating.

Summary of Final Regulatory Flexibility Analysis:

None of the seven facilities known to be affected meets the definition of a small business.

Summary of Comments:

The rules were reviewed by the Assembly Committee on Environment and Utilities and the Senate Committee on Environment and Energy. On June 1, 1995, the Senate Committee on Environment and Energy held a public hearing on the proposed rule. No modifications were requested.

**13. Natural Resources (CR 94-164)**

S. NR 47.60 – County forest project loan program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments by Legislative Review Committees:

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

**14. Natural Resources (CR 94-181)**

Ch. NR 140 – Groundwater quality standards.

Summary of Final Regulatory Flexibility Analysis:

The Department does not believe that the proposed rule will have a significant economic impact on a substantial number of small businesses. The compliance and reporting requirements in ch. NR 140 are not changed by the proposed amendments. There will be 13 new substances for which a facility may have to monitor and report exceedances.

Summary of Comments by Legislative Review Committees:

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

**15. Natural Resources (CR 94-187)**

Ch. NR 145 – County administration of the private well code.

Summary of Final Regulatory Flexibility Analysis:

The rule changes should have no significant economic impact on small businesses. The changes will reduce the amount of paperwork and should in turn reduce the expense associated with it for the small businesses associated with private well construction.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Energy. On June 1, 1995, the Senate Committee on Environment and Energy held a public hearing on the proposed rule. No modifications were requested.

**16. Natural Resources (CR 94-213)**

Chs. NR 421 & 422 Control of organic compound emission from auto body refinishing

Summary of Final Regulatory Flexibility Analysis:

Motor vehicle refinishing operations include the following types of facilities: auto body and repair shops, production paint shops, new and used car dealer repair and paint shops, fleet operator repair and paint shops and vocational training shops. Affected motor vehicle refinishing operations will be responsible for notifying the Department of their existence, purchasing compliant coatings, following the manufacturer's recommended mixing instructions, meeting the equipment standards of the proposed rule and keeping records of coatings purchased.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Environment and Utilities and the Senate Committee on Environment and Energy. On June 1, 1995, the Senate Committee on Environment and Energy held a public hearing on the proposed rule. No modifications were requested.

**17. Natural Resources (CR 94-218)**

SS. NR 422.127 & 422.132 – The control of volatile organic compound emissions from the application of industrial source adhesives.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will affect facilities of all sizes involved in the use of adhesives. In the nine county area, the Department estimates that less than 40 facilities may be affected by this rule. These facilities have been notified that the rule may affect their operations. The costs of required changes are minimal.

Summary of Comments:

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

**18. Natural Resources (CR 95-025)**

Chs. NR 400 & 419 – Remediation of contaminated soil and water.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will not have a significant effect on a substantial number of small businesses. The proposed revisions are designed to give flexibility to facilities to remediate contaminated soils and streamline the regulatory process to make it more efficient, without compromising air quality.

Summary of Comments by Legislative Review Committees:

The rule was reviewed by the Assembly Committee on Environment and Utilities and the Senate Committee on Environment and Energy. On June 5, 1995, the Senate Committee on Environment and Energy held a public hearing. No requests for modification were received.

**19. Natural Resources (CR 95-029)**

Ch. NR 10 – Hunting.

Summary of Final Regulatory Flexibility Analysis:

The rules pertain to individual hunters; therefore a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Energy. On June 12, 1995, the Senate Committee on Environment and Energy held a public hearing and requested modification of the rule as it pertained to crow hunting. On July 12, 1995, the Assembly Committee on Natural Resources held a public hearing and requested modification of the rule as it pertained to crow hunting. Both committees waived their review as it related to the remainder of the proposed order. This order completes the promulgation of those portions of the proposed rule.

**20. Psychology Examining Board (CR 94-222)**

S. Psy 5.01 (14) & (14m) – Sexual misconduct.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comment were reported.

**21. Public Service Commission (CR 92-68)**

Ch. PSC 4 – Implementing the Wisconsin Environmental Policy Act.

Summary of Final Regulatory Flexibility Analysis:

The final rules change existing rules used by the Commission to implement the Wisconsin Environmental Policy Act (WEPA), s. 1.11, Stats. The Commission currently has approximately six positions addressing WEPA implementation. No significant change in overall workload is anticipated from adopting the final rules compared to that under the existing rules. The final rules will have no fiscal impact on other state or local units of government and will have no effect on small business or small telecommunication utilities.

Summary of Comments:

No comments were reported.

**22. Regulation & Licensing (CR 95-042)**

S. RL 34.06 – Reporting the discharge of firearms.

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.

**23. Department of Transportation (CR 95-064)**

Ch. Trans 327 – Motor carrier safety requirements.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule can have an effect on small businesses. The Department will consider suggestions for reducing the impact of this proposed rule on small business. To that end, the Department has provided broad notice of hearings and has conducted hearing through the state to enhance participation in the rule making process.

Summary of Comments:

No comments were reported.

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*EXECUTIVE ORDERS*

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

**Executive Order 253.** Declaring to a State of Emergency Relating to Drought Conditions.

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*PUBLIC NOTICES*

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**Public Notice**

***Health & Social Services***

***(Emergency Assistance for Needy Families  
under the Aid to Families with Dependent Children  
(AFDC) Program)***

Effective September 1, 1995, the maximum payment amount for AFDC-related Emergency Assistance under s.49.19(11)(b), Stats., as amended by 1995 Wis. Act 27, and s. HSS 201.055 shall be \$150 per eligible family member. All county and tribal economic support agencies are to use the \$150 maximum amount beginning September 1, 1995, when determining the payment amount for AFDC-related Emergency Assistance, except when need for assistance is due to an energy crisis. This maximum payment amount per eligible family member will also be included in Chapter 3, "Emergency Assistance," in the *Other Programs Eligibility Handbook* issued to county and tribal economic support agencies by the Department's Division of Economic Support.

This notice implements the directive included in s.49.19(11)(b)(intro.), Stats., as amended by 1995 Wis. Act 27, that the Department establish the maximum amount of aid to be granted under this program per family member, except for cases of energy crisis, based on the funding available under s.20.435(4)(dc) and (p), Stats., and publish that amount and any change made annually to it in the *Wisconsin Administrative Register*.

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