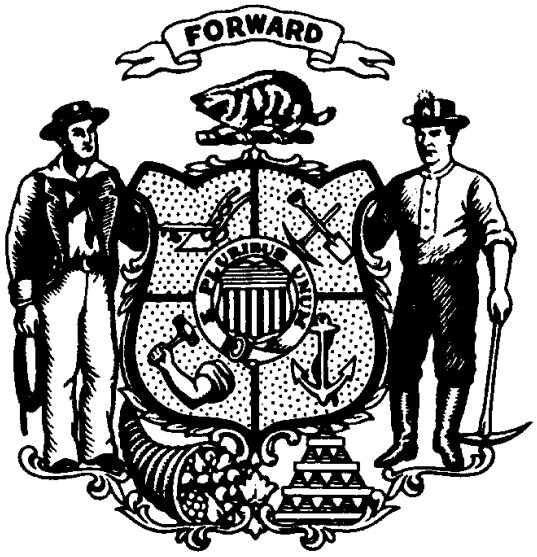
# WISCONSIN ADMINISTRATIVE REGISTER

## No. 477

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

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# NOTICE SECTION

## Notice of Hearings

### Agriculture, Trade & Consumer Protection
**(Reprinted from 08–31–95 Wis. Adm. Register)**

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** | **County Board Room** |
| **Monday** | **Courthouse** |
| **1:00 to 4:00 p.m.** | **West Decker St.** |
| **evening session** | **VIROQUA, WI** |
| **6:30 to 9:00 p.m.** | |
| **September 19, 1995** | **Point Room** |
| **Tuesday** | **Best Western Royale** |
| **1:00 to 4:00 p.m.** | **5110 Main St.** |
| **evening session** | **STEVENS POINT, WI** |
| **6:30 p.m. to 9:00 p.m.** | |
| **September 20, 1995** | **Room D** |
| **Wednesday** | **Chula Vista Resort** |
| **1:00 to 4:00 p.m.** | **4031 N. River Road** |
| **evening session** | **WISCONSIN DELLS, WI** |
| **6:30 to 9:00 p.m.** | |
| **September 21, 1995** | **Yodel Hall** |
| **Thursday** | **Government Services Bldg.** |
| **1:00 to 4:00 p.m.** | **Pleasant View Complex** |
| **evening session** | **N3150B Hwy. 81** |
| **6:30 to 9:00 p.m.** | **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.**

# Notice of Hearings
# Agriculture, Trade & Consumer Protection

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection will hold public hearings on a proposed Department rule relating to the regulation of work recruitment schemes (proposed ch. ATCP 116, Wis. Adm. Code).

## Written Comments and Copies of Rule

The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **November 3, 1995** for additional written comments.

A copy of the rule may be obtained, free of charge, from:

Division of Trade & Consumer Protection, (608) 224–4947
Wis. Dept. of Agriculture, Trade & Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708–8911

Copies will also be available at the public hearings.

## Hearing Information

Four hearings are scheduled:

| | |
|---|---|
| **October 16, 1995** | **Board Room SR–106** |
| **Monday** | **Prairie Oak State Office Bldg.** |
| **Commencing at** | **2811 Agriculture Dr.** |
| **9:30 a.m.** | **Madison, WI** |
| **October 17, 1995** | **2nd Floor Conference Room** |
| **Tuesday** | **The Forum Building** |
| **Commencing at** | **3333 N. Mayfair Road** |
| **9:30 a.m.** | **Milwaukee, WI** |
| **October 18, 1995** | **Room 152 A** |
| **Wednesday** | **Wis. District Office Bldg.** |
| **Commencing at** | **200 N. Jefferson Street** |
| **9:30 a.m.** | **Green Bay, WI** |
| **October 19, 1995** | **Room 105** |
| **Thursday** | **Eau Claire State Office Bldg.** |
| **Commencing at 1:00 p.m.** | **718 W. Clairemont Avenue** |
| | **Eau Claire, WI** |

An interpreter for the hearing–impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **October 6, 1995** either by writing to Judy Jung, P.O. Box 8911, Madison, WI 53708–8911 or by calling (608) 224–4972 or via the Division's TDD telephone (608) 224–5058. *Handicap access is available at the hearings.*

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

*Statutory authority:* s. 100.20 (2)

*Statute interpreted:* s. 100.20

Currently, under ch. ATCP 116, Wis. Adm. Code, the Department of Agriculture, Trade and Consumer Protection ("Department") regulates work recruitment schemes that are aimed at getting money from job applicants, not just recruiting them as workers. This rule strengthens and clarifies the Department's current rules, which have not been updated since 1962.

**CURRENT RULES**

The current rules apply when a business recruits workers to sell "products," but requires them to make a "purchase or investment" in order to get the job. The current rules prohibit a recruiter from doing any of the following:

- Requiring recruits to make a "purchase or investment" unless the recruitment ads disclose the purchase or investment requirement.
- Misrepresenting the nature of the work or the amount that a worker will earn.
- Selling sales kits, inventory or other "goods" to a recruited worker, unless all of the following apply:
  - The contract for the sale of goods is in writing, and a copy is furnished to the sales worker. The sale contract must state whether it is assignable.
  - The sale contract discloses the total price of the goods, including interest and other charges.
  - The sale contract describes the terms and conditions of the sales work for which the worker was recruited, including the nature of the work, the worker's rate of pay, the usual hours of work and any minimum work commitment.
  - The sale contract describes the "territory," if any,which is assigned to the sales worker, and states whether the territory is exclusive.

**PROPOSED RULE**

This rule strengthens and clarifies the Department's current rules. Like the current rules, this rule regulates recruitment schemes that are aimed at getting money from job applicants, not just recruiting them as workers. This rule does not affect other businesses that recruit and hire workers.

Coverage

This rule expands the coverage of the current rules. The current rules apply when a business requires a "purchase or investment" from prospective employes, agents or independent contractors whom the business recruits to sell "products."

This rule applies, more broadly, when a businesses requires or solicits a "purchase or investment" from either of the following:

- Prospective employes, regardless of the work for which they are recruited.
- Prospective sales workers, regardless of whether they are recruited as employes, agents or independent contractors. "Sales work" means any work that involves soliciting persons to purchase or lease goods, services or contract rights (not just "products") which the recruiter is in the business of selling or leasing.

"Purchase or Investment" Defined

The current rules do not define what is meant by a "purchase or investment." This rule clarifies that a "purchase or investment" means a direct or indirect payment to the recruiter. This definition is consistent with the Wisconsin Court of Appeals decision in Schinker v. Farmers Insurance Exchange et al., Case No. 89−0959, which held that an insurance agent required to establish his own office was not required to make a "purchase or investment" within the meaning of the current rules. (To establish his own office, the agent was not required to make any payment to the insurance company that recruited him.)

Required "Purchase or Investment;" Disclosure

This rule requires a recruiter to disclose, in every work advertisement or solicitation, the nature and amount of every "required purchase or investment." A "required purchase or investment" means any "purchase or investment" that a recruit must make in order to obtain a work offer, or to have a reasonable prospect of achieving the potential earnings claimed by the recruiter.

"Purchase or Investment" Documented

Under this rule, a recruiter must document every "purchase or investment" in writing, and must provide a copy of that document to the recruit before the recruit agrees to make the "purchase or investment." The document must include all of the following:

- The name of the recruit.
- The name and permanent address of the recruiter.
- The nature of the "purchase or investment," and the terms under which it is made.
- The amount of the "purchase or investment," including any interest or other charges that may apply.
- The consideration given by the recruiter in return for the "purchase or investment."
- If the "purchase or investment" involves any separate contract or note, a copy of that contract or note. Each contract and each note must state whether it is subject to assignment.
- The terms and conditions of any work offer to which the "purchase or investment" is related. The terms and conditions must include all of the following:
    - The nature of the work offered.
    - The source from which the recruit will receive his or her earnings, if other than the recruiter.
    - The form, such as wages, salaries, commissions, or direct profits from sales, in which the recruit will receive his or her earnings.
    - The agreed rate of pay if applicable, or the agreed method by which earnings will be determined.
    - Fringe benefits if any.
    - Applicable work terms and conditions, including work hours and location. If a recruit is offered sales work in a specific territory, the work offer must describe that territory and state whether it is exclusive.

Earnings Claims

Under this rule, if a recruiter makes any statement of potential earnings to recruits from whom the recruiter solicits any purchase or investment, the recruiter must disclose all of the following in connection with that statement:

- The source from which the worker would receive the earnings, if other than the recruiter.
- The form, such as wages, salaries, commissions, or direct profits from sales, in which the recruit would receive the earnings.
- The basis on which the earnings would be paid or received, such as per unit of time worked, per unit of work completed, or per volume of sales. The basis must be stated so that a recruit can readily understand, compare and evaluate the stated earnings.
- Requirements which the recruit must meet in order to qualify for the stated earnings, including any training or probationary service requirement.
- The nature and amount of every purchase or investment which the recruit must make in order to have a reasonable prospect of achieving the stated earnings.

Prohibited Practices

Under this rule, no recruiter who solicits a "purchase or investment" from any recruit may do any of the following:

- Make any false, deceptive or misleading representation to that recruit.
- Misrepresent the nature of the work which the recruiter offers or may offer to that recruit.
- Misrepresent the nature or amount of earnings which the recruit may make.
- Misrepresent that an offer to engage that recruit as an independent contractor is an offer to engage that recruit as an employee.
- Engage in a "bait and switch" scheme whose purpose is not to recruit workers to perform work.
- Misrepresent the recruiter's identity.

Employment Services

This rule prohibits any person from misrepresenting an advertisement or offer of employment service as an advertisement or offer of work. An "employment service" is a service designed to help individuals obtain work, other than work offered by the provider of the employment service. For example, "employment service" includes assistance with any of the following:

- Finding work announcements or obtaining work offers.
- Preparing resumes or portfolios.
- Obtaining or completing work application forms.

## *Fiscal Estimate*

The adoption of the proposed rule revisions will have no state or local fiscal effect.

## *Initial Regulatory Flexibility Analysis*

**Proposed ch. ATCP 116, Wis. Adm. Code**
**(Work Recruitment Schemes)**

This rule applies only to work recruitment schemes that are aimed at getting money from job applicants, not just recruiting them as workers. This rule does not affect other businesses that recruit and hire workers.

A small business is affected by this rule only if, as a condition to hiring a job applicant, it effectively requires that job applicant to make a "purchase or investment" involving a payment to the small business. Since most small businesses do not require such payments from prospective workers, they will not be affected.

Even if a legitimate business requires job applicants to make a "purchase or investment" in order to get a job, it should not be difficult or costly for that business to comply with this rule. Compliance will not require specialized professional skills or significant recordkeeping. In order to comply, the business must do the following:

- Disclose the nature and amount of the required "purchase or investment" in its advertisements for that job.
- Document the required "purchase or investment" in writing, and give a copy to the job applicant before the applicant agrees to make the "purchase or investment." The documentation must include certain disclosures about the job, such as type of work, source of earnings, and form and amount of earnings.
- If the business makes any earnings claim to prospective workers from whom the business solicits a "purchase or investment," the business must disclose the source of the earnings (if other than the business), the form of earnings (e.g., wages, commissions or profits on sales), and the basis on which the earnings will be paid. The business must also disclose any requirements, such as training or probationary service requirements, which a recruit must meet in order to qualify for the stated earnings. These disclosures are required so that job applicants will have a fair chance to

evaluate earnings claims before they make a required "purchase or investment."

● Refrain from making false, deceptive or misleading advertisements or representations to prospective workers from whom the business solicits a "purchase or investment."

Compliance with this rule should be difficult only for small businesses engaged in fraudulent work recruitment schemes. The purpose of this rule is to eliminate those schemes.

# Notice of Hearing

## *Development*

Notice is hereby given that pursuant to s. 560.02 (4), Stats., the Wisconsin Department of Development will hold a hearing to consider a proposed order to repeal ss. DOD 12.02 (5) and (7), 12.03 to 12.07, 12.09, 12.10 (1) and (2), 12.11, 12.12 (1) and (2) and 12.13 (1) and (2); to renumber s. DOD 12.10 (title), 12.12 (title), 12.14 (title), (2) (a) to (d) and (3); to renumber and amend ss. DOD 12.10 (3) to (6), 12.12 (3) to (5), 12.13 (3) and 12.14 (1), (4) (a) and (5); to amend s. DOD 12.08 (1) (b) 3, (2) and (3); to repeal and recreate s. DOD 12.06 (2) (d) and (e); and to create DOD s. 12.03 (5) interpreting Subchapter VII, Chapter 560, Stats., relating to the Wisconsin Development Zone program at the following place and time: **Department of Development, Room 918, 123 West Washington Avenue, Madison, Wisconsin on September 26, 1995 at 10:00 a.m.**

### *Analysis Prepared by the Department of Development*

The Wisconsin Development Zone program is a tax benefit initiative designed to encourage private investment and to improve both the quality and quantity of employment opportunities in designated distressed communities. The program has $21.55 million in tax benefits available to assist businesses that meet certain requirements, and that are located or willing to locate in one of Wisconsin's development zones.

The current rules contain provisions related to the selection, modification and duration of development zones, the allocation of tax benefits between zones, the certification of persons for tax benefits, the limit on tax benefits for certified persons, revocation of certification and filing tax benefits claims.

The proposed order makes the following changes to the rules governing the Development Zone program:

1. It eliminates the provisions related to the selection of development zones. The statute authorizes the Department to select 14 development zones and the Department has selected the 14 zones. Because the authorized zones have been selected, there no longer is a need for the rules relating to the selection process. Moreover, most of the rule provisions related to the selection of the zones simply copy verbatim the statutory provisions.

2. It eliminates those rules related to the modification of existing development zones as they are simply a duplication of the statutory provisions which contain sufficient detail to make any determinations related to the modification of existing zones.

3. It eliminates the rules related to the certification of persons for tax benefits as these rules are for the most part a duplication of the statutory provisions which contain sufficient detail to make the necessary determinations related to the certification of persons for tax benefits.

4. It eliminates the rules related to the initial allocation of tax benefits among development zones as those allocations have already been made. It substantially retains the provision related to allocation of reserve funds which under the current rules can be found under s. DOD 12.10 (1) (f) and under the proposed order can be found under s. DOD 12.03 (5). It also eliminates the provisions related to the percentage of tax benefits which must be used for the jobs credit as those rule provisions are simply a duplication of the statutory requirement.

5. It eliminates the rules related to the establishment of the maximum tax benefits a certified person may receive as the rules substantially copy the statutory provisions which contain sufficient detail to make the determination establishing the maximum tax benefits available to each certified person.

6. It eliminates the rules related to revocation of certification as they simply duplicate the statutory provisions.

7. It provides that, in addition to the information required to be included in tax benefits claims under the current rules, the person filing a claim shall also include a copy of the person's Wisconsin form DC and a project report describing the status of the person's project.

8. Under current rules in order to receive a jobs credit for an employee that employee must be certified by the appropriate local agency no later than 30 days after the date of employment. The proposed order extends the period to 90 days.

9. Finally, the proposed order renumbers several sections of the rule and makes a number of cross reference changes to conform to the renumbering as well as the repeal of certain rule sections.

### *Initial Regulatory Flexibility Analysis*

Notice is hereby given that pursuant to s. 227.114, Stats., the proposed rule will have no 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: None.

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, renumbers, renumbers and amends, amends, repeals and recreates, and creates rules relating to the Wisconsin development zone program.

**SECTION 1**. DOD 12.02 (5) and (7) are repealed.

**SECTION 2**. DOD 12.03 is repealed.

**SECTION 3**. DOD 12.03 (5) is created to read:

DOD 12.03 (5) In determining whether a development zone should be allocated additional tax benefits, the department shall consider the following:

(a) Whether the local governing body has complied with the terms and conditions of its development zone plan.

(b) Whether the tax benefits allocated to the development zone have been exhausted.

(c) Whether the additional tax benefits will be utilized prior to the expiration date of the development zone.

**SECTION 4.** DOD 12.04 and 12.05 are repealed.

**SECTION 5.** DOD 12.06 (1) and (2) (a) to (c) are repealed.

**SECTION 6**. DOD 12.06 (2) (d) and (e) are repealed and recreated to read:

DOD 12.06 (2) (d) A copy of the person's Wisconsin form DC, prepared and certified as to accuracy by a certified public accountant in accordance with generally accepted accounting principles, consistently applied.

(e) A project report describing the status of the person's project including, without limitation, the number of targeted employes hired, the total amount invested and other information relating to the tax credits claimed by the person.

**SECTION 7.** DOD 12.06 (2) (f) and (g) and (3), (4) and (5) are repealed.

**SECTION 8.** DOD 12.07 is repealed.

**SECTION 9.** DOD 12.08 (1) (a), (b) 3, (2) and (3) are amended to read:

DOD 12.08 (1) (a) The designation of an area as a development zone shall be effective for 84 months, beginning on the day the department notifies the applicant ~~under s. DOD 12.06 (4) (b)~~ of the designation.

(b) 3. Documentation that the area continues to meet 2 of the criteria ~~under s. DOD 12.05 (2) (c)~~ set forth in s. 560.71 (1) (e), Stats.

(2) Annually the department shall estimate the amount of foregone state revenue because of tax benefits claimed by persons in each development zone. Notwithstanding sub. (1), the designation of an area as a development zone shall expire 90 days after the day on which the department determines that the foregone tax revenues will equal or exceed the limit for the

development zone established under ~~s. DOD 12.10 (1)~~ s. 560.745 (1) (a). The department shall immediately notify the applicant of a change in the expiration date of the development zone under this subsection.

(3) The department may remove a zone designation under ~~s. DOD 12.10 (4)~~ s. DOD 12.03 (2).

**SECTION 10.** DOD 12.09 is repealed.

**SECTION 11.** DOD 12.10 (1) and (2) are repealed.

**SECTION 12.** DOD 12.10 (title) and (3) to (6) are renumbered 12.03 (title) and (1) to (4) and as renumbered 12.03 (1) (a), (c) and (d), (2) (a) and (b), (3) and (4) are amended to read:

DOD 12.03 (1) (a) No persons are certified ~~under s. DOD 12.11~~ within 12 months beginning from the date the zone was designated ~~under s. DOD 12.06 (4) (b)~~.

(c) The failure of the applicant to carry out the activities specified in the development zone plan ~~under s. DOD 12.06~~.

(d) A determination by the department that inaccurate information was provided in the development zone application ~~under s. DOD 12.05~~, or under the development zone plan ~~under s. 12.06~~, which would have affected the decision to designate the area as a development zone.

(2) (a) No persons are certified ~~under s. DOD 12.11~~ within 12 months beginning from the date the zone was designated ~~under s. DOD 12.06 (4) (b)~~, and the applicant is not carrying out the activities specified in the development zone plan ~~under s. DOD 12.06~~.

(b) No persons are certified ~~under s. DOD 12.11~~ within 24 months beginning from the date the zone was designated ~~under s. DOD 12.06 (4) (b)~~.

(3) Upon receiving notice from the department of a reduction in the allocation to the development zone under sub. ~~(3)~~ (1), or removal of development zone designation under sub. ~~(4)~~ (2), an applicant may appeal to the department secretary within 60 days.

(4) Tax benefits allocated to a development zone in 1989, 1991 or 1995 that are reduced under sub. ~~(3)~~ (1) or removed under sub. ~~(4)~~ (2) shall be placed into ~~the~~ reserve ~~under sub. (1) (a)~~ by the department and reallocated to other existing development zones in accordance with sub. (5).

**SECTION 13.** DOD 12.11 is repealed.

**SECTION 14**. DOD 12.12 (title) is renumbered 12.04 (title).

**SECTION 15**. DOD 12.12 (1) and (2) are repealed.

**SECTION 16.** DOD 12.12 (3) to (5) are renumbered 12.04 (1) to (3) and as renumbered DOD 12.04 (1), (2) (a) and (c) and (3) are amended to read:

DOD 12.04 (1) Persons operating business incubators that are certified under ~~s. DOD 12.11~~ s. 560.765, Stats., shall only be eligible to claim tax benefits for eligible expenses incurred by those persons. Persons operating businesses located in a business incubator that are certified under ~~s. DOD 12.11~~ s. 560.765, Stats., shall only be eligible to receive tax benefits for eligible expenses incurred by those persons.

(2) (a) The department may reduce the maximum amount of tax benefits a certified person may receive ~~under sub. (1)~~ if any of the following apply:

1. The person fails to hire the number of target group members as proposed by the person ~~under s. DOD 12.11 (1) (e)~~, and the person is unable to demonstrate that the proposed number of target group members will be hired while the development zone designation under s. DOD 12.08 (1) is in effect.

2. The person fails to make investments and other expenditures equal to or exceeding the amount proposed by the person ~~under s. DOD 12.11 (1) (d)~~, and the person is unable to demonstrate that the proposed investments and other expenditures will be made while the development zone designation under s. DOD 12.08 (1) is in effect.

3. The person did not comply with the plan for hiring members of the target population as proposed ~~under s. 12.11 (1) (e)~~.

4. The person is found to have submitted inaccurate, false, or misleading information ~~under s. DOD 12.11 (1)~~ which would have affected the decision to certify the person as eligible for tax benefits.

(c) Any reduction in tax benefits from a business under this subsection shall remain with the development zone of which the business was a part, subject to ~~s. DOD 12.10 (3)~~ s. DOD 12.03 (1).

(3) The department may, upon the request of a certified person and upon the recommendation of the local governing body, or the designee of the local governing body, increase the limit on tax benefits established for the certified person ~~under sub. (1)~~, if the department does all of the following:

(a) Complies with ~~sub. (1)~~ s. 560.768 (2), Stats., with respect to the proposed increase.

(b) Revises the certification ~~under s. DOD 12.11~~ and provides a copy of the revised form to the department of revenue and to the person whose limit is increased under this section.

**SECTION 17**. DOD 12.13 (1) and (2) are repealed.

**SECTION 18.** DOD 12.13 (3) is renumbered 12.05 and as renumbered is amended to read:

DOD 12.05 (title) REMAINING TAX BENEFITS. The ~~remaining~~ tax benefits allocated to a business that loses its certification for tax benefits ~~under this section~~ shall remain with the development zone of which the business was a part~~, subject to s. DOD 12.10 (3)~~.

**SECTION 19.** DOD 12.14 (title) and (1) are renumbered 12.06 (title) and (1) and as renumbered 12.06 (1) (intro.) and (a) are amended to read:

DOD 12.06 (1) (intro.) A person certified ~~under s. 12.11~~ may file, using forms prescribed by the department of revenue, for tax benefits. Development Zone tax benefit claims shall include all of the following:

(a) A copy of the certification ~~under s. DOD 12.11~~.

**SECTION 20**. DOD 12.14 (2) (a) to (d) are renumbered 12.06 (2) (a) to (c) and (f).

**SECTION 21.** DOD 12.14 (3) to (5) are renumbered 12.06 (3) to (5) and as renumbered 12.06 (4) (a) and (5) are amended to read:

DOD 12.06 (4) (a) The department shall inform a person certified ~~under s. DOD 12.11~~ of the designated local agency under ss. 71.07 (2dj) (am) 2, 71.28 (1dj) (am) 2 and 71.47 (1dj) (am) 2, Stats., responsible for certifying the eligibility of workers for the development zone jobs credit. A person may not receive a development zone jobs credit unless the employe for whom the development zone jobs credit is claimed is certified by the appropriate local agency prior to the date of employment or not more than ~~30~~ 90 calendar days after the date of employment.

(5) A person may only claim tax benefits for eligible expenses incurred after the person is certified ~~under s. DOD 12.11~~ except as provided in ss. 71.07 (2dl) (ag), 71.28 (1dl) (ag) and 71.47 (1dl) (ag), Stats.

# *Notice of Hearing*
## *Development*

Notice is hereby given that pursuant to s. 560.85 (1), Stats., the Wisconsin Department of Development will hold a hearing to consider the amendment of ss. DOD 14.01, 14.03 (2), (3) and (4) (intro.) and (b), 14.04 (3) (intro.), 14.06, 14.07 and 14.08 and the repeal of ss. DOD 14.02 (4m), (14g) and (16), 14.04 (3) (g) and 14.055, Wis. Adm. Code, interpreting subchapter VII, ch. 560, Stats., relating to the Minority Business Finance program.

### *Hearing Information*

The hearing will be held at the following place and time:

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

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

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

1993 Wis. Act 75 prohibits the Department from awarding a grant or loan under the Minority Business Finance Recycling Program after July 1, 1995. The rules contained in ch. DOD 14 include the procedures and standards for the selection of recipients of Minority Recycling funds. The proposed order repeals those provisions of ch. DOD 14, relating to the Minority Business Finance Recycling Program.

The proposed order also amends s. DOD 14.09 to require a majority of the members present rather than a majority of the membership of the Board for approval of a development project grant or loan.

### *Initial Regulatory Flexibility Analysis*

Notice is hereby given that pursuant to s. 227.114, Stats., the proposed rule will have no 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:* None.

*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. 560.85 (1), Stats., the Department of Development hereby repeals and amends rules relating to the Minority Business Development Finance Program.

**SECTION 1.** DOD 14.01 is amended to read:

**DOD 14.01 Purpose.** The purpose of this chapter is to establish a procedure for the administration of minority business early planning and development projects ~~and recycling grants and loans~~ by the department as provided by subch. VII, ch. 560, Stats.

**SECTION 2.** DOD 14.02 (4m), (14g) and (16) are repealed.

**SECTION 3.** DOD 14.03 (2), (3) and (4) (intro.) and (b) are amended to read:

DOD 14.03 (2) The board shall award development project grants and loans ~~and recycling development grants and loans~~ in accordance with the provisions of this chapter.

(3) The department shall enter into a contract with each eligible recipient of an early planning grant awarded by the department, with each eligible recipient and local development corporation awarded a development project grant or loan ~~and with each eligible recipient awarded a recycling development grant or loan~~ by the board.

(4) The board shall determine the relevant terms of development grant and loan contracts ~~and recycling development grant and loan contracts~~ entered into under sub. (3) in accordance with pars. (a) and (b).

(b) Grant and loan terms for grants and loans made under s. DOD 14.05 shall be designed to maintain a development project fund. ~~Grant and loan terms for recycling development project grants and loans made under s. DOD 14.055 shall be designed to maintain a recycling development project fund.~~

**SECTION 4.** DOD 14.04 (3) (intro.) is amended to read:

DOD 14.04 (3) The department shall consider pars. (a) to (f) before awarding an early planning grant from the appropriation under s. 20.143 (fm), Stats.~~, and pars. (a), (b) and (g) before awarding an early planning grant awarded under s. 560.835 (6), Stats~~.

**SECTION 5.** DOD 14.04 (3) (g) is repealed.

**SECTION 6.** DOD 14.055 is repealed.

**SECTION 7.** DOD 14.06, 14.07, 14.08 and 14.09 are amended to read:

**DOD 14.06 Contracts.** ~~Successful applicants~~ Each successful applicant shall be required to enter into a contract with the department for the purposes of implementing the proposed grant or loan. The contract shall be signed by the secretary of ~~development~~ the department and by the chief executive officer of the successful applicant, or by their authorized representatives. The department may void a contract and seek a return of any funds released under the contract for failure by the business to perform its obligations under the contract. Amendments to these contracts may be adopted by the written consent of both parties. Any relocation from Wisconsin to any other state of the jobs created or retained through the project shall void the contract, and all funds paid to date shall be refunded to the department for use in support of other applications submitted under this chapter. These restrictions apply only to jobs described in the project application provided in ss. DOD 14.04~~,~~ or 14.05 ~~and 14.055~~, and apply only for a term subject to negotiation between the successful applicant and the department.

**DOD 14.07 Reporting and auditing.** Each successful applicant shall be required to provide the department periodic financial and program reports. A financial audit shall be submitted at the end of each ~~recycling development and~~ development project contract for projects of $25,000 or more. The cost of the audit may be covered by the project grant or loan. The financial reports, audit and program reports shall be submitted to the department by a date specified in the contract. The financial audit and the program reports become the property of the department and are open to public inspection.

**DOD 14.08 Administration.** The department shall be responsible for soliciting applications, reviewing applications, awarding early planning project grants, making recommendations to the board on the disposition of ~~recycling development and~~ development project ~~grants~~ grant and loan applications, authorizing payments and otherwise implementing contractual obligations entailed in grants or loans made under the terms of this chapter, monitoring project activities, receiving and reviewing the financial reports and program reports submitted under s. DOD 14.07, and for collecting any repayments of grants and loans from successful applicants.

**DOD 14.09 Board operations.** The board shall consider the recommendations of the department relating to ~~recycling development and~~ development project grants and loans. ~~A majority of the members of the~~ The board shall approve an application before the department may enter into a contract for a ~~recycling development or~~ development project grant or loan. The department shall maintain records of the board proceedings and provide other staff support as may be necessary to the board.

# Notice of Hearings

## Health & Social Services (Comunity Services, Chs. HSS 30−−)

Notice is hereby given that pursuant to s.48.67, Stats., the Department of Health and Social Services will hold public hearings to consider the repeal and recreation of ch. HSS 52, Wis. Adm. Code, relating to residential care centers for children, youth and young adults, formerly called child care institutions.

## Hearing Information

| | |
|---|---|
| **September 26, 1995** | **Room 105** |
| **Tuesday** | **State Office Building** |
| **From 1 p.m. to 4 p.m.** | **718 West Clairemont** |
| | **EAU CLAIRE, WI** |
| **October 2, 1995** | **Room 451** |
| **Monday** | **North Central Technical College** |
| **From 1 p.m. to 4 p.m.** | **1000 Campus Drive** |
| | **WAUSAU, WI** |
| **October 5, 1995** | **Room BO214** |
| **Thursday** | **Business Occupational Building** |
| **From 1 p.m. to 4 p.m.** | **Waukesha County Tech. College** |
| | **800 Main Street** |
| | **PEWAUKEE, WI** |

The public hearing sites are fully accessible to people with disabilities.

## Analysis Prepared by the Department of Health and Social Services

In Wisconsin 36 privately−owned residential care centers provide treatment to children and youth, and to some young adults ages 18 to 20 who are under juvenile court jurisdiction. A child, adolescent or young adult served by a center will have one or more of the following problems: an emotional disturbance, difficulty in acquiring life skills, an alcohol abuse or drug use or abuse problem or a developmental disability. Placements into residential care centers take place from youth correctional institutions and field supervision, mental health agencies and institutions, county human service and social service agencies and the interstate compact for placement of children under ss. 48.988 and 48.989, Stats., or are made by courts as protective placements under ch. 55, Stats., or by parents. The Department is responsible under ss. 48.60, 48.66 and 48.67, Stats., for licensing and supervising residential care centers on the basis of minimum requirements for issuance of a license and minimum standards for operation of a center. These requirements and standards are set out in ch. HSS 52, Wis. Adm. Code.

Chapter HSS 52 consists of standards for the administration and operation of residential care centers for children and youth, formerly called child care institutions, licensed under ss. 48.60, 48.66 and 48.67, Stats., as "child welfare agencies." The Department made some minor revisions in the rules

while renumbering them from s. PW−CY 40.50 to ch. HSS 52 in 1983. However, no substantial revisions have been made in them since 1971.

This order updates ch. HSS 52 to bring it into compliance with current drafting standards, statutes and other rules and to add new provisions to protect the health, safety and welfare of residents. The major new provisions added to ch. HSS 52 are:

1. Requirements for resident pre−admission screening and a formal assessment and preparation of a treatment plan following admission.

2. A section on resident rights and grievance procedures. This section lists rights specific to children and youth in residential care centers. It also references the rights of certain children and youth under s. 51.61, Stats.

3. Requirements for background verification and a criminal records check on each new staff person.

4. Policy and procedural requirements for the administration of medications, including psychotropic medications.

5. Stipulation that for residential care centers the Wisconsin Department of Public Instruction will establish and monitor compliance with educational standards.

6. Requirements relating to behavior management and control and the use of crisis intervention, physical hold restraint and physically enforced separation.

7. Prohibition of locked living units at a center except with approval of the Department and for purposes and under conditions specified in the rules.

8. Professional staff credentials more related to the population served by a center.

9. Certain physical plant requirements, including Department−approved installation of psychiatric screening and magnetic or time−delayed door locks.

10. Requirements for transporting residents.

## Contact Person

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

Donald Dorn
Bureau for Children, Youth and Families
P.O. Box 7851
Madison, WI 53707−7851
(608) 266−0415 or,
if you are hearing impaired,
(608) 267−9880 (TDD)

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

## Written Comments

Written comments on the proposed rules received at the above address no later than **October 12, 1995** will receive the same consideration as testimony presented at the hearing.

## Fiscal Estimate

The revision of ch. HSS 52 establishes several new requirements which may increase the operating costs of residential child caring institutions (CCIs). The new requirements deal with bonding, staff−child ratios, inter−connected smoke detection requirements and additional staff time needed to comply with rules relating to child protection and patient rights (permission for psychotropic medication, grievance procedures, treatment assessment and planning). It is believed that most CCIs are already in compliance with the majority of the new requirements, so the impact of the revised rules will depend on whether individual institutions have kept pace with current preferred standards and practices. Based on a review of eight CCIs, the revised rules will generally have a minimal impact on operating costs. Some institutions will be impacted more than others, depending on their current staffing structure, service resources and plant facilities.

Given that the impact on CCI operating costs will generally be minimal, the revised rules should have a minimal impact on expenditures by the state and by local governments for CCI services. Even if the revised rules result in CCI rate increases in some areas, the effect of such rate increases will depend on CCI placement trends in those areas.

## Initial Regulatory Flexibility Analysis

These revised rules apply to 36 privately owned residential child care institutions in Wisconsin, a few of which are small businesses as defined in s. 227.114(1)(a), Stats. These facilities provide treatment for children and youth who have an emotional disturbance, difficulty in acquiring life skills, a developmental disability or have been abusing alcohol or involved with drugs.

The rules have not been generally updated since 1971. They are revised by this order to bring them into compliance with current drafting standards, statutes and other rules and to add new provisions to protect and promote the health, safety and welfare of residents. Many of the new requirements are good management practices. They include:

– Adding requirements for notification as soon as possible of parents and the Department when a resident is injured and either dies or is hospitalized, for notification of the Department as soon as possible in the event of a fire, for reporting to the Department within 24 hours on any death of a resident related to the use of restraints or psychotropic medications or that was a suicide, and for reporting to the Department within 48 hours on events leading up to a serious injury of a resident or a fire;

– Adding requirements for liability insurance coverage, staff training (orientation, initial within 6 months, continuing 24 hours annually, and a traineeship for new resident care workers), and preadmission screening;

– Adding a requirement for initial assessment of a resident within 30 days following admission, and development of a treatment plan for the new resident;

– Adding a requirement for a center program statement describing available treatment and services, and for a written daily program of activities;

– Adding conditions for use of behavior management and control techniques;

– Adding requirements on transportation of residents;

– Greatly expanding requirements relating to medications, including special requirements relating to psychotropic medications;

– Adding a requirement for an interconnected smoke detector system; and

– Adding a requirement for criminal records checks on prospective new employes.

No new professional skills are necessary for compliance with the rules.

# Notice of Hearing

## *Health & Social Services (Community Services, Chs. HSS 30−−)*

Notice is hereby given that pursuant to s.51.437(4rm)(c)3., Stats., the Department of Health and Social Services will hold a public hearing to consider the creation of ch. HSS 86, Wis. Adm. Code, relating to appeal by a county of an independent professional review determination that a resident of a state center for the developmentally disabled from that county is appropriate for community care.

## Hearing Information

**October 3, 1995**
**Tuesday**
**From 1 p.m. to 3 p.m.**

**Room 1113A−B**
**Public Agency Center (PAC)**
**333 E. Washington Street**
**WEST BEND, WI**

Parking is available at the rear of the building. Enter the building from Indiana Avenue.

The hearing site is fully accessible to people with disabilities.

## Analysis Prepared by the Department of Health and Social Services

The Department is directed by s.51.437(4rm)(c)3., Stats., to establish by rule a process by which a county agency may appeal a determination which

results in billing the county agency for 10% of the rate paid by medical assistance for an individual residing at a state center for the developmentally disabled who is designated as appropriate for community care by an independent professional review. These rules establish the required appeal process.

The rules provide that for a county agency to appeal an independent professional review determination that would result in billing the county for part of the cost of care for a center resident, the county must file its appeal with the Secretary of the Department within 60 days after the date of the notice of the independent professional review determination. The Secretary then has 45 days following receipt of the written appeal to review the independent professional review determination, come to a decision agreeing or disagreeing with it and communicate that decision to the county agency. If the Secretary agrees with the independent professional review determination, the Department will bill the county agency at 10% of the Medical Assistance rate for care provided to the center resident who was found appropriate for community care, effective 180 days after the date of the notice sent to the county agency that the resident is appropriate for community care. If the Secretary agrees with the county, the Department will not bill the county agency for care provided to the center resident.

## Contact Person

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

Dennis Harkins, Director
Bureau of Developmental Disabilities Services
P.O. Box 7851
Madison, WI 53707–7851
(608) 266–9329 or,
if you are hearing impaired,
(608) 267–9880 (TDD)

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

## Written Comments

Written comments on the proposed rules received at the above address no later than **October 10, 1995** will receive the same consideration as testimony presented at the hearing.

## Fiscal Estimate

This rulemaking order establishes a process by which a county may appeal the determination of an independent professional review (IPR) team that a resident of a state center for the developmentally disabled from that county is appropriate for community care.

The rules will not affect the expenditures or revenues of state government or local governments. Section 51.37(4rm)(c)2, Stats., provides for billing a county to assume part of the cost of care for a center resident following the IPR determination that the resident is appropriate for community care and if the county does not relocate the individual to the community. All costs to counties were taken into consideration by the Legislature when s.51.437(4rm)(c)2, Stats., was created. Section 51.437(4rm)(c)3, Stats., requires an appeals process so that a county can challenge an IPR determination. The rules establish an appeals process. All costs to the Department in operating the appeals process were taken into consideration by the Legislature when it enacted s.51.437(4rm)(c)3, Stats.

## Initial Regulatory Flexibility Analysis

These rules apply to the Department and to county departments of developmental disabilities services under s.51.437, Stats. The rules will not directly affect small businesses as "small business" is defined in s.227.114(1)(a), Stats.

# Notice of Hearing
# Insurance, Commissioner of

The Commissioner of Insurance, pursuant to the authority granted under s. 601.41 (3), Stats., and according to the procedures under s. 227.18, Stats., will hold a public hearing at the time and place indicated below or as soon thereafter as the matter may be reached, to repeal s. Ins 3.25 (19) (a) and (b), (21), and APPENDIX B; to amend s. Ins 3.25 (13) (c) (intro.) and 1., (13) (d), (14) (e) 1. and 2. b., (15) (b) 2. b., and (19); to repeal and recreate s. Ins 3.25 (20) (f); and to create s. Ins 3.25 (14) (e) 3., relating to credit life and credit accident and sickness insurance rates and limitations.

## Hearing Information

**September 27, 1995** **Room 23**
**Wednesday** **121 East Wilson Street**
**10:00 a.m.** **Madison, WI**

## Analysis Prepared by the Commissioner of Insurance

*Statutory authority:* ss. 424.602, 601.41 (3), and 601.415 (9)

*Statutes interpreted:* ss. 424.209, 601.01, 601.42, 623.06, 625.03 (7), 625.11, 625.12, and 625.34

**Summary of the Proposed Rule**

This proposed rule makes several modifications to the credit life and credit accident and sickness rule. One reason for these changes is to reflect the changes made to s. 424.209 (1), Stats., by 1993 Wis. Act 325. This Act allows the Commissioner to designate a lower loss ratio than the 50% specified in the statute, making allowance for expenses, that fulfills the presumption that benefits are reasonable in relation to the premiums to be charged.

OCI's actuary has reviewed an analysis of expense components related to credit life insurance. Based on this review, a new credit life basic loss ratio of 42% producing a prima facie single premium uniformly decreasing single life credit life rate of $.39 per $100 of initial indebtedness per year would be specified. The current system of recalculating the rate every three years would continue. The standard conversion factors in the rule are used to develop level life and monthly outstanding balance rates. Net decreasing life rates would continue to be developed by the filed conversion formulas.

The expense factors, some expressed in cents and others as a percentage of premium, were used in the development of the new loss ratio for single premium decreasing gross life coverage. The "cents" components are claim costs, general insurer expenses and compensation. The "percentage of premium" components are premium and miscellaneous taxes, investment income and return on equity.

The formula considered is:

**Prima Facie Rate =**

(claim costs)+(general insurer expenses)+(compensation)

1+(investment income)–(taxes)–(return on equity)

The assumptions used are:

**Claims cost =** 16.3>/ $100/year (3 years WI data)

**General insurer expenses =** 8.0>/ $100/year (1993 industry study)

**Compensation =** 11.6>/ $100/year (current WI marketplace level)

**Value of investment income (single premium only) =** 5% of premium

**Premium, miscellaneous taxes, and guaranty fund assessments =** 3% of premium

**Return on required equity =** 5% of premium

**Return on equity to support surplus strain =** 5% of premium (single premium only)

The resulting rate is:

**Prima Facie Rate =**

16.3¢ + 8.0¢ + 11.6¢

1 + .05 – .03 – .05 – .05

**RESULT** = 39.0¢/ $100/year

As insurers have tightened underwriting requirements, the credit life insurance prima facie rates have decreased. In order to make coverage available to more Wisconsin debtors, sub. (14) has been expanded to require that credit life insurance for initial amounts of coverage of $20,000, or less, be provided on a guaranteed issue basis, subject only to any maximum age limitations.

The changes in the maximum age provisions are being made to clarify that maximum age limits higher than age 65 or 66 are permitted. In the past, OCI has allowed this under the "no more restrictive" language contained in sub. (12). However, a few insurers have told Wisconsin accounts and consumers that they would like to use higher maximums such as age 70, but they viewed the current rule language as not permitting it.

APPENDIX B is meant to be the current version of the annual statement Credit Insurance Experience Exhibit and has changed. The current annual statement form has been expanded to collect additional information in addition to the data collected on APPENDIX B. The rule is being changed to repeal Appendix B and instead incorporate the annual statement Credit Insurance Exhibit to avoid the necessity of future rule changes whenever this form is revised.

### Fiscal Estimate

There is no fiscal effect on state and local governments.

### Initial Regulatory Flexibility Analysis

This rule will not have an effect on small businesses.

### Contact Person

A copy of the text of the proposed rule and fiscal estimate may be obtained from:

Meg Gunderson, (608) 266−0110
Services Section, Office of the Commissioner of Insurance
121 East Wilson Street
P. O. Box 7873
Madison, WI 53707−7873

## Notice of Hearing
## *State Public Defender*

Notice of hereby given that pursuant to s. 977.02 (2m) and (3), Stats., and interpreting s. 977.06 (1) (b), Stats., the State Public Defender will hold a public hearing at **1 W. Wilson Street, 8th Floor, Room 851R, in the city of Madison, Wisconsin, on the 26th day of September, 1995, from 2:00 p.m. to 4:00 p.m.** to consider the creation of rules relating to the redetermination of indigency during the course of representation and the withdrawal of representation if a person is determined non−indigent during the course of representation. Reasonable accommodations will be made at the hearing for persons with disabilities.

### Analysis

The proposed rule implements s. 977.06 (1) (b), Stats., created by 1995 Wis. Act 27, which requires the state public defender to redetermine indigency during the course of representation of persons receiving representation. Specifically, the proposed rule: 1) provides for redetermination of indigency if a person has a change in income or liquid assets during the course of representation; 2) specific the financial guidelines that shall be followed in redetermining indigency during the course of representation; and, 3) provides that agency staff attorneys and appointed private bar attorneys shall withdraw from representation if a person is determined non−indigent and ineligible for services during the course of representation.

Statutory authority: s. 977.02 (2m) and (3), Stats.

Statute interpreted: s. 977.06 (1) (b), Stats.

### Initial Regulatory Flexibility Analysis

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

### Fiscal Estimate

This rule creates a procedure whereby the SPD will redetermine indigency during the course of representation and provides that attorneys shall withdraw from representation if a person is determined non−indigent and ineligible for services during the course of representation. While some savings may be generated if persons are redetermined non−indigent and ineligible for services and withdrawal of representation occurs, it is unknown how many persons will be redetermined to be non−indigent and ineligible for services. Furthermore, the cost of implementing the redetermination procedures and the cost of seeking to withdraw as counsel when persons become ineligible for services may offset the amount of savings. Therefore, the fiscal effect cannot be determined at this time.

### Contact Person

Sally Mayne Pederson
Legal Counsel
315 N. Henry Street
Second Floor
Madison, WI 53707−7923
(608) 264−8560

### Written Comments

Written comments regarding this rule may be submitted in addition to or instead of verbal testimony at the public hearing. Such comments should be addressed to the contact person at the address stated above, and must be received by **September 26, 1995**.

## Notice of Hearing
## *State Public Defender*

Notice is hereby given that pursuant to s. 977.02 (4m), Stats., and interpreting ss. 977.06 (1) (d) and 977.075, Stats., the State Public Defender will hold a public hearing at **1 W. Wilson Street, 8th Floor, Room 851R,in the city of Madison, Wisconsin, on the 26th day of September, 1995, from 10:30 a.m. to 12:30 p.m.** to consider the creation of rules relating to the collection of payment for legal representation. Reasonable accommodations will be made at the hearing for persons with disabilities.

### Analysis by Agency

The proposed rules comply with ss. 977.06 (1) (d) and 977.075, Stats., created by 1995 Wis. Act 27, which require the state public defender to collect for the cost of representation from persons who are partially indigent or who have otherwise been determined to be able to reimburse the agency for the costs of representation and to establish fixed amounts for the costs of representation that a person who is responsible for payment may elect to pay (except a parent subject to s. 48.275 (2) (b), Stats.

The proposed rules also implement recommendations made by the Legislative Audit Bureau (LAB) in its recent audit of the agency. Specifically, the rules implement LAB's recommendations, found on pages 29 – 31 of the report, that the agency undertake more aggressive collection efforts to increase revenue from adult clients and that the agency improve collection efforts from parents of juveniles to increase revenue from juvenile representation.

The proposed rules establish: 1) a fee schedule indicating the cost of representation for person responsible for payment; 2) a prepayment fee schedule that shows that amount a person may elect to prepay for the cost of representation; 3) how reimbursement fees will be determined in cases involving multiple related charges; and 4) the procedures for collecting reimbursement of the cost of legal representation from the parents of juveniles.

Statutory authority: s. 977.02 (4m)

Statutes interpreted: ss. 977.06 (1) (d) and 977.075

### Initial Regulatory Flexibility Analysis

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

### Fiscal Estimate

This rule creates a new procedure whereby the SPD may collect a prepayment amount from persons who elect to prepay for the cost of

representation. It is estimated that savings will result from implementation of the rule. However, it is unknown how many persons will elect to pay the prepayment amount, and it is unknown if the amended procedures for collecting from the parents of juveniles will result in greater savings. Therefore, while savings will occur, the amount of savings can not be accurately estimated at this time.

### Contact Person

Sally Mayne Pederson
Legal Counsel
325 N. Henry Street
Second Floor
Madison, WI 53707–7923
(608) 264–8560

### Written Comments

Written comments regarding this rule may be submitted in addition to or instead of verbal testimony at the public hearing. Such comments should be addressed to the contact person at the address stated above, and must be received by **September 26, 1995**.

## Notice of Hearing
## Regulation & Licensing

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 458.03 and 458.05, Stats., and interpreting ss. 458.06, 458.08, 458.085, 458.09, 458.095, 458.11, 458.13 and 458.24, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order of the Department of Regulation and Licensing to repeal ss. RL 80.03 (16), 81.02 and 82.02 (1); to renumber ss. RL 80.03 (1), 82.02 (1) and (3) and 83.02 (7); to amend ss. RL 80.02, 80.03 (3), (8), (9) and (17), 81.01 (intro.), (1), (2), (3), (4), (5), (6) and (7), 81.03 (2) (intro.) and (2) (d), 82.01, 82.04 (1) (intro.) and (3), 83.01 (3) (a) and (b), (4) (b), 83.02 (2) and (3), 84.01 (6) (intro.), 84.02 (1) and (3) (intro.), 84.03 (2) (a) and (3) (intro.), 85.01 (4), 85.02 (2) and (8) (intro.) and 86.01 (8) and (9) (a), and the Uniform Standards of Professional Appraisal Practice; and to create ss. RL 80.03 (1), (2a), (8a), (8b), (8c) and (8d) and 83.02 (6), relating to real estate appraisers.

### Hearing Information

**September 27, 1995** **Room 291**
**Wednesday** **1400 East Washington Ave.**
**10:00 a.m.** **MADISON, WI**

### Written Comments

Interested people are invited to present information at the hearing. People appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to:

Office of Administrative Rules
Dept. of Regulation & Licensing
P.O. Box 8935
Madison, WI 53708

Written comments must be received by **October 13, 1995** to be included in the record of rule–making proceedings.

### Analysis Prepared by the Dept. of Regulation & Licensing

*Statutory authority:* ss. 227.11 (2), 458.03 and 458.085

*Statutes interpreted:* ss. 458.06, 458.08, 458.085, 458.09, 458.095, 458.11, 458.13 and 458.24

In this proposed rule–making order, the Department of Regulation and Licensing amends, repeals and recreates numerous provisions contained in chs. RL 80 to 87, and Appendix I, relating to the regulation of certified and licensed appraisers. Significant changes to the current rules are as follows:

1. Section RL 80.03 is revised to create definitions for the following terms: "ad valorem tax appraisal," "appraisal course instruction," "feasibility analysis," "fee and staff appraisal," "highest and best use" and "highest and best use analysis." These terms are used, but are not defined, in ch. RL 83, to refer to the various types of acceptable appraisal experience.

2. Section RL 82.04 (3), relating to claim of examination error, is amended to clarify that an applicant may retake an examination if the Department's decision relating to a claim of examination error does not result in a passing grade. If the Department's decision results in the denial of the credential application, the applicant may request a hearing under ch. RL 1.

3. Section RL 83.02 (6) is created for purposes of identifying the type of documentation which an applicant seeking a credential must submit in order to receive credit under s. 458.09, Stats., for assessor experience.

4. Sections RL 80.03 (16) and 81.02, and the Note following s. RL 87.01 (3), relating to "transitional licenses" are being repealed. These changes are being made in anticipation of the phase–out of transitional licenses on January 1, 1996. Under s. 458.08 (5), Stats., transitional licenses are valid for 2 years or until January 1, 1996, whichever occurs first.

5. Appendix I is being amended to reflect modifications to the Uniform Standards of Professional Appraisal Practice ("USPAP") by the Appraisal Standards Board of the Appraisal Foundation. These include changes to the Record Keeping section of the Ethics Provision and to Standard 3. In addition, the USPAP *Statements on Appraisal Standards (No. 1–8)*, are being adopted by the Department. These *Statements* are authorized by the bylaws of the Appraisal Foundation and are "specifically for the purpose of clarification, interpretation, explanation or elaboration of USPAP." *Statements* have the full weight of a Standards Rule and can only be adopted by the Appraisal Standards Board after exposure and comment. The Department is required under s. 458.24, Stats., to periodically review USPAP and, if appropriate, revise the administrative rules to reflect revisions to the Standards.

### Fiscal Estimate

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

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

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

### Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the Department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

### Copies of Rule and Contact Person

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

Pamela Haack, (608) 266–0495
Office of Administrative Rules
Dept. of Regulation & Licensing
1400 East Washington Avenue, Room 171
P.O. Box 8935
Madison, WI 53708

# Notice of Hearing

## *Savings & Loan, Commissioner of (Savings Banks)*

Notice is hereby given that pursuant to s. 214.715 (1) (d), Stats., the Office of the Commissioner of Savings and Loan will hold a public hearing at the time and place indicated below, to consider the repeal and recreation of s. SB 8.03, relating to liquidity levels required for savings banks.

### *Hearing Information*

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

**Suite 202**
**Office of the Commissioner**
**4785 Hayes Road**
**Madison, WI**

### *Analysis Prepared by the Office of the Commissioner of Savings and Loan*

*Statutory authority:* s. 214.715 (1) (d)

*Statute interpreted:* s. 214.715 (1) (a)

This rule provides a mechanism allowing the Commissioner of Savings and Loan to establish minimum levels of liquid assets which a savings bank should have on hand to meet cash requirements. The proposed rule gives the Commissioner more latitude than the more rigid provisions in the present rule.

The rule establishes a flexible standard and defines terms used to compute the required liquidity level. A description of how to calculate the "liquidity ratio" is prescribed in sub. (2). Terms which are used in establishing this ratio are described and include "liquid assets" and "primary liquid asset".

### *Fiscal Estimate*

This rule will have no fiscal impact on the Office of the Commissioner of Savings and Loan.

### *Initial Regulatory Flexibility Analysis*

This rule will provide all savings banks −− including those fitting the definition of "small business" under s. 227.114 (1) (a), Stats. −− with the requirement of maintaining sufficient liquidity to meet demands. Exempting small businesses from this rule would be contrary to the statutory objectives which are the basis for the rule; i.e., providing all savings banks with an appropriate liquidity level to serve the public.

### *Text of Rule*

Pursuant to the authority invested in the Commissioner of Savings and Loan by s. 214.715 (1) (d), Stats., the Commissioner hereby repeals and recreates s. SB 8.03, relating to liquidity levels required for savings banks.

**LIQUIDITY RULE FOR SAVINGS BANKS**

**SECTION 1.** SB 3.08 is repealed and recreated to read:

**SB 3.08 Liquidity requirement**. (1) The commissioner shall establish, by periodic written notice to all savings banks, the minimum liquidity ratio that savings banks shall maintain. The ratio shall be between 4% and 15%. At least 50% of the liquid assets shall consist of primary liquid assets. The commissioner may require a savings bank to maintain a higher ratio if the commissioner determines that the nature of the savings bank's operations requires a higher liquidity ratio.

(2) The liquidity ratio of a savings bank for a month shall be calculated as follows:

(a) Add the savings bank's daily net withdrawable deposit accounts and its outstanding borrowings due in one year or less for the previous month.

(b) Divide the amount in par. (a) by the total number of days in the previous month.

(c) Divide the savings bank's average daily total of liquid assets for the month for which the liquidity ratio is being calculated by the amount in par. (b).

(3) A liquid asset shall be either cash or an obligation authorized for investment by a savings bank. Liquid assets do not include loans, loan receivables and equity investments.

(4) In this section,"primary liquid assets" include the following unencumbered obligations:

(a) U.S. government and U.S. government agency obligations.

(b) Obligations issued by this state or a political subdivision, including a school district, in this state.

(c) Deposits in FDIC−insured financial institutions that equal or exceed the minimum capital requirements for savings banks.

(d) Cash, cash equivalent receivables, and settlements due from the U.S. or an agency of the U.S.

(e) Accrued interest receivable on any item in par. (a), (b) or (c).

(5) Other liquid assets which are not "primary liquid assets" include the following unencumbered obligations:

(a) Mortgage backed securities which are readily salable in the securities market.

(b) Mortgage derivative securities with a projected maturity of less than 4 years which are readily salable in the securities market.

(c) Securities issued by other states and political subdivisions in other states.

(d) Other securities authorized by the commissioner as investments and for which a secondary resale market exists, including authorized mutual fund investments.

(e) Accrued interest receivable on any item in par. (a) to (d).

(6) To qualify as a liquid asset, a security shall be current with respect to payment of scheduled principal or interest or both and shall be an authorized investment for a savings bank.

(7) In this section:

(a) A savings bank's designation of an investment under financial accounting standards board statement number 115 does not affect its liquid asset classification.

(b) The value of an investment included in liquid assets shall be accounted for under generally accepted accounting principles and financial accounting standards board statement number 115.

(c) Assets and liabilities of a wholly owned investment operating subsidiary shall be treated on a consolidated reporting basis with those of the parent savings bank.

**Note:** A copy of the document captioned "Accounting for Certain Investments in Debt and Equity Securities" (May 1993), known as "Statement of Financial Accounting Standards No. 115" is available at the office of the commissioner, the secretary of state and the revisor of statutes. A copy may be obtained on request.

# Notice of Hearing

## *Commissioner of Railroads*

Notice is hereby given that pursuant to ss. 189.02 (1), 195.03 (1), 227.11 (2) (a), and 227.24 Stats., interpreting ss. 195.04−195.043 and 195.05−195.08, Stats., the Office of the Commissioner of Railroads will hold a public hearing at the **Office of the Commissioner of Railroads, Room 110, 610 North Whitney Way, in the city of Madison, Wisconsin on the 6th day of October, 1995, at 9:30 a.m**. to consider the creation, amendment and repeal of rules relating to the regulation of intrastate railroad rates and practices. The Office will also consider the creation, amendment and repeal of rules relating to the regulation of intrastate railroad rates and practices it previously adopted by emergency order pursuant to s. 227.24 Stats., by publication in the official state newspaper with an effective date of July 14, 1995. The Office will also consider written comments submitted to the same address by the 29th day of September, 1995.

Upon reasonable notice, the Office will accommodate the needs of disabled individuals. Contact the Office at (608) 266−9536 (not a TDD number), (Fax) 261−8220, or (1−800−947−3529) or by writing to the Office. The hearing site is accessible to people with disabilities. People with disabilities may enter the building directly from the parking lot at the west end of the building.

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

The Office proposes these rule changes in order to remain its certification by the Interstate Commerce Commission (ICC) as a regulator of intrastate rail rates. The office must be recertified by the ICC every 5 years. The office's current certification expires on September 23, 1995. To be recertified, the office must update its rules to conform to changes in federal law. The proposed rule changes bring the office's rule into conformity with federal law. Several new notes provide the citation to ICC cases and tell how to contact the ICC.

Section OCT 5.02 (7) is created to allow railroads to earn adequate revenue and to comply with ICC requirements regarding adequate revenue, 49 USC 10701a and 49 USC 10704a (2), (3) and (4).

Section OCT 5.03 (1) (b) is amended to allow independently filed new and reduced rates to become effective on one day's notice and to comply with ICC requirements. Short Notice Effectiveness for Independently Filed Rail Carrier Rates, 3 I.C.C. 2d 323 (1987). The proposed rules also amend that section to allow implementation of other tariffs upon a showing of good cause as required by 49 CFR 1312.2.

The proposed rule amends s. OCT 5.04 (3) in compliance with ICC requirements under 49 USC 10707 (c) (1) and 49 CFR 1132.1 (g) to prohibit the office from suspending rates, classifications, rules or practices on its own initiative . Section OCT 5.04 (4) (intro.), (a) and (b) are renumbered and amended to conform findings by the office that a rail carrier possesses market dominance with ICC evidentiary requirements and 49 USC 10709 (d) (4). Section OCT 5.04 (5) is amended, ss. OCT 5.04 (6) and OCT 5.04 (7) are renumbered, s. OCT 5.04 (6) is created and OCT 5.04 (5) (d) is repealed to comply with ICC requirements regarding the reasonableness of rates, 49 USC 10707a (h) and the ICC orders cited in amended rule. Section OCT 5.04 (3) and (4) and (5) are also amended to comply with the format and style guidelines set forth in the Administrative Rules Procedures Manual (1994).

Sections OCT 5.07 (2) and 5.10 (2) are amended to remove the agency's address from the body of the rule. An accompanying note includes the current address. The note can be updated without following the formal rule−making process. The office also notes that it intends to begin revising all of its rules within the next six months to conform the title of the rules with the name of the agency and to accomplish substantive and procedural changes.

## *Analysis and Summary of Emergency Rules by the Office of the Commissioner of Railroads*

This notice does not contain the full text of the emergency rules previously adopted by the Office, but instead provides this summary. A copy of the full text of the emergency rules can be obtained from the contact person listed at the end of this notice. The proposed final rules vary only slightly from the emergency rules. The variations reflect improvements recommended by the administrative rules clearinghouse. The variations from the emergency rule are not substantive. Except as noted below, the foregoing analysis of the proposed rules also applies to the emergency rules.

The emergency rules did not contain the explanatory "notes" found in the proposed rule. The notes provide references to ICC materials and the ICC's address. The emergency order incorrectly listed the rules out of numerical sequence. The emergency order combined treatment of rates for nonferrous recyclables with all other rates in one subsection. The proposed rule treats nonferrous recyclables in a separate subsection [OCT 5.04 (6)]. Consequently, two subsections [OCT 5.04 (6) and OCT 5.04 (7)] not renumbered in the emergency order are renumbered in the proposed rule. Finally, the emergency order contained the Office's address in the text of the rule. The proposed rule moves the addresses to a note.

## *Text of Rule*

**SECTION 1.** OCT 5.02 (7) is created to read:

OCT 5.02 (7) REVENUE ADEQUACY. All standards and procedures shall be interpreted to be consistent with the goal of revenue adequacy. Revenue adequacy shall be determined according to the standards set forth in 49 USC 10704 (a) (2).

Note: For a discussion of adequate revenues see, *Ex Parte No. 388A, State Intrastate Rail Rate Authority − P.L. 96−488, decided February 8, 1989, especially Appendix B.* The Interstate Commerce Commission can be contacted at: Interstate Commerce Commission, 12th & Constitution Avenue, Washington D.C. 20423 or (202) 927−7600.

**SECTION 2.** OCT 5.03 (1) (b) is amended to read:

OCT 5.03 (1) (b) The tariff shall be on file with the office at least 10 days prior to its effective date for changes resulting in decreased rates or increased value of service, or changes resulting in neither increases nor reductions except that independently filed new or reduced rates may become effective on one day's notice. Other tariff changes may become effective on less than 10 days' notice upon a showing of good cause as contemplated by 49 CFR 1312.2.

Note: For a discussion of the timing of rail rate changes see, *Ex Parte No. 388A, State Intrastate Rail Rate Authority − P.L. 96−488, decided February 8, 1989, especially Appendix B.* The Interstate Commerce Commission can be contacted at: Interstate Commerce Commission, 12th & Constitution Avenue, Washington D.C. 20423 or (202) 927−7600.

**SECTION 3**. OCT 5.03 (1) (d) is created to read:

OCT 5.03 (1) (d) A railroad or its publishing agent may present a petition to the office seeking to depart from the provisions of pars. (a), (b) or (c). The office may grant a petition under this paragraph if it finds good cause for doing so.

**SECTION 4**. OCT 5.04 (3) is amended to read:

OCT 5.04 (3) GROUNDS FOR SUSPENSION. The office may not suspend rates, classifications, rules, or practices on its own initiative. The office may not suspend a proposed rate, classification, rule or practice unless the protest conforms to 49 CFR 1132.1 (g) and it appears from the specific facts shown by the verified statement of a protestant that:

(a) The protestant is substantially likely to prevail on the merits~~;~~ .

(b) Without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant~~; and~~ .

(c) Because of the peculiar economic circumstances an investigation with a refund and keep account will not protect the protestant.

**SECTION 5.** OCT 5.04 (4) is amended to read:

OCT 5.04 (4) MARKET DOMINANCE. (a) When a new individual or joint rate is alleged to be unreasonably high, the office within 90 days after the commencement of a proceeding under this section, shall determine whether or not the railroad proposing the rate has market dominance over the transportation to which the rate applies. The office shall determine market dominance according to the provisions of 49 USC 10709 (d) and the evidentiary guidelines of the interstate commerce commission.

~~(a)~~ (b) If the office finds that:

1. The railroad proposing the rate has market dominance over the transportation to which the rate applies, the office shall then proceed to determine whether or not the proposed rate exceeds a maximum reasonable level for that transportation.

2. The railroad proposing the rate does not have market dominance over the transportation to which the rate applies, the office shall ~~not make a determination on the issue of reasonableness~~ dismiss the complaint.

~~(b)~~ (c) A rail carrier may meet its burden of proof that the rate falls below the revenue−variable cost threshold by establishing its variable costs in accordance with 49 U.S.C. s. 10705a (m) (1). However, a finding by the office that the proposed rate has a revenue−variable cost percentage which is equal to or greater than the percentages found in 49 U.S.C. s. 10709 (d) (2) does not establish a presumption that:

1. The railroad has or does not have market dominance over such transportation~~, or~~ .

2. The proposed rate exceeds or does not exceed a reasonable maximum level.

Note: For a discussion of market dominance see, *Ex Parte No. 388A, State Intrastate Rail Rate Authority − P.L. 96−488, decided February 8, 1989, especially Appendix B.* For a discussion of market dominance and evidentiary guidelines see, 5 ICC 2d 687. The Interstate Commerce Commission can be contacted at: Interstate Commerce Commission, 12th & Constitution Avenue, Washington D.C. 20423 or (202) 927−7600.

**SECTION 6**. OCT 5.04 (5) is amended to read:

OCT 5.04 (5) REASONABLENESS. Except for nonferrous recyclables, the office shall evaluate the reasonableness of a rate only after market dominance has been established. ~~In~~ The office shall evaluate the reasonableness of rates following the decisional standards applied by the interstate commerce commission as set forth in *Coal Rate Guidelines, Nationwide, 1 I.C.C. 2d 520 (1985); and Ex Parte No. 347 (Sub No. 2) Rate*

*Guidelines − Non Coal Proceedings (April 8, 1987)* and as amended by future interstate commerce commission decisions. Except for nonferrous recyclables in determining whether a rate is reasonable, the office shall consider among other factors, evidence of the following:

(a) The amount of traffic which is transported at revenues which do not contribute to the going concern value and efforts made to minimize such traffic~~;~~ .

(b) The amount of traffic which contributes only marginally to fixed costs and the extent to which the rates on such traffic can be changed to maximize the revenues from such traffic~~; and~~ .

(c) The carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues.

Note: The Interstate Commerce Commission can be contacted at: Interstate Commerce Commission, 12th & Constitution Avenue, Washington D.C. 20423 or (202) 927−7600.

**SECTION 7.** OCT 5.04 (5) (d) is repealed.

**SECTION 8**. OCT 5.04 (6) and (7) are renumbered OCT 5.04 (7) and OCT 5.04 (8).

**SECTION 9.** OCT 5.04 (6) is created to read:

OCT 5.04 (6) REASONABLENESS− NON−FERROUS RECYCLABLES. The office shall evaluate the reasonableness of rates for nonferrous recyclables in accordance with *Ex Parte No. 394 (Sub − No. 5) Cost Ratio for recyclables − 1988, served September 15, 1988* and other future adjustments to these criteria which are adopted by the interstate commerce commission.

**SECTION 10.** OCT 5.07 (2) (b) is amended to read:

OCT 5.07 (2) (b) Pleadings shall be ~~addressed to:~~

~~Office of the Commissioner of Transportation~~
~~Railroad Tariff Bureau~~
~~Hill Farms State Transportation Building~~
~~4802 Sheboygan Avenue~~
~~P.O. Box 7957~~
~~Madison, WI 53707−7957~~

filed with the office by deposit in the mail or in person.

Note: The office's address is :
Office of the Commissioner of Railroads
610 N. Whitney Way, Suite 110
P.O. Box 8968
Madison, WI 53708−8968

**SECTION 11.** OCT 5.10 (2) is amended to read:

OCT 5.10 (2) COMMUNICATIONS. All communications shall be in writing and shall be ~~addressed to:~~

~~Office of the Commissioner of Transportation~~
~~Railroad Tariff Bureau~~
~~Hill Farms State Transportation Building~~
~~4802 Sheboygan Avenue~~
~~P.O. Box 7957~~
~~Madison, WI 53707−7957~~

filed with the office by deposit in the mail or in person.

Note: The office's address is :
Office of the Commissioner of Railroads
610 N. Whitney Way, Suite 110
P.O. Box 8968
Madison, WI 53708−8968

## *Fiscal Estimate*

There is no fiscal effect from the adoption of these rules. A copy of the proposed rules and the full fiscal estimate may be obtained without cost from the contact person at the Office of the Commissioner of Railroads upon request.

## *Initial Regulatory Flexibility Analysis*

These rule changes will not affect small business.

## *Contact Person*

For additional information, or if there are questions concerning these proposed rules, contact:

Douglas S. Wood, Legal Counsel
Telephone (608) 266−9536
Office of the Commissioner of Railroads
610 North Whitney Way, Room 110
PO Box 8968
Madison, Wisconsin 53708−8968

# EMERGENCY RULES NOW IN EFFECT

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

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

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

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

## EMERGENCY RULES NOW IN EFFECT

### *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**

## 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**

## EMERGENCY RULES NOW IN EFFECT (2)

### *Health and Social Services*

**(Community Services, Chs. HSS 30––)**

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

## EXEMPTION FROM FINDING OF EMERGENCY

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

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

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

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

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

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

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

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

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

## FINDING OF EMERGENCY

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

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

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

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

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

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

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

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# *EMERGENCY RULES NOW IN EFFECT (2)*

## *Health and Social Services*

**(Health, Chs. HSS 110––)**

**1.** 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 (3)*

## *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**

**3.** Rule was adopted revising **s. HSS 201.055 (7)**, relating to emergency assistance for AFDC families.

## FINDING OF EMERGENCY

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

The Department on April 4, 1995, published emergency rules for operation of a program of emergency financial assistance under s. 49.19 (11) (b), Stats. That program is for families receiving Aid to Families with Dependent Children (AFDC) and other low–income families with a child or children that have emergency needs due to fire, flood, a natural disaster, homelessness or an energy crisis.

Although s. 49.19 (11) (b), Stats., at the time specified that the emergency assistance amount per family member was not to exceed $150 except when the emergency was due to an energy crisis, the Department's emergency rules established the maximum at $96 per family member because only enough funding was available in the sum certain appropriation to provide grants at that level to all eligible families.

The State Budget for 1995–97, 1995 Wis. Act 27, added funds to the appropriation for this program to enable the Department to increase the benefit to $150 per family member. Act 27 also amended s. 49.19 (11) (b) (intro.), Stats., to delete the maximum payment amount specified in the statute and to direct the Department to establish that amount on the basis of available funds by publishing notice of it in the Wisconsin Administrative Register.

This order amends the Department's emergency rules for the program, effective September 1, 1995, to delete the reference to a specific maximum payment amount per family member and to refer the reader to the Wisconsin Administrative Register for that amount. The Department will publish a notice in the August 31, 1995, number of the Wisconsin Administrative Register that effective September 1, 1995, the maximum emergency assistance payment amount per family member will be $150 except in cases of energy crisis.

The Department is publishing this rule change by emergency order so that its rules for operation of the emergency assistance programs are not in conflict with recent legislative action that amends s. 49.19 (11) (b)(intro.), Stats., and increases the financial assistance made available to needy families experiencing an emergency due to lack of housing or to fire, flood or other natural disaster.

**Publication Date:** **August 30, 1995**
**Effective Date:** **September 1, 1995**
**Expiration Date:** **January 29, 1996**

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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**

## *EMERGENCY RULES NOW IN EFFECT*

### *Industry, Labor & Human Relations*

**(Building & Heating, etc., Chs. ILHR 50–64)**

**(Multi–Family Dwellings, Ch. ILHR 66)**

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

## FINDING OF EMERGENCY

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

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

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

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

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

## *EMERGENCY RULES NOW IN EFFECT*

### *Industry, Labor & Human Relations*

**(Barrier–Free Design, Ch. ILHR 69)**

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

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

## FINDING OF EMERGENCY

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

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

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

a. All shopping malls or shopping centers;

b. Rest–area building located off of major highways;

c. Schools;

d. Restaurants with a capacity of 100 or more people; or

e. Large assembly areas such as, but not limited to, stadiums and outdoor or indoor theaters, with a capacity of more than 100 persons.

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

4. There has been public concern that minimum capacity for requiring a unisex toilet room in restaurants and assembly halls should be increased. There are many chain–type restaurants where the basic design used throughout the nation could not accommodate the installation of a unisex toilet room in addition to the standard toilet rooms. Modifications to include a unisex toilet room would eliminate usable floor areas from either the employment area or the business area.

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

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

## *EMERGENCY RULES NOW IN EFFECT*

### *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 hearing, 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*

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

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 (2)*

## *Natural Resources*

**(Fish, Game, etc., Chs. NR 1––)**

**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**

**2.** Rules adopted revising **ch. NR 10**, relating to the 1995 migratory game bird season.

## FINDING OF EMERGENCY

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule–making authority to control the hunting of migratory birds. The State of

Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid–August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule–making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

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

**Publication Date:** **September 1, 1995**
**Effective Date:** **September 1, 1995**
**Expiration Date:** **January 29, 1996**

## *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 (3)*

### *Public Instruction*

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

### FINDING OF EMERGENCY

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

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

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

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

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

### FINDING OF EMERGENCY

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

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

Current provisions relating to general education components/professional education program requirements are overly prescriptive for campuses. The UW–System has initiated a requirement that puts a ceiling on the number of credits in an undergraduate program (140) and the department is moving to a performance–based approach to licensing where the knowledge and skills of license candidates will be assessed rather than just counting the credits that they have taken in college. The emergency

rule provides flexibility for university systems to offer quality educational programs without prescribing what must or must not be included in their general education component.

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

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

**Publication Date:** **August 21, 1995**
**Effective Date:** **August 21, 1995**
**Expiration Date:** **January 18, 1996**

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

## FINDING OF EMERGENCY

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

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

**Publication Date:** **August 21, 1995**
**Effective Date:** **August 21, 1995**
**Expiration Date:** **January 18, 1996**

## *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 exits and that an emergency rule is necessary for the immediate preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

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

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

**Publication Date:** **July 6, 1995**
**Effective Date:** **July 14, 1995**
**Expiration Date:** **December 11, 1995**
**Hearing Date:** **October 6, 1995**
**[See Notice this Register]**

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

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

**Educational Approval Board** (CR 95–6):

S. EAB 5.11 – Relating to fees which the Board charges to schools requesting approval under s. 38.51 (10), Stats.

**Insurance, Office of the Commissioner of** (CR 95–105):

SS. Ins 17.01 and 17.28 – Relating to:

1) Annual Patients Compensation Fund and Mediation Fund fees for the fiscal year beginning July 1, 1995;

2) Patients Compensation Fund coverage for specified health care practitioners; and

3) Establishing the scope of Patients Compensation Fund coverage for service corporations.

**Public Service Commission** (CR 95–81):

Ch. PSC 112 – Relating to construction by electric public utilities and extensions of electric service requiring Commission review and approval.

**Transportation, Dept. of** (CR 95–109):

SS. Trans 115.02 (1) and 115.11 (4) – Relating to third party testing.

# *ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU*

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

**Industry, Labor and Human Relations** (CR 94–116):

An order affecting chs. ILHR 50 to 64 and 66 and 72 and s. ILHR 82.40, relating to energy conservation and heating, ventilating and air conditioning systems.

Effective 01–01–96.

**Natural Resources** (CR 95–33):

An order affecting ss. NR 20.02, 20.03 and 20.04, relating to sport fishing.

Effective 04–01–96.

**Natural Resources** (CR 95–34):

An order affecting chs. NR 20 and 26 and s. NR 23.07, relating to sport fishing and fish refuges.

Part effective 01–01–96.

Part effective 04–01–96.

**Public Service Commission** (CR 95–40):

An order creating ch. PSC 163, relating to procedures governing the election of price regulation by telecommunications utilities.

Effective 11–01–95.

# *NOTICE OF SUSPENSION OF ADMINISTRATIVE RULES*

The Joint Committee for the Review of Administrative Rules met in Executive Session on August 17, 1995 and adopted the following motions:

**"That the JCRAR, pursuant to s. 227.26 (2) (d), Stats., and by reason of s. 227.19 (4) (d) 6., Stats., suspend emergency rule s. ILHR 69.18 (4) (b) 1. – 5., relating to the provision of a unisex toilet room in certain public places."**
**MOTION CARRIED: 7 AYES, 1 NOES, 2 ABSENT.**

**"That the JCRAR, pursuant to s. 227.26 (2) (d), Stats., and by reason of s. 227.19 (4) (d) 6., Stats., suspend s. ILHR 69.18 (4) (b) 1. – 5., relating to the provision of a unisex toilet room in certain public places."**
**MOTION CARRIED: 7 AYES, 1 NOES, 2 ABSENT.**

**"That the JCRAR, pursuant to s. 227.26 (2) (d), Stats., and by reason of s. 227.19 (4) (d) 1. and 3., Stats., suspend SECTION III of emergency rule ss. Ins 17.01 and 17.28, relating to Annual Patient's Compensation Fund Fees, Mediation Fees, and Service Corporations."**
**MOTION CARRIED: 8 AYES, 0 NOES, 2 ABSENT.**

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