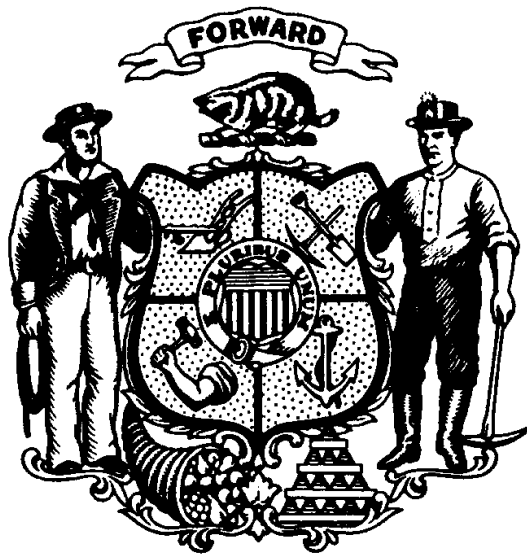


WISCONSIN ADMINISTRATIVE REGISTER

No. 478



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REVISOR OF STATUTES BUREAU
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NOTICE SECTION

Notice of Hearings

Employment Relations Commission

Notice is hereby given that pursuant to ss. 111.09 (1) and (2), 111.71 (1) and (2), and 111.94 (1) and (2), Stats., and interpreting 1995 Wis. Act 27, the Wisconsin Employment Relations Commission will hold public hearings at the times and places indicated below, to consider the creation of rules relating to fees for complaints, grievance arbitration, mediation, fact-finding, interest arbitration and transcripts.

Hearing Information

The public hearings will be held:

November 17, 1995 Friday At 10:00 a.m.	3rd Floor Conference Room Employ. Rel. Commission 14 West Mifflin St. MADISON, WI
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November 21, 1995 Tuesday At 10:00 a.m.	Conference Room Marathon Co. Courthouse 500 Forest St. WAUSAU, WI
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Written Comments

In addition to or instead of verbal testimony at the public hearings, written material may be submitted to:

Wis. Employment Relations Commission
14 West Mifflin Street, Suite 200
Madison, WI

Written material must be submitted on or before on or before **November 30, 1995**.

Analysis

The Wisconsin Employment Relations Commission proposes an order to amend ss. ERC 2.02 (1) (d), 10.08 (4), 10.13 (5), 12.02 (2) (e), 20.08 (4), 20.13 (5); and to create ss. ERC 1.06, 10.21 and 20.21, relating to fees for complaints, grievance arbitration, mediation, fact-finding, interest arbitration and transcripts.

Sections 3786e, 3786s, 3803d, 3803t, 3843e, 3843s and 9120 (3g) of 1995 Wis. Act 27 require that the Commission promulgate rules establishing a schedule of filing fees and transcript fees to be paid in the following circumstances:

1. When a complaint is received alleging that an unfair labor practice has been committed under s. 111.06 or 111.84, Stats., or that a prohibited practice has been committed under s. 111.70 (3), Stats.
2. When a request is received asking that the Commission or its staff act as a grievance arbitrator under s. 111.10, 111.70 (4) (c) 2, or (cm) 4., or 111.86 (1), Stats.
3. When a request is received asking that the Commission initiate fact-finding under s. 111.70 (4) (c) 3 or 111.88, Stats.
4. When a request is received asking that the Commission or its staff act as a mediator under s. 111.11, 111.70 (4) (c) 1, or 111.87, Stats.
5. When a request is received asking that the Commission initiate interest arbitration under s. 111.70 (4) (jm) or 111.77 (3), Stats.
6. When a party requests a transcript of a Commission proceeding.

Text of Rule

SECTION 1. ERC 1.06 is created to read:

ERC 1.06 Fees. (1) **COMPLAINTS.** At the time a complaint is received alleging that an unfair labor practice has been committed under s. 111.06, the

complaining party or parties shall pay the commission a filing fee of \$25. The complaint is not filed until the fee is paid.

(2) **GRIEVANCE ARBITRATION.** At the time a request is received asking that the commission or its staff act as a grievance arbitrator under s. 111.10, the parties to the dispute shall each pay the commission a filing fee of \$125.

(3) **MEDIATION.** At the time a request is received asking the commission or its staff to act as a mediator under s. 111.11, the parties to the dispute shall each pay the commission a filing fee of \$125.

(4) **TRANSCRIPTS.** Any party requesting the commission to provide a transcript of a commission proceeding shall pay a fee of \$5.00 per page or the actual per page fee of the court reporter, whichever is less.

SECTION 2. ERC 2.02 (1) (d) is amended to read:

(d) A statement that the filing fee established by ~~s. 111.09 (2), Stats., ERC 1.06 (1)~~ accompanies the complaint.

SECTION 3. ERC 10.08 (4) is amended to read:

(4) **COMPLETION OF FILING.** Papers required by s. 111.70, Stats., this chapter, chs. ERC 11, 12, 13, 14, 15, 16, 17, 18, 30 and 31, or order of the commission, to be filed with the commission, its agent, a fact finder, an arbitrator or with a mediator-arbitrator, shall be deemed filed upon actual receipt at the place specified for such receipt before the close of business. Papers received after the last day of the time allowed for such filing will not be accepted as timely filed unless good cause be shown warranting waiver, in which case the commission, its agent, a fact finder, an arbitrator or the mediator-arbitrator, as the case may be, may upon receipt, deem the document filed at the time it was deposited in the United States mail or with a telegraph office, except that if a filing fee established by ~~s. 111.71 (2), Stats., ERC 10.21~~ is required to initiate a proceeding before the commission, the papers shall be deemed to be filed on the date on which the filing fee is received in the offices of the commission.

SECTION 4. ERC 10.13 (5) is amended to read:

(5) **TRANSCRIPTS, OTHER THAN IN FACT FINDING IN MUNICIPAL EMPLOYMENT.** Hearings shall be stenographically transcribed, ~~by the official reporter of the commission. Such transcripts shall be the sole official transcript. In prohibited practice cases the commission shall furnish one copy of the transcript to each of the parties. In election cases the commission may furnish one copy of the transcript to each of the parties. Copies of transcripts which are furnished to the parties will be furnished at no cost to them.~~

SECTION 5. ERC 10.21 is created to read:

ERC 10.21 Fees. (1) **COMPLAINTS.** At the time a complaint is received alleging that a prohibited practice has been committed under s. 111.70 (3), the complaining party or parties shall pay the commission a filing fee of \$25. The complaint is not filed until the fee is paid.

(2) **GRIEVANCE ARBITRATION.** At the time a request is received asking that the commission or its staff act as a grievance arbitrator under s. 111.70 (4) (c) 2, or (cm) 4., the parties to the dispute shall each pay the commission a filing fee of \$125.

(3) **MEDIATION.** At the time a request is received asking the commission or its staff to act as a mediator under s. 111.70 (4) (c) 1., the parties to the dispute shall each pay the commission a filing fee of \$125.

(4) **FACT-FINDING.** At the time a request is received asking the commission to initiate fact-finding under s. 111.70 (4) (c) 3, the parties to the dispute shall each pay the commission a filing fee of \$125, except that if the parties have previously paid a mediation filing fee for the same dispute under ERC 10.21 (3), no fee shall be paid.

(5) **INTEREST ARBITRATION.** At the time a request is received asking the commission to initiate interest arbitration under s. 111.70 (4) (jm) or 111.77 (3), the parties to the dispute shall each pay the commission a filing fee of \$125, except that if the parties have previously paid a mediation filing fee for the same dispute under ERC 10.21 (3), no fee shall be paid.

(6) **TRANSCRIPTS.** Any party requesting the commission to provide a transcript of a commission proceeding shall pay a fee of \$5.00 per page or the actual per page fee of the court reporter, whichever is less.

SECTION 6. ERC 12.02 (2) (e) is amended to read:

(e) A statement that the filing fee established by ~~s. 111.71 (2), Stats.,~~ ERC 10.21 (1) accompanies the complaint.

SECTION 7. ERC 20.08 (4) is amended to read:

(4) **COMPLETION OF FILING.** Papers required by subch. V, ch. 111, Stats., this chapter, ch. ERC 21, 22, 23, 24, or 25, or order of the board, to be filed with the commission, or its agent, an arbitrator, or a fact finder, shall be deemed filed upon actual receipt at the place specified for such receipt before the close of business. Papers received after the last day of the time allowed for such filing will not be accepted as timely filed unless good cause be shown warranting waiver, in which case the commission, arbitrator or fact finder, as the case may be, may, upon receipt, deem the document filed at the time it was deposited in the United States mail or with a telegraph office, except that if a filing fee established by ~~s. 111.94 (2), Stats.,~~ ERC 20.21 is required to initiate a proceeding before the commission, the papers shall be deemed to be filed on the date on which the filing fee is received in the offices of the commission.

SECTION 8. ERC 20.13 (5) is amended to read:

(5) ~~TRANSCRIPTS, OTHER THAN IN FACT FINDING IN MUNICIPAL EMPLOYMENT.~~ Hearings shall be stenographically transcribed, ~~by the official reporter of the commission. Such transcripts shall be the sole official transcript. In prohibited practice cases the commission shall furnish one copy of the transcript to each of the parties. In election cases the commission may furnish one copy of the transcript to each of the parties. Copies of transcripts which are furnished to the parties will be furnished at no cost to them.~~

SECTION 9. ERC 20.21 is created to read:

ERC 20.21 Fees. (1) **COMPLAINTS.** At the time a complaint is received alleging that an unfair labor practice has been committed under s. 111.84, the complaining party or parties shall pay the commission a filing fee of \$25. The complaint is not filed until the fee is paid.

(2) **GRIEVANCE ARBITRATION.** At the time a request is received asking that the commission or its staff act as a grievance arbitrator under s. 111.86, the parties to the dispute shall each pay the commission a filing fee of \$125.

(3) **MEDIATION.** At the time a request is received asking the commission or its staff to act as a mediator under s. 111.87, the parties to the dispute shall each pay the commission a filing fee of \$125.

(4) **FACT-FINDING.** At the time a request is received asking the commission to initiate fact-finding under s. 111.88, the parties to the dispute shall each pay the commission a filing fee of \$125, except that if the parties have previously paid a mediation filing fee for the same dispute under s. ERC 20.21 (3), no fee shall be paid.

(5) **TRANSCRIPTS.** Any party requesting the commission to provide a transcript of a commission proceeding shall pay a fee of \$5.00 per page or the actual per page fee of the court reporter, whichever is less.

Initial Regulatory Flexibility Analysis

Small businesses that receive grievance arbitration or mediation services from the Wisconsin Employment Relations Commission or that wish to receive a transcript of a Commission proceeding will be obligated to pay the fees established by the proposed rules.

Payment of the fees will not require any professional skills or any additional reporting or bookkeeping procedures.

Fiscal Estimate

The proposed rules:

1) Establish a filing fee of \$250 per case for mediation, interest arbitration and fact-finding;

2) Increase an existing filing fee for grievance arbitration from \$25 to \$250; and

3) Maintain an existing \$25 filing fee for unfair labor practice or prohibited practice complaints.

By statute, the filing fee for complaints is to be paid by the filing party while the costs of the filing fees for mediation, interest arbitration, fact-finding and grievance arbitration cases are to be shared equally by the employer and union.

For the fiscal years beginning 1987-1988 and ending 1993-1994, the Commission received an average of 1,541 cases per year (673 mediation, fact-finding and interest arbitration cases, 711 grievance arbitration cases and 157 complaint cases) which are subject to the filing fees. However, for fiscal year 1994-1995, the Commission received 1,398 cases (525 mediation, fact-finding and interest arbitration cases, 696 grievance arbitration cases and 177 complaint cases) which are subject to the fees. Counties, villages, towns, school districts, VTAE (TCS) districts or sewerage districts were parties to 510 of the mediation, interest arbitration and fact-finding cases and 575 of the grievance arbitration cases.

For the purposes of this fiscal estimate as to filing fees, the Commission assumes that its case filing experience during fiscal year 1994-1995 will continue. If the Commission does not receive the anticipated statutory authority to collect filing fees for s. 111.70 (4) (cm) 6, Stats., interest arbitration or if the filing fees have the effect of reducing the number of cases the Commission receives, the revenue generated by the fees will decrease.

Given the foregoing assumptions, the Commission's proposed filing fee rules would have the following fiscal impacts:

ANTICIPATED STATE REVENUE FISCAL EFFECT PROGRAM REVENUE GENERATED

(The existing \$25 filing fees for complaint and grievance arbitration cases are deposited as general purpose revenue-earned. Effective January 1, 1996, fees for complaint and grievance arbitration cases are to be deposited as program revenue. Thus, the Commission's general program revenue for January 1, 1996 to June 30, 1996 will decrease by \$10,900 and for July 1, 1996 to June 30, 1997 will decrease by \$21,825.)

January 1, 1996 to June 30, 1996:

1/2 of 696 = 348 x \$250 = \$ 87,000

1/2 of 525 = 262 x \$250 = \$ 65,500

1/2 of 177 = 88 x \$ 25 = \$ 2,200

\$154,700

July 1, 1996 to June 30, 1997:

696 x \$250 = \$174,000

525 x \$250 = \$131,250

177 x \$ 25 = \$ 4,425

\$309,675

ANTICIPATED LOCAL GOVERNMENT FISCAL LIABILITY

January 1, 1996 to June 30, 1996:

1/2 of 575 = 287 x 1/2 of \$250 = \$ 35,875

1/2 of 510 = 255 x 1/2 of \$250 = \$ 31,875

* \$ 67,750

(*The number of complaints filed by local governmental units is negligible.)

July 1, 1996 to June 30, 1997:

575 x 1/2 of \$250 = \$71,875

510 x 1/2 of \$250 = \$ 63,750

* \$135,625

(*The number of complaints filed by local governmental units is negligible.)

The proposed rules also establish a fee structure for transcripts of Commission proceedings. The proposed fee structure should have no fiscal effect on the Commission or local government.

Contact Person

Questions regarding the proposed rule may be directed to:

Peter G. Davis, General Counsel (608) 266-2993
Wis. Employment Relations Commission
14 West Mifflin Street, Suite 200
P. O. Box 7870
Madison, WI 53707-7870

Notice of Hearing

Health & Social Services (Medical Assistance, Chs. HSS 100--) (Health, Chs. HSS 110--)

Notice is hereby given that pursuant to s. 49.45 (10), Stats., and ss. 46.27 (7g) (g) and 49.482 (5), Stats., as created by 1995 Wis. Act 27, the Department of Health and Social Services will hold public hearings to consider the amendment of s. HSS 108.02 (10), (11) and (12) and the creation of ss. HSS 152.065 (7), 153.07 (5) and 154.07 (5), relating to recovery of the cost of benefits from the estates of people who received assistance from the Community Options Program (COP) or from a program of assistance for people with chronic renal disease, cystic fibrosis or hemophilia, and the emergency rules already in effect on estate recovery under the programs of assistance for people with chronic renal disease, cystic fibrosis or hemophilia.

Hearing Information

The public hearings will be held:

November 13, 1995 Monday Beginning at 1:00 p.m.	Room B139 State Office Bldg. One West Wilson St. MADISON, WI
November 13, 1995 Monday Beginning at 1:00 p.m.	Curative Workshop-- Rehabilitation Center 2900 Curry Lane GREEN BAY, WI
November 17, 1995 Friday Beginning at 1:00 p.m.	Midway Hotel (Midway Motor Lodge) 2851 Hendrickson Dr. EAU CLAIRE, WI

The hearing sites are fully accessible to people with disabilities. Parking for people with disabilities for the Madison site is available in the back of the building and in nearby parking ramps.

Analysis Prepared by the Dept. of Health & Social Services

The 1995-97 State Budget Act, 1995 Wis. Act 27, created ss. 46.27 (7g) and 49.482, Stats., which require the Department of Health and Social Services to file a claim against the estate of a person who received benefits under the long-term community support program under s. 46.27, Stats., as affected by Act 27, the chronic renal disease aid program under s. 49.48, Stats., the adult cystic fibrosis aid program under s. 49.483, Stats., or the hemophilia aid program under s. 49.485, Stats., to recover the cost of care or the amount of assistance provided, or a claim against the estate of the surviving spouse of that person. Sections 46.27 (7g) (g) and 49.482 (5), Stats., as created by Act 27, require the Department to promulgate rules that establish standards for determining whether the recovery of those costs would work an undue hardship on heirs or beneficiaries in individual cases. If an undue hardship is found to exist, the Department is required to waive application of the recovery requirement in that case.

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

Contact Person

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

James Cobb, (608) 266-3802 or,
if you are hearing-impaired, (608) 267-9880 (TDD)
Bureau of Health Care Financing
P.O. Box 309
Madison, WI 53707

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 **November 24, 1995**, will receive the same consideration as testimony presented at a hearing.

Fiscal Estimate

These rules will not affect the expenditures or revenues of state government or local governments.

The rules implement the requirements in ss. 46.27 (7g) (g) and 49.482 (5), Stats., as created by 1995 Wis. Act 27, that the Department by rule establish standards for determining whether recovery of program costs from the estate of a person who received assistance from the long-term support Community Options Program (COP) under s. 46.27, Stats., the chronic renal disease aid program under s. 49.48, Stats., the adult cystic fibrosis aid program under s. 49.485, Stats., or the hemophilia aid program under s. 49.485, Stats., or from the estate of the surviving spouse of that person, would work an undue hardship on heirs or beneficiaries in individual cases. When an heir or beneficiary asks the Department to waive an estate claim, on hardship grounds, and the Department determines that an undue hardship exists, the Department will not pursue the claim.

Local governments are not involved in the administration of programs that provide assistance to people with chronic renal disease, cystic fibrosis or hemophilia, nor will they be involved in filing claims against the estates of former COP clients and their surviving spouses.

The costs to the Department of determining if the requirement to file an estate claim should be waived in particular cases, on hardship grounds, were taken into consideration by the Legislature when Act 27 was passed, as were reduced collections for the State resulting from waivers of the requirements to file an estate claim.

Initial Regulatory Flexibility Analysis

These rules will not directly affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. The rules may affect the heirs and other beneficiaries of the estates of some people who received certain health care services or the heirs and other beneficiaries of the estates of the surviving spouses of those people.

Notice of Hearing

Health & Social Services (Health, Chs. HSS 110--)

Notice is hereby given that pursuant to s. 254.35 (3) (g), Stats., the Department of Health and Social Services will hold public hearing to consider the creation of s. HSS 157.035, relating to fees for registration of ionizing radiation installations.

Hearing Information

The public hearing will be held:

November 13, 1995 Monday From 1:00 p.m. to 3:00 p.m.	Room 291 Washington Square Office Bldg. 1414 East Washington Ave. MADISON, WI
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The hearing site is fully accessible to people with disabilities.

Analysis Prepared by the Dept. of Health & Social Services

The Department under ch. HSS 157 regulates radiation-producing devices and radioactive materials in the interests of protecting the public from being exposed to ionizing radiation in amounts that are or may be detrimental to health.

A radiation installation, as defined in ch. HSS 157, is any location or facility where there is a device that when in use produces radiation, such as medical or dental x-ray equipment, or where radioactive material is produced, stored, disposed of or used for any purpose. Under s. 254.35, Stats., every ionizing radiation installation in the state has to be registered with the Department except an installation licensed by the U.S. Nuclear Regulatory Commission, and the registration has to be renewed by January 1 of each year, except in the case of a source of radiation devoted primarily to industrial purposes. A notice of registration must be in the possession of the person directly responsible for the radiation installation.

There is an annual fee charged by the Department for registration of a radiation installation. Registration fees are specified in s. 254.35 (3), Stats., by type of installation.

The current statute-set fees date from 1985. Under s. 254.35 (3), Stats., each site pays a basic registration fee of \$25. In addition, each dental site pays \$20 for each x-ray tube and each non-dental site pays \$30 for each x-ray tube. There are currently over 4600 radiation installations in the state with 11,500 x-ray tubes.

The statute-set registration fees were changed in 1985 to the current amounts, with the maximum fee for a facility eliminated. The same session law created what is now s. 254.35 (3) (g), Stats., which permits the Department to raise those fees by promulgating rules that do that. This order raises the fees to bring revenues into line with program expenditures. Under the statute-set fee schedule, the projected revenues for 1996 would be about \$400,000 while expenditures would be over \$600,000. Program revenues are expected to pay for this regulatory program. Therefore the Department through this order is raising the annual fees for registration of radiation installations. Beginning January 1, 1996, the fees will be \$32 for each dental site and \$26 for each dental x-ray tube, and \$32 for each non-dental site and \$39 for each non-dental x-ray tube. Beginning January 1, 1997, the fees will be \$36 for each dental site and \$30 for each dental x-ray tube, and \$36 for each non-dental site and \$44 for each non-dental x-ray tube.

Contact Person

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

Mark Bunge, (608) 267-4784 or,
if you are hearing-impaired, (608) 266-1511 (TDD)
Radiation Protection Section, Division of Health
1414 E. Washington Ave.
Madison, WI 53703

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 **November 20, 1995** will receive the same consideration as testimony presented at the hearing.

Fiscal Estimate

Section 254.35 (3) (g), Stats., permits the Department to raise the statute-set registration fees by rule. The statute-set fees date from 1986. This order increases those fees in two steps over two years to bring revenues into line with program expenditures. The fee increases are from \$25 to \$36 for each site, from \$20 to \$30 for each dental x-ray tube, from \$30 to \$44 for each nondental x-ray tube, and from \$10 to \$25 for late payment.

The fee increases are expected to increase program revenues by over \$200,000 a year beginning in calendar year 1996.

About 73 radiation installations are operated by units of state government, including 48 by the University of Wisconsin at Madison which includes the University of Wisconsin Hospitals. The other installations are

at correctional institutions, mental hygiene institutions, the Veterans Home at King, the State Crime Lab, the Air National Guard, the Capitol Police, other UW campuses and 9 VTAE (TCS) colleges. These will pay higher registration fees beginning with calendar year 1996. For instance, total fees for the 48 UW-Madison campus installations will increase from \$6,285 in 1995 to \$7,853 in 1996 and \$8,834 in 1997. Total fees for all state-operated installations will increase from \$9,170 in 1995 to \$11,657 in 1996 and \$12,980 in 1997. The increased state program revenues include \$3,810 in increased fees that will be paid by state-operated installations.

Nineteen radiation installations are operated by local governments, 2 by cities and 17 by counties. Total fees will increase from \$2,084 in 1995 to \$2,362 in 1996 and \$3,016 in 1997. Fee amounts exclude Doyno Hospital in Milwaukee which will become private in 1996.

Initial Regulatory Flexibility Analysis

Section 254.35, Stats., requires that every radiation installation in the state be registered with the Department, and that a registration be renewed by January 1 each year. A radiation installation is any location where there is a device that when in use produces radiation or where radioactive material is produced, stored, disposed of or used for any purpose. About 2,824 out of the 4,631 radiation installations in the state are small businesses, as "small business" is defined in s. 227.114 (1) (a), Stats. The small businesses are mainly dentists but there are also chiropractors, podiatrists and veterinarians, single physician offices and a few small industrial firms that do testing with radioactive material.

The rules increase the annual registration renewal fee. This is done to cover increased costs of the program and is authorized by s. 254.35 (3) (g), Stats. The fee is made up of a fixed amount for the site of the installation, that is, the street address, and then an additional amount for each x-ray device at that site. A lower fee per x-ray device is charged to dentist offices because the inspection of dental x-ray equipment takes less time. That difference also existed in the statute-set fees which the rule-set fees will replace.

No new reporting, bookkeeping or other procedures are required for compliance with the rules, nor are new professional skills required for compliance with the rules.

Notice of Hearing

Industry, Labor & Human Relations (Petroleum Products, Ch. ILHR 48)

Notice is given that pursuant to ss. 168.11 (1) (b) and 168.16 (4), Stats., the Department of Industry, Labor & Human Relations proposes to hold a public hearing to consider the revision of ch. ILHR 48, Wis. Adm. Code, relating to labeling of oxygenated fuels.

Hearing Information

November 15, 1995
Wednesday
10:00 a.m.

Room 103, GEF#1
201 East Washington Ave.
MADISON, WI

This hearing is held in an accessible facility. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266-3151 or Telecommunications Device for the Deaf (TDD) at 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators or materials in audio tape format will, to the fullest extent possible, be made available on request by a person with a disability.

Copies of Rules

A copy of the rules to be considered may be obtained from the location indicated below or at the appointed time and place the hearing is held.

Division of Safety & Buildings, Telephone (608) 266-3151
Dept. of Industry, Labor & Human Relations
201 East Washington Ave.
P.O. Box 7969
MADISON, WI 53707

Written Comments

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

suggested rewording in writing. Written comments from people unable to attend the public hearing, or who wish to supplement testimony offered at the hearing, may be submitted no later than **November 30, 1995**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Ms. Berni Mattsson at the address noted above. Written comments will be given the same consideration as testimony presented at the hearing. People submitting comments will not receive individual responses.

Analysis of Proposed Rules

Statutory authority: ss. 168.11 (1) (b) and 168.16 (4)

Statute interpreted: s. 168.11 (1) (b)

The proposed rules require reformulated fuels to be labeled with the oxygenate that they contain and specify the form, content, and location of acceptable labels.

The proposed rules are currently in effect as emergency rules. The Department intends to adopt the rules to make them permanent.

Text of Rule

SECTION 1. ILHR 48.01 (7) is created to read:

ILHR 48.01 (7) **AUTHORITY TO STOP SALE.** Persons with enforcement authority under this chapter shall have the authority to shut down petroleum storage tank systems by the issuance of orders and the disabling with locks under the following conditions:

(a) *Immediate shutdown to protect life, safety or health.* Petroleum storage systems which contain products which pose an immediate danger to life, safety or health shall be subject to immediate shutdown. Products that cause immediate danger to life, safety, or health include but are not limited to: contaminated heating oil or kerosene with gasoline or the contaminated aircraft fuels.

(b) *Immediate shutdown to blend or remove petroleum products or wastes.* Petroleum storage systems which contain wastes or products that fail to meet the operational and technical standards of this chapter shall be shut down until a pump out or blend is completed under the supervision of a person with enforcement authority under this chapter. The system may be reopened as soon as the product contained in the tank is verified by a person with enforcement authority under this chapter as meeting this chapter's operational and technical standards.

(c) *Shutdown after long term violation.* Petroleum storage systems containing petroleum products for which there is a continuing code violation under this chapter will be subject to shutdown if the following conditions are met:

1. An order is issued with a specific compliance date and a period for compliance;
2. The first reinspection made after the specified compliance date shows that compliance has not been achieved;
3. A second compliance date is set with a period for compliance;
4. Reinspection after the second compliance date shows that compliance is still not achieved; and
5. The owner has not filed a written appeal with the Department within 15 days of receiving the order.

SECTION 2. ILHR 48.10 (1) (b) is repealed and recreated to read:

ILHR 48.10 (1) (b) *Gasoline/oxygenate dispensing device labels.* 1. A device that dispenses a gasoline-ethanol fuel blend of more than 2 percent by volume of ethanol shall be labeled with the volume percent of ethanol at all times the product is offered for retail sale.

2. A device that dispenses a reformulated gasoline, as defined in s. 144.3716 (1), Stats., that contains an oxygenate other than ethanol shall be labeled with the identity of the oxygenate at all times the product is offered for retail sale. If the reformulated gasoline contains multiple oxygenates, the label shall identify the predominate oxygenate based upon volume percent.

Note: "Reformulated gasoline" is defined in s. 144.3716 (1), Stats., as gasoline formulated to reduce emissions of volatile organic compounds and toxic air pollutants as provided in 42 USC 7545 (k) (5). The addition of an oxygenate to a fuel alone does not create a reformulated gasoline, other criteria specified in the law must be met.

3. The labels shall be placed on the face of the dispenser next to the name and grade of the product being dispensed.

4. Labels shall be contrasting in color to the dispenser and have lettering using not less than one-half inch high letters with a stroke of not less than one eighth inch in width.

5. Labels shall identify the oxygenate as either "Ethanol", "Methyl Tertiary Butyl Ether (MTBE)", "Ethyl Tertiary Butyl Ether (ETBE)", "Tertiary Amyl Methyl Ether (TAME)", "Tertiary Butyl Alcohol (TBA)", or as another oxygenate name approved by the Bureau of Petroleum.

6. A label shall state that the product being dispensed "Contains" followed by the approved name for the oxygenate.

7. A label shall be conspicuous and legible to a customer when viewed from the driver's seat of a motor vehicle that is located within 6 feet of the dispensing device.

8. All labels shall be capable of withstanding extremes of weather conditions for at least one year and shall be resistant to gasoline, oil, grease, solvents, detergents, and water. When damaged so that they are not legible, labels shall be replaced.

9. If a dispenser remains unlabeled after the expiration of orders issued by the department for labeling, and the owner did not file a written appeal within 15 days of receiving the order, the department shall stop the sale of the product in accordance with s. ILHR 48.01 (7).

SECTION 3. ILHR 48.10 (1) (c) is repealed.

Initial Regulatory Flexibility Analysis

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

Any business that makes retail sales of oxygenated fuels will be required to label them as prescribed by the rules.

2. *Reporting, bookkeeping and other procedures required for compliance with the rules:* None.

3. *Types of professional skills necessary for compliance with the rules:* None.

Fiscal Estimate

The Department currently regulates the labeling of gasoline-alcohol blends. The proposed rule expands the labeling requirements to cover the other oxygenates. The Department will be able to absorb the additional workload into its current program.

Notice of Proposed Rule Medical Examining Board

Notice is hereby given that pursuant to ss. 15.08 (5) (b), 227.11 (2), 448.04 (1) (b) 3 and 448.40, Stats., and interpreting s. 448.04 (1) (b) 3, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Medical Examining Board will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **November 1, 1995**, the Medical Examining Board is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Analysis Prepared by the Dept. of Regulation & Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 448.04 (1) (b) 3 and 448.40

Statute interpreted: s. 448.04 (1) (b) 3

This proposed rule-making order will bring into conformity the issuance of camp physicians or *locum tenens* licenses with the issuance of permanent licenses.

The Medical Examining Board has determined through its policies and procedures that camp physician of *locum tenens* license applications should be reviewed using the same process as permanent license applications.

Text of Rule

SECTION 1. Med 4.03 is repealed.

SECTION 2. Med 4.06 is amended to read:

Med 4.06 Expiration and renewal. A temporary camp physician or *locum tenens* license shall expire 90 days from the date of its issuance. For

cause shown to the satisfaction of 2 officers of the board, the board, acting through such 2 officers, may renew such temporary license for additional periods of 90 days each, but no such license may be renewed more than 3 consecutive times.

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 Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.29 (4), 144.025 (2) (b), 144.31 (1) (a), 144.375, 144.431 (1) (a), 144.435 (1), 144.62 (2) (b) 3 and (c), 159.03 (1) (a), 160.09 (3), 160.15, 162.01 and 227.11 (2), Stats., interpreting ss. 144.025 (1) and (2) (i), 144.31 (1) (e) and (f), 144.60 (2), 144.76, 147.04 (5), 160.07, 160.09 and 162.03, Stats., the Department of Natural Resources will hold public hearings on the creation of s. NR 1.52, Wis. Adm. Code, relating to a policy on promulgation of environmental quality standards.

The Department of Natural Resources currently has broad regulatory authority in programs such as air management, wastewater management, water resources management, solid and hazardous waste management and water supply. Implementation of those programs often involves the adoption of environmental quality standards. The proposed rule would limit the Department's authority to promulgate environmental quality standards more restrictive than the corresponding federal law to those instances where the Department demonstrates, by clear and convincing evidence, that the more restrictive standard is necessary to protect public health, safety or the environment.

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

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

December 5, 1995
Tuesday
At 10:30 a.m.

Room 1, 3rd Floor, Adm. Bldg.
Outagamie Co. Cthse.
410 S. Walnut
Appleton, WI

December 5, 1995
Tuesday
At 3:00 p.m.

Large Conference Room
Marathon Co. Cthse.
500 Forest St.
Wausau, WI

December 6, 1995
Wednesday
At 9:30 a.m.

Room 2532
Eau Claire Co. Cthse.
721 Oxford Ave.
Eau Claire, WI

December 7, 1995
Thursday
At 10:00 a.m.

Room BO 214
Business Occupations Bldg.
Waukesha Tech. College
800 Main St.
Pewaukee, WI

December 8, 1995
Friday
At 10:00 a.m.

Room 611B
GEF #2 Bldg.
101 South Webster St.
Madison, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Carol Turner at (608) 266-1959 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Rick Prosisie
Bureau of Legal Services
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **December 15, 1995**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [LC-47-95] and fiscal estimate may be obtained from Mr. Prosisie.

Fiscal Estimate

There are no known fiscal impacts to state or local governments as a result of this rule revision.

Notice of Proposed Rule

Natural Resources

(Environmental Protection--

General, Chs. NR 100--)

Notice is hereby given that pursuant to s. 227.11 (2) (a), Stats., interpreting s. 144.241 (6) (b) 8., Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the State of Wisconsin Natural Resources Board will adopt the following rule, amended as herein proposed, without public hearing thereon unless, within 30 days after publication of this notice on **November 1, 1995**, it is petitioned for a public hearing by 25 persons who will be affected by the rule, a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Analysis Prepared by Dept. of Natural Resources

Chapter NR 165 provides rules for the administration of the small loan program under the existing Clean Water Fund Program.

The Small Loan Program was created jointly with the Board of Commissioners of Public Lands (State Trust Fund). The Board of Commissioners of Public Lands enters into a loan agreement with a

municipality for wastewater treatment projects costing \$750,000 or less. The Department then enters into a separate agreement with the municipality to provide a subsidy, or "write-down" of the Board of Commissioners of Public Lands interest rate to an eligible small loan program level.

The code is being revised to ensure that the proper interest rate will be used to calculate a municipality's subsidy and to make other minor corrections.

Text of Rule

SECTION 1. NR 165.06 (2) (b), (6) and (7) (a) are amended to read:

NR 165.06 (2) (b) Tier 2 projects include unsewered projects meeting the requirements of s. NR 165.04 (2) (c). Tier 2 projects shall receive a lesser interest rate subsidy than tier 1 projects.

(6) **COMPOSITE INTEREST RATE.** A project which contains costs associated with the tiers described in sub. (2) shall receive an interest rate subsidy based on a composite interest rate. The composite interest rate shall be computed as follows:

$$RC = RT \frac{(P1 \times CT1) + (P2 \times CT2)}{(CT1 + CT2)}$$

Where:

RC is the composite interest rate used to calculate the interest rate subsidy for the project.

RT is the market interest rate established under sub. (4) (3).

CT1 is the eligible cost for portions of the project under s. NR 165.04 (2) (a), (b) and (d).

CT2 is the eligible cost for portions of the project under s. NR 165.04 (2) (c).

P1 is the percent of the market interest rate for tier 1 projects established in s. NR 162.07 (4).

P2 is the percent of the market interest rate for tier 2 projects established in s. NR 162.07 (4).

(7) (a) The project interest rate subsidy shall be annually calculated as follows:

$$IRS = [I - ((\frac{RC}{RF}) \times I)] \times E$$

Where:

RF is the interest rate established by the board of commissioners of public lands for the project.

IRS is the interest rate subsidy provided in a given year to the recipient.

I is the amount of interest due on a recipient's state trust fund loan to the board of commissioners of public lands in a given year.

E is the percentage of loan disbursements made by the board of commissioners of public lands which are eligible for an interest rate subsidy under this chapter compared to the total amount of loan disbursements made by the board of commissioners of public lands. This adjustment is provided under s. NR 165.12 (2).

Fiscal Estimate

Chapter NR 165 provides an interest rate subsidy for the planning, design, and construction of wastewater treatment plants, modifications, or improvements costing \$750,000 or less. The Board of Commissioners of Public Lands (Trust Lands and Investments) reviews and issues actual loan agreements to municipalities. The Department is only responsible for an interest rate subsidy on an eligible Board of Commissioners of Public Lands loan.

Within the next couple of years, the number of interest rate subsidy applications will increase so that the Department is processing numerous loans, but with relatively short turnaround time due to the streamlined review. Additional staffing for the program is not needed.

Long-Range Fiscal Implications

The fiscal implementation of long-term funding of this program and the entire CWF program is addressed in the 1995-1997 Biennial Finance Plan prepared in March, 1995, under s. 144.2415 (3), Stats.

Notice of Hearings

Natural Resources (Environmental Protection--Solid & Hazardous Waste, Chs. NR 500--) (Hazardous Waste, Chs. NR 600--)

Notice is hereby given that pursuant to ss. 144.431 (1) (a), 144.435 (1) and (3), 144.44 (1c), (2), (3), (4), (4e), (6) and (7), 144.441 (1m), (2), (3) and (7m), 144.443, 144.48 (3), 159.07, 159.08 and 227.11 (2) (a), Stats., interpreting chs. 144, subch. IV and 159, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 150 and 500 to 526 and the repeal of s. NR 605.05 (1) (L), Wis. Adm. Code, relating to solid waste management.

The proposed rule makes changes in 6 major areas to meet minimum federal criteria. These areas are:

1. Definitions;
2. Locational criteria;
3. Operating criteria;
4. Design;
5. Groundwater monitoring and corrective action; and
6. Closure and post-closure.

Federal requirements were generally incorporated without modification. Many of the federal requirements are currently being followed by landfills in Wisconsin. Minimum federal requirements apply only to landfills which accept municipal solid waste.

Statutory requirements that have been enacted since 1988 are incorporated into the rules. Changes to the landfill siting process involving mandatory initial site reports have been incorporated. Financial responsibility for landfill long-term care has been extended to 40 years. Landfill bans involving recyclable materials have been added to the rule. Landspreading of wood ash for agricultural purposes has been exempted from the licensing process and is now exempt by rule.

Changes were made to make the code easier to use for the public as well as introduce more efficiency in the way the Department operates. This was accomplished in four major areas:

1. Identify and eliminate requirements which have been found to be unnecessary to protect public health and the environment (such as exemptions for use of crushed glass in asphalt pavement, old railroad ties and utility poles as landscaping timbers, chipped wood and bark for trails and other landscaping purposes and wood ash for agricultural landspreading).
2. Reduce the level of effort required for both the regulated community and the Department, where appropriate, without presenting a significant increase in risk to the public or the environment (such as combining the initial site inspection, plan review and licensing of minor solid waste facilities into one step and eliminating plan review for community yard waste composting operations).
3. Improve the organization and wording of the code to make it easier to understand and use; and
4. Add detail to the code to make it more efficient for both the applicant to use and the Department to implement. When possible, landfill design and construction documentation requirements were standardized to provide clear direction and consistent application for landfill owners and their engineering consultants, as well as simplify and speed up the Department's plan review activities. Provisions were maintained for alternate designs to recognize unique situations and avoid stifling technological progress. Opportunities were provided for greater regulatory flexibility by subdividing facility categories to better relate the level of regulation to the risk posed by the activity and reduce overregulation. Exemptions were provided for activities and wastes which did not pose a significant threat to human health and the environment.

The solid waste plan review and licensing fees were last revised in 1989. A proposal is included in the rules for a temporary license surcharge on tonnage accepted at landfills, and a one-time 2-year licensing period. Both provisions will sunset at the end of two years. This is temporary solution to a revenue shortfall.

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code; however, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

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

November 14, 1995
Tuesday
At 10:30 a.m.

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

November 15, 1995
Wednesday
At 9:00 a.m.

Room 105
State Office Bldg.
1718 W. Clairmont St.
EAU CLAIRE, WI

November 16, 1995
Thursday
At 10:00 a.m.

Room 120
Waukesha Room
State Office Bldg.
141 NW Barstow
WAUKESHA, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Vera Starch at (608) 267-7564 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Ms. Lakshmi Sridharan
Bureau of Solid & Hazardous Waste Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **November 27, 1995**, and will have the same weight and effect as oral statements presented at the hearings.

Copies of Proposed Rule & Fiscal Estimate

A copy of the proposed rule [SW-40-95] and fiscal estimate may be obtained from:

Mr. Gene Mitchell
Telephone (608) 266-0811
Bureau of Solid & Hazardous Waste Management
P.O. Box 7921
Madison, WI 53707

Fiscal Estimate

FISCAL IMPACT:

Approximately 8.5 million tons of solid waste were landfilled in 1994. We anticipate a 20% reduction in landfill tonnages due to recycling and beneficial reuse efforts. This will result in approximately 6.8 million tons of waste to be landfilled per year. The 10 cent per ton surcharge will be in effect for 6 quarters. A total of 1 million dollars of revenue is expected to be generated by the surcharge over its 1 1/2 year life.

The volume-based license surcharge for landfills will only affect counties, cities and towns that own and operate landfills. Currently, there are 21 licensed county landfills, 7 city landfills and 1 town landfill. Based on 1994 tonnage reporting figures, a 20% reduction in tonnage due to recycling

and a 10¢/ton surcharge, county landfills would pay a total of \$31,800 per quarter or an average of \$1,500 per landfill (actual cost for a landfill will be dependent on the tonnage accepted); city landfills would pay a total of \$2,050 per quarter or an average of \$290; and the town landfill would pay \$0.50 on a quarterly basis.

The volume-based surcharge will be in effect for 1 1/2 years, commencing on the effective date of the rule (approximately June 1, 1996) and terminating 18 months later (approximately January 1, 1998). The Department will address future funding in its Fiscal Year (FY) 1997-99 budget process, since this fee is proposed to sunset.

The change from an annual license to a 2-year license for the October 1, 1996 to September 30, 1998 licensing period will not result in an increase of fees; however, it will provide revenue at an earlier date which offsets the current deficit, and in conjunction with the license surcharge will provide adequate funding for the 1995-1997 biennium.

Notice of Hearing

Personnel Commission

Notice is hereby given that pursuant to s. 230.44 (4) (bm), Stats., and interpreting ss. 227.03 (7), 227.44 (8), 227.46 (2) and (4), 227.47 (1) and (2), 230.44 (4) (bm), 230.44 (4) (c) and 230.45 (1) (am), Stats., the Personnel Commission will hold a public hearing at its offices at the time and place indicated below to consider rules relating to the informal hearing process referred to as "arbitration."

Hearing Information

December 15, 1995
Friday
At 9:00 a.m.

Room 1004 (10th Floor)
131 West Wilson St.
MADISON, WI

Analysis Prepared by the Personnel Commission

1993 Wis. Act 16 created an informal hearing process called "arbitration." Employees who file appeals under s. 230.09 (2) (a) or (d), Stats., (relating to classification appeals) have the choice to proceed with their appeal either by the formal hearing process (under ch. 227, Stats.) or by arbitration. The proposed rule describes the types of appeals subject to the arbitration option, how an appellant elects to proceed by arbitration, and procedures applicable to the arbitration process.

Initial Regulatory Flexibility Analysis

The proposed rule does not affect small business.

Fiscal Estimate

This rule creates no fiscal impact.

Copies of Rule and Contact Person

Judy M. Rogers, Commissioner (608) 266-9764
Personnel Commission, Room 1004, (10th floor)
131 West Wilson St.
Madison, WI 53703

A copy of the proposed rules may be obtained upon request.

Written Comments

The Personnel Commission will also consider written comments if received at the Commission on or before **December 15, 1995**.

Notice of Hearing

Personnel Commission

Notice is hereby given that pursuant to ss. 230.45 (1) (i) and 230.89 (1), Stats., and interpreting ss. 103.10 (12), 111.39 (1) & (2) (d), 227.44 (2s), 227.485, 230.44 (4) (b) and 230.45 (1) (c), Stats., the Personnel Commission will hold a public hearing at its offices at the time and place indicated below to consider changes to existing rules relating to the Personnel Commission's jurisdiction over appeals and complaints, and the procedures followed.

Hearing Information

December 15, 1995
Friday
At 9:00 a.m.

Room 1004 (10th Floor)
131 West Wilson St.
MADISON, WI

Analysis Prepared by the Personnel Commission

This proposed rule would update the Personnel Commission's existing rules to reflect statutory changes (such as in the Commission's jurisdiction), to reflect current Commission procedures, and to clarify existing rule provisions. The current rule sections affected are shown below with a short description of the change proposed:

Section PC 1.02 (2) – Amend note to delete obsolete reference.

Section PC 1.02 (9) – Amend note to describe all statutory bases for complaints.

Section PC 1.02 (16) – Amend to create more generic statement of probable cause.

Section PC 1.08 (3) – Amend to clarify Personnel Commission's authority to raise jurisdictional issues sua sponte.

Section PC 1.10 – Amend consolidation language to conform with s. 227.44 (2s), Stats.

Section PC 1.14 – Delete discretionary provision no longer followed.

Section PC 2.01 – Amend to clarify that some time limits are established by rule, rather than by statute. Also, correct note to provide Personnel Commission's new address.

Section PC 2.02 (1) – Amend to create more generic statement of the content of a complaint.

Section PC 2.04 – Amend to clarify that the Personnel Commission has authority to grant an extension of agency's time to answer the complaint.

Section PC 2.07 (2) – Amend to reference a more generic statement of probable cause.

Section PC 3.01 – Amend to add filing time lines and to delete obsolete references. Also, amend the note to update the Personnel Commission's address.

Section PC 4.02 – Create note to provide a clarifying example.

Section PC 4.05 (3) (b) – Amend to conform to s. 230.44 (4) (b), Stats., and to create a note to provide statutory reference for the calculation of witness fees.

Section PC 5.05 – Amend to clarify that some standards and requirements for motions for fees and costs differ depending whether such motion is raised under the Fair Employment Act or under the Equal Access to Justice Act, and to provide a note describing the authority for such awards.

Initial Regulatory Flexibility Analysis

The proposed rule does not affect small business.

Fiscal Estimate

This rule creates no fiscal impact.

Copies of Rule and Contact Person

Judy M. Rogers, Commissioner (608) 266-9764
Personnel Commission, Room 1004, (10th floor)
131 West Wilson St.
Madison, WI 53703

A copy of the proposed rules may be obtained upon request.

Written Comments

The Personnel Commission will also consider written comments if received at the Commission on or before **December 15, 1995**.

Notice of Hearing

Personnel Commission

Notice is hereby given that pursuant to s. 230.45 (3), Stats., and interpreting the same statutory provision, the Personnel Commission will hold a public hearing at its offices at the time and place indicated below to consider the creation of rules relating to the fee schedule applicable to certain appeals.

Hearing Information

December 15, 1995
Friday
At 9:00 a.m.

Room 1004 (10th Floor)
131 West Wilson St.
MADISON, WI

Analysis Prepared by the Personnel Commission

Section 230.45 (3), Stats., directs the Personnel Commission to promulgate rules establishing a schedule of filing fees to be paid by any person who files an appeal under any of the following provisions:

1) Section 230.44 (1) (a), Stats., (relating to personnel decisions made or delegated by the DMRS administrator);

2) Section 230.44 (1) (b), Stats., (relating to personnel decisions made or delegated by the DER Secretary – including classification decisions);

3) Section 230.45 (1) (c), Stats., (relating to final step arbitration for unrepresented employees under s. 230.04 (14), Stats.); or

4) Section 230.45 (1) (e), Stats., (relating to the county merit system rules under s. 49.50, Stats.).

The proposed administrative rule provides for a \$50.00 filing fee for appeals filed (as described in the prior paragraph), as well as time limits for tendering fees and the consequence of failing to timely tender fees. Also proposed is a hardship exception to the filing fee.

Initial Regulatory Flexibility Analysis

The proposed rule does not affect small business.

Fiscal Estimate

The proposed rule does not create a revenue source for the Personnel Commission's operations because the fees must be paid to the state treasurer. It is estimated that the filing fee would generate \$21,800 each year for the state treasury.

It is anticipated that the filing fee will result in a reduction in the number of new appeals filed with the Personnel Commission. Although the Commission estimates that this reduction would be approximately 20%, it is not possible to base this estimate on any hard numbers or any comparable experience in other agencies (because none exist). Application of this 20% estimate results in a reduction of an average of 109 new appeals each year.

This caseload reduction will not translate into a corresponding reduction in the need for staff resources. The Commission's appeals caseload averaged 221 per year over the 1985-1990 biennia. Despite the fact that this increased to an average of 545 over the most recent 5 biennia, the Commission received no additional staff resources to handle the increase. A reduction of 109 appeals due to the new filing fee will result in a caseload which remains twice what it was in the prior 5 biennia.

Copies of Rule and Contact Person

Judy M. Rogers, Commissioner (608) 266-9764
Personnel Commission, Room 1004, (10th floor)
131 West Wilson St.
Madison, WI 53703

A copy of the proposed rules may be obtained upon request.

Written Comments

The Personnel Commission will also consider written comments if received at the Commission on or before **December 15, 1995**.

Notice of Proposed Rule Revenue

Notice is hereby given that pursuant to s. 139.39 (1), Stats., and interpreting subch. II, ch. 139, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **November 1, 1995**, it is petitioned for a public hearing by 25 natural persons who will be affected by the rule, a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Contact Person

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

Analysis by the Dept. of Revenue

Statutory authority: s. 139.39 (1)

Statutes interpreted: subch. II, ch. 139

SECTIONS 1, 2, 4 to 6, 9 to 11 and 13 to 21. Many of the sections and subunits in ch. Tax 9 are revised to conform language, grammar, punctuation and style to Legislative Council Rules Clearinghouse standards. Other revisions are made, as described below.

Tax 9.01 (5) is revised to reflect the correct name of the Ho Chunk Nation Communities. Subsections (6) and (7) and s. Tax 9.36 are revised to reflect the discontinuation of the use of cigarette meter machines.

Tax 9.08 (2) is revised to reflect the correct statutory language of ss. 139.323 and 139.325, Stats. Subsection (3) (b) is revised to reflect that Indian tribal councils may also provide authorization letters to jobbers, and sub. (4) (d) 5 is revised to reflect that jobbers may also issue duplicate original invoices.

Tax 9.09 (6) is revised to reflect proper recordkeeping requirements for retailers. Subsection (7) is revised to add a reference to s. Tax 9.08 (2) as part of the statutory requirements to be met.

Tax 9.11 (3) is revised to reflect proper procedures as a result of the amendment of s. 139.32 (5m), Stats., by 1993 Wis. Act 16.

Tax 9.19 (4) is revised to more properly describe acceptable methods of stamping cigarette packages.

Tax 9.31 is revised to reflect that the cigarette tax is an excise tax rather than an occupational tax, per the amendment of s. 139.31 (1) (intro.), Stats., by 1983 Wis. Act 27.

SECTIONS 3 and 8. Tax 9.06 (2), 9.16 and 9.17 are repealed, to reflect the discontinuation of the use of cigarette meter machines.

SECTION 7. Tax 9.12 is repealed because it is obsolete.

SECTION 12. Tax 9.22 (4) is repealed because it is incorrect and it is not necessary to place this procedure in a rule.

Text of Rule

SECTION 1. Tax 9.01 (1), (5), (6) and (7) are amended to read:

Tax 9.01 (1) "Indian" means a natural person of Indian descent who is a member of a recognized federal Indian tribe occupying a reservation. Membership in a recognized federal Indian tribe is shown by either a name on the tribal roll or confirmation of such fact by the tribal council.

(5) "Reservation" means all land within the boundaries of the Bad River, Forest County Potawatomi, Lac Courte Oreilles, Lac du Flambeau, Menominee, Mole Lake, Oneida, Red Cliff, St. Croix and Stockbridge-Munsee reservations and the Winnebago Indian Ho-Chunk Nation Communities.

(6) "Stamped cigarettes" means cigarettes bearing valid Wisconsin tax stamps or meter imprints.

(7) "Untaxed cigarettes" means cigarettes not bearing valid Wisconsin tax stamps or meter imprints.

SECTION 2. Tax 9.06 (1) is renumbered to be Tax 9.06 and amended to read:

Tax 9.06 Affixing of state revenue stamps. (s. 139.32, Stats.) Tax stamps of the proper denomination shall be affixed either to either the top or

the bottom of each individual package of cigarettes or on the bottom thereof, ~~excepting, except that~~ in the case of flat tins or other odd-sized containers when said the tax stamps shall be affixed to some portion of the flat surface thereof of the container.

SECTION 3. Tax 9.06 (2) is repealed.

SECTION 4. Tax 9.08 (2), (3) (b) and (4) (a), (c), (d) 1 and 5 and (i) are amended to read:

Tax 9.08 (2) LAW. (a) Section 139.323, Stats., directs the department of revenue to refund to Indian tribal councils 70% of the cigarette taxes collected under s. 139.31 (1), Stats., in respect to: ". . . sales on reservations or trust lands of an Indian tribe to the tribal council of the tribe having jurisdiction over the reservation or trust land on which the sale is made if all the following conditions are fulfilled:

(1) The tribal council has filed a claim for the refund with the department.

(2) The tribal council has approved the retailer.

(3) The land on which the sale occurred was designated a reservation or trust land on or before January 1, 1983.

(4) The cigarettes were not delivered by the retailer to the buyer by means of a common carrier, a contract carrier or the U.S. postal service."

(5) The retailer has not sold the cigarettes to another retailer or to a jobber."

(b) Section 139.325, Stats., allows the department to "~~... enter into agreements with the Indian tribes to provide for the refunding of the cigarette tax imposed under s. 139.31 (1), Stats.,~~ on cigarettes sold on reservations to enrolled members of the tribe residing on the tribal reservation."

(3) (b) The Indian tribal council may authorize retailers on its reservations or trust land to purchase and sell cigarettes on which the tribal government may be entitled to a tax refund by providing the Wisconsin department of revenue and the cigarette distributor or jobber a certified letter stating that the retailer has tribal authorization to purchase and sell cigarettes on the reservation.

(4) (a) Upon filing a receipt of a proper claim for refund with the department, the department shall reimburse the Indian tribal council 70% of the amount of tax paid under s. 139.31, Stats., on all cigarettes purchased by the Indian tribal council or person authorized to purchase and sell cigarettes by the tribal council of the reservation where the purchaser's business is located.

(c) Claims may not be filed more than twice a per month.

(d) 1. The Wisconsin cigarette permittee shall, upon request, shall furnish each purchaser with the original invoice prepared at the time of delivery, and the purchaser shall send the original invoice to the department when making as a claim for a refund. In this paragraph, "original invoice" means the top copy and not a duplicate original or carbon copy of the original invoice.

5. If an original invoice has been lost or destroyed, a duplicate original invoice shall be used to support a claim for refund and accompanied by an affidavit by the purchaser that the original invoice has been lost or destroyed. The distributor or jobber, when issuing the duplicate original invoice, shall indicate on the face of the invoice that it is a duplicate original invoice. The duplicate invoice shall contain the same information as on the original invoice.

(i) Refunds under ss. 139.323 and 139.325, Stats., and this section shall be of tax only and shall may not include interest.

SECTION 5. Tax 9.09 (2) (b), (6) and (7) are amended to read:

Tax 9.09 (2) (b) The Wisconsin cigarette distributor may not sell untaxed cigarettes to an Indian retailer if the department of revenue has notified the distributor that the untaxed cigarettes are being sold to persons other than resident tribal members.

(6) RECORDS FOR SALES BY INDIANS. The Indian retailer shall keep detailed records of both taxable and nontaxable transactions and shall record the number and dollar volume amounts of taxable sales to nonmembers of the tribe. With respect to nontaxable sales, and the retailer shall record and retain for state inspection the names of all Indian purchasers, their tribal affiliations, the Indian reservation within which sales are made, and the number, dollar amounts and dates of sales. In addition, unless the Indian purchaser is personally known to the retailer, he or she shall present a tribal identification card.

(7) REFUNDS. If all the statutory requirements of s. 139.323, Stats., are fulfilled in accordance with s. Tax 9.08 (2), (3) and (4), the department will shall refund 70% of the tax collected under s. 139.31 (1), Stats., to the tribal council.

SECTION 6. Tax 9.11 is amended to read:

Tax 9.11 Refunds. (s. 139.36, Stats.) (1) A refund shall be granted to any cigarette distributor for stamps which were applied to packages of cigarettes when the distributor supplies documentation to the department that the packages of cigarettes to which stamps have been affixed were damaged or otherwise unsalable and have been returned to the manufacturer thereof. A distributor who has possession of unsalable cigarettes in his possession must ~~shall~~ file a written notice to the department of intent to return ~~such the~~ cigarettes to the manufacturer thereof at least 10 days prior to shipping ~~such the~~ cigarettes. If the department, upon receipt of this notice of intent, desires to exercise its right to inspect ~~such the~~ cigarettes prior to shipment, it must so notify the distributor prior to the expiration of the ~~10-day 10-day~~ period. If the department does not notify the distributor of its intent to inspect before the end of the ~~10-day 10-day~~ period, the distributor may ship the cigarettes to the manufacturer and make application for refund. The distributor shall make application for ~~such~~ refund on a form to be furnished by the department. The application for refund must ~~shall~~ be accompanied by a copy of the signed bill of lading for ~~said the~~ shipment. A copy of the credit memo for each shipment from the manufacturer must ~~shall~~ be forwarded to ~~this the~~ department prior to processing the refund. The department may also require an affidavit from the manufacturer attesting to the number of cigarettes received in each shipment.

(2) ~~Refund will~~ A refund shall be granted on all stamps unfit for use or otherwise unused, and returned to ~~this the~~ department by duly authorized permittees, providing the sale ~~thereof may of the stamps can~~ be verified by the department.

(3) On all refunds granted, the ~~cost of printing and service charges will expense of determining the amount of the refund shall~~ be deducted ~~therefrom~~.

SECTION 7. Tax 9.12 is repealed.

SECTION 8. Tax 9.16 and 9.17 are repealed.

SECTION 9. Tax 9.19 is amended to read:

Tax 9.19 Fuson machines and stamps. (ss. 139.32 (2) and (3) and 139.34 (7), Stats.) (1) The term "fuson" shall apply to all stamping processes whereby revenue stamps are fused to the outer wrapper of any cigarette package by a heat process.

(2) The use of fuson stamps and any machines or devices for their application by any distributor shall be subject to the approval of the secretary of revenue and ~~such the~~ approval may be withdrawn at any time at the discretion of the secretary of revenue.

(3) To be properly stamped the full revenue stamp and at least 50% of the surrounding "field" must ~~shall~~ be clearly visible in a proper position on the cigarette package.

(4) To be considered properly stamped an ~~identifying~~ identifying code number must ~~shall~~ also be clearly affixed to the cigarette package by the distributor or in a method approved by the secretary of revenue.

SECTION 10. Tax 9.21 is amended to read:

Tax 9.21 Shipments to retailers. (ss. 139.31, 139.32 (1) and 139.34, Stats.) (1) Out-of-state permittees shipping cigarettes to Wisconsin retailers shall, prior to the entry of ~~said merchandise the~~ cigarettes into this state, have affixed to the ~~cigarette~~ containers thereof the proper Wisconsin revenue stamps.

(2) Wisconsin retailers purchasing cigarettes from ~~without outside~~ the state must ~~shall~~ purchase ~~same them~~ only from out-of-state manufacturers and distributors who hold permits issued to them by the department of revenue.

(3) All out-of-state manufacturers or distributors may ship cigarettes either stamped or unstamped directly to any Wisconsin manufacturers or distributors who hold the proper permit issued by the department of revenue.

SECTION 11. Tax 9.22 (1), (2) and (3) are amended to read:

Tax 9.22 (1) Drop shipments are strictly prohibited to retailers unless the cigarettes have affixed thereto the proper tax stamp stamps are affixed to the ~~cigarette containers~~ prior to sale and delivery.

(2) All consignors of cigarettes, on drop shipments, must ~~shall~~ furnish a memo invoice to the distributor or the retailer receiving the merchandise ~~direct directly~~, as well as an invoice to the distributor through whom the billing is serviced.

(3) The consignors must ~~shall~~ list on their regular schedule CT-107 the name of the consignee actually receiving the merchandise, as well as the name of the distributor through whom it is billed.

SECTION 12. Tax 9.22 (4) is repealed.

SECTION 13. Tax 9.26 is amended to read:

Tax 9.26 Trade or transfer of unstamped cigarettes. (s. 139.32 (1), Stats.) (1) A licensed Wisconsin distributor may not stamp merchandise for another ~~such licensed Wisconsin~~ distributor unless the merchandise is first shipped, invoiced and billed directly to the distributor who is to stamp ~~same, and it, and the merchandise~~ is then invoiced, billed, and reshipped by ~~him~~ to the distributor for whom it was stamped.

(2) No manufacturer or distributor ~~shall may~~ receive unstamped cigarettes from a retailer for stamping purposes.

(3) No unstamped cigarettes ~~shall may~~ be transferred from one permittee to another for any reason whatsoever, except for interstate commerce. All cigarettes sold by one permittee to another for the purpose of interstate commerce shall have a label affixed to each case stating ~~thereon, "For Interstate Commerce Only".~~ The label shall be 2 inches by 5 inches in size. This merchandise shall be used for interstate commerce and ~~must may~~ not be diverted in any manner for intrastate sale.

SECTION 14. Tax 9.31 is amended to read:

Tax 9.31 Sales out of Wisconsin. (s. 139.31(3), Stats.) (1) The ~~occupational excise~~ tax imposed upon the sale of cigarettes within the state does not apply to merchandise which is shipped from within the state to a point outside the state. Manufacturers and distributors need not affix revenue stamps to the original containers of cigarettes that are sold and shipped outside the state. The burden of proof, however, is at all times upon the Wisconsin manufacturer or distributor to show that ~~such the~~ merchandise actually went into interstate commerce.

(2) Wisconsin manufacturers and distributors claiming exemption from the ~~occupational excise~~ tax on cigarettes on the grounds that shipments or deliveries were made in interstate commerce shall certify under oath ~~either of the following:~~

(a) Names and addresses of the persons receiving ~~such the~~ shipments or deliveries in ~~such the~~ foreign state; or

(b) That they are in possession of bills of lading, waybills, or freight bills, or other evidence of shipment issued by common carriers.

SECTION 15. Tax 9.36 is amended to read:

Tax 9.36 Displaying of cigarettes. (ss. 139.32 (1) and 139.39, Stats.) All cigarette retail outlets in the state of Wisconsin shall display all cigarettes, offered for sale at retail, in such a manner that the tax stamp ~~or motor imprint~~ is clearly and conveniently visible.

SECTION 16. Tax 9.41 is amended to read:

Tax 9.41 Vending machines. (s. 139.39 (1) and (2), Stats.) Each vending machine operator must ~~shall~~ place on the front of each vending machine operated or controlled by ~~him that operator~~ a sticker with his listing ~~the operator's name and address, and his vending machine operator's permit number as issued by the department of revenue, in such a position that it will not become dislodged or detached. Such The sticker may be placed back of behind~~ the glass, provided that it is completely visible and readable from the front.

SECTION 17. Tax 9.46 is amended to read:

Tax 9.46 Purchases by the retailer. (ss. 139.34 and 139.38, Stats.) (1) No firm, person, or corporation engaged in the retail sale of cigarettes ~~shall may~~ purchase ~~same cigarettes~~ except from a manufacturer, distributor or jobber who holds a permit from the department of revenue.

(2) All retailers selling cigarettes shall retain invoices covering all purchases of cigarettes. ~~Such The~~ invoices shall be retained on the licensed premises in groups covering a period of one month each, and shall be available for inspection at all reasonable times by any representative of the department of revenue.

SECTION 18. Tax 9.47 (1) (intro.), (d) and (e), (3) and (4) are amended to read:

Tax 9.47 (1) A true and correct invoice must ~~shall~~ accompany the cigarettes at the time of any sale, including exchanges, between permittees or between permittees and retailers. Permittees include cigarette salesmen sellers, distributors, jobbers, vending machine operators or multiple retailers. A true and correct invoice must ~~shall~~ contain the following information:

(d) Unit price per pack or carton. {The unit price of the cigarettes alone may be shown with the Wisconsin cigarette tax stated as a separate item.}

(e) Signature of the person receiving the cigarettes. {In an exchange, both parties must ~~shall~~ sign the invoice.}

(3) When a seller, acting as a representative of a cigarette manufacturer, or when a permittee ~~exchanges returns~~ dried or damaged cigarettes to a

distributor for return to the manufacturer and receives fresh cigarettes in exchange therefor, he or she, the seller or permittee shall prepare a true and correct invoice as set forth in sub. (1). Each carton of such dried or damaged cigarettes shall contain only cigarettes of one brand and pack. Such The cartons shall be packed so that the tax stamps on the dried or damaged cigarettes are exposed for inspection and the distributor shall refuse to receive or accept any cigarettes not so packed.

(4) A clearly legible copy of all invoices evidencing a sale or exchange of cigarettes ~~must~~ shall be retained by each of the parties to the transaction for a period of at least 2 years from the date of the invoice, in groups covering a period of one month each.

SECTION 19. Tax 9.51 is amended to read:

Tax 9.51 Samples. (ss. 139.31 and 139.33, Stats.) (1) Cigarettes shipped into this state by manufacturers to their representatives, including advertising agencies and airlines, for the purpose of free samples ~~must~~ shall be accompanied by a memo invoice stating brands and number of cigarettes. Such The memos ~~must~~ shall be retained by the representative for the statutory period of 2 years.

(2) Manufacturers may ship free sample cigarettes in quantities of 400 or less fewer to consumers, such as employees or stockholders.

(3) All such sample cigarettes described in subs. (1) and (2) ~~must~~ shall bear the legend: "Applicable state tax paid. Not for resale." All such The cigarettes are subject to Wisconsin cigarette use tax. Such The tax paid by the manufacturer shipping or causing such the cigarettes to be shipped into this state shall be remitted no later than the 15th day of the month following such the shipment. Along with the applicable tax remitted each manufacturer shall submit a list of persons to whom cigarettes were shipped indicating the amount of cigarettes shipped to each person.

SECTION 20. Tax 9.61 is amended to read:

Tax 9.61 Warehousing of cigarettes. (s. 139.34 (8), Stats.) Out-of-state persons, firms, or corporations having permits to engage in the sale of cigarettes in the state of Wisconsin may warehouse either stamped or unstamped merchandise in properly licensed warehouses located in the state of Wisconsin. No such out-of-state person, firm, or corporation shall may affix stamps to merchandise while it is stored in such the licensed warehouse.

SECTION 21. Tax 9.68 (2) (title) and (b) and (3) (b) are amended to read:

Tax 9.68 (2) OWNERSHIP CHANGE.

(b) A new permit shall be obtained by using form CTP-129 when there is a change in type of ownership such as between of a sole proprietorship, partnership, corporation or other form of ownership, except as provided in par. (c).

Note to Revisor: In the examples following s. Tax 9.68 (2) (b), change "Example:" to "Examples."

(3) (b) A rider, verifying the name change, such as one filed by a permittee's insurance company at the request of the permittee, shall be submitted and attached to the security documents on file with the department. If no security is on file, or if a rider is not filed with the department, new security shall be deposited as required under s. Tax 9.67, under the new name as required, and the any old security shall be returned to the permittee.

Note to Revisor: Change the note at the end of s. Tax 9.68 to read:

Note: Copies of form CTP-129 may be obtained by writing or calling Wisconsin Department of Revenue, Compliance Bureau, P.O. Box 8902, Madison, WI 53708-8902, telephone (608) 266-8772.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Fiscal Estimate

A number of changes are proposed for ch. Tax 9 of the Wisconsin Administrative Code, which governs cigarette taxes. The changes are being made to update the administrative code to current law, or to conform language, grammar and style to current Legislative Council Rules Clearinghouse standards.

In either case, the changes are technical in nature, and result in no state fiscal effect.

Notice of Hearing Transportation, Dept. of

Notice is hereby given that pursuant to ss. 85.16 (1), 227.11 and 345.60, Stats., and interpreting s. 345.60, Stats., the Department of Transportation will hold a public hearing at the time and place indicated below to consider the revision of ch. Trans 106, Wis. Adm. Code, relating to certification of traffic safety programs and instructions.

Hearing Information

**December 6, 1995
Wednesday
At 9:00 a.m.**

**Room 88
Hill Farms State Trans. Bldg.
4802 Sheboygan Ave.
Madison, WI**

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

An interpreter for the hearing-impaired will be available on request for this hearing. Please make reservations for a hearing interpreter by **November 27, 1995.**

Written Comments and Contact Person

The public record on this proposed rulemaking will be held open until **December 13, 1995**, to permit the submission of written comments from people unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to:

Christine Smith
Bureau of Driver Services
Dept. of Transportation, Room 351
P. O. Box 7920
Madison, WI 53707-7920

Preparation and Copies of Proposed Rule

Preparation of this proposed rule was done by Allyn Lepeska, Assistant General Counsel of the Department's Office of General Counsel, and Christine Smith of the Department's Division of Motor Vehicles. A copy of the proposed rule may be obtained upon request, without cost, from Christine Smith, at the address noted above, or by calling (608) 266-7658. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the proposed rule will be provided to individuals at their request.

Analysis Prepared by the Wis. Dept. of Transportation

Statutory authority: ss. 85.16 (1), 227.11 and 345.60

Statute interpreted: s. 345.60

General Summary of Proposed Rule: This proposed rule is necessitated by changes to the content of traffic safety school programs. In addition, experience with the rule has indicated necessary revisions.

This proposed rulemaking:

- 1) Clarifies administrative policy and procedures regarding all traffic safety school courses.
- 2) Clarifies instructor certification requirements by:
 - Outlining the broader base of knowledge required to become certified.
 - Further defining satisfactory driving record.
 - Defining instructor evaluation procedures.
- 3) Creates an appeal process for instructor or school certification denial or cancellation.
- 4) Revises instructor in-service training requirements.

Fiscal Estimate

This proposed rule may have a slight fiscal impact on local Wisconsin Technical College (WTC) districts in the event that the Department is unable to continue instructor in-service training. There will be no fiscal impact on the state.

Initial Regulatory Flexibility Analysis

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

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

Wisconsin Gaming Commission

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

FINDING OF EMERGENCY

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

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

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

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

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

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

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

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

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

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

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

either the host or guest track during simulcasting and the commingling of wagering pools.

Publication Date: August 25, 1995

Effective Date: August 25, 1995

Expiration Date: January 22, 1996

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

EMERGENCY RULES NOW IN EFFECT

Health and Social Services

(Health, Chs. HSS 110--)

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

FINDING OF EMERGENCY

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

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

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

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

director unless the physician is qualified under the rules promulgated by the Department.

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

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

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

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

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

EMERGENCY RULES NOW IN EFFECT (2)

Health & Social Services

(Economic Support, Chs. HSS 200--)

1. 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 emergency 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
Extension Through: October 30, 1995

2. 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
Hearing Date: October 13, 1995

EMERGENCY RULES NOW IN EFFECT

Health & Social Services

(Youth Services, Chs. HSS 300--)

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

FINDING OF EMERGENCY

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

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

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

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

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

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

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

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

A revocation hearing must be conducted within 30 days after a youth is taken into custody for an alleged violation. However, the time limit may be waived on the agreement of the aftercare provider, that is, the Department or county, the youth and the youth's attorney, if any. The party seeking

revocation must prove to a hearing examiner, by a preponderance of the evidence, that the youth violated a condition of his or her aftercare. The hearing examiner determines whether to revoke a youth's aftercare and whether a youth found to have violated a condition of his or her aftercare needs to be confined in order to protect the public or to provide for the youth's rehabilitation.

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

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Petroleum Products, Ch. ILHR 48)

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

FINDING OF EMERGENCY

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

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

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

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

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

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

(Multi-Family Dwellings, Ch. ILHR 66)

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

FINDING OF EMERGENCY

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

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

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

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

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

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Barrier-Free Design, Ch. ILHR 69)

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

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

FINDING OF EMERGENCY

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

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

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

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

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

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

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

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

EMERGENCY RULES NOW IN EFFECT (2)

Insurance

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

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

FINDING OF EMERGENCY

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of an emergency rule is necessary for the

preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

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

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

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

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

FINDING OF EMERGENCY

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

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

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

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

FINDING OF EMERGENCY

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

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

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

EMERGENCY RULES NOW IN EFFECT (3)

State Public Defender

- Rules adopted revising **ch. PD 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

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

FINDING OF EMERGENCY

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

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

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

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

FINDING OF EMERGENCY

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

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

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

EMERGENCY RULES NOW IN EFFECT (3)

Public Instruction

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

FINDING OF EMERGENCY

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

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

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

Publication Date: April 24, 1995
Effective Date: April 24, 1995
Expiration Date: September 21, 1995
Hearing Dates: July 19 & 20, 1995
Extension Through: 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
Hearing Date: November 1, 1995

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

FINDING OF EMERGENCY

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

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

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

EMERGENCY RULES NOW IN EFFECT

State Fair Park

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

FINDING OF EMERGENCY AND RULE ANALYSIS

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

During the annual State Fair, which is scheduled to begin on August 3, 1995, the Wisconsin State Fair Park is host to over 100,000 people per day

and millions of dollars in merchandise and property. Initially, chs. SFP 1-7 were designed primarily to protect the property of the State Fair Park.

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

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

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

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

EMERGENCY RULES NOW IN EFFECT

Commissioner of Transportation

[Commissioner of Railroads]

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

FINDING OF EMERGENCY

The office of the commissioner of railroads (OCR) finds that an emergency exists and that an emergency rule is necessary for the immediate

preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

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

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

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

EMERGENCY RULES NOW IN EFFECT

Department of Transportation

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

FINDING OF EMERGENCY

Under the current administrative rule, ch. Trans 4, recipients of state transit aid must contribute a minimum local share of 20% towards such aid. Under current practice, private transportation providers who contract with the recipient have been permitted to contribute the local share. Public policy considerations require amendment of the rule to make certain that only the recipient is permitted to contribute the local share of transit aid.

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

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

***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.

Agriculture, Trade & Consumer Protection**(CR 95-104):**

SS. ATCP 1.06, 21.14, 100.57, 140.15 & 161.23 and chs. ATCP 26, 27, 102, 105, 106, 107, 108, 130, 135, 137, 156 & 157 – Relating to nonsubstantive rule organization and drafting changes.

Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board (CR 95-136):

SS. A-E 2.05, 3.05, 4.05, 4.06, 4.08, 5.04, 6.05, 9.05 and 10.05 – Relating to:

- 1) The examination review procedure;
- 2) Renewal of credentials;
- 3) Requirements for registration as a professional engineer; and
- 4) Education as an experience equivalent for registration as a professional engineer.

Development (CR 95-150):

S. DOD 16.035 (title) and (3) – Relating to the Rural Economic Development program.

Development (CR 95-153):

SS. DOD 27.03 (3) (f) and 27.04 (4) (c) – Relating to the Main Street program.

Development (CR 95-162):

Ch. DOD 14 – Relating to the Minority Business Recycling Development program.

Securities, Office of the Commissioner of (CR 95-158):

Chs. SEC 2 to 5 and ss. SEC 7.01, 7.06 and 9.01 – Relating to:

- 1) Securities registration exemptions;
- 2) Securities registration and disclosure standards and requirements;
- 3) Securities broker-dealer, securities agent and securities investment adviser licensing requirements and procedures;
- 4) Fee-related provisions; and
- 5) Securities licensing forms.

Transportation, Dept. of (CR 95-145):

SS. Trans 276.07 (5m) and 276.09 (3) – Relating to allowing the operation of “double bottoms” (and certain other vehicles) on certain specified highways.

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.

Health & Social Services (CR 95-67):

An order creating ss. HSS 201.055 and 201.28 (4m), relating to emergency assistance for low-income families and eligibility for the Aid to Families with Dependent Children (AFDC) program.
Effective 12-01-95.

Medical Examining Board (CR 95-50):

An order affecting s. Med 13.03, relating to the biennial training requirement for physicians.
Effective 12-01-95.

Pharmacy Internship Board (CR 95-66):

An order affecting ss. Ph-Int 1.02, 1.03, 1.04, 1.06 and 1.11, relating to internship credit hours.
Effective 12-01-95.

Transportation, Dept. of (CR 95-109):

An order amending ss. Trans 115.02 (1) and 115.11 (4), relating to third-party testing.
Effective 12-01-95.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Corrections (CR 95–92)

Ch. DOC 316 – Medical, dental and nursing copayment charge to be paid by inmates and juveniles.

Summary of Final Regulatory Flexibility Analysis:

These rules do not directly affect small businesses as defined in s. 227.114 (1), Stats.

Summary of Comments:

No comments were reported.

2. Health & Social Services (CR 95–89)

SS. HSS 133.02 & 133.03 – The fee paid by a home health agency to renew its license.

Summary of Final Regulatory Flexibility Analysis:

About 40 of the 188 home health agencies in Wisconsin are small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. For many of these agencies, although not all, the rule changes will result in a higher annual license renewal fee.

Revenues from a one-time license application fee and the annual license renewal fee paid by home health agencies are meant to cover the costs of administration of this regulatory program. Those fees have not been increased since 1984.

In raising the license renewal fee, the Department could not make any provision for making the increase less for small businesses because the effect of that would be to shift support of the program onto the other home health agencies.

Summary of Comments of Legislative Standing Committees:

No comments were received.

3. Natural Resources (CR 94–71)

SS. NR 25.07 & 25.08 – Commercial fishing for smelt.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule may have a significant economic impact on some small businesses. The requirements on the commercial fishing industry have not changed. The proposed rule does limit the amount of smelt that individual commercial fishers are allowed to catch.

Summary of Comments by Legislative Review Committees:

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

4. Natural Resources (CR 94–110)

Ch. NR 738 – Temporary emergency water supplies.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will establish criteria for continuing the current practice of seeking bottled/bulk water suppliers or water treatment companies to provide temporary emergency water supplies to affected parties.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Senate Committee on Environment and Energy and the Assembly Committee on Environment and Utilities. On June 12, 1995, the Senate Committee on Environment and Energy held a public hearing. The Committee did not request any modifications.

5. Psychology Examining Board (CR 95–68)

S. Psy 4.02 (5) & (6) – Biennial training requirement for psychologists.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

6. Public Service Commission (CR 95-40)

Ch. PSC 163 – Telecommunications utility price regulations.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. The Commission has considered the methods in s. 227.114 (2), Stats., for reducing the impact of the rules on small telecommunications utilities and finds that incorporating any of these methods into the proposed rules would be contrary to the statutory objectives which are the basis for the proposed rules. In addition, the election of price regulation under this chapter is voluntary, and more flexibility and less stringent compliance requirements for small telecommunications utilities are available in ss. 196.195 (12) and 196.196 (4), Stats.

At the time of this order, there are 86 local exchange companies in Wisconsin, 82 of which are small telecommunications utilities. The Commission finds that the availability of a voluntary price regulation election under s. 196.196 (1), Stats., and the process set forth in this chapter to govern the price regulation election are in the public interest for all telecommunications utilities in the state.

Summary of Comments:

No comments were reported.

7. Revenue (CR 95-83)

S. Tax 12.065 – Reducing the time frame required for department of revenue approval of noncredit continuing education courses for assessors and assessment personnel.

Summary of Final Regulatory Flexibility Analysis:

The rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

8. Transportation (Dept.) (CR 95-44)

Ch. Trans 103 – Habitual traffic offenders.

Summary of Final Regulatory Flexibility Analysis:

This rule will have no impact on small businesses.

Summary of Comments:

No comments were reported.

9. Transportation (Dept.) (CR 95-96)

SS. Trans 2.015 (1) & 2.05 (1) (a) – Elderly and disabled transportation capital assistance program.

Summary of Final Regulatory Flexibility Analysis:

This rule will have no adverse impact on small businesses.

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

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

Executive Order 260. Relating to Issuance of General Obligation Bonds for the Veterans Home Loan Program and Appointment of Hearing Officer.

Executive Order 261. Relating to a Special Election for the Seventh State Senate District.

Executive Order 262. Relating to the Creation of the Commission on Reform of the State's Human Resource System.

NOTICE OF EXTENSION OF COMMENT PERIOD FOR PROPOSED RULES

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will extend the period of time in which written comments will be accepted on the proposed amendments to chs. ATCP 74 and 75, Wis. Adm. Code, relating to retail food establishments and local government regulation.

Written Comments

The public may submit written comments on the proposed rules until **December 1, 1995**. A copy of the proposed rules may be obtained, free of charge, from:

Division of Food Safety
Telephone (608) 224-4700
Wisconsin Department of Agriculture, Trade & Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
MADISON, WI 53708-8911

Further information on these proposed rules may be obtained from the address and phone number given above. An analysis of the rules, fiscal estimate and initial regulatory flexibility analysis were originally published in the September 30, 1995 *Wisconsin Administrative Register*.

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