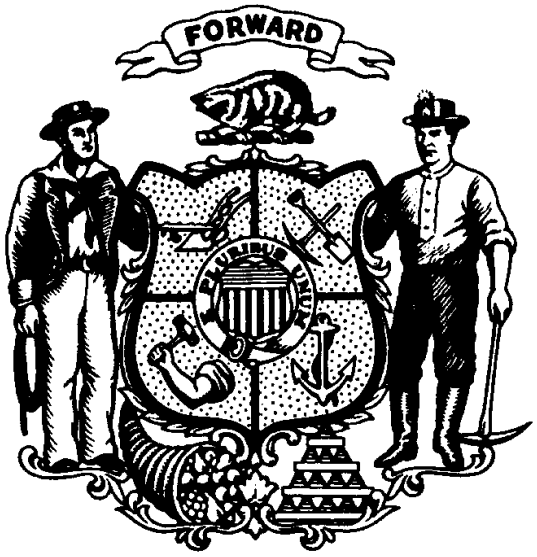
WISCONSIN ADMINISTRATIVE REGISTER

No. 482



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

TABLE OF CONTENTS

1) NOTICE SECTION.

2) EMERGENCY RULES NOW IN EFFECT.

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

Health & Social Services:	(CR 95–90) – Ch. HSS 86
Health & Social Services:	(CR 95–113) – Ch. HSS 94
Health & Social Services:	(CR 95–186) – SS. HSS 108.02, 152.065, 153.07 and 154.07
Industry, Labor & Human Relations:	(CR 95–183) – SS. ILHR 48.01 and 48.10
Industry, Labor & Human Relations:	(CR 95–199) – S. ILHR 51.01 and chs. ILHR 57 & 66
Natural Resources:	(CR 95–191) – Chs. NR 20, 21, 22 & 26 and s. NR 23.05
Optometry Examining Board:	(CR 95–142) – Chs. Opt 3 & 4 and ss. Opt 5.08, 6.04, 6.05 & 7.05
Public Defender:	(CR 95–219) – SS. PD 6.015, 6.025, 6.06, 6.07 and 6.08
Public Defender:	(CR 95–224) – S. PD 1.04 (5) & (7)
Public Defender:	(CR 95–230) – SS. PD 3.02 (1) and 3.04 (1)
Regulation & Licensing	(CR 95–141) – S. RL 10.04 (1) and (2)
Transportation, Dept. of:	(CR 95–115) – Ch. Trans 131

4) ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU.

Accounting Examining Board:	(CR 95–138) – SS. Accy 3.04, 3.05, 3.055, 3.09, 3.11 and 4.035
Agriculture, Trade & Consumer Protection:	(CR 95–112) – Ch. ATCP 136
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
Development:	(CR 95–164) – Ch. DOD 13
Health & Social Services:	(CR 95–106) – Ch. HSS 343
Health & Social Services:	(CR 95–155) – S. HSS 110.045
Industry, Labor & Human Relations:	(CR 94–132) – Chs. ILHR 2 and 13

Insurance, Office of the Commissioner of:	(CR 94–24) – SS. Ins 3.49, 4.10, 17.001, 18.05, 18.07, 18.12 & 18.15 and ch. Ins 5
Insurance, Office of the Commissioner of:	(CR 95–154) – S. Ins 3.25
Insurance, Office of the Commissioner of:	(CR 95–175) – SS. Ins 6.57, 6.58 and 6.59
Natural Resources:	(CR 95–85) – Ch. NR 51
Natural Resources:	(CR 95–91) – S. NR 728.11
Pharmacy Examining Board:	(CR 95–135) – SS. Phar 6.02, 8.05 and 13.02
Public Defender:	(CR 95–170) – SS. PD 6.01, 6.02, 6.03, 6.04 and 6.05
Public Defender:	(CR 95–171) – S. PD 3.039
Transportation, Dept. of:	(CR 95–87) – Ch. Trans 140

5) PUBLIC NOTICE.

Health & Social Services:	Public notice relating to Medical Assistance (MA) reimbursement of providers of dental services. (p. 33)

NOTICE SECTION

Notice of Hearing
Department of Administration

Notice is hereby given that pursuant to ss. 16.701, 16.702 and 16.004 (1), Stats., and interpreting ss. 16.701 and 16.702, Stats., the Department of Administration will hold a public hearing at the time and place indicated below to consider the creation of ch. Adm 9, Wis. Adm. Code, relating to contract administration fees and subscription service.

Hearing Information

February 29, 1996
Thursday
9:00 a.m.

Room 1A
(St. Croix Room)
101 East Wilson St.
MADISON, WI

The hearing site is accessible to people with disabilities.

Written Comments

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

Jan Abrahamsen, (608) 266–0974
TTY (608) 267–9629
Bureau of Procurement
Dept. of Administration
101 E. Wilson St., 6th Floor
P.O. Box 7867
Madison, WI 53707–7867

Written comments must be received by **March 8, 1996** to be included in the record of the rule–making proceedings.

Analysis Prepared by the Department of Administration

Statutory Authority: ss. 16.701, 16.702 (1), (3) and 16.004

Statutes Interpreted: ss. 16.701 and 16.702

Sections 16.701 and 16.702, Stats., created in 1995 Wis. Act 27, authorize the Department of Administration to provide revenue for state information technology development through a fee on vendors who do business with the State. The proposed rule establishes a contract administration fee to be paid by providers of materials, supplies, equipment or contractual services to agencies under s. 16.75, Stats., in connection with transactions in excess of the amount indicated in s. 16.75 (1) (c), Stats., which is currently $10,000. The proposed rule also establishes the fee for a subscription service provided by the state which will contain current information to prospective vendors concerning state procurements.

Text of Rule

SECTION 1. Chapter Adm 9 is created to read:

Chapter Adm 9

CONTRACT ADMINISTRATION FEES AND SUBSCRIPTION SERVICE

Adm 9.01 Authority. This chapter is promulgated under the authority of ss. 16.701, 16.702 (1) and (3), and 16.004, Stats., to implement ss. 16.701 and 16.702, Stats.

Adm 9.02 Purpose. The purposes of this chapter are to:

(1) Establish a contract administration fee to be paid by providers of materials, supplies, equipment or contractual services to state agencies.

(2) Establish a fee for providing a subscription service containing current information of interest to prospective vendors concerning state procurement opportunities.

Adm 9.03 Definitions. In this chapter:

(1) "Department" means the department of administration.

(2) "Subscription service" means a service provided by the department to prospective vendors regarding state procurement opportunities, statistical information relating to state procurements, or other relevant procurement information.

(3) "Vendor" means any private business entity which is a party to a procurement transaction under s. 16.75, Stats., and has a separate federal employer identification number (FEIN), or social security number for those businesses not having a FEIN.

Adm 9.04 Contract administration fee. Unless otherwise provided in this chapter, every vendor providing materials, supplies, equipment or contractual services to agencies under s. 16.75, Stats., in connection with transactions in excess of the amount indicated in s. 16.75 (1) (c), Stats., shall pay a contract administration fee as provided in s. Adm 9.05.

Adm 9.05 Schedule of fees. The schedule of contract administration fees shall be:

(1) A fee of $300 for each contract awarded if the amount of the contract is in excess of the amount indicated in s. 16.75 (1) (c), Stats., but less than $50,000.

(2) A fee of $1,000 for each contract awarded if the amount of the contract is $50,000 or more but less than $100,000.

(3) A fee of $3,000 for each contract awarded if the amount of the contract is $100,000 or more but less than $1,000,000.

(4) A fee of $5,000 for each contract awarded if the amount of the contract is $1,000,000 or more.

(5) In addition to the fees provided in subs. (1) to (4), a fee equal to the amount indicated in subs. (1) to (4) for each subsequent year of multi–year contracts.

(6) In the event that a specific dollar amount is not known for a contract or subsequent year of a multi–year contract, then the vendor shall pay a contract administration fee as provided in subs. (1) to (4), based on the estimated value made by the department of the goods or services to be provided by a vendor over the contract period or in the case of a contract which runs for more than one year, the estimated value for each 12 month period or partial period beyond the first 12 month period of an awarded contract.

(7) If more than one vendor is awarded a contract in connection with a particular procurement and it is not possible to estimate the amount each vendor will receive, then each vendor shall pay a fee as provided in subs. (1) to (5), on a contract amount determined by dividing the entire amount or estimated amount of the procurement by the total number of vendors except that each vendor shall pay a fee of at least $300.

Adm 9.06 Nonpayment of fees. Failure to pay the fees required by s. Adm 9.05 (1) to (5) within 5 working days after issuance of a notice of intent to award a contract or renewal of a contract, shall void the notice of intent to award or renewal of a contract and the bidder or proposer shall be ineligible for the contract or renewal of a contract.

Adm 9.07 Waiver and extension. (1) The department may waive a fee:

(a) For a vendor who is the only source available for a particular procurement.

(b) Where the department determines that it is in the best interests of the state to proceed with the procurement without payment of the fee.

(2) The department may extend the time for payment of a fee if an extension is in the best interests of the state.

Adm 9.08 Subscription service. The fee for any subscription service provided by the department shall be $100 per year.

Initial Regulatory Flexibility Analysis

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

Small businesses that provide materials, supplies, equipment or contractual services to agencies under s. 16.75, Stats., in connection with transactions in excess of the amount indicated in s. 16.75 (1) (c), Stats., which is currently $10,000, will be obligated to pay a contract administration fee.

It is estimated by the Department of Development, that there are approximately 120,000 small businesses in the State of Wisconsin. Approximately 7,000 to 8,000 of those small businesses do business with the state; however, the contracts with small businesses tend to be below the minimum amount indicated in s. 16.75 (1) (c), Stats., and, therefore, the number that would actually pay fees under this proposed rule is significantly less than half of the small businesses that do business with the state.

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

None.

3. Types of professional skills necessary for compliance with the rule:

None.

Fiscal Estimate

1995 Wis. Act 27 authorized the Department of Administration (DOA) to provide a contract administration fee to provide funds for state information technology development projects. These rules create a 4–part contract administration fee which would provide an estimated $4,589,600 revenue.

The revenue will be deposited under the segregated appropriation s. 20.870 (1) (q), Stats., *Special projects; fee revenue*, a segregated fund appropriation. The allocation of the revenues to specific agency level appropriations for Information Technology (I/T) development projects is subject to determination by the legislature as outlined in 1995 Wis. Act 27.

Administrative costs of collecting the contract administration fees and creating a database of vendors who do business with the State of Wisconsin are estimated at approximately $140,000 SEG annually. The general costs known at this point relate to:

1) Creating a mailing list to known vendors;

2) Doing a mass one–time mailing to inform state vendors about the program; and

3) Collecting, depositing and otherwise accounting for the contract administration fees.

There is also cost to enter vendor data into a database that will be accessible by the State Bureau of Procurement, state agency purchasing officials and by vendors themselves. Development of the database will enable the Department to offer a subscription service as outlined in the draft administrative rules. The DOA will likely request approval of this $140,000 SEG administrative funding authority for s. 20.505 (1) (r), Stats., at the quarterly s. 13.10, Stats., meeting in March, 1996, including any one–time costs. Greater clarification of administrative costs should be available at the time of the request.

Long–Range Fiscal Implications

Annual revenues and costs of administration are likely to be similar, based on information at this time.

Notice of Hearings

Agriculture, Trade & Consumer Protection

(Reprinted from 01–31–96 *Wis. Adm. Register*)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection will hold public hearings on a proposed Department rule related to the Soil and Water Resource Management program (chapter ATCP 50, Wis. Adm. Code).

Written Comments

The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **March 15, 1996,** for additional written comments. An interpreter for the hearing–impaired will be available upon request for this hearing. Please make reservations for a hearing interpreter by **February 9, 1996,** by writing or calling Don Houtman at the phone number or address given below or by calling the Department's TTY number **(608) 224–5058.**

Copies of Rule & Contact Person

Copies of the proposed rule are available free of charge from:

Don Houtman, (608) 224–4625
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708–8911

Hearing Information

All locations are handicapped accessible.

Five hearings are scheduled:

February 26, 1996 **Monday** **County Board Room** **Jackson Co. Courthouse** **307 Main Street** **BLACK RIVER FALLS** **WISCONSIN**	Informational meeting commencing at **2:30 p.m.**, followed by the first hearing of the day. A second hearing of the day will commence at **6:30 p.m.**
February 27, 1996 **Tuesday** **County Board Mtg. Room** **Law Enforcement Center** **Rusk Co. Courthouse** **311 East Miner Ave.** **LADYSMITH, WI**	Informational meeting commencing at **10:00 a.m.**, followed by the hearing.
February 29, 1996 **Thursday** **Meeting Room** **Co. Hwy. Dept. Bldg.** **1313 Holland Ave.** **APPLETON, WI** (Use East Entrance, Please)	Informational meeting commencing at **1:00 p.m.**, followed by the hearing.
March 4, 1996 **Monday** **Room 208** **Jefferson Co. Courthouse** **320 South Main St.** **JEFFERSON, WI**	Informational meeting commencing at **2:30 p.m.**, followed by the first hearing of the day. A second hearing of the day will commence at **6:30 p.m.**
March 5, 1996 **Tuesday** **Meeting Room** **Iowa Co. Sheriff's Office** **1205 N. Bequette St.** **(Hwy 18 & 23 intersection)** **DODGEVILLE, WI**	Informational meeting commencing at **2:30 p.m.**, followed by the hearing.

Written comments will be accepted until **March 15, 1996.**

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

Statutory authority: ss. 92.05 (3) (c) and 93.07 (1)

Statute interpreted: ch. 92

This rule repeals and recreates ch. ATCP 50, Wis. Adm. Code, related to the Wisconsin Soil and Water Resource Management Program under ch. 92, Stats. This rule incorporates major changes made in the program by 1991 Wis. Act 309. This rule also reorganizes and clarifies current rules.

GENERAL OVERVIEW

The Department of Agriculture, Trade & Consumer Protection ("Department") administers Wisconsin's Soil and Water Resource Management Program under ch. 92, Stats. The program is designed to conserve the state's soil and water resources, reduce soil erosion and enhance water quality. This rule spells out program standards and procedures.

The Department administers the program in cooperation with county land conservation committees, the Land and Water Conservation Board ("LWCB"), the Department of Natural Resources ("DNR"), and other state and federal agencies. The Department coordinates soil and water management efforts by these agencies. The Department also distributes funds to county land conservation committees, landowners, land users and others to support cost−effective soil and water resource management practices.

County Programs

This rule establishes standards for county soil and water resource management programs. County programs must include the following elements:

- A county soil erosion control plan, and a program to implement that plan.
- A program to ensure that recipients of farmland preservation tax credits meet minimum soil and water conservation standards.
- A plan to abate nonpoint source pollution in priority watersheds and priority lake areas, and a program to implement that plan.
- An annual year−end report which includes a summary of county accomplishments, a summary of how staff time was used, a cropland soil erosion status report, and a financial report.
- An annual workplan and grant application which describes the county's proposed activities for the coming year, and requests state funding for those activities. A grant application may request funding for county staff and support costs, as well as for cost−share grants and incentive payments to landowners and land users.
- A program to receive, distribute and account for soil and water resource management grants.
- Procedures to ensure that landowner practices funded by state grant moneys are properly designed, constructed and installed.
- A recordkeeping and recording system.
- A program of information and education for landowners and land users.

Grants to Counties

The Department distributes soil and water resource management grants to county land conservation committees. The grants are used to fund county soil and water conservation staff. They are also used to fund county cost−share grants and incentive payments to landowners and land users.

The Department distributes these grants according to an annual grant allocation plan. The Department prepares the annual plan based on available funding, Department funding priorities, and annual workplans and grant applications from the counties. The LWCB reviews the Department's annual grant allocation plan.

This rule spells out standards and procedures for distributing grants to county land conservation committees. It includes standards and procedures for all of the following:

- County Workplans and Grant Applications.
- Annual Grant Allocation Plans.
- Grant Contracts with Counties.
- Grant Payments to Counties.

Cost−Share Grants and Incentive Payments to Landowners and Land Users

Under the Soil and Water Resource Management Program, a county land conservation committee may use state grant funds to make cost−share grants and incentive payments to landowners and land users. The Department may also make direct cost−share grants to landowners and land users for some purposes, such as manure management systems needed to comply with a DNR notice of discharge.

A "cost−share grant" reimburses a landowner for part of the cost of installing specific practices identified in the grant. An "incentive payment" means a payment made to a landowner if the landowner complies with specified soil and water resource management standards (the method of compliance is left to the landowner).

This rule spells out standards and procedures related to cost−share grants and incentive payments, including:

- General criteria for awarding cost−share grants and incentive payments.
- Practices eligible for cost−share grants.
- Cost−share rates and maximum payments.
- Design and construction standards.
- Contracts with landowners and land users.
- Verifying compliance by landowners and land users.

Agricultural Engineering Practices and Nutrient Management Planning; Qualified Personnel

Under 1991 Wis. Act 309, the Department is required to certify county land conservation committee staff and others who design, review or approve agricultural engineering practices under the Soil and Water Resource Management Program. This rule spells out certification standards and procedures. The standards and procedures are similar to those used by the United States Department of Agriculture, Natural Resource Conservation service (USDA).

Under this rule, no funds may be provided for the development or implementation of a nutrient management plan unless that plan is developed by a nutrient management planner who meets the minimum qualifications specified under this rule. Nutrient management planners who have professional qualifications or affiliations spelled out under this rule are presumed to be qualified. This rule does not establish a state certification program for nutrient management planners.

County, Town and Municipal Ordinances

Currently, a county, town or municipality may adopt a manure storage ordinance under s. 92.16, Stats., or a shoreland management ordinance under s. 92.17, Stats. No county, town or municipality may adopt a shoreland management ordinance under s. 92.17, Stats., without the Department's approval. This rule spells out general standards for local manure storage ordinances and shoreland management ordinances. It also spells out the procedure for obtaining the Department's approval of a shoreland management ordinance.

Accounting, Recordkeeping and Program Reviews

This rule requires a county to maintain an accounting and recordkeeping system which accounts for the receipt, handling and disposition of all funds received from the Department under ch. 92, Stats. The rule spells out specific recordkeeping requirements for cost−share grants and incentive payments to landowners and land users. The Department may review and audit county records as necessary.

COUNTY SOIL EROSION CONTROL PLAN

This rule prohibits the Department, after January 1, 1998, from awarding grants to any county land conservation committee that lacks an approved soil erosion control plan. The Department must approve or disapprove a plan after the LWCB reviews the plan. Counties that have already filed approved plans (about 55 counties to date) need not file new plans under this rule. The Department, in consultation with the Land and Water Conservation Board, may waive the requirement of a soil erosion control plan for an individual county if the Department finds that cropland soil erosion is not a significant problem in that county.

Plan Components

Under this rule, a county soil erosion control plan must include all of the following:

- A general inventory of land in the county, including soil types, surface topography, watershed areas, and land uses.
- Estimated rates of soil erosion in the county.
- An identification of areas having especially high soil erosion rates.
- Soil erosion control goals, including standards for lands enrolled in the farmland preservation program (see below).
- An identification of practices needed to achieve soil erosion control goals.
- A long−term strategy for implementing needed erosion control practices (see below).

Soil Erosion Control Strategy

Under this rule, a county's long−term soil erosion control strategy may include activities that are contingent on funding. A county strategy may include the following activities, among others:

- Funding cost–effective erosion control practices.
- Providing technical assistance to landowners and land users.
- Developing and administering farm conservation plans (see below).
- Providing information and education to landowners and land users.
- Developing and implementing soil and water conservation ordinances under s. 92.11, Stats., or shoreland management ordinances under s. 92.17, Stats.
- Coordinating soil and water conservation activities with federal, state and local agencies.

FARMLAND PRESERVATION COMPLIANCE PROGRAM

County Soil and Water Conservation Standards

Under current law, a county land conservation committee must adopt soil and water conservation standards applicable to farmland owners who claim farmland preservation tax credits under subch. IX of ch. 71, Stats. Standards must be approved by the LWCB. Failure to comply with a standard may disqualify a landowner from receiving farmland preservation tax credits. The Department must review all county soil and water conservation standards at least once every 5 years.

This rule requires a county land conservation committee to adopt, as a soil and water conservation standard, a requirement that cropland soil erosion not exceed "T–value" (the state soil erosion goal under s. 92.025, Stats.) The committee may adopt other standards which it deems appropriate, subject to LWCB approval. Standards must be incorporated into farm conservation plans (see below).

Adopting and Approving Standards

Under this rule, a county land conservation committee must hold a public hearing before it adopts or amends a soil and water conservation standard. At least 45 days prior to the public hearing, the committee must submit the proposed standard or amendment to the Department for preliminary review and comment. The Department must return its comments, if any, within 30 days.

A county land conservation committee, after holding a public hearing, must submit its final draft standard or amendment to the Department for approval by the LWCB. The Department must give its recommendation to the LWCB within 30 days, and the LWCB must then approve or disapprove the proposed standard or amendment within 90 days.

If a county land conservation committee fails to adopt the "T–value" standard required under this rule, owners of farmland in that county may not claim farmland preservation tax credits under ch. 71, Stats. If a county land conservation committee adopts, but the LWCB does not approve, additional soil and water conservation standards, a landowner need not comply with those standards in order to obtain farmland preservation tax credits.

Farm Conservation Plans

Under current law, a county land conservation committee must prepare a farm conservation plan for every farm in the county whose owner claims farmland preservation tax credits. Under this rule, a farm conservation plan must include all of the following:

- A map delineating each farmland field covered by the plan.
- The current erosion rate for each farmland field covered by the plan.
- Recommended practices to achieve and maintain compliance with county soil and water conservation standards in fields that currently fail to comply.
- A compliance deadline of not more than 5 years, and a requirement that there be sufficient annual progress to meet that compliance deadline.

Under this rule, a county land conservation committee may grant a variance from a compliance schedule. The committee must keep a record of each variance, including the reason for the variance. As part of its annual report to the Department, a committee must report any compliance schedule variances granted during the preceding year.

Monitoring Compliance

Under current law, a county land conservation committee must monitor whether landowners claiming farmland preservation tax credits are complying with county soil and water conservation standards. Under this rule, a monitoring system must include both of the following:

- A system by which farm owners certify compliance to the committee, in response to an annual or other periodic request by the committee.
- A system for monitoring compliance by means of field inspections, aerial photographs, remote sensing or other methods which the committee considers reliable. The committee must monitor each landowner's compliance at least once every 6 years, and more frequently if necessary.

Issuing Notices of Noncompliance

Under current law, a county land conservation committee must issue a notice of noncompliance if the committee determines that a landowner is violating a farm conservation plan or approved soil and water conservation standards. Under this rule, the committee may also issue a notice of noncompliance if a landowner fails to certify compliance as requested, or refuses to permit an inspection to determine compliance. Under current law, a landowner who receives a notice of noncompliance is not eligible for farmland preservation tax credits.

COUNTY REPORTS AND GRANT APPLICATIONS

Annual Report

Under current rules, a county land conservation committee is required to make a number of different year–end reports to the Department. This rule combines those year–end reports into a single annual report, simplifies the reporting procedure, and eliminates unnecessary reporting requirements.

This rule requires a county land conservation committee, by April 15 of each year, to file its year–end report for the preceding calendar year. The report must include all of the following:

- An annual summary of program activities and accomplishments.
- A report on cropland soil erosion. The report must include all of the following:
  - A summary of the methods, if any, which the committee is currently using to monitor cropland soil erosion and identify serious soil erosion problems.
  - A description of the systems, if any, which the committee is currently using to collect, analyze, store, update and retrieve soil erosion data.
  - The committee's estimate of the current number of cropland acres in the county, the current number of cropland acres under farm conservation plans, and the current number of acres enrolled in the farmland preservation program.
  - The approximate number of cropland acres for which the committee has reliable current estimates of soil erosion. The report shall briefly describe the methods used to obtain those estimates.
  - The approximate number of cropland acres for which the committee believes that the current rate of soil erosion is not more than T–value; more than T–value, but not more than twice T–value; more than twice T–value, but not more than 3 times T–value; more than 3 times T–value; or not reasonably determinable based on available data.
  - An assessment of the county's progress toward achieving compliance with the statewide soil erosion goal under s. 92.025, Stats.
  - An identification of key soil erosion problems and data needs.
- A financial report, which must include all of the following:
  - The amount of grant money which the county land conservation committee received from the Department during the preceding year, and the purposes for which the committee received that money.
  - The amount of grant money which the county land conservation committee spent during the preceding calendar year, and the purposes for which it spent that money.
  - The amount of grant money remaining in county accounts at calendar year–end.

Annual Grant Application

Under this rule, as under current rules, a county land conservation committee must annually apply to the Department for soil and water resource management grants. This rule provides that, by April 15 of each year, a county land conservation committee must file with the Department its application for funding for the next calendar year. (The Department, in cooperation with DNR, will distribute application forms before January 1 for return by April 15.)

In its annual grant application, a county land conservation committee must identify all of the following:

- The soil and water resource management activities which the county proposes to undertake under this chapter during the next calendar year.
- The total amount of county staff time projected for the county's proposed activities, and the projected allocation of staff time by activity.
- The amount of funding requested for staff salaries, fringe benefits, training and support, in order to carry out the county's proposed activities.

● The amount of funding requested for cost−share grants and incentive payments to farmers. The committee shall identify, in its funding request, any amounts which the county proposes to retain as reimbursement of direct county costs incurred in connection with the cost−share grants or incentive payments.

● The nature and amount of any other funding requested in connection with the county's proposed activities.

● Any information which the committee wishes to provide in support of its grant application.

GRANTS TO COUNTIES AND OTHERS

Counties Eligible for Grants

To be eligible for a grant from the department under ch. 92, Stats., a county land conservation committee must do all of the following:

● Submit an approved soil erosion control plan (see above).

● Establish soil and water resource management standards for lands enrolled in the farmland preservation program (see above).

● Submit an annual workplan and grant application (see above).

Grant Allocation Criteria

Under this rule, the Department must first consider the need for county staff and project continuity when preparing its annual grant allocation plan. The Department must also consider all of the following:

● The relative severity and priority of the soil erosion and water quality problems addressed.

● The extent to which the funded activities will address and resolve high−priority problems.

● The relative cost−effectiveness of funded activities in addressing and resolving high−priority problems.

● The availability of alternative measures to address and resolve high−priority problems.

● The extent to which funded activities are part of a systematic and comprehensive approach to soil erosion and water quality problems.

● The completeness of the county grant applications and supporting data.

● The demonstrated cooperation and commitment of the counties, including their commitment of staff and financial resources.

● The demonstrated ability of the counties to manage and implement funded projects.

● The degree to which funded projects contribute to a coordinated soil and water resource management program and avoid duplication of effort.

Annual Grant Allocation Plan

Under current law, the Department must allocate grants to county land conservation committees and others according to an annual grant allocation plan that is reviewed by the LWCB. Under this rule, the Department must issue a preliminary allocation plan to DNR, the LWCB and every county land conservation committee by September 1 of each year. After obtaining the recommendations of the LWCB, the Department must issue its final allocation plan by December 31 of each year.

Under this rule, the Department's annual grant allocation plan must specify all of the following:

● The total amount appropriated to the Department for possible allocation under the plan, including grant appropriations under s. 20.115 (7) (c), (qd) and (km), Stats.

● The total amount allocated under the plan.

● The total amount allocated for basic annual staffing grants (see below). The plan must also specify the amount allocated to each county, and the reasons for any differences in allocations between counties.

● The total amount allocated for shoreland management grants (see below). The plan must also specify the amount allocated to each county, the amounts allocated directly to farmers, and the reasons for the allocations.

● The total amount allocated for nonpoint pollution abatement grants to landowners and land users to comply with DNR notices of discharge or notices of intent (see below). The plan must also specify:

● The subtotal amount allocated to comply with DNR notices of discharge or notices of intent outside priority watershed and priority lake areas.

● The subtotal amount allocated for use in each county, if known.

● The subtotal amount allocated for use in priority watersheds or priority lake areas, and the subtotal amount allocated for use in each priority watershed or priority lake area.

● The reasons for the allocations.

● The total amount allocated for other grants, including grants related to farmland preservation compliance, animal waste management and erosion control, and other soil and water resource management projects (see below). The plan must also specify:

● The subtotal amounts allocated for each purpose.

● The amount allocated to each county and to each grant recipient other than a county.

● The reasons for the allocations.

Basic Annual Staffing Grants to Counties

Under current law and this rule, the Department must award grants to county land conservation committees to pay for county personnel needed to operate county soil and water resource management programs. The Department awards these grants from the appropriation under s. 20.115 (7) (c), Stats. A county must match the Department's total grant with an equal commitment of county funds for soil and water resource management administrative and technical operating costs. A county need only match the total amount of the grant, and need not match the grant on an item−by−item basis.

Under this rule, a county may use a basic annual staffing grant for any of the following purposes, subject to the terms of the grant:

● Salaries and fringe benefits for county staff.

● Training for county staff.

● The following staff support costs identified in an approved grant application:

● Travel expenses, including mileage charges, vehicle leases or purchases, meals, lodging and other necessary costs.

● Personal computers, software, printers and related devices.

● Office supplies, including paper, copies, printing and postage.

● Office equipment and furnishings, including desks, chairs, calculators, drafting equipment, and file cabinets.

● Field equipment.

● Information and education materials which county staff provide in connection with their soil and resource management activities under this rule.

● Other staff support costs approved by the Department.

Under this rule, the Department may award different amounts to different counties, based on the Department's assessment of funding needs and priorities. A county may use its grant award to fund staff engaged in a variety of soil and water resource management programs, including farmland preservation compliance, erosion control, animal waste management, shoreland management, nonpoint source pollution abatement and others; however, the amount awarded to a county may depend, in part, on the Department's concurrence with the county's proposed workplan. The Department may also earmark a portion of the grant for a specific purpose, such as staff training.

Subject to the availability of funds, the Department must award at least the following amounts to the following counties:

● $12,000 to a county that has a county conservationist operating under an agreement between the Department and the county land conservation committee.

● $7,000 to a county that does not have a county conservationist operating under an agreement between the Department and the county land conservation committee.

In addition to awarding a basic annual staffing grant to each county land conservation committee, the Department may earmark portions of other, more specialized, grants to pay for county land conservation committee staff costs which are directly related to those grants (see below).

Shoreland Management Grants

Under current law and this rule, the Department may award cost−share grants to farmers, or may award grants to county land conservation committees to finance cost−share grants or incentive payments to farmers, to implement practices required by a shoreland management ordinance under s. 92.17, Stats. A county land conservation committee may reallocate grant

funds to a town or municipality for distribution to farmers covered by a town or municipal ordinance.

The Department awards shoreland management grants from the appropriation under s. 20.115 (7) (qd), Stats. Under this rule, a county land conservation committee may use a shoreland management grant for any of the following purposes, subject to the terms of the grant:

- Cost–share grants or incentive payments to farmers.
- Costs to record cost–share agreements with the county register of deeds.
- Reimbursement for county technical assistance provided in connection with a cost–share grant or incentive payment (see below).

Nonpoint Pollution Abatement Grants

Under current law and this rule, the Department may award cost–share grants to farmers, or may award grants to counties to finance cost–share grants to farmers, to construct manure management systems needed to comply with a DNR notice of discharge under ch. 147, Stats., or for other management practices needed to comply with a DNR notice of intent under s. 144.025 (2), Stats. The Department may award grants for projects within or outside a priority watershed or priority lake area.

For projects outside priority watershed or priority lake areas, the Department may award these grants from the moneys remaining in the appropriations under s. 20.115 (7) (c) and (qd), Stats., after the Department makes basic annual staffing grants and shoreland management grants to counties (see above). For projects within priority watersheds or priority lake areas, the Department may award these grants from the appropriation under s. 20.115 (7) (km), Stats.

Under this rule, a county land conservation committee may use grant funds for any of the following purposes, subject to the terms of the grant:

- Cost–share grants to farmers.
- Costs to record cost–share agreements with the county register of deeds.
- Reimbursement for county technical assistance provided in connection with a cost–share grant (see below).

Farmland Preservation Compliance Grants

Under current law and this rule, the Department may award grants to county land conservation committees to promote compliance with county soil and water conservation standards on lands enrolled in the farmland preservation program. The Department may award these grants from the moneys remaining in the appropriations under s. 20.115 (7) (c) and (qd), Stats., after the Department makes basic annual staffing grants, shoreland management grants, and nonpoint pollution abatement grants (see above).

Under this rule, a county may use grant funds for any of the following purposes, subject to the terms of the grant:

- Incentive payments to farmland owners who comply with county soil and water conservation standards.
- Cost–share grants to farmland owners for specific practices identified in farm conservation plans.
- Costs to record cost–share agreements with the county register of deeds.
- Reimbursement for county technical assistance provided in connection with an incentive payment or cost–share grant (see below).
- Other county staffing costs approved by the Department.

Grants for Other Soil and Water Resource Management Projects

Under current law and this rule, the Department may award grants to county land conservation committees to implement other soil and water resource management projects, including the following:

- Animal waste management activities begun under s. 92.15, 1985 Stats.
- Projects to implement county erosion control plans.
- Other projects designated by the Department.

The Department may award these grants from the moneys remaining in the appropriations under s. 20.115 (7) (c) and (qd), Stats., after the Department makes basic annual staffing grants, shoreland management grants, nonpoint pollution abatement grants, and farmland preservation compliance grants (see above).

Under this rule, a county land conservation committee may use grant funds for any of the following purposes, subject to the terms of the grant:

- Cost–share grants or incentive payments to farmers.
- Costs to record cost–share agreements with the county register of deeds.
- Reimbursement for county technical assistance provided in connection with a cost–share grant or incentive payment (see below).

County Technical Assistance; Reimbursement

Under this rule, whenever the Department awards a grant to a county land conservation committee to fund cost–share grants or incentive payments to farmers, the Department may earmark part of the grant to reimburse the county for technical assistance provided in connection with those cost–share grants or incentive payments. Technical services may include any of the following:

- Technical assistance to farmers receiving cost–share grants, including help in designing cost–shared practices.
- Certification that cost–shared practices are designed, constructed, installed and maintained according to this rule.
- Certification that the recipients of incentive payments have complied with applicable requirements for the receipt of those payments.
- Project administration and supervision.
- Other services approved by the Department.

The Department may not reimburse a county, for technical assistance related to a cost–share grant or incentive payment, an amount which exceeds 15 percent of the eligible project cost. Nor may the Department reimburse a county for technical services that are reimbursed under the county's basic annual staffing grant.

Grant Contracts and Payments

Under this rule, the Department must enter into a grant contract with every county land conservation committee to which it awards a grant. The Department must enter into a similar contract with every other person to whom it makes a direct grant.

The Department's contract with a county land conservation committee must include all of the following:

- The purpose for which the grant is awarded.
- The total amount of the grant.
- Subtotal amounts designated for specific uses, such as cost–share grants or incentive payments to landowners and land users, county staffing, or reimbursement of specified county services.
- A general description of the types of projects for which cost–share funding is awarded, including aggregate project costs and amounts awarded for each type of project.
- The responsibilities of the Department and the land conservation committee under the contract.
- Deadlines for implementing the contract.
- Other terms and conditions specified by the Department.

Under this rule, the Department must pay the entire grant in a single payment. The Department must make the payment to the county land conservation committee by April 15th of the contract year, or within 30 days after the grant contract is signed, whichever is later.

Under this rule, whenever a county land conservation committee retains grant funds for more than 90 days, the committee must place the funds in an interest–bearing account and use the interest to further the goals of the Soil and Water Resource Management Program. If a committee fails to spend grant funds in the year scheduled, the Department must normally deduct the amount of the unspent funds from the next year's grant allocation.

Under current law and this rule, a county receiving grant funds must agree to maintain its support for soil and water resource management programs. The Department may withhold grant payments from a county that breaches this or other terms of a grant contract. All contracts are contingent on the availability of legislative appropriations to fund the contracts.

COST–SHARE GRANTS TO LANDOWNERS AND LAND USERS

Eligible Practices and Costs

Under current law and this rule, the Department or a county land conservation committee may award a cost–share grant to a landowner or land user for eligible practices which will achieve priority soil or water resource management goals in the most practical and cost–effective way.

Under this rule, the Department or a county land conservation committee may award cost–share grants for the following eligible practices, or for other practices which the Department specifically approves, if those practices comply with conditions specified in this rule:

- Manure storage systems.
- Manure storage system abandonment.
- Barnyard runoff control systems.
- Access roads and cattle crossings.
- Cattle mounds.
- Conservation tillage.
- Contour farming.
- Critical area stabilization.
- Diversions.
- Field windbreaks.
- Filter strips.
- Grade stabilization structures.
- Heavy use area protection.
- Intensive grazing management.
- Livestock fencing.
- Livestock watering facilities.
- Milking center waste control systems.
- Nutrient and pesticide management.
- Relocating or abandoning an animal feeding operation.
- Roofs.
- Roof runoff systems.
- Sediment basins.
- Streambank and shoreline protection.
- Strip−cropping.
- Subsurface drains.
- Terrace systems.
- Underground outlets.
- Waste transfer systems.
- Water and sediment control basins.
- Waterway systems.
- Well abandonment.
- Wetland development and restoration.

This rule specifies, for each of the eligible practices identified above, the costs that are eligible for reimbursement under a cost−share grant.

Design, Construction and Maintenance Standards

Under this rule, cost−shared practices must comply with specific design, construction and maintenance standards, including applicable standards contained in the "Natural Resources Conservation Service Field Office Technical Guide" published by USDA. Practices must be maintained for a period of time specified in this rule.

Cost−Share Contracts

Under this rule, the Department or committee must enter into a written contract with the recipient of a cost−share grant before making any payments to that grant recipient. The cost−share grant contract must include all of the following:

- The name and address of the grant recipient. If the recipient is not the landowner, the contract must also include the name and address of the landowner.
- The purpose for the cost−share grant.
- The total amount of the cost−share grant.
- The location of the land on which the cost−shared practice is to be installed, and a specific legal description of the land if the cost−share grant is for more than $1,000.
- Design specifications for the cost−shared practice.
- The total cost of the cost−shared practice, and the percentage of that cost that will be funded under the cost−share grant.
- A timetable for constructing and installing the cost−shared practice.
- An agreement that the grant recipient will maintain the cost−shared practice for the period of time required under this rule, and will repay the full amount of the cost−share grant if the cost−shared practice is not maintained.
- If the contract provides for a cost−share grant of more than $1,000, an agreement that the contract runs with the land, and is binding on subsequent owners or users of the land for the term of the maintenance period.
- Other standard terms specified under this rule (see below).

Standard Contract Terms

Under this rule, a cost−share contract must include the following standard terms:

- Before the Department or a county land conservation committee makes any cost−share payment to a landowner or land user, it must determine that the cost−shared practice is designed, constructed and installed according to standards specified in this rule and the cost−share contract. Certain cost−shared practices must be reviewed by a professional engineer registered under ch. 443, Stats., an "agricultural engineering practitioner" certified under this rule, or a "nutrient management planner" who is qualified under this rule.
- The Department or the county land conservation committee must pre−approve, according to a procedure specified in the contract, any construction changes that may affect the terms or amount of the cost−share grant.
- The Department or county land conservation committee may make partial payments for properly completed portions of a cost−shared practice, but may not distribute more than 75 percent of the cost−share grant before the cost−shared practice is completed in full.
- Neither the Department nor a county land conservation committee may make a cost−share payment for any portion of a cost−shared practice until the cost−share grant recipient does one of the following:
  - Provides proof that the grant recipient has paid in full for the construction and installation of that portion of the cost−shared practice.
  - Authorizes the Department or committee to make the cost−share payment by means of a multi−party check that includes the primary contractors as co−payees, and either deposits in an approved escrow account sufficient funds to pay for the remaining costs to construct and install the cost−shared practice, or provides proof of payment in full for the grant recipient's portion of the cost−shared practice.
- The Department or county land conservation committee must record a cost−share contract with the county register of deeds within 30 days after the practice is installed and certified, and before the Department or committee makes any cost−share payment under the contract. This recording requirement does not apply to cost−share contracts for less than $1,000, or for contracts which include only the following practices:
  - Contour farming.
  - Contour strip−cropping.
  - Field strip−cropping.
  - Conservation tillage.
  - Nutrient management.
  - Pesticide management.
  - Other practices jointly identified by the Department and the LWCB.

Payments Made Only to Grant Recipient

Under this rule, neither the Department nor a county land conservation committee may make a cost−share grant payment to anyone other than the grant recipient, except with the recipient's authorization. A grant recipient must authorize the use of multi−party checks (e.g., checks which name contractors or lenders as co−payees).

Paying for Construction Services Provided by Grant Recipient

Under this rule, the Department or a county land conservation committee may reimburse a cost−share grant recipient for services which he or she provides in connection with the construction or installation of a cost−shared practice if the Department or committee finds both of the following:

- The grant recipient is competent to perform the services.
- The grant recipient will provide the services at an equal or lower cost than other service providers.

Cost Containment Procedures

Under this rule, the Department must use at least one of the following procedures to contain the cost of a cost−shared practice:

- Make cost−share payments based on the average cost of a cost−shared practice, regardless of its actual cost.

- Establish an acceptable cost range for a cost–shared practice.

- Require the grant recipient to obtain competitive bids for a cost–shared practice, using bidding procedures specified by the Department. Bidding procedures must comply with this rule. The Department may make cost–share payments based on the low bid cost of the practice, whether or not the grant recipient selects the low bidder.

- Specify a maximum amount which the Department will pay for a cost–shared practice, regardless of the cost of that practice.

- Use an employe or agent of the Department to design, construct or install a cost–shared practice if, by doing so, the Department can minimize public costs related to the practice.

- Use other cost containment procedures which the Department approves.

Under this rule, a land conservation committee must develop cost containment procedures for its cost–shared practices under this rule. The county's procedures must be reasonably consistent with the cost–containment procedures used by the Department under this rule.

COST–SHARE RATES AND MAXIMUM PAYMENTS

Cost–Share Rates; General

This rule specifies the maximum percentage rate (cost–share rate) at which the Department or a county land conservation committee may reimburse a landowner or land user for eligible practices identified in this rule. For most eligible practices, the maximum cost–share rate is 70 percent, or 80 percent if the practice is required to comply with a shoreland management ordinance. For certain practices and situations, this rule specifies different maximum cost–share rates (see below).

Nutrient and Pesticide Management Practices; Cost–Share Rates

Under this rule, the maximum cost–share rate for nutrient and pesticide management practices is 50 percent, or 80 percent if the practice is required in order to comply with a shoreland management ordinance.

Intensive Grazing Practices; Cost–Share Rates

Under this rule, the maximum cost–share rate for intensive grazing practices is 50 percent, or 80 percent if intensive grazing practices are required in order to comply with a shoreland management ordinance.

Manure Storage Systems; Cost–Share Rates

For manure storage systems, this rule specifies maximum cost–share rates as follows:

- 70 percent for the first $20,000 of eligible manure storage system costs. If there is "economic hardship," the maximum rate is 85 percent (90 percent if the system is required in order to achieve compliance with a shoreland management ordinance).

- 50 percent for eligible costs over $20,000. If there is "economic hardship," the maximum rate is 75 percent (90 percent if the system is required in order to achieve compliance with a shoreland management ordinance).

Manure storage systems are also subject to a maximum payment cap (see below).

Barnyard Runoff Control Systems; Cost–Share Rates

A "barnyard runoff control system" may include any of several eligible practices used to control barnyard runoff. The maximum cost–share rate for most of those practices is 70 percent. But if there is "economic hardship," the maximum cost–share rate is as follows:

- 85 percent of the first $20,000 of eligible practices (90 percent if the system is required in order to achieve compliance with a shoreland management ordinance).

- 75 percent for eligible costs over $20,000 (90 percent if the system is required in order to achieve compliance with a shoreland management ordinance).

Cropping Practices; Cost–Share Rates

For certain cropping practices, this rule specifies cost–share limits in terms of maximum payments per acre. These maximum payments range from one annual payment of $7.50 per acre for field strip–cropping to 3 annual payments of $18.50 per acre for high residue management systems. In addition, the Department or county land conservation committee may pay up to 50 percent of necessary costs to remove obstructions or install subsurface drains.

Economic Hardship

Under this rule, the Department or a county land conservation committee may pay a higher cost–share rate for a manure storage system or barnyard runoff control system (see above) if the Department or committee makes a finding of "economic hardship." To make a finding of "economic hardship," the Department or committee must find all of the following:

- That the practice is required in order to comply with a notice of discharge issued under ch. 147, Stats., or with a shoreland management zoning ordinance enacted under s. 92.17, Stats.

- That the grant recipient has a debt–to–asset ratio of more than 60 percent as verified by a signed statement from a certified public accountant.

- That the grant recipient will be able to pay the balance of the proposed costs of the practice, as verified by a signed statement from an accredited financial institution or a certified public accountant.

- That the practice is the least expensive way to attain compliance with the notice of discharge or the shoreland management zoning ordinance.

Maximum Payments

Under this rule:

- No cost–share grant may exceed $25,000 without the Department's approval.

- The total of all government payments for a manure storage system may not exceed $35,000, or $45,000 if there is "economic hardship."

- No cost–share grant to relocate an animal feeding operation may exceed 70 percent of the estimated cost to install a manure management system or related practices needed to resolve or prevent water quality problems at the abandoned site or at the new site, whichever site cost is less. No more than $5,000 of the cost–share grant may be used to transport livestock from the abandoned facility to the new facility.

- A cost–share grant for intensive grazing management may not include more than $2,000 for a watering system.

Engineering Design Services; Additional Payment

The Department or a county land conservation committee, in addition to paying the cost–share percentage allowed under this rule, may reimburse a cost–share grant recipient for engineering services needed to design the cost–shared practice. The amount paid as reimbursement for engineering services may not exceed 15% of the eligible project cost.

INCENTIVE PAYMENTS TO LANDOWNERS AND LAND USERS

Incentive Payment Contracts

Under current law and this rule, the Department or a county land conservation committee may award an incentive payment to a landowner or land user who achieves compliance with specified soil and water resource management standards. Under this rule, the Department or committee must enter into a written contract with each person to whom the Department or committee offers incentive payments. The contract must include all of the following:

- The name and address of the person receiving the incentive payment. If the recipient is not the landowner, the contract shall also include the name and address of the landowner.

- The purpose for the incentive payment.

- The amount of the incentive payment. No annual incentive payment may exceed $1,000 except with the Department's specific authorization.

- The location of the land to which the incentive payment applies.

- The specific conditions which the landowner or land user must meet in order to qualify for the incentive payment, including any soil or water resource management standards which the recipient must meet.

- Other conditions specified by the Department or the county land conservation committee.

Payments Made Only to Contracting Landowner or Land User

Under this rule, no incentive payment may be made to any person other than the contracting landowner or land user except with specific written authorization of that landowner or land user.

Verifying Compliance

Under this rule, the Department or a county land conservation committee must verify by inspection or other reliable methods that the person receiving an incentive payment has met all of the conditions required under the contract for the receipt of that incentive payment.

AGRICULTURAL ENGINEERING PRACTITIONER; CERTIFICATION

Certification Program

Pursuant to s. 92.18, Stats., this rule establishes a program to certify county land conservation committee staff and other persons who review and approve agricultural engineering practices for funding purposes under this rule or s. 144.25, Stats. The certification program is similar to a certification program administered by USDA, Natural Resources Conservation Service.

The certification program applies to persons who review and approve agricultural engineering practices listed in this rule. Certified persons may also design and oversee construction of agricultural engineering practices for which they are certified. Certified state and county employes need not be registered as professional engineers when engaged in the activities for which they are certified.

Who Must be Certified

This rule prohibits any person, other than a professional engineer registered under ch. 443, Stats., from certifying any of the following for funding purposes under this rule or s. 144.25, Stats., unless the Department certifies that person as an agricultural engineering practitioner:

- That an agricultural engineering practice is designed in compliance with this chapter or s. 144.25, Stats.
- That an agricultural engineering practice is constructed according to approved design specifications.

Applying for Certification

Under this rule, a person who wishes to be certified as an agricultural engineering practitioner must apply to the Department or a county land conservation committee. A person may apply orally or in writing. The Department or committee must promptly refer the application to a Department field engineer. Within 30 days, the Department field engineer must rate the applicant and issue a decision granting or denying the application.

Certification Rating

The Department field engineer must rate an applicant using the rating form shown in Appendix A to this rule. The field engineer must rate the applicant based on the applicant's demonstrated knowledge, training, experience, and record of appropriately seeking assistance. For the purpose of rating an applicant, a field engineer may conduct interviews, perform inspections, and require answers and documentation from the applicant.

For each type of agricultural engineering practice, the rating form identifies 5 job classes requiring progressively more complex planning, design and construction. Under this rule, the field engineer must identify the most complex of the 5 job classes for which the applicant is authorized to certify each of the following:

- That the practice is properly designed.
- That the practice is properly constructed according to design specifications.

Under this rule, a successful applicant may not certify any agricultural engineering practice in a job class more complex than that for which he or she is certified.

Appealing a Certification Decision

A field engineer must issue a certification decision in writing, and must include a complete rating form (see above). An applicant may appeal a certification decision or rating by filing a written appeal with the field engineer. The field engineer must meet with the appellant in person or by telephone to discuss the matters at issue.

If the appeal is not resolved, the Department must schedule an informal hearing before a qualified Department employe other than the field engineer. After the informal hearing, the presiding officer must issue a written decision which affirms, modifies or reverses the field engineer's action. If the applicant disputes the presiding officer's decision, the applicant may request a formal contested case hearing under ch. ATCP 1 and ch. 227, Stats.

Reviewing Certification Ratings

Under this rule, a Department field engineer must review the certification rating of every agricultural engineering practitioner at least once every 3 years. A field engineer must also review a certification rating at the request of the person certified. A field engineer may not reduce a rating without good cause, and all reductions must be in writing.

Suspending or Revoking Certification

Under this rule, the Department may suspend or revoke a certification for cause. The Department may summarily suspend a certification, without prior notice or hearing, if the Department makes a written finding that the summary suspension is necessary to prevent an imminent threat to the public health, safety or welfare. An order of suspension or revocation must be signed by the secretary or the secretary's designee.

NUTRIENT MANAGEMENT PLANNER; QUALIFICATIONS

Under this rule:

- No funding may be provided for the development of a nutrient management plan unless the plan is developed by a nutrient management planner who meets qualifications specified under this rule.
- No funding may be provided for the implementation of a nutrient management plan unless the plan is approved by a nutrient management planner who meets qualifications specified under this rule.

A nutrient management planner is qualified under this rule if he or she is knowledgeable and competent in all of the following areas:

- Compliance with applicable technical standards published by USDA.
- Soil testing.
- Calculating nutrient needs on a field–by–field basis.
- Crediting manure, residual legume nitrogen and other nutrient sources on a field–by–field basis.
- Using conservation plans.
- Compliance with federal and state laws related to nutrient management.

Under this rule, a nutrient management planner is presumed to be qualified if he or she is at least one of the following:

- Included in the registry of environmental and agricultural professionals published by the National Alliance of Independent Crop Consultants.
- Recognized as a certified crop advisor by the American Society of Agronomy, Wisconsin Certified Crop Advisors Board.
- Registered as a crop scientist, crop specialist, soil scientist, soil specialist or professional agronomist in the American Registry of Certified Professionals in Agronomy, Crops and Soils.
- The holder of other credentials which the Department deems equivalent to those specified above.

TRAINING FOR COUNTY STAFF

Under this rule, the Department must appoint a Training Advisory Committee to advise the Department on training activities. The committee must include representatives of all of the following:

- The Wisconsin Department of Natural Resources
- The United States Department of Agriculture, Natural Resources Conservation Service.
- The University of Wisconsin–Extension.
- The Statewide Association of Land Conservation Committees.
- The Statewide Association of Land Conservation Committee Staff.

The Department, in consultation with the Training Advisory Committee and county land conservation committees, may do any of the following to ensure adequate training of county staff:

- Determine training needs and priorities.
- Identify training opportunities and resources.
- Make training recommendations.
- Approve training programs funded under this chapter.
- Coordinate the delivery of training.
- Provide training and assess fees to cover training costs.
- Issue training guidelines for certified agricultural engineering practitioners.
- Distribute training funds to counties.

ORDINANCES

Manure Storage Ordinances

A county, town or municipality may currently enact a manure storage ordinance under s. 92.16, Stats. The Department may adopt rules for manure storage ordinances. Under this rule, a manure storage ordinance must include all of the following provisions:

- The authority of the county, town or municipality to adopt the ordinance.
- The findings that prompted the county, town or municipality to adopt the ordinance, and the purpose for the ordinance.

● Provisions, if any, related to the initial applicability and severability of the ordinance.

● The effective date of the ordinance.

● Definitions of significant terms used in the ordinance.

● Provisions which prohibit any person from constructing a manure storage system unless that person does all of the following:

● Obtains a permit from the county, town or municipality that adopts the ordinance.

● Develops a nutrient management plan that complies with standards specified under this rule.

● Complies with specified standards for the design and construction of manure storage systems.

● Provisions related to ordinance administration, including inspection and enforcement authority, appeal procedures, and penalties for violating the ordinance.

● Provisions, if any, for monitoring the adequacy of manure storage systems.

● Conditions, if any, under which the county, town or municipality may require the abandonment of a manure storage system.

● Provisions, if any, related to the abandonment of a manure storage system.

Under this rule, a manure storage ordinance may prohibit any person from abandoning a manure storage system unless that person does all of the following:

● Obtains a permit for the abandonment.

● Does all of the following according to standards specified in this rule:

● Removes and properly disposes of all accumulated wastes in the manure storage pond.

● Removes any concrete or synthetic liner.

● Removes any soil saturated with waste from the manure storage facility.

● Removes at least 2 feet of soil from the bottom and sides of a facility without a constructed liner.

● Removes or permanently plugs the waste transfer system serving the manure storage facility.

● Fills the excavated area to a level above grade with clean fill and grades the former manure storage site to drain water away from the site.

● Covers all disturbed areas with topsoil, seeds the areas with a grass mixture, and mulches the seeded area.

This rule does not require a county, town or municipality to obtain Department approval of a proposed manure storage ordinance; however, a county, town or municipality may ask the Department to review a proposed ordinance for compliance with this rule.

Shoreland Management Ordinances

A county, town or municipality may currently enact a shoreland management ordinance under s. 92.17, Stats. The Department must approve shoreland management ordinances, and may adopt guidelines for shoreland management ordinances. Under this rule, the Department may approve a shoreland management ordinance that includes all of the following:

● The authority of the county, town or municipality to adopt the ordinance.

● The findings that prompted the county, town or municipality to adopt the ordinance, and the purpose for the ordinance.

● Provisions, if any, related to the initial applicability and severability of the ordinance.

● The effective date of the ordinance.

● Definitions of significant terms used in the ordinance.

● A description of the activities and geographical areas regulated under the ordinance, including maps of the areas at a scale of 1:24,000 (one inch per 2,000 feet) or larger.

● Required soil and water resource management standards or practices. This rule does not mandate specific standards or practices, but ordinance requirements should be reasonably consistent with Department guidelines.

● The procedure for developing a conservation plan, and the local authority authorized to approve the plan.

● Provisions related to ordinance administration, including inspection and enforcement authority, appeal procedures, and penalties for violating the ordinance.

This rule spells out the procedure for obtaining the Department's approval of a shoreland management ordinance or amendment. The Department must seek the recommendations of the DNR and the LWCB before it approves an ordinance or amendment, except that the Department may summarily approve an ordinance amendment which presents no significant legal or policy issues under this rule.

ACCOUNTING, RECORDKEEPING AND PROGRAM REVIEWS

Accounting and Recordkeeping; General

Under this rule, a county land conservation committee must establish and maintain an accounting and recordkeeping system to account for the receipt, handling and disposition of all funds the county receives under the program.

Cost–Share Grants; Records

Under this rule, a land conservation committee must keep a record of every cost–share grant which it awards to a landowner or land user. The committee must keep the record for at least 3 years after it makes the last cost–share payment, or for the required life of the cost–shared practice, whichever is longer. The record must include all of the following:

● A copy of the cost–share contract.

● Proof that the grant recipient has met the terms of the contract.

● A record of all cost–share payments made to the grant recipient, including the date and amount of each payment.

Incentive Payments; Records

Under this rule, a county land conservation committee must keep a record of every incentive payment which it awards to a landowner or land user. The committee must keep the record for at least 3 years after it makes the last incentive payment. The record must include all of the following:

● A copy of the required contract.

● Proof that the landowner or land user has met the terms of the contract.

● A record of all incentive payments made to the recipient, including the date and amount of each payment.

Department Review

Under this rule, the Department may review the activities of a county land conservation committee under the Soil and Water Resource Management Program. The Department may do any of the following in connection with its review:

● Require the committee to provide information requested by the Department, including information from the single organization–wide financial and compliance audit.

● Inspect and copy records.

● Inspect activities and practices funded under this rule.

WAIVERS

The Department may grant a waiver from any standard or requirement under this rule if the Department finds that the waiver is necessary to achieve the objectives of this rule. A waiver must be in writing, signed by the Department secretary.

Fiscal Estimate

See January 31, 1996 *Wisconsin Administrative Register*, page 15.

Environmental Assessment

The Department has prepared an environmental assessment on this rule. The public may comment on the environmental assessment, which will be available at the hearings. The assessment concludes that this rule will have no adverse impact on the environment. Alternatives to this rule will not meet program goals and responsibilities as effectively as the proposed rule. No environmental impact statement is necessary under s. 1.11 (2), Stats.

Initial Regulatory Flexibility Analysis

See January 31, 1996 *Wisconsin Administrative Register*, page 15.

Notice of Hearings

Agriculture, Trade & Consumer Protection

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed rule, relating to milk producer payroll statements and price discrimination in milk procurement. This rule amends ch. ATCP 100, Wis. Adm. Code.

Written Comments

The hearings will be held at the dates and places indicated below. The public is invited to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until **March 29, 1996** for additional written comments.

Copies of the Rule

A copy of the rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Trade and Consumer Protection, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, or by calling (608) 224–4936. Copies will also be available at the public hearings.

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

Hearing Information

The hearings are scheduled as follows:

February 27, 1996	**Basement Auditorium**
Tuesday	**LaCrosse Co. Courthouse**
Commencing	**400 N. Fourth Street**
at 10:00 a.m.	**LaCROSSE, WI**
Handicapped Accessible	
February 28, 1996	**Room 105**
Wednesday	**Dist. State Office Bldg.**
Commencing	**718 West Clairemont**
at 10:00 a.m.	**EAU CLAIRE, WI**
Handicapped Accessible	
February 29, 1996	**Room 219**
Thursday	**University Center**
Commencing	**UW–Whitewater**
at 10:00 a.m.	**800 West Main St.**
Handicapped Accessible	**WHITEWATER, WI**
March 5, 1996	**Room 152A**
Tuesday	**Dist. State Office Bldg.**
Commencing	**200 N. Jefferson St.**
at 10:00 a.m.	**GREEN BAY, WI**
Handicapped Accessible	
March 6, 1996	**Room 149**
Wednesday	**University Extension Office**
Commencing	**Marathon Co. Courthouse**
at 10:00 a.m.	**500 Forest St.**
Handicapped Accessible	**WAUSAU, WI**
March 15, 1996	**Room 106**
Friday	**State Agriculture Bldg.**
Commencing	**2811 Agriculture Dr.**
at 10:00 a.m.	**MADISON, WI**
Handicapped Accessible	

Analysis

Statutory authority: ss. 93.07 (1), 93.15, 97.20 (4) and 100.20 (2)

Statutes interpreted: ss. 93.15, 97.20, 100.106, 100.20 and 100.22

This rule does all of the following:

- Prohibits a dairy plant operator from discriminating between milk producers in the price paid for milk, unless the discrimination is based on a difference in milk quality or procurement costs, or is justified in order to meet a competitor's price.
- Establishes standards which a dairy plant operator must meet in order to establish a defense based on milk quality, procurement cost justification or meeting competition.
- Spells out enforcement standards and procedures. The Department may require a dairy plant operator to file documentation justifying discriminatory prices, and may take enforcement action against an operator who fails to provide adequate justification.
- Makes technical changes in current rules related to milk producer payroll statements. The changes are intended to accommodate the new multiple component pricing method now used under federal milk marketing orders.

The Department may ask the Attorney General or a district attorney to prosecute price discrimination violations in court, and may take action against a violator's dairy plant license. Under s. 100.20 (5), Stats., a producer or competitor injured by a violation may also sue the violator directly, and may recover double damages, costs and reasonable attorney fees.

BACKGROUND

Each year, Wisconsin's 27,000 dairy farmers sell nearly $3 billion worth of milk to dairy plant operators. Milk sales represent the primary or exclusive source of income for thousands of Wisconsin farm families.

Currently, many dairy plant operators appear to be discriminating between milk producers in the amount paid for milk. Many operators appear to be paying higher prices to large producers which cannot be fully justified on the basis of milk quality or differences in procurement cost. Discrimination in milk prices may injure small milk producers and competing dairy plant operators, and may contribute to unwarranted concentration in the dairy industry.

Section 100.22, Stats.

Section 100.22, Stats., currently prohibits a dairy plant operator from discriminating between milk producers in the amount paid for milk if the discrimination injures producers or competition; however, the law affords the following defenses:

- An operator may justify discriminatory prices based on measurable differences in milk quality. Milk quality premiums, if any, must be based on a pre–announced premium schedule which the operator makes available on equal terms to all producers. The operator must also comply with minimum testing requirements under s. ATCP 80.26,Wis. Adm. Code.
- An operator may pay discriminatory prices if the operator can justify the price differences based on differences in procurement costs.
- An operator may pay discriminatory prices in order to "meet competition."

The Department may investigate violations of s. 100.22, Stats., and may request the Attorney General or a county district attorney to prosecute violations in court; however, investigation and prosecution are currently hampered by a lack of clear standards in the law. For example, there are no standards for what constitutes "cost–justification" or "meeting competition." Currently, there are no rules interpreting s. 100.22, Stats.

Section 100.20, Stats.

Section 100.20, Stats. (Wisconsin's "Little FTC Act"), broadly prohibits unfair trade practices and methods of competition in business. Under s. 100.20 (2), Stats., the Department may adopt rules prohibiting unfair trade practices and methods of competition, and requiring fair practices. The Department has previously adopted rules under s. 100.20 (2), Stats., prohibiting price discrimination related to fermented malt beverages, soda water beverages and motor fuel. The Department is adopting this permanent rule under authority of s. 100.20 (2), Stats., and other applicable laws.

Enforcement Options

Under s. 100.20 (5), Stats., a person who suffers a monetary loss because of a violation of a rule adopted under s. 100.20 (2), Stats., may sue the violator in court, and may recover twice the amount of the loss together with costs and reasonable attorney fees. That private remedy is applicable to violations of this rule.

The Department may also ask the Attorney General or county district attorneys to pursue violations in court, or may pursue administrative proceedings to suspend or revoke a dairy plant operator's license.

RULE CONTENTS

Price Discrimination Prohibited

This rule prohibits a dairy plant operator from doing either of the following if the operator's action injures competition or injures any producer:

- Discriminating between producers in the milk price paid to those producers. "Milk price" means a producer's average gross pay per hundredweight, less hauling charges.
- Discriminating between producers in the value of services which the operator furnishes to those producers but does not include in the payroll price.

Defenses

A dairy plant operator may defend against a milk price discrimination charge by proving any of the following, based on documentation which the operator possessed at the time of the alleged discrimination:

- That the discrimination between producers was based on an actual difference in milk quality. Among other things, the operator must show that the milk quality premiums were based on a pre–announced premium schedule that was available on equal terms to all producers, and that the operator tested the milk according to current rules.
- That the discrimination between producers was fully justified by differences in procurement costs between producers. The rule spells out the relevant costs which the operator may consider, and the method by which the operator must calculate the comparative costs for each producer.
- That the discrimination between producers was justified in order to meet competition. A dairy plant operator may not claim this defense unless the operator proves all of the following:
  - The operator offered the discriminatory milk price or service in response to a competitor's prior and continuing offer to producers in the operator's procurement area.
  - The operator's discriminatory milk price or service did not exceed the competitor's offer.
  - The operator offered the discriminatory milk price or service only in that part of the operator's procurement area which overlapped the competitor's procurement area.

Demanding Justification for Discriminatory Prices

Under this rule, the Department may require a dairy plant operator to file documentation justifying an apparent discrimination in prices between producers. A dairy plant operator must file the documentation within 14 days after the operator receives the Department's demand, or by a later date which the Department specifies in its demand. The Department may extend the filing deadline for good cause shown.

Failure to Justify Discrimination

Under this rule, if the Department finds that a dairy plant operator has not adequately justified the operator's discriminatory milk prices, the Department may give the dairy plant operator written notice of that finding. A notice is not a prerequisite to an enforcement action against the violator; however, the notice is open to public inspection under subch. II of ch. 19, Stats.

Injury to Producer

This rule provides that in an administrative or court enforcement action, or in a private lawsuit under s. 100.20 (5), Stats., evidence that a complaining producer was paid less than another producer shipping milk to the same dairy plant during the same pay period is presumptive evidence that the complaining producer has been injured.

Calculating Milk Procurement Costs

If a dairy plant operator wishes to justify price discrimination between two producers based on a difference in procurement costs between those producers, the operator must calculate procurement costs per hundredweight as follows:

STEP 1: Calculate the operator's average total cost, per producer per pay period, for all of the following:

- Dairy farm field service costs.
- Costs to test dairy farm milk shipments.
- Producer payroll expenses.
- Dairy farm license fees and other routine expenses incurred in connection with the licensing and regulation of dairy farms.
- Other costs which the Department allows in writing.

STEP 2: Calculate the operator's average total cost, per producer per pay period, for milk collection and hauling services. An operator may calculate a separate average cost for producers with every–other–day pickup versus producers with every–day pickup. An operator may not include:

- Collection or hauling costs which are charged to a producer.
- Costs which the hauler incurs before the first farm and after the last farm on the hauling route.

STEP 3: Add the above costs. To obtain the procurement cost per hundredweight for each producer, divide the sum by the producer's average milk production in hundredweights per pay period. When comparing procurement costs between volume pay classes, each class member's production is considered to be the same as the class average.

Dairy Plant Operator May Charge Procurement Costs to Producers

Nothing in this rule prohibits a dairy plant operator from charging each producer for the full cost of procuring that producers' milk. For example, a dairy plant operator may charge each producer the actual cost, per hundredweight, of hauling that producer's milk; however, a dairy plant operator may not shift hauling charges between producers in order to discriminate in the milk price paid to those producers.

Producer Payroll Statements

Under current rules, a dairy plant operator must give each milk producer a written payroll statement for each pay period. The payroll statement documents the amount of milk received from the producer during the pay period, the amount paid for that milk, and the basis on which the pay price was determined. Among other things, the payroll statement identifies the nature and amount of any price adjustments, including any premiums or deductions.

Effective January 1, 1996, federal milk marketing orders changed the way that many dairy plant operators pay milk producers. The milk marketing orders provide for a multiple component pricing method to calculate the price paid for milk.

This rule repeals and recreates current rules related to milk producer payroll statements, so that payroll statement requirements will be consistent with the new multiple component pricing method. This rule also spells out alternative payroll statement requirements for dairy plant operators who continue to use the traditional straight fat pricing method or the 3.5% butterfat differential pricing method.

Fiscal Estimate

The proposed rule interprets s. 100.22, Stats., relating to price discrimination in milk procurement. The rule:

- Prohibits a dairy plant operator from discriminating between milk producers if the discrimination is based on a difference in milk quality, is justified by a difference in procurement costs, or is justified in order to meet competition;
- Establishes standards which a dairy plant operator must meet in order to establish a defense based on milk quality, cost–justification or meeting competition;
- Spells out enforcement standards and procedures; and
- Makes technical changes in current rules related to milk producer payroll statements.

This rulemaking will not increase DATCP's costs of administering this program, but will facilitate compliance and enforcement of s. 100.22, Stats. There will be a one–time cost of approximately $700 associated with printing, mailing and holding hearings on the rule.

Initial Regulatory Flexibility Analysis

This rule amends ch. ATCP 100, Wis. Adm. Code. Specifically, it repeals and recreates s. ATCP 100.75, relating to payroll statements of milk producers, and creates s. ATCP 100.76 (3m) and subchapter VI of ch. ATCP 100, prohibiting price discrimination in milk procurement.

This rule applies to approximately 180 dairy plants that purchase milk from Wisconsin's approximately 27,000 dairy farmers. Some of the dairy plants and virtually all of the dairy farmers are defined as "small businesses" under s. 227.114 (1) (a), Stats.

This rule prohibits a dairy plant operator from discriminating between milk producers in the amount paid for milk unless the discrimination is based on a difference in milk quality, is justified by a difference in procurement costs, or is justified in order to meet a competitor's price. It establishes standards which a dairy plant operator must meet in order to establish a defense based on milk quality, cost–justification or meeting competition. Justification of discriminatory prices is already required by s. 100.22, Stats.

This rule also spells out enforcement standards and procedures. The Department may require a dairy plant operator to file documentation justifying discriminatory prices, and may take enforcement action against an operator who fails to provide adequate justification. The Department may ask the Attorney General or a district attorney to prosecute a violator in court, and may take action against a violator's dairy plant license.

This rule makes technical changes in existing rules related to milk producer payroll statements. These changes are intended to accommodate the multiple component pricing method used under federal milk marketing orders since January 1, 1996. Effective enforcement of s. 100.22, Stats., and this rule may result in a reduction of milk volume premiums to large dairy farmers, most of whom fall within the statutory definition of small businesses; however, effective enforcement may also result in increased payments to small dairy farmers, most of whom are also small businesses.

Notice of Proposed Rule
Dentistry Examining Board

Notice is hereby given that pursuant to ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting ss. 440.08 (2) (a) 25. and 26., 447.05 and 447.07 (3) (f), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Dentistry 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 **February 15, 1996**, the Dentistry 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) and 227.11 (2)

Statutes interpreted: ss. 440.08 (2) (a) 25. and 26., 447.05 and 447.07 (3) (f)

This proposed rule–making order of the Dentistry Examining Board makes remedial changes in its rules to bring three separate citations up to date. The statutory renewal date for licenses to practice dentistry and dental hygiene is October 1st of each odd–numbered year, as set forth in s. 440.08 (2) (a) 25. and 26., Stats. Accordingly, s. DE 2.03 (1) and (2) are amended to accurately reflect the renewal dates. Also, pursuant to s. DE 5.02 (18), dentists who purchase, administer or dispense controlled substances are required to comply with certain recordkeeping and inventory requirements. One of the cited requirements is set forth within the administrative rules of the Pharmacy Examining Board, which now is contained in s. Phar 8.02, as renumbered from s. Phar 6.02. This change necessitates an updating of the citation within s. DE 5.02 (18).

Text of Rule

SECTION 1. DE 2.03 (1) (intro.) and (2) are amended to read:

DE 2.03 Biennial renewal. (1) REQUIREMENTS FOR RENEWAL; DENTISTS. To renew a license a dentist shall, by ~~September 30~~ October 1 of the odd–numbered year following initial licensure and every 2 years thereafter, file with the board:

(2) REQUIREMENTS FOR RENEWAL; DENTAL HYGIENISTS. A dental hygienist shall by ~~September 30~~ October 1 of the odd–numbered year following initial licensure and every 2 years thereafter, meet requirements for renewal specified in sub. (1) (a) and (b).

SECTION 2. DE 5.02 (18) is amended to read:

DE 5.02 (18) Failing to maintain records and inventories as required by the United States department of justice drug enforcement administration, and under ch. 161, Stats., and s. Phar ~~6.02~~ 8.02, Wis. Adm. Code.

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
Department of Regulation and Licensing
1400 East Washington Avenue, Room 171
P.O. Box 8935
Madison, WI 53708

Notice of Proposed Rule
State Elections Board

Notice is hereby given that pursuant to ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., and interpreting ss. 5.06 (1), (2) and (3), 5.62 (1) (b) and (2), 8.10 (6) (a), 8.15 (4) (b) and (8) (a), 8.16 (2) (a) and (c), 8.185 (2), 8.19, 8.20 (7), 8.21, 8.50 (3), 9.01 (1) (ar) 1. and (ar) 2., 9.01 (4), 9.10 (1) (a) and (d), 10.68, 10.72, 10.78, 10.80, 10.82, 11.05, 11.06 (7), 11.08, 11.16 (5), 11.20, 11.23, 11.31 (2m), 11.38 (1) (a) 2., 11.50 (2) and (12), and 11.66, Stats., and according to the procedures set forth in s. 227.16 (2) (e), Stats., the State of Wisconsin Elections Board will amend the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **February 15, 1996**, the Elections Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

Analysis

Statutory authority: ss. 5.05 (1) (f) and 227.11 (2) (a)

Statutes interpreted: ss. 5.06 (1), (2) and (3), 5.62 (1) (b) and (2), 8.10 (6) (a), 8.15 (4) (b) and (8) (a), 8.16 (2) (a) and (c), 8.185 (2), 8.19, 8.20 (7), 8.21, 8.50 (3), 9.01 (1) (ar) 1. and (ar) 2., 9.01 (4), 9.10 (1) (a) and (d), 10.68, 10.72, 10.78, 10.80, 10.82, 11.05, 11.06 (7), 11.08, 11.16 (5), 11.20, 11.23, 11.31 (2m), 11.38 (1) (a) 2., 11.50 (2) and (12), and 11.66

The rule identifies those documents which may be filed by facsimile (FAX) process with the State Elections Board or other filing officer, and be considered timely and those documents which may not. The amendment makes clear that documents may be filed by fax transmission with any elections or campaign finance filing officer, not just with the State Elections Board, as the rule may have been understood to read previously.

Text of Rule

SECTION 1. El Bd 6.04 is amended to read:.

El Bd 6.04 Filing documents by facsimile (FAX) process.

(1) DEFINITIONS. As used in this rule:

(a) "Document" means any form, statement, pleading or other writing which is required to be filed with the ~~Elections Board~~ filing officer.

(b) "Facsimile process" means the electronic transmission of a duplicate copy of a signed original document.

(c) "FAX" has the same meaning as facsimile process.

(d) "Filing officer" means the Elections Board or any other elections official with whom elections or campaign finance documents are required to be filed by chs. 5 to 12 of the Wisconsin Statutes.

(2) Nomination papers, recall petitions, and those campaign finance reports provided in ss. 11.20 and 11.50 (12), Stats., may not be filed with the ~~Elections Board~~ filing officer by facsimile process. Nomination papers and recall petitions shall not be considered filed with the ~~Board~~ filing officer until the signed original of each nomination paper and each recall petition is

received in the offices of the ~~Board~~ filing officer. Campaign finance reports which are provided in ss. 11.20 and 11.50 (12), Stats., and which are delivered by the U.S. Mails are considered filed with the ~~Board~~ filing officer when the report is postmarked. Campaign finance reports which are provided in ss. 11.20 and 11.50 (12), Stats., and which are not delivered by the U.S. Mails, are considered filed with the ~~Board~~ filing officer when received in the ~~Board's~~ filing officer's offices.

(3) Except as provided in section (2) of this rule, where the Wisconsin Statutes or rules of the Elections Board require that a document be filed no later than a date certain, that document shall be considered timely filed if both:

(a) A duplicate copy of the document is received by the ~~Board~~ filing officer, in its offices, by facsimile process, no later than the day and hour at which the document is required to be filed and

(b) The signed original of the document is received at the offices of the ~~Board~~ filing officer with a postmark not later than the filing deadline; or the signed original is delivered to the ~~Board~~ filing officer not later than the filing deadline.

(4) Any document which is filed by facsimile process under this rule shall be considered received at the time of transmission as recorded and entered by the receiving equipment by the ~~Board's~~ filing officer's staff when the facsimile copy is delivered to the ~~Board~~ filing officer's offices.

(5) If, for any reason, transmission of a document is not received at the ~~Board's~~ filing officer's offices, whether because of a failure in the receiving system of the ~~Board~~ filing officer or because of a failure in the transmitting system of the person attempting to file or for any other reason, a document shall not be considered received or filed until a facsimile copy is delivered to and received at the ~~Board's~~ filing officer's offices and the signed original is received at the ~~Board's~~ filing officer's offices with a postmark not later than the filing deadline.

(6) The burden of establishing that a document has been received by facsimile process at the offices of the ~~Board~~ filing officer shall be upon the person who, or the committee or group which, is required to file the document.

Initial Regulatory Flexibility Analysis

The amendment of this rule does not affect business.

Fiscal Estimate

The amendment of this rule has no fiscal effect.

Notice of Hearings

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

Notice is hereby given that pursuant to ss. 146.50 (4) (c), (5) (b) and (d) 2., (6) (b) 2., (6n) and (13) (a) and (c) and 250.04 (7), Stats., the Department of Health and Social Services will hold public hearings to consider the repeal and recreation of ch. HSS 111, Wis. Adm. Code, relating to licensing of emergency medical technicians–intermediate (EMTs–intermediate), and ch. HSS 112, Wis. Adm. Code, relating to licensing of emergency medical technicians–paramedic (EMTs–paramedic), and the creation by emergency orders effective **January 1, 1996**, of ss. HSS 110.05 (3m), 111.04 (2m) and 112.04 (3m), relating to authorized actions of emergency medical technicians–basic (EMTs–basic), (EMTs–intermediate) and (EMTs–paramedic).

Hearing Information

The public hearings will be held:

March 1, 1996	**Room 450**
Friday	**North Central Tech. College**
From 10 a.m.	**1000 Campus Drive**
to 2 p.m.	**WAUSAU, WI**
March 8, 1996	**Room 291**
Friday	**Washington Square Off. Bldg.**
From 10 a.m.	**1414 E. Washington Ave.**
to 2 p.m.	**MADISON, WI**

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Dept. of Health & Social Services

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings were, until January 1, 1996, specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective that date and directed the Department to replace it with rules that specify what those actions are. The Department has separate chapters of rules for licensing EMTs–basic, EMTs–intermediate and EMTs–paramedic. All three were amended by emergency orders of the Department effective January 1, 1996, to add EMT authorized actions. Emergency rules were necessary because proposed revisions of the permanent rules, which included adding the EMT authorized actions, were not yet through the regular rulemaking process, and because if the EMT authorized action rules were not in effect by January 1, 1996, ambulance services would not be able to continue providing emergency medical services inasmuch as s. 146.50 (6n), Stats., provides that an EMT may undertake only actions that are authorized in the Department's rules.

These hearings are being held as required by ss. 227.16 to 227.18 and 227.24 (4), Stats., to receive public comment on the published emergency rule orders adding EMT authorized actions to chs. HSS 110, 111 and 112 and on proposed permanent rule orders that add the same authorized actions to ch. HSS 111 for EMTs–intermediate and ch. HSS 112 for EMTs–paramedic and in addition generally update those chapters at the request of the Emergency Medical Services Board under s. 146.58, Stats. The Department in October 1995 held public hearings to consider adding EMT authorized actions to ch. HSS 110 for EMTs–basic and generally updating ss. HSS 110.01 to 110.10.

The updating of chs. HSS 111 and 112 is intended to incorporate current medical practices and training requirements and to clarify, correct and improve rule language on the basis of experience with the rules, that were last generally revised in 1990 and 1991.

The updating has involved:

1) Modifying some current definitions and creating new definitions to reflect current practice;

2) Modifying staffing requirements to ensure that individuals providing patient care are always properly trained;

3) Eliminating specific references to organizations, curricula, equipment and skills at some places in the rules to permit quick adjustments when there are changes in medical practice;

4) Deleting or modifying some language based on experience in implementing the current rules; and

5) Renumbering some of the rules to accommodate the changes and to make all three chapters of Emergency Medical Services Program rules more like one another.

Contact Person

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

Barbara Arneson, (608) 267–7147 or,
if you are hearing impaired, (608) 266–1511 (TDD)
EMS Section
Division of Health
P.O. Box 309
Madison, WI 53707–0309

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 on the rules received at the above address no later than **March 15, 1996** will receive the same consideration as testimony presented at a hearing.

Fiscal Estimate

The general revision of chs. HSS 111 and 112 and the emergency amendment of chs. HSS 110, 111 and 112 will not affect the expenditures or revenues of state government or local governments. There will be no additional costs for Department administration of licensing activities, and there will be no additional costs for the 81 local government ambulance service providers or the one state government ambulance service provider. The rulemaking orders add to chs. HSS 110, 111 and 112 lists of actions that EMTs were authorized to carry out until January 1, 1996, by s. 146.50 (6m), Stats., and generally update chs. HSS 111 and 112.

Initial Regulatory Flexibility Analysis

The general revision of chs. HSS 111 and 112 will affect persons licensed as emergency medical technicians–intermediate (EMTs–intermediate), or applying for an EMT–intermediate license, and persons licensed as emergency medical technicians–paramedic (EMTs–paramedic), or applying for an EMT–paramedic license, and ambulance service providers that employ EMTs–intermediate or EMTs–paramedic.

There are some 450 ambulance service providers in Wisconsin. Only about 25 of them are small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

The rule changes involve moving authorized actions of EMTs–intermediate and EMTs–paramedic from s. 146.50, Stats., to chs. HSS 111 and 112 and generally updating those rule chapters. There are no new reporting or bookkeeping requirements for ambulance service providers, and no new professional skills are required of ambulance service providers in order to comply with the revised rules.

Notice of Public Hearings

Industry, Labor & Human Relations (Electrical–Volume 2 Ch. ILHR 16)

Notice is given that pursuant to ss. 101.02 (1), 101.63 (1), 101.73 (1) and 101.82 (1), Stats., the Department of Industry, Labor and Human Relations proposes to hold public hearings to consider the revision of ch. ILHR 16, Wis. Adm. Code, relating to the Electrical Code, Volume 2.

Hearing Information

February 26, 1996	**Waukesha**
Monday	**Room 120 State Office Bldg.**
10:00 a.m.	**141 N.W. Barstow Street**
February 27, 1996	**Wausau**
Tuesday	**North Central Tech. College**
11:00 a.m.	**1000 Campus Dr., Rm. 451**
February 29, 1996	**Eau Claire**
Thursday	**Rm. 105, State Office Bldg.**
11:00 a.m.	**718 W. Clairemont Avenue**
March 1, 1996	**Madison**
Friday	**Rm. 103, GEF–1 Office Bldg.**
10:00 a.m.	**201 E. Washington Avenue**

Copies of the Rules

A copy of the rules to be considered may be obtained from the State Department of Industry, Labor and Human Relations, Division of Safety and Buildings, 201 E. Washington Ave., P.O. Box 7969, Madison, WI 53707, by calling (608) 266–9375 or at the appointed times and places the hearings are held.

Interested persons are invited to appear at the hearings and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from persons unable to attend the public hearings, or who which to supplement testimony offered at the hearings, may be submitted no later than **March 8, 1996**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Ronald Acker at the address noted above. Written comments will be given the same consideration as testimony presented at the hearings. Persons submitting comments will not receive individual responses.

These hearings are held in accessible facilities. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266–9375 or Telecommunication Device for the Deaf (TDD) at (608) 264–8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators or materials in audio tape format will, to the fullest extent possible, be made available on request by a person with a disability.

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1), 101.63 (1), 101.73 (1) and 101.82 (1)

Statutes Interpreted: ss. 101.63 (1), 101.73 (1), 101.82 (1) and 101.865

Chapter ILHR 16, Electrical Code, Volume 2, covers the installation of electrical wiring, communication systems and electrical equipment in places of employment, public buildings, dwellings and other premises such as carnivals, parking lots, mines, trenches, mobile homes and recreational vehicles.

Chapter ILHR 16 incorporates by references the National Fire Protection Association (NFPA) standard (NFPA 70 – National Electrical Code. In addition, this chapter includes amendments which clarify or supplement the electrical standards contained in the National Electrical Code.

The proposed rules consist of an update of ch. ILHR 16, including the incorporation by reference of the 1996 edition of the National Electrical Code. The following is a summary of the major changes being proposed in ch. ILHR 16.

1. Deleting several amendments to the National Electrical Code (NEC) which are covered by changes in the 1996 edition of the NEC. For example, because of the changes in the 1996 NEC relating to electric signs and outline wiring, section ILHR 16.43 is being deleted.

2. Adding the new wording from the 1996 NEC Scope relating to electric utility installations. [ILHR 16.02 (1) & (2)]

3. Adopting the NEC requirement for the plaque or directory denoting identification of building services where a building is suppled by more than one service. [ILHR 16.25 (1) (a)]

4. Adding a Wisconsin exemption from the NEC exception allowing one set of service–entrance conductors to a single–family dwelling unit and a separate structure. [ILHR 16.25 (2m)]

5. Deleting the rule that allows 2 service disconnecting means for individual dwelling units with 300 amperes or more service. [ILHR 16.25 (6) (a)]

6. Allowing intersystem bonding in metering enclosures that are specifically designed for such bonding. [ILHR 16.26]

7. Requiring raceways to be sealed where they pass from an interior location to an exterior location. [ILHR 16.295]

8. Adding a rule requiring ceiling outlet boxes intended for a lighting fixture in a habitable room to be listed for ceiling fan support. [ILHR 16.355]

9. Modifying the NEC rule relating to emergency controls at attended self–service stations by allowing the controls to be located over 100 feet form a dispenser. [ILHR 16.395]

10. Allowing the option of installing wire mesh in the concrete floor of livestock confinement areas. If the wire mesh is installed, however, it must be bonded to the building grounding electrode system to provide an equipotential plane. [ILHR 16.42 (2)]

11. Revising the emergency circuit wiring rule by allowing the use of flexible cord connectors for certain emergency lighting fixtures. [ILHR 16.45 (2) (b)2]

12. Revising the additional Wisconsin requirements relating to electrical wiring connected to a fire alarm system. [ILHR 16.50]

The proposed rules have been developed with the assistance of the Electrical Code Project Committee. The members of that citizen advisory committee are as follows:

Name	Representing
Chuck Forster	Wisconsin Electric Cooperative Association
Charles B. Gustafson	Wisconsin Utilities Association
Jerry Hill	Wisconsin Builders Association
Ron Jahnke	NECA, Wisconsin Chapter
Ronald E. Maassen	NECA, Milwaukee Chapter
Randall Roth	Associated Builders and Contractors of Wisconsin
Steven Sauer	Department of Agriculture, Trade & Consumer Protection
John Schwab	International Association of Electrical Inspectors, Wisconsin Chapter
Lanny L. Smith	Public Service Commission
Paul Welnak	Wisconsin State AFL–CIO

Initial Regulatory Flexibility Analysis

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

The proposed rules will affect any business involved in the installation of electrical wiring, communication systems, or electrical equipment.

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

The proposed rules do not require any reporting or bookkeeping on the state level; however, local municipalities may require submittal of plans and obtaining a permit.

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

Compliance with the proposed rules requires that persons must be familiar with the installation of electrical equipment and wiring as well as the hazards involved with the use of electricity.

Fiscal Estimate

The Safety & Buildings Division is responsible for administering and enforcing ch. ILHR 16. The Division estimates that the adoption by reference of the most current edition of the National Electrical Code (NEC) and the changes to the NEC included in the state supplement will not have any fiscal effect on the administration of the electrical program.

Local municipalities may voluntarily enforce ch. ILHR 16, and they have the authority to offset any costs by charging a fee for an electrical permit.

Notice of Hearing
Commissioner of Insurance

The Commissioner of Insurance, pursuant to the authority granted under s. 601.41 (3), Stats., and according to the procedures under ss. 227.18 and 227.24 (4), Stats., will hold a public hearing in **Room 23, 121 East Wilson Street, Madison, Wisconsin, on Friday, March 1, 1996, at 10:00 a.m.**, or as soon thereafter as the matter may be reached, to consider the repeal and recreation, and creation of s. Ins 18.07, Wis. Adm. Code, relating to 1996–97 premium rates for the Health Insurance Risk–Sharing Plan.

Summary of Proposed Rule

Statutory authority: ss. 601.41 (3), 619.11, 619.14 (5) (a) and 619.15 (5)

Statutes interpreted: ss. 619.14 (5) (a), 619.165 (1) and 619.17 (1) and (2)

1996–97 Premiums

The Commissioner of Insurance, based on the recommendation of the HIRSP board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles and must be set at 60% of HIRSP's operating and administrative costs. This rule sets the premium rates for the year beginning July 1, 1996, for both the standard plan and the medicare plan for persons under age 65. For those persons not entitled to a premium reduction on the basis of low income, the rates represent an average increase of 28%.

For low–income persons entitled to a reduction, the premiums are based on a percentage (specified in the statutes) of the rate a standard risk would be charged under an individual policy providing substantially the same coverage and deductibles provided by HIRSP. This rule establishes the "standard risk" rate tables by age, sex and geographic location for the year beginning July 1, 1996, for use in calculating the reduced premiums. The increases average 4.9%.

Summary of Fiscal Estimate

This rule will not affect any state or local appropriations.

Initial Regulatory Flexibility Analysis

This rule does not have an effect on small businesses.

Contact Person

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

Notice of Hearing
Commissioner of Insurance

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and according to the procedure set forth in s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the proposed rulemaking order affecting s. Ins 18.13 (5), Wis. Adm. Code, relating to creating a network of providers for the Health Insurance Risk–Sharing Plan who will provide services at a discount greater than that which is already mandated by statute.

Hearing Information

March 1, 1996
Friday
2:00 p.m., or as soon thereafter as the matter may be reached

Room 23 OCI
121 E. Wilson Street
Madison, WI

Written Comments

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 7 days following the date of the hearing. Written comments should be addressed to: Stephen Mueller, OCI, P.O. Box 7873, Madison, WI 53707.

This hearing site is fully accessible to people with disabilities. Notice is given that reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please contact Stephen Mueller at the address above with specific information on your request at least 10 days before the hearing.

Copies of Rule & Fiscal Estimate

Copies may be obtained from:

Meg Gunderson
Services Section, OCI
P.O. Box 7873
121 E. Wilson Street
Madison, WI 53707–7873
Phone: (608) 266–0110

Initial Regulatory Flexibility Analysis

This rule will have no effect on a substantial number of 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 Journal 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

Department of Agriculture, Trade & Consumer Protection

Rules were adopted amending **ch. ATCP 100 (note)** and creating **s. ATCP 100.76 (3m)** and **subchapter VI of ch. ATCP 100**, relating to price discrimination in milk procurement.

FINDING OF EMERGENCY

1) Each year, Wisconsin's approximately 27,000 dairy farmers sell approximately $3 billion worth of milk to dairy plant operators. Milk sales represent the primary or exclusive source of income for thousands of Wisconsin farm families.

2) Currently, many dairy plant operators appear to be discriminating between milk producers in the amount paid for milk. Many operators appear to be paying higher prices to large producers which cannot be fully justified on the basis of milk quality or differences in procurement cost. Discrimination in milk prices may injure small milk producers and competing dairy plant operators, and may contribute to unwarranted concentration in the dairy industry.

3) Recently, discrimination in milk prices has reached historic highs, with some dairy plants paying volume premiums of up to 70 cents to 90 cents per hundredweight. In order to pay volume premiums at this level, a dairy plant operator must reduce the price paid to other producers. This affects the livelihood of many smaller milk producers, and may affect their ability to continue farming.

4) The state of Wisconsin Department of Agriculture, Trade and Consumer Protection is responsible for enforcing s. 100.22, Stats., which prohibits dairy plant operators from discriminating between milk producers in the prices paid to those producers. However, a dairy plant operator may defend a discrimination in prices if the operator can prove that the discrimination is based on differences in milk quality, is justified on the basis of differences in procurement costs, or is justified in order to meet competition.

5) The Department recently completed a survey of dairy plant pricing programs. The Department presented the survey results to the Board of Agriculture, Trade and Consumer Protection on November 14, 1994. The survey suggests that many dairy plant operators are paying discriminatory prices which cannot be justified on the basis of differences in milk quality or procurement costs. Many of the surveyed dairy plant operators claimed that their discriminatory prices were justified in order to meet prices offered by competitors. Many operators stated that they were willing to reduce their discriminatory payments to levels that could be cost–justified if their competitors would do the same. But compliance by an individual dairy plant operator may put that operator in an untenable competitive position unless the operator's competitors also comply.

6) Enforcement of s. 100.22, Stats., is hampered by the lack of clear standards in the law. For example, there are no clear standards of cost–justification or "meeting competition." Currently, there are no rules interpreting s. 100.22, Stats. Clarifying rules would facilitate compliance and enforcement.

7) Effective January 1, 1996, federal milk marketing orders will be modified to incorporate a new system of milk component pricing. Dairy plant operators will be making changes to their payment schedules and computer programs in order to implement the new component pricing system. Although the marketing order changes do not address the issue of discrimination in milk pricing, they provide an opportunity for all dairy plant operators to modify their pay programs to comply with s. 100.22, Stats. Simultaneous compliance by dairy plant operators would minimize competitive losses by individual dairy plant operators who choose to comply.

8) In order to promote prompt and effective compliance with s. 100.22, Stats., and to minimize continuing harm to dairy plant operators and smaller milk producers, it is necessary to adopt rules interpreting s. 100.22, Stats., before January 1, 1996. Failure to adopt rules by January 1, 1996 will reduce the chance of securing industry–wide compliance with s. 100.22, Stats., and may therefore result in continuing harm to milk producers and competition.

9) The Department cannot adopt interpretive rules by normal rulemaking procedures by January 1, 1996. Pending the adoption of rules by normal rulemaking procedures, it is therefore necessary to adopt emergency rules to protect the public welfare.

Publication Date: **January 1, 1996**
Effective Date: **January 1, 1996**
Expiration Date: **May 30, 1996**
Hearing Date: **February 1, 1996**

EMERGENCY RULES NOW IN EFFECT

Department of Corrections

Rules were adopted revising **ch. DOC 328**, relating to the procedure and timing for collecting fees charged for supervision.

EXEMPTION FROM FINDING OF EMERGENCY

In section 6360 in 1995 Wis. Act 27, the Legislature directed the Department to promulgate rules required under ss. 304.073 (3) and 304.074 (5), Stats., for supervision fees charged to probationers and parolees, by using the emergency rule–making procedures under s. 227.24, Stats., but without having to make a finding of emergency. These rules will remain in effect until replaced by permanent rules.

ANALYSIS PREPARED BY THE DEPARTMENT OF CORRECTIONS

This rule–making order implements ss. 301.08 (1) (c), 304.073 and 304.074, Stats., establishing the procedure and timing for collecting fees charged for supervision.

Currently, offenders on probation or parole pay no supervision fee. Through this emergency rule making order, the Department will charge offenders on probation and parole a supervision fee. Offenders under

administrative or minimum supervision and supervised by the Department will pay a fee sufficient to cover the cost of supervision. Offenders under medium, maximum, or high risk supervision will pay a supervision fee based on the ability to pay.

These rules exempt an offender who is supervised by another state under an interstate compact from paying a Wisconsin supervision fee. An offender who is serving a concurrent sentence of prison and probation or parole is not required to pay the supervision fee while in prison.

These rules authorize the Department to contract with a vendor to provide monitoring of an offender. Offenders who are on monitoring are required to pay a fee sufficient to cover the cost of monitoring, supervision by the Department and cost of administering the contract.

These rules require the Department to establish the rate for supervision and monitoring fees and to provide the offender with the supervision fee schedule.

These rules require offenders to comply with the procedures of the Department or vendor for payment of the supervision or monitoring fee. These rules require the Department to provide the offender with a copy of the procedures for paying the supervision or monitoring fee. These rules permit an offender to pay the supervision fee in monthly installments or in a lump sum.

These rules permit the Department to take certain action for the offender's failure to pay the supervision or monitoring fee. The actions include counseling, wage assignments, review of supervision level, recommendation for revocation of probation or parole and any other appropriate means of obtaining the supervision or monitoring fee.

Publication Date: **December 21, 1995**
Effective Date: **January 1, 1996**
Expiration Date: **May 30, 1996**
Hearing Dates: **February 13, 16 & 22, 1996**

EMERGENCY RULES NOW IN EFFECT (2)

Department of Development

1. Rules were adopted revising **ch. DOD 15**, relating to the Community–Based Economic Development Program.

FINDING OF EMERGENCY

The Department of Development 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:

1995 Wis. Act 27 created a new program within the Community–Based Economic Development Program that provides funding for regional economic development activity. (See s. 560.14 (4), Stats., which was created by the Act.) Section 560.14 (5) (b), Stats., requires that the Department adopt rules containing criteria for evaluating applications for funding under this program before it may award a grant.

The Department already has several proposed projects before it that will create substantial new employment and investment. To avoid the loss of these economic development opportunities, this order creates a rule so that the Department has the authority to make up to $100,000 available to support regional economic development. The emergency order will preserve the welfare of Wisconsin citizens by insuring that the jobs are created and the investments are made.

Publication Date: **November 27, 1995**
Effective Date: **November 27, 1995**
Expiration Date: **April 26, 1996**
Hearing Date: **January 9, 1996**

2. Rules were adopted revising **ch. DOD 13**, relating to volume cap on private activity bonds.

FINDING OF EMERGENCY

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

Section 560.032, Stats., has been interpreted by the Legislature and legislative attorneys to provide that the annual allocation for the distribution of volume cap established by the Department of Development expires at the end of each calendar year.

To comply with this interpretation, the Department is required to repeal and recreate the volume cap rule annually. The proposed permanent rule for 1996 is in process, but because of the length of the rule–making process will not be effective until March 1, 1996.

Without this emergency rule, which is effective January 2, 1996, there will be several months during which Wisconsin will be unable to take advantage of the approximately $260 million of volume cap and thus risk losing the jobs and investment that would be created by Wisconsin businesses that otherwise would make use of this federally subsidized financing during the period. Adoption of the rule will insure that there is no gap in the use of this development tool and that the jobs and investments occur.

Publication Date: **January 2, 1996**
Effective Date: **January 2, 1996**
Expiration Date: **May 31, 1996**
Hearing Date: **February 12, 1996**

EMERGENCY RULES NOW IN EFFECT

Emergency Response Board

Rules adopted creating **ch. ERB 5**, relating to a grant for local emergency planning committees.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in section 10(m) of 1995 Wis. Act 13 directed the Board to promulgate rules under s. 166.20 (2) (bg), Stats., as created by this Act, to establish an amount that may be an eligible cost for computers in an emergency planning grant under s. 166.21 (2) (bm), Stats., but without having to make a finding of emergency. The rule will remain in effect until replaced by permanent rules, but not to exceed the time authorized under s. 227.24 (1) (c) and (2), Stats.

ANALYSIS

Statutory Authority: ss. 166.20 (2) (b), (bg), 166.21 (2), 227.11 (2) (a)

Statutes Interpreted: ss. 166.20 (2) (bg), (br), 166.21 (1), (2), (3)

Plain Language Summary

The computer grant rule establishes guidelines for the computer grant to county Local Emergency Planning Committees. The rule requires the State Emergency Response Board to establish grant procedures to implement this rule. The rule allows Local Emergency Planning Committees to purchase computer equipment under this grant for specific use within the county emergency management program to comply with state and federal planning requirements.

The rule requires that matching costs for computer equipment are to be based on a 4–year grant cycle. For one year of the 4–year grant cycle, up to a maximum of $6,000 of the cost of computer equipment shall be eligible for reimbursement. For each of the remaining 3 years of the 4–year grant cycle,

up to a maximum of $2,000 of the cost of the computer equipment shall be eligible for reimbursement.

Publication Date: December 5, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996

EMERGENCY RULES NOW IN EFFECT

Wisconsin Gaming Commission

Rules were adopted creating **ch. WGC 45**, relating to licensing requirements for the conduct of a raffle.

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:

As a result of the passage of 1995 Wis. Act 27, s. 563.935, Stats., was created, and the amending of existing s. 563.93, Stats. These two statutes provide distinction between a Class A and a Class B raffle license authorized by the Wisconsin Gaming Commission's Office of Charitable Gaming. It has been determined that administrative rules must be promulgated to address the statutory changes.

The new rules are created to establish licensing criteria relating to the conduct of raffles authorized under a Class A or Class B raffle license. Without the promulgation of these rules, authorized raffles would be subject to inconsistencies, incorrect interpretations and mistakes contrary to the intent of the statute.

Publication Date: November 17, 1995
Effective Date: November 17, 1995
Expiration Date: April 16, 1996
Hearing Dates: January 8, February 5, 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 revising **ch. HSS 73**, relating to an exception to limits on use of community long–term support funds for services used by CBRF residents.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 9126 (5) (c) of 1995 Wis. Act 27 directed the Department to promulgate the rules required under ss. 46.27 (2) (h) 2 and 46.277 (5r), Stats., as created by Act 27, by using emergency rule–making procedures but without having to make a finding of emergency. These are the rules. They will take effect on January 1, 1996.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

The 1995–97 Budget Act, 1995 Wis. Act 27, created ss. 46.27 (3) (f) and 46.277 (3) (c), Stats., to require counties, beginning January 1, 1996, to limit the amount of spending for services received by persons who reside in community–based residential facilities (CBRFs) from the annual allocations received for the provision of long–term community support services to no more than 25% of each allocation for the calendar year. Act 27 also added provisions in ss. 46.27 and 46.277, Stats., that prohibit counties from using funds from an allocation that exceed the maximum allowable to pay for services for a person who resides in a CBRF or intends to reside in a CBRF and is initially applying for services unless the Department grants an exception for the person on hardship grounds under conditions specified by rule.

Through this rule–making order the Department is establishing conditions of hardship on the basis of which it will make exceptions to the limitations on spending for services provided to CBRF residents from the annual allocations for community long–term support services.

Publication Date: December 27, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: February 13, 1996

EMERGENCY RULES NOW IN EFFECT (6)

Health and Social Services

(Health, Chs. HSS 110––)

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

FINDING OF EMERGENCY

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

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

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

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

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

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

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

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

Publication Date: **July 1, 1995**
Effective Date: **July 1, 1995**
Expiration Date: **November 28, 1995**
Hearing Dates: **October 16 & 18, 1995**
Extension Through: **February 29, 1996**

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

EXEMPTION FROM FINDING OF EMERGENCY

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

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

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

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

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

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

Publication Date: **October 31, 1995**
Effective Date: **November 1, 1995**
Expiration Date: **March 30, 1996**
Hearing Dates: **November 13 & 17, 1995**

3. Rules were adopted revising **ss. HSS 122.06 and 122.07**, relating to review of projects concerning new nursing home designs.

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 capital expenditure by or on behalf of a nursing home that exceeds $1,000,000 is subject to prior review and approval by the Department under subch. II of ch. 150, Stats. An approved project has a maximum cost per bed limit computed under s. HSS 122.07 (1) (c).

The Legislature in s. 10 of 1993 Wis. Act 290 directed the Department to study the issue of the relationship between the design and construction of nursing homes and the formula for determining approvable proposed bed costs under s. HSS 122.07 within the context of health care cost containment.

The Department on January 31, 1995 submitted its report to the Legislature on nursing home design and construction in relation to the formula for determining maximum bed costs. While the study dealt primarily with traditional nursing home designs, the Department stated in the report that its Division of Health was developing rules to permit the study of new nursing home designs which increase capital costs per bed but decrease operating costs. The rules would increase the maximum cost per bed for projects that will permit study of the impact of nursing home design and management approaches on the health of nursing home residents and the cost of care. New nursing home designs may exceed the maximum costs per bed but reduce operating costs.

The Department is publishing the necessary rules by emergency order because of the length of the permanent rulemaking process and also the length of the Department's project approval process which cannot begin until the rules are in effect. An emergency order will give the Department the opportunity to act now to improve care for nursing home residents and possibly lower the overall costs of care.

This order creates rules which will increase the cost per bed maximum for two or three pilot projects that will demonstrate new nursing home designs.

The rules establish conditions for the announcement and acceptance of applications, criteria for review of applications and a selection process when there are more applicants that meet the requirements for project approval than can be approved.

Publication Date: **November 29, 1995**
Effective Date: **November 29, 1995**
Expiration Date: **April 28, 1996**
Hearing Date: **January 18, 1996**

4. Rules were adopted creating **ch. HSS 182**, relating to lead poisoning prevention grants.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 9126 (27x) (b) of 1995 Wis. Act 27 directed the Department to promulgate rules required under s. 254.151, Stats., as created by Act 27, using emergency rulemaking procedures, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency. They will take effect on publication in the Milwaukee Journal Sentinel.

ANALYSIS

These rules implement the requirement in s. 254.151, Stats., as amended by 1995 Wis. Act 27, that the Department establish criteria by rule for the award of grants to fund educational programs, including programs for health care providers, about the dangers of lead poisoning or exposure to lead; to fund lead poisoning or lead exposure screening, care coordination and follow–up services, including lead inspections, for or on behalf of children under the age of 6, not covered by third–party payers; to fund administration and enforcement activities of local health departments that, under s. 254.152, Stats., are designated by the Department to be its agents for administration and enforcement of ss. 254.11 to 254.178, Stats.

The grant program was established in mid–1994. The requirement that the Department's criteria for awarding grants be set out in rules was added by Act 27 in mid–1995. The amount available in the appropriation for grant awards is $879,000 for each year of the 1995–97 biennium.

The rules identify who may apply or a grant, describe the application process, provide for preliminary review of applications by the Department for compliance with format and content requirements set out in the relevant request for proposals (RFP), provide for evaluation of applications by one or more review committees appointed by the Department and specify 14 criteria for use in that final review, note that the Department will award grants based on the recommendations of the review committee or committees and taking into consideration other specified factors and describe the awards process and conditions that are imposed when grants are awarded.

Publication Date: **December 5, 1995**
Effective Date: **December 5, 1995**
Expiration Date: **May 4, 1996**
Hearing Date: **January 16, 1996**

5. A rule was adopted creating **s. HSS 110.05 (3m)**, relating to authorized actions of emergency medical technicians–basic.

FINDING OF EMERGENCY

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

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings are now specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective January 1, 1996 and directed the Department to have rules in place on that date that specify what those actions are. The Department has separate chapters of rules for licensing EMTs–basic, EMTs–intermediate and EMTs–paramedic. This emergency order amends ch. HSS 110, which includes rules for licensing EMTs–basic, to specify the actions that EMTs–basic may carry out.

Through a separate rulemaking order, the Department is revising the whole of ch. HSS 110, its rules for licensing ambulance service providers and EMTs–basic, to specify the authorized actions of EMTs–basic and, at the request of the new Emergency Medical Services Board under s. 146.58, Stats., to update the entire chapter. The proposed permanent rules have already been reviewed by the Legislative Council and the public and will soon be submitted to the presiding officers of the Legislature for review by standing committees but will not take effect until April 1, 1996 at the earliest. Therefore the Department, in order to have the rules that specify the authorized actions of EMTs–basic in effect by January 1, 1996, when s. 146.50 (6m), Stats., will be repealed, is publishing the authorized actions subsection of the proposed permanent rules by this emergency order. This must be done because s. 146.50 (6n), which takes effect on January 1, 1996, provides that an EMT–basic may undertake only those actions that are authorized in rules promulgated by the Department. If those rules are not in effect on that date, ambulance services will not be able to provide emergency medical services using EMTs–basic and consequently there will be reduced availability of emergency medical services and a threat to public safety.

Publication Date: **December 26, 1995**
Effective Date: **January 1, 1996**
Expiration Date: **May 30, 1996**
Hearing Dates: **March 1 & 8, 1996**
[See Notice this Register]

6. Rules adopted creating **ss. HSS 111.04 (2m)** and **112.04 (3m)**, relating to authorized actions of emergency medical technicians–intermediate and paramedic.

FINDING OF EMERGENCY

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

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings are now specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective January 1, 1996 and directed the Department to have rules in place on that date that specify what those actions are. The Department has separate chapters of rules for licensing EMTs–basic, EMTs–intermediate and EMTs–paramedic. This emergency order amends ch. HSS 111, rules for licensing EMTs–intermediate, and ch. HSS 112, rules for licensing EMTs–paramedic, to specify the actions that EMTs–intermediate and EMTs–paramedic may carry out.

Through separate permanent rulemaking orders, the Department is revising chs. HSS 111 and 112 in their entirety in order to specify the authorized actions of EMTs–intermediate and EMTs–paramedic and, at the request of the new Emergency Medical Services Board under s. 146.58, Stats., to update the chapters. However, those rulemaking orders have not yet been transmitted to the Legislative Council for review and therefore will not likely take effect until July 1, 1996 at the earliest. Consequently, the Department, in order to have the rules that specify the authorized actions of EMTs–intermediate and EMTs–paramedic in effect by January 1, 1996, when s. 146.50 (6m), Stats., will be repealed, is publishing the authorized actions subsections of the proposed revised permanent rules by this emergency order. This must be done because s. 146.50 (6n), Stats., which takes effect on January 1, 1996, provides that EMTs–intermediate and EMTs–paramedic may undertake only those actions that are authorized in rules promulgated by the Department. If those rules are not in effect on that date, ambulance services will not be able to provide emergency medical services using EMTs–intermediate or EMTs–paramedic and consequently there will be reduced availability of emergency medical services and a threat to public safety.

Publication Date: **December 27, 1995**
Effective Date: **January 1, 1996**
Expiration Date: **May 30, 1996**
Hearing Dates: **March 1 & 8, 1996**
[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT (3)

Health & Social Services

(Economic Support, Chs. HSS 200–)

1. Rules adopted revising **ch. HSS 230**, relating to county relief programs funded by block grants.

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:

These rules for the administration of county relief programs funded by relief block grants under subch. II of ch. 49, Stats., as affected by 1993 Wis. Act 27. Section 49.02 (7m), Stats., as created by Act 27, directs the Department to promulgate rules for use of relief block grants and specifies that the rules include procedures that county relief agencies are to observe in obtaining block grants, procedures that they are to follow in making eligibility determinations, procedures by which a county relief agency may waive certain eligibility requirements and procedures for a relief applicant or recipient to appeal agency eligibility determinations.

The rules included in this order apply to all Wisconsin counties, including Milwaukee county which, under s. 49.025, Stats., will receive a relief block grant that is to be used only to provide health care services to dependent persons, whereas the other counties are eligible for block grants that can be used to provide cash grants as well as health care services to dependent persons.

As provided in s. 9426 (13) of 1995 Wis. Act 27, county relief programs funded by block grants will take the place of county–administered general relief on January 1, 1996. Department rules are necessary for implementation of county relief programs funded by block grants, in particular for the appeal provisions in the rules. Section 9126 (13) of Act 27 directed the Department to submit proposed rules to the Legislative Council no later than October 1, 1995. The proposed rules were submitted to the Legislative Council for review on September 29, 1995 and were taken to public hearing on November 30, 1995. They will soon be submitted to the presiding officers of the Legislature for review by standing committees after which they will be filed and prepared for publication but will not likely take effect until April 1, 1996.

The Department through this order is publishing these rules as emergency rules to be effective from January 1, 1996 until the permanent rules take effect so that county relief programs will be operated in a fair and clear manner statewide for the benefit of applicants for assistance and recipients of assistance.

Publication Date: **December 27, 1995**
Effective Date: **January 1, 1996**
Expiration Date: **May 30, 1996**
Hearing Date: **February 13, 1996**

2. Rules adopted revising **ch. HSS 211**, relating to tribal medical relief programs.

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:

These are rules for the administration of tribal medical relief programs funded by relief block grants under subch. II of ch. 49, as affected by 1995 Wis. Act 27.

Section 49.02 (7m), Stats., as created by Act 27, directs the Department to promulgate rules for use of relief block grants and specifies that the rules are to include procedures that tribal governing bodies are to follow in obtaining block grants, procedures that they are to follow in making eligibility determinations, standards for waiver of certain eligibility requirements, and procedures for a relief applicant or recipient to appeal an adverse eligibility determination.

Section 49.029, Stats. as created by Act 27, directs the Department to promulgate rules for distribution of medical relief block grant funds to eligible tribal governing bodies.

As provided in s. 9426 (13) of 1995 Wis. Act 27, tribal medical relief programs funded by block grants will take the place of the Relief to Needy Indian Persons (RNIP) program on January 1, 1996. Department rules are necessary for implementation of these programs funded by block grants, in particular because of the appeal provisions in the rules and formula for distributing relief block grant funds to eligible tribal governing bodies.

Publication Date: **December 28, 1995**
Effective Date: **January 1, 1996**
Expiration Date: **May 30, 1996**
Hearing Date: **February 13, 1996**

3. Rules adopted revising **ch. HSS 201**, relating to a benefit cap pilot project under the AFDC program.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 12 (1) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.19 (11s), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on January 1, 1996.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

Under s. 49.19, Stats., a family can apply and be determined eligible for the Aid to Families with Dependent Children (AFDC) program. If a family is determined eligible, the AFDC benefit amount is based, in part, on family size. The maximum amount of AFDC benefits a family can receive currently increases when an additional child is born.

On January 1, 1996, Wisconsin will implement the AFDC Benefit Cap Demonstration Project, authorized under s. 49.19 (11s), Stats., as created by 1995 Wis. Act 12. The purpose of this demonstration is to test whether eliminating the increase in the AFDC grant when an additional child is born will encourage families on welfare to delay having more children until they are financially able to support them.

Under the demonstration project, a family will not receive an automatic increase in the AFDC grant when an additional child is born. Starting on January 1, 1996, a child born to a current or new recipient more than ten month after first receipt of benefits will be counted in the family size for AFDC assistance standard purposes but not for purposes of benefit determination. An exception will be made for a child born as a result of rape or incest. The benefit cap will first apply to children born on or after November 1, 1996. A child born on or after that date, although not counted in the family size for the purpose of determining the amount of the grant, will be counted for Medical Assistance and food stamp purposes, and the family will be entitled to receive other social service assistance for the child.

These are the rules for implementation of the AFDC Benefit Cap Demonstration Project. The rules describe how the Department will choose AFDC recipients who must participate in the demonstration, and outline the Department's responsibilities in administering the demonstration project.

Publication Date: **December 27, 1995**
Effective Date: **January 1, 1996**
Expiration Date: **May 30, 1996**
Hearing Date: **February 16, 1996**

EMERGENCY RULES NOW IN EFFECT

Health & Social Services

(Youth Services, Chs. HSS 300––)

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

FINDING OF EMERGENCY

The Department of Health & Social Services finds that an emergency exists and that adoption of the rules is necessary for the immediate

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

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

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

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

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

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

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

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

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

Publication Date: **June 21, 1995**
Effective Date: **July 1, 1995**
Expiration Date: **November 28, 1995**
Hearing Date: **July 27, 1995**
Extension Through: **March 26, 1996**

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**
Extension Through: **April 9, 1996**

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

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

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

FINDING OF EMERGENCY

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

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

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

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

Publication Date: **August 14, 1995**
Effective Date: **August 14, 1995**
Expiration Date: **January 11, 1996**
Hearing Date: **December 11, 1995**
Extension Through: **March 10, 1996**

EMERGENCY RULES NOW IN EFFECT (3)

Insurance

1. 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
Hearing Date: October 30, 1995

2. Rules were adopted revising **s. Ins 3.25**, relating to credit life insurance.

FINDING OF EMERGENCY

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

The rule adjusts the rate charged for credit life insurance upward from 32¢ to 39¢ per hundred dollars of initial indebtedness and requires that credit life insurance in amounts less than $15,000 be issued without underwriting. This rate increase is necessary to provide adequate provisions for expenses of insurers.

A public hearing was held on the rule on September 27, 1995. The rule was sent to the Legislature on November 22, 1995 and there has been no comment or modification sought.

The permanent rule will be effective after publication, probably February 1, 1996. This emergency rule is identical to the permanent rule, only with an effective date of January 1, 1996. The January 1, 1996 effective date is necessary so that insurers and creditors can charge the new rates for the entire year.

Publication Date: December 28, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996

3. Rules adopted creating **s. Ins 18.13 (5)**, relating to cost–containment rules.

FINDING OF EMERGENCY

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

The rule permits the Health Insurance Risk–Sharing Plan (HIRSP) Board to create a network of providers that have agreed to give discounts in addition to the mandatory discount of 10%. This rule is necessary to implement cost–containment measures allowed by statute. These measures become necessary to help control costs that have threatened a funding crisis for the HIRSP program. That funding crisis poses a potentially deleterious effect upon HIRSP policyholders and the insurance industry.

Publication Date: January 8, 1996
Effective Date: January 8, 1996
Expiration Date: June 6, 1996
Hearing Date: March 1, 1996
[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT (3)

State Public Defender

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

FINDING OF EMERGENCY

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

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

Publication Date: August 29, 1995
Effective Date: August 29, 1995
Expiration Date: January 26, 1996
Hearing Date: September 26, 1995
Extension Through: March 25, 1996

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

FINDING OF EMERGENCY

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

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

Publication Date: August 31, 1995
Effective Date: August 31, 1995
Expiration Date: January 28, 1996
Hearing Date: September 26, 1995
Extension Through: March 27, 1996

3. Rules were adopted revising **ch. PD 6**, relating to payment of attorney fees.

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 to establish procedures for determining clients' ability to pay and for referring uncollected accounts to the department of administration for collection. The proposed rules also establish that the agency shall provide written notice to clients of the repayment obligation for the cost of legal representation. 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: **November 20, 1995**
Effective Date: **November 20, 1995**
Expiration Date: **April 19, 1996**
Hearing Date: **January 11, 1996**

EMERGENCY RULES NOW IN EFFECT (2)

Public Instruction

1. 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**
Extension Through: **March 17, 1996**

2. 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**
Extension Through: **March 17, 1996**

EMERGENCY RULES NOW IN EFFECT

Regulation and Licensing

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

FINDING OF EMERGENCY

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

Section 440.03 (12), Stats., as created by 1995 Wis Act 27, requires the department to establish a procedure for making a determination concerning the liability of credential holders for delinquent taxes owed to this state. Newly created s. 440.08 (2r), Stats., provides that before granting an application to renew a credential issued under chs. 440 to 480, Stats., the department shall determine in accordance with the procedure established under s. 440.03 (12), Stats., whether the applicant for a credential renewal is liable for any delinquent taxes owed to this state. If the department determines that an applicant is liable for any delinquent taxes owed to this state, the department is required to deny the application, subject to the right of the applicant to have the denial reviewed at a hearing before the department.

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

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

The proposed rules define terms including "liable for any delinquent taxes owed to this state," the term used in ss. 440.03 (12) and 440.08, Stats., as created by 1995 Wis. Act 27. The rules describe the method to be used for determining whether an applicant for renewal is liable for delinquent taxes. Under the procedures, the name and social security number or federal employer identification number of an applicant is compared with information at the Wisconsin Department of Revenue to identify individuals and organizations liable for delinquent taxes. If an applicant is identified as owing taxes, a notice is mailed to the applicant stating that the application shall be denied unless delinquent taxes are paid within 10 days. If delinquent

taxes are not paid following a notice of intent to deny or if an applicant fails to complete an application form, the department shall deny the renewal application.

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

Publication Date: **November 14, 1995**
Effective Date: **November 14, 1995**
Expiration Date: **April 13, 1996**
Hearing Date: **January 29, 1996**

EMERGENCY RULES NOW IN EFFECT

Department of Revenue

Rules adopted revising **ch. Tax 18**, relating to the 1996 assessment of agricultural property.

FINDING OF EMERGENCY

The Wisconsin Department of Revenue 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 facts constituting the emergency is:

1995 Wis. Act 27, published July 28, 1995, changes the way agricultural land is valued for property tax purposes. Under the law, the assessed value of each parcel of agricultural land in 1996 is the same as the assessed value of that parcel in 1995. Buildings and improvements to agricultural land continue to be assessed at their full market value.

Since 1995 Wis. Act 27 affects assessments as of January 1, 1996, an emergency rule is necessary for the efficient and timely assessment of agricultural land in 1996.

In particular, the rule addresses the following needs:

– repealing obsolete terms defined by rule

– defining the terms "land devoted primarily to agricultural use", "other", and "parcel of agricultural land"

– providing instructions for assessing "agricultural land" and "other" land classifications in 1996.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of the rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

Publication Date: **December 6, 1995**
Effective Date: **December 6, 1995**
Expiration Date: **May 5, 1996**
Hearing Date: **January 25, 1996**

EMERGENCY RULES NOW IN EFFECT (2)

Department of Transportation

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

FINDING OF EMERGENCY

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

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

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

2. Rules were adopted revising **ch. Trans 131**, relating to the Motor Vehicle Inspection and Maintenance Program.

FINDING OF EMERGENCY

The Department of Transportation finds that an emergency exists and a rule is necessary for the immediate preservation of the public health, safety and welfare. A statement of the facts constituting the emergency is that Southeastern Wisconsin is currently unable to meet federal air quality standards. Southeastern Wisconsin is one of nine regions in the United States designated as areas with "severe" air pollution problems. This air quality problem results in all area residents breathing air that is not healthy.

Since motor vehicles are the largest contributor to the area's air quality problem, the Wisconsin Department of Transportation finds that an emergency exists regarding the public health. The enhanced I/M program resulting from the proposed rule is a necessary part of the state's plan to achieve the volatile organic compound (VOC) emission reductions required by the Clean Air Act. The program will account for over one–third of the VOC reductions required by Wisconsin's 15% VOC Reduction Plan. By implementing the changes proposed in the rule, the air quality in Southeastern Wisconsin area can be improved. If such improvement does not occur, other more costly controls on small business and industry would be required. By taking action at this time, the major and most cost effective measure is utilized to meet Wisconsin's clean air goal.

Publication Date: **December 4, 1995**
Effective Date: **December 4, 1995**
Expiration Date: **May 3, 1996**
Hearing Date: **January 11, 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.

Health & Social Services (CR 95–90):
Ch. HSS 86 – Relating to appeal by a county of an independent professional review determination that a resident of a state center for the developmentally disabled from that county is appropriate for community care.

Health & Social Services (CR 95–113):
Ch. HSS 94 – Relating to rights of mental disability patients/clients, and standards for grievance procedures for these patients/clients.

Health & Social Services (CR 95–186):
SS. HSS 108.02, 152.065, 153.07 and 154.07 – Relating to recovery of the cost of benefits from the estate of a person who was a client of the community options program or a participant in the aid program for persons with chronic renal disease, the aid program for persons with hemophilia or the aid program for adults with cystic fibrosis, or from the estate of the surviving spouse of that person.

Industry, Labor & Human Relations (CR 95–183):
SS. ILHR 48.01 and 48.10 – Relating to labeling of oxygenated fuels.

Industry, Labor & Human Relations (CR 95–199):
S. ILHR 51.01 and chs. ILHR 57 & 66 – Relating to uniform requirements for the design and construction of multifamily dwellings.

Natural Resources (CR 95–191):
Chs. NR 20, 21, 22 & 26 and s. NR 23.05 – Relating to sport & commercial fishing and fish refuges.

Optometry Examining Board (CR 95–142):
Chs. Opt 3 & 4 and ss. Opt 5.08, 6.04, 6.05 & 7.05 – Relating to examinations, continuing education and late renewal.

Public Defender (CR 95–219):
SS. PD 6.015, 6.025, 6.06, 6.07 and 6.08 – Relating to:
1) Determining clients' ability to pay for the cost of legal representation;
2) Referring uncollected accounts to the Dept. of Administration for collections; and
3) Requiring the agency to provide written notice to clients of their repayment obligation.

Public Defender (CR 95–224):
S. PD 1.04 (5) & (7) – Relating to the certification of private attorneys for appellate cases and to the certification equivalent for staff attorneys.

Public Defender (CR 95–230):
SS. PD 3.02 (1) and 3.04 (1) – Relating to cost of counsel and partial indigency.

Regulation & Licensing (CR 95–141):
S. RL 10.04 (1) and (2) – Relating to examination requirements for optometrists to obtain diagnostic pharmaceutical agent (DPA) certificates.

Transportation, Dept. of (CR 95–115):
Ch. Trans 131 – Relating to the Motor Vehicle Inspection and Maintenance Program (MVIP).

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.

Accounting Examining Board (CR 95–138):
An order affecting ss. Accy 3.04, 3.05, 3.055, 3.09, 3.11 and 4.035, relating to examinations, educational and graduation requirements, and late renewal.
Effective 04–01–96.

Agriculture, Trade & Consumer Protection (CR 95–112):
An order repealing and recreating ch. ATCP 136, relating to recovering, reclaiming, recycling and selling refrigerant used in mobile air conditioners or trailer refrigeration equipment.
Effective 03–01–96.

Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board (CR 95–136):
An order affecting ss. A–E 2.05, 3.05, 4.05, 4.06, 4.08, 5.04, 6.05, 9.05 and 10.05, relating to the examination review procedure, renewal of credentials, requirements for registration as a professional engineer and education as an experience equivalent for registration as a professional engineer.
Effective 04–01–96.

Development (CR 95–164):
An order repealing and recreating ch. DOD 13, relating to the volume cap on private activity bonds.
Effective 03–01–96.

Health & Social Services (CR 95–106):
An order repealing and recreating ch. HSS 343, relating to the conduct of youth on aftercare supervision following their release from youth correctional institutions, and revocation of a youth's aftercare for violation of a rule or special condition of aftercare.
Effective 03–01–96.

Health & Social Services (CR 95–155):
An order creating s. HSS 110.045, relating to the qualifications of medical directors of ambulance services that provide services beyond basic life support services.
Effective 03–01–96.

Industry, Labor & Human Relations (CR 94–132):
An order affecting chs. ILHR 2 and 13, relating to compressed natural gas.
Effective 04–01–96.

Insurance, Office of the Commissioner of (CR 94–24):
An order affecting ss. Ins 3.49, 4.10, 17.001, 18.05, 18.07, 18.12 & 18.15 and ch. Ins 5, relating to administrative procedures for contested cases under the jurisdiction of the Office of the Commissioner of Insurance and related boards.
Effective 04–01–96.

Insurance, Office of the Commissioner of (CR 95–154):
An order affecting s. Ins 3.25, relating to prima facie premium rates, basic loss ratios, guaranteed issue amounts of life insurance coverage, maximum age limitations and reporting of experience data connected with credit life and credit accident & sickness insurance.
Effective 04–01–96.

Insurance, Office of the Commissioner of (CR 95–175):
An order amending ss. Ins 6.57, 6.58 and 6.59, relating to the fees for listing insurance agents, fees for the renewal of corporation licenses and other licensing procedures.
Effective 03–01–96.

Natural Resources (CR 95–85):
An order affecting ch. NR 51, relating to the stewardship program.
Effective 03–01–96.

Natural Resources (CR 95–91):
An order creating s. NR 728.11, relating to actions taken by the Department to implement chs. NR 700 to 736.
Effective 03–01–96.

Pharmacy Examining Board (CR 95–135):
An order affecting ss. Phar 6.02, 8.05 and 13.02, relating:
1) To licensing outpatient hospital pharmacies;
2) To the time in which a controlled substance listed in schedule II must be dispensed; and
3) To exempting certain pharmacies from the distributor licensing requirements when selling prescription drugs to practitioners for office dispensing,
Effective 03–01–96.

Public Defender (CR 95–170):
An order creating ss. PD 6.01, 6.02, 6.03, 6.04 and 6.05, relating to the repayment of cost of legal representation.
Effective 03–01–96.

Public Defender (CR 95–171):
An order creating s. PD 3.039, relating to the redetermination of indigency during the course of representation.
Effective 03–01–96.

Transportation, Dept. of (CR 95–87):
An order affecting ch. Trans 140, relating to the security requirements for motor vehicle dealers and other licensees and the conditions under which financial statements may be required.
Effective 03–01–96.

Public Notice

Health & Social Services

(Medical Assistance Reimbursement of Providers of Dental Services)

The State of Wisconsin reimburses providers for dental services provided to Medical Assistance recipients. This is done under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Social Services, is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

The Department may restore Medical Assistance coverage for removable and fixed prosthodontic services effective on or after **March 1, 1996**. The proposed change could be modified if necessary to reflect the final statutory language.

The estimated net effect of this change in payment on annual expenditures of the Wisconsin Medical Assistance Program is to increase spending by $3,230,000 all funds ($1,928,500 federal financial participation and $1,301,500 general purpose revenue) for state fiscal year 1995–1996 and by $4,371,200 all funds ($2,608,300 federal financial participation and $1,762,900 general purpose revenue) for state fiscal year 1996–1997.

Copies of the Proposed Changes

Copies of the proposed changes will be sent to every county social services or human services department main office where they will be available for public review. For more information, interested people may write to:

State Plan Coordinator
Bureau of Health Care Financing
Division of Health
P.O. Box 309
Madison, WI 53701–0309

Written Comments

Written comments on the proposed changes are welcome. Comments should be sent to the above address. Comments received on the changes will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily at:

Bureau of Health Care Financing
Room 250, State Office Building
One West Wilson Street
Madison, WI

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