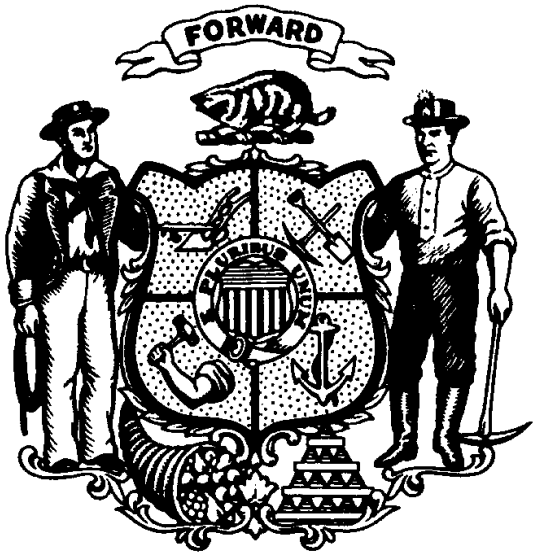
WISCONSIN ADMINISTRATIVE REGISTER

No. 482



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

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NOTICE SECTION

Notice of Hearings

Agriculture, Trade & Consumer Protection

(Reprinted from Mid–February, 1996 Wis. Adm. Register)

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 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 grain warehouse keepers and grain dealers. This rule amends ch. ATCP 99, Wis. Adm. Code.

Written Comments

The Department will hold the hearings at the dates and places shown 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 20, 1996** for additional written comments.

Copies of Rule

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

Division of Trade & Consumer Protection
Telephone (608) 224−4970
Dept. of Agriculture, Trade & Consumer Protection
2811 Agriculture Dr.
P.O. Box 8911
Madison, WI 53708−8911

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:

March 12, 1996	**Company E Room**
Tuesday	**Menasha Public Library**
Commencing at 1:00 p.m.	**440 First Street**
Handicapped Accessible	**Menasha, WI**
March 14, 1996	**Room 105**
Thursday	**Eau Claire State Office Bldg.**
Commencing at 12:00 p.m.	**718 North Clairemont**
Handicapped Accessible	**Eau Claire, WI**
March 15, 1996	**Room 172**
Friday	**State Agriculture Building**
Commencing at 1:00 p.m.	**2811 Agriculture Drive**
Handicapped Accessible	**Madison, WI**

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

Statutory authority: ss. 127.02 (3) (d) and 127.15

Statutes interpreted: ch. 127

In order to protect grain producers, the Department of Agriculture, Trade and Consumer Protection currently regulates grain warehouse keepers and grain dealers under ch. 127, Stats. Grain warehouse keepers and grain dealers must be licensed, must file financial statements with the Department, and must file security with the Department if they fail to meet minimum financial standards.

The Legislature recently made substantial changes to the grain security law under ch. 127, Stats. The changes, contained in 1995 Wis. Act 42, took effect on September 1, 1995.

The Department has adopted rules under ch. ATCP 99, Wis. Adm. Code, to interpret ch. 127, Stats. This rule amends the Department's current rules to incorporate the recent legislative changes. This rule also increases license and inspection fees, clarifies financial statement and security filing requirements, simplifies the disclosures which grain dealers must make to producers, and makes other changes designed to clarify the current rules.

Licensing Grain Warehouse Keepers and Grain Dealers

1995 Wis. Act 42 requires warehouse keepers and grain dealers to hold a "license" from the Department, rather than a "registration certificate" as before. This rule incorporates this new terminology.

1995 Wis. Act 42 created a new license category of "class B2" grain dealers. "Class B2" grain dealers are feed mill operators who buy less than $50,000 worth of grain from producers per year, and who use no "deferred payment" or "deferred price" contracts. "Class B2" grain dealers are no longer licensed as class B grain dealers. They will pay lower license fees than class B grain dealers, and will not have to file annual financial statements or meet minimum financial standards. This rule incorporates the new license category.

Financial Statements

Under current law, grain warehouse keepers and certain grain dealers must file annual financial statements with the department. Under 1995 Wis. Act 42, class B grain dealers must now file annual financial statements if they use "deferred payment" or "deferred price" contracts. The Department may require supplementary or interim financial statements, as necessary.

This rule modifies current rules related to financial statements, consistent with ch. 127, Stats.:

- It updates and clarifies current filing requirements, consistent with ch. 127, Stats.
- It clarifies current requirements related to the form and content of financial statements. It also clarifies which financial statements must be reviewed or audited by a CPA.
- It allows sole proprietors to prepare portions of their financial statements on a historical cost basis, thereby saving accounting costs.
- It allows the Department, for good cause, to extend a filing deadline for up to 30 days.

Minimum Financial Standards

Under current law, grain warehouse keepers and certain grain dealers must meet minimum financial standards. 1995 Wis. Act 42 made the following changes which are incorporated in this rule:

● It required class B grain dealers to meet minimum financial standards if they use "deferred payment" or deferred price" contracts.

● It changed the minimum financial standards for grain dealers to reflect financial risk. Under the new standards:

* Grain dealers must have a current ratio of at least 1.25 to 1.0 at fiscal year end, and at least 1.0 to 1.0 at other times.

* Grain dealers must have total assets which exceed total liabilities by at least $15,000, or by the amount of equity needed to achieve a debt−to−equity ratio of not more than 5.0 to 1.0, whichever is greater. The equity requirement is no longer capped at a maximum of $500,000.

● It made allowances for normal seasonal fluctuations of certain assets and liabilities. Under 1995 Wis. Act 42 and this rule, a warehouse keeper or grain dealer may offset certain liabilities against certain current assets, so that normal seasonal and operational fluctuations do not have an undue impact on equity requirements.

Security Requirements

Under current law, grain warehouse keepers and certain grain dealers must file security with the Department if they fail to meet minimum financial standards. 1995 Wis. Act 42 made the following changes which are incorporated in this rule:

● It required class B grain dealers using "deferred payment" or "deferred price" contracts to file security with the Department if they fail to meet minimum financial standards.

● It changed the method used to calculate the amount of security required of grain dealers. Under 1995 Wis. Act 42 and this rule, a grain dealer must file security equal to the sum of the following:

* The total amount which the grain dealer owed to producers on "deferred payment" contracts as of the last day of the previous month.

* The total amount which the grain dealer owed to producers on "deferred price" contracts as of the last day of the previous month (based on contract pricing formulas and market prices on that day).

* Beginning September 1, 1996, an amount equal to 35% of the dollar amount of the grain dealer's average monthly purchases from producers for the 3 months in which the grain dealer made the largest monthly purchases from producers during the preceding 12 months. (1995 Wis. Act 42 increased this percentage in stages, from 20% in the year ending August 31, 1996, to 35% in the year beginning September 1, 1996.)

● It eliminated the former security cap of $500,000 for warehouse keepers and grain dealers.

● It eliminated, as a form of security that may be filed with the Department, a security interest in grain inventory or accounts receivable.

Monthly Reports of Grain Purchases

Under current law, certain grain dealers who fail to meet minimum financial standards must file monthly reports with the Department showing amounts of grain purchased. 1995 Wis. Act 42 extended this monthly reporting requirement to class B grain dealers who use "deferred payment" or "deferred price" contracts (if they fail to meet minimum financial standards). The Department uses the monthly reports to monitor the adequacy of the security filed by grain dealers. This rule incorporates the statutory reporting requirements.

"Deferred Payment" and "Deferred Price" Contracts

"Deferred payment" and "deferred price" contracts, if not properly managed, can create serious financial risks. 1995 Wis. Act 42 made the following changes which are incorporated in this rule:

● The amount of security required of grain dealers depends, in part, on their use of "deferred payment" or "deferred price" contracts.

● A grain purchase contract must be in writing unless the grain dealer pays within 7 days. The new 7−day grace period recognizes operational realities in the grain business.

● A grain dealer must make full and final payment under a "deferred payment" or "deferred price" contract by a specified payment date which is not more than 180 days after the contract price is determined.

Grain Dealer Disclosures to Producers

Under current rules, a grain dealer must disclose to grain producers the basis on which the grain dealer is licensed. As a result of the statutory changes made by 1995 Wis. Act 42, the current disclosures are no longer fully accurate. This rule simplifies and shortens the disclosures which grain dealers must make, and modifies the disclosures to make them consistent with current law.

Ownership of Grain

This rule clarifies that when a grain owner delivers grain to a person who is both a warehouse keeper and a grain dealer, the grain owner retains ownership rights until one of the following occurs:

● The recipient acquires title to the grain pursuant to a sales contract that is documented by a purchase receipt or other writing.

● The grain owner transfers title to a third person.

Fee Changes; General

Under the grain security program, the Department:

● Licenses grain warehouse keepers and grain dealers.

● Reviews annual financial statements for compliance with minimum financial standards.

● Demands security from warehouse keepers and grain dealers who fail to meet minimum financial standards. The Department holds the security for the benefit of producers in the event that a grain warehouse keeper or grain dealer defaults in its obligations to producers.

● Monitors security amounts for compliance with legal standards, based on the amount of a warehouse keeper's or grain dealer's financial obligations to producers.

● Audits grain accounts and inspects grain inventories for compliance with legal requirements.

● Investigates default claims, and determines the amount of actual defaults to producers. The Department may convert available security to pay allowed producer claims, or take other legal action to recover unpaid claims for producers.

● Regulates the business practices of grain warehouse keepers and grain dealers to reduce financial risks to producers, and to prevent fraudulent or deceptive practices.

● Enforces ch. 127, Stats., and ch. ATCP 99, Wis. Adm. Code.

The Department's grain security program is funded by a combination of license fees (PRO, or program revenue), general tax dollars (GPR, or general purpose revenue) and federal contracts (FED revenue). Under the 1995−97 biennial budget act, a total of 1.68 FTE (full−time equivalent) positions in the Department's grain security program were converted from GPR to PRO funding, effective July 1, 1997.

This rule increases license and inspection fees for grain warehouse keepers and grain dealers in order to fund the conversion of staff from GPR to PRO revenue, and in order to offset projected license revenue shortfalls resulting from consolidated ownership of grain warehouse and grain dealer operations. The rule also changes the fee structure to create a more equitable distribution of fees.

Current license fees generate an average of approximately $179,000 per year. The proposed fees will generate approximately $223,000 in 1996 and $270,000 in each subsequent year. License fees will fund approximately 59% of overall program costs, compared to 31% currently.

Warehouse Keepers; Fee Changes

This rule increases grain warehouse fees as follows:

● The current basic license fee of $50 is increased to $75 effective September 1, 1996, and to $100 effective September 1, 1997.

● The current license fee of $25 for each additional business location is increased to $50 effective September 1, 1996, and to $75 effective September 1, 1997.

● The current inspection fee of $300 for warehouses with storage capacity of less than 150,000 bushels is increased to $375 effective September 1, 1996, and to $425 effective September 1, 1997.

● The current inspection fee of $325 for warehouses with storage capacity of at least 150,000 bushels but less than 250,000 bushels is increased to $425 effective September 1, 1996, and to $475 effective September 1, 1997.

● The current inspection fee of $375 for warehouses with storage capacity of at least 250,000 bushels but less than 500,000 bushels is increased to $475 effective September 1, 1996, and to $525 effective September 1, 1997.

● The current inspection fee of $425 for warehouses with storage capacity of at least 500,000 bushels but less than 750,000 bushels is increased to $525 effective September 1, 1996, and to $575 effective September 1, 1997.

● The current inspection fee of $475 for warehouses with storage capacity of at least 750,000 bushels but less than 1,000,000 bushels is

increased to $575 effective September 1, 1996, and to $625 effective September 1, 1997.

● The current inspection fee of $525 for warehouses with storage capacity of at least 1,000,000 bushels but less than 2,000,000 bushels is increased to $700 effective September 1, 1996, and to $725 effective September 1, 1997.

● The current inspection fee of $525 for warehouses with storage capacity of at least 2,000,000 bushels but less than 3,000,000 bushels is increased to $800 effective September 1, 1996, and to $825 effective September 1, 1997.

● The current inspection fee of $525 for warehouses with storage capacity of at least 3,000,000 bushels but less than 4,000,000 bushels is increased to $900 effective September 1, 1996, and to $925 effective September 1, 1997.

● The current inspection fee of $525 for warehouses with storage capacity of 4,000,000 bushels or more is increased to $1,000 effective September 1, 1996, and to $1,025 effective September 1, 1997.

Grain Dealers; Fee Changes

This rule increases grain dealer fees as follows:

● A class A grain dealer currently pays a basic license fee of $400, a fee of $10 for each additional truck (if more than one), and a surcharge of $250 if the grain dealer's annual financial statement is not audited. Effective September 1, 1996, this rule increases the basic license fee to $500, imposes a fee of $175 for each additional business location, increases the truck fee to $25 per additional truck, and increases the surcharge for an unaudited financial statement to $350. Effective September 1, 1997, this rule increases the basic license fee to $525, increases the fee for each additional business location to $225, increases the truck fee to $45 per additional truck, and increases the surcharge for an unaudited financial statement to $425.

● A class B grain dealer currently pays a basic license fee of $175 and a fee of $10 for each additional truck (if more than one). Effective September 1, 1996, this rule increases the basic license fee to $200, increases the truck fee to $25 per additional truck, and imposes a surcharge of $350 if the grain dealer's annual financial statement is not audited. Effective September 1, 1997, this rule increases the basic license fee to $225, increases the truck fee to $45 per additional truck, and increases the surcharge for an unaudited financial statement to $425.

● A class B2 grain dealer currently pays a basic license fee of $50 and a fee of $10 for each additional truck (if more than one). Effective September 1, 1996, this rule increases the truck fee to $25 per additional truck. Effective September 1, 1997, this rule increases the basic license fee to $75, and increases the truck fee to $45 per additional truck.

● A class C grain dealer is not required to be licensed, but may voluntarily apply for a license. A class C grain dealer who voluntarily applies for a license must currently pay a basic license fee of $50. Effective September 1, 1996, this rule increases the basic license fee to $75.

● Under current law, a grain dealer must pay a license fee surcharge of $500 if the grain dealer is caught operating without a required license, except that 1995 Wis. Act 42 provides for a lesser surcharge of $250 for class B2 grain dealers. This rule incorporates the lesser surcharge for class B2 grain dealers.

Rule Organization and Drafting

This rule makes a number of drafting changes to improve the organization and clarity of the current rules, and to make the current rules more consistent with the statutory language enacted under 1995 Wis. Act 42.

Fiscal Estimate

The proposed amendments to the rule interpret the changes in ch. 127, Stats., adopted under 1995 Wis. Act 42. Chapter 127, Stats., requires grain warehouse keepers and grain dealers to be licensed with the Department of Agriculture, Trade and Consumer Protection (DATCP). Under the statute, warehouse keepers and Class A dealers are required to file financial statements with DATCP and, if they do not maintain certain minimum financial standards, to file security with DATCP. Warehouse keepers and dealers are required by the statute to follow certain trade practices, use various forms and maintain certain records.

The conversion of 1.68 Full Time Equivalent (FTE) from General Purpose Revenue (GPR) to Program Revenue (PR) effective July of 1997 was approved by the Legislature in the last budget session. This conversion has necessitated an increase in fees to produce revenue sufficient to cover anticipated expenditures. Warehouse keeper fees have not been increased since September of 1985 and grain dealer fees were last increased in September of 1991. This conversion to program revenue funding is consistent with Department and Board policy under Document 175, Review and Approval of Department Fees, Section II (B) Policy.

The conversion of 1.68 FTE position will increase salaries and fringe benefits cost in the program revenue area, but the requested increase in fees should generate sufficient revenues to cover these expenditures through June of 1999. The rule generates additional fee revenues of $79,000 per year.

DATCP currently maintains a program of record examinations of warehouse keepers and dealers. Enforcement of the proposed amendment to the rule will be added to the examination procedures at a minimal cost that can be absorbed. Printing, mailing, forms redesign and hearing costs that will be incurred in conjunction with the adoption of the proposed rules will approximate $500 and will be absorbed.

Initial Regulatory Flexibility Analysis

The proposed amendments to the rule interpret ch. 127, Stats., which requires grain warehouse keepers and grain dealers, with certain exceptions, to be licensed with the Department of Agriculture, Trade and Consumer Protection (Department). The statute requires licensed grain warehouse keepers and certain grain dealers (Class A and Class B who use deferred payment) to file annual financial statements with the Department showing that they meet specified minimum financial standards or, if they do not meet those standards, to file security with the Department. The statute also requires warehouse keepers and grain dealers to employ various trade practices, to give producers and depositors various written documents and to retain certain records.

The proposed amendments to the rule regulate 116 warehouse keepers, 150 Class A dealers, 108 Class B dealers, 38 Class B2 dealers and 95 Class C dealers and a number of exempt warehouse keepers and dealers, for the benefit of over 45,000 producers in Wisconsin who grow grain for the cash market. Many of the warehouse keepers, grain dealers, and virtually all of the producers, are small businesses as defined by s. 227.114 (1) (a), Stats.

The proposed amendments to ch. ATCP 99 are insignificant in relation to the specific requirements for documentation and records required under the current statute. The increase in revenue (fees) imposed by the amendments to the rule, beyond those included in the statutory requirements, is related to the conversion of 1.68 FTE positions from general purpose revenue to program revenue. The conversion of 1.68 Full Time Equivalent (FTE) from General Purpose Revenue (GPR) to Program Revenue (PR) effective July of 1997 was approved by the Legislature in the last budget session and is consistent with Department and Board policy.

The proposed amendments to the rule do not require warehouse keepers or grain dealers to acquire any knowledge beyond that currently necessary to engage in their business. The Department has given the Department of Development notice of their rule, as required by s. 227.114 (5), Stats.

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. 11.01 (16), 11.06 (12), and 11.30 (2), (4) and (5), Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the State of Wisconsin Elections Board will adopt the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **March 1, 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. 11.01 (16), 11.06 (12), and 11.30 (2), (4) & (5)

This rule interprets ss. 11.01 (16), 11.06 (12), and 11.30 (2), (4) & (5), Stats. The rule provides that the source of any communication, including a telephone call, that has been paid for or with money raised for political purposes – except a bona fide poll or survey which does not expressly advocate the election or defeat of a clearly identified candidate or a vote at a referendum – must be identified during the course of, or at the end of, the communication.

Pursuant to the authority vested in the State of Wisconsin Elections Board by ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., the Elections Board hereby creates s. El Bd 1.655 interpreting ss. 11.01 (16), 11.06 (12), and 11.30 (2), (4) & (5), Stats., as follows:

Text of Rule

SECTION 1. El Bd 1.655 is created to read:

El Bd 1.655 Identification of the source of communications paid for with money raised for political purposes. (1) Except for communications for which reporting is not required under s. 11.06 (2), Stats., and pursuant to s. 11.30 (2) (a), Stats., any communication paid for with money that has been raised for political purposes must contain a source identification. Communication includes printed advertisement, billboard, handbill, sample ballot, television or radio advertisement, telephone call, and any other form of communication that may be utilized by a registrant for the purpose of influencing the election or nomination of any individual to state or local office or for the purpose of influencing a particular vote at a referendum. Incidental administrative communications need not identify their source if such communications are singular in nature and are in no way intended to communicate a political message.

(2) The source identification requirements of s. 11.30, Stats., do not apply to communications paid for by an individual who, or a committee which, is not subject to the registration requirements of s. 11.05, Stats.

(3) When making communications requiring source identification, disclosure is not required to be made at any particular time during the communication. In the case of telephone calls, the required disclosure may be made at any time prior to the end of the call.

(4) Notwithstanding the source identification requirements under s. 11.30 (2) (a), Stats., a bona fide poll or survey under s. 11.30 (5), Stats., concerning the support or opposition to a candidate, political party, referendum or issues, may be conducted without source identification unless the person being polled requests such information. If requested, the person conducting the poll shall disclose the name and address of the person making payment for the poll and, in the case of a registrant under s. 11.05, the name of the treasurer or the person making the payment. For purposes of this rule, the term ”bona fide poll” means a poll which is conducted for the purpose of identifying, and/or collecting data on, voter attitudes and preferences and not for the purpose of conveying a message of express advocacy.

(5) A registrant who conducts a bona fide poll must report the expense of conducting the poll on its campaign finance reports, notwithstanding that the registrant is not required to identify the source of that poll under s. 11.30 (5), Stats., and this rule.

Initial Regulatory Flexibility Analysis

The creation of this rule does not affect business.

Fiscal Estimate

The creation of this rule has no fiscal effect.

Notice of Hearing

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

Notice is hereby given that pursuant to s.50.36(1), Stats., the Department of Health and Social Services will hold a public hearing to consider the proposed repeal of s. 124.20(5)(a)3. and the repeal and recreation of s. HSS 124.20(5)(i)8., relating to the administration of labor–inducing agents in hospitals.

Hearing Information

March 15, 1996
Friday
Beginning at 1:00 p.m.

Room 137
State Office Building
1 W. Wilson Street
MADISON, WI

The hearing site is fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Social Services

The Department’s rules for hospitals, ch. HSS 124, currently require that only a physician may order the administration of an oxytocic, that is, a labor–inducing agent; that a physician who orders the administration of an oxytocic must be present when administration of the oxytocic is initiated; and that the physician or a privileged designee of the physician be immediately available to intervene, if necessary, during administration of the oxytocic. Recently, several physicians have advised the Department that these requirements are too restrictive. Upon review of the requirements in relation to the Department’s statutory obligation to promulgate, amend and enforce standards for hospitals that are considered necessary for hospitals to provide safe and adequate care and treatment of their patients, the Department has decided to modify s. HSS 124.20(5)(i)8., relating to labor–inducing agents, to do the following:

1. Make the rules apply to all labor–inducing agents;

2. Permit a licensed nurse midwife to also order the administration of labor–inducing agents;

3. Permit a licensed nurse midwife or a trained registered nurse to also administer labor–inducing agents;

4. Drop the requirement that the physician who orders a labor–inducing agent must be present during the initiation of its infusion;

5. Change the requirement that the physician or designee be “immediately available” to intervene during administration of the labor–inducing agent to the physician or licensed nurse midwife being “readily available” in case he or she is needed; and

6. Indicate the appropriate type of monitoring to be maintained during administration of a labor–inducing agent.

Contact Person

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

Larry Hartzke
Bureau of Quality Compliance
Division of Health
P.O. Box 309
Madison, Wisconsin 53701–0309
608 267–1438 or,
if you are hearing impaired,
608–266–1511 (TDD)

If you are hearing or visually impaired, do not speak English, or have 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 shown above. Persons requesting a non–English or sign language interpreter should contact the person at the address or phone number given above at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Written Comments

Written comments on the proposed rules received at the above address no later than **March 20, 1996**, will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

This rulemaking order makes changes in the Department’s rules for hospitals relating to administration of labor–inducing agents. There are 126 general hospitals in Wisconsin. One is operated by state government and five are operated by local governments. The rule changes will not affect the expenditures or revenues of state government or local governments. The changes are being made in order to bring requirements relating to the use of labor–inducing agents in hospitals into consistency with accepted professional practice.

Initial Regulatory Flexibility Analysis

The proposed rules apply to hospitals. No hospital in Wisconsin is a small business as defined in s.227.114(1), Stats. Therefore, the rules do not apply to small businesses.

Notice of Hearings

Health & Social Services (Vocational Rehabilitation, Chs. HSS 250–299)

Notice is hereby given that pursuant to ss.47.02(5) and 227.11(2)(a), Stats., the Department of Health and Social Services will hold public hearings to consider the creation of ch. HSS 275, Wis. Adm. Code, relating to procedures for appealing decisions of the Department's Division of Vocational Rehabilitation concerning eligibility for services under the federal Rehabilitation Act of 1973, as amended, or the provision or denial of those services.

Hearing Information

March 12, 1996
Tuesday
From 10 a.m. to 2 p.m.

Room 120
State Office Building
141 N. W. Barstow
WAUKESHA, WI

March 15, 1996
Friday
From 10 a.m. to 2 p.m.

Conference Room
Division of Vocational Rehabilitation
2810 Ninth Street South
WISCONSIN RAPIDS, WI

Both hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Social Services

The Department receives federal funds to provide vocational rehabilitation services under the federal Rehabilitation Act of 1973, as amended. The program operates under a state plan signed by the Governor. Written procedures to permit appeal of decisions of the Department's Division of Vocational Rehabilitation relating to eligibility for services or provision or denial of services are requirements of this plan. An approved plan is one condition for receiving federal matching funds. These proposed rules formalize the appeals process which has been developed in response to requirements of the Rehabilitation Act Amendments of 1992. The rules state how the appeals process will operate and cover qualifications of hearing officers. The tasks of a hearing officer include fact–finding, receiving and acting on motions related to an appeal and maintaining an orderly hearing process. The rules describe how personal, written and electronic testimony can be used in the process and define procedures to be followed if a party to a hearing fails to appear on the scheduled date of the hearing. Time limits for notices and for responding to notices are set out in the rules.

Contact Persons

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

Diane King
Division of Vocational Rehabilitation
P.O. Box 7852
Madison, WI 53707–7852
(608) 243–5695 (voice)
or through the Wisconsin
Relay Service at 1–800–947–3529

If you need a copy of the proposed rules in large print or another alternate medium or you need an interpreter to be present at the hearing you plan to attend, write or phone:

Roni Christian
Bureau for Sensory Disabilities
Division of Vocational Rehabilitation
P.O. Box 7852
Madison, WI 53707–7852
(608) 243–5643 (voice)
or through the Wisconsin
Relay Service at 1–800–947–3529

Written Comments

Written comments on the proposed rules received at the following address no later than **March 29**, **1996**, will be given the same consideration as testimony presented at the hearing:

DVR Rules Coordinator
P.O. Box 7852
Madison, WI 53707–7852

Fiscal Estimate

These rules will not affect the expenditures or revenues of state government or local governments. There has always been a process for applicants and recipients of services to appeal vocational rehabilitation program decisions. These rules codify appeal procedures that are already in effect. They do not add to existing costs that are for contracting for impartial hearing officers, training the hearing officers, tracking appeals, preparing materials as part of the hearing process, presenting materials as the Administrator's designee and reviewing hearing officer decisions.

There is no local government involvement in the administration of vocational rehabilitation programs or in the process for appeal of vocational rehabilitation program decisions.

Initial Regulatory Flexibility Analysis

These rules apply to the Department, to applicants for and recipients of vocational rehabilitation services who wish to appeal a decision of the Department's Division of Vocational Rehabilitation relating to eligibility for services or the provision or denial of services, and to persons serving as impartial hearing officers for those appeals. The rules will not directly affect small businesses as defined in s. 227.114(1)(a), Stats.

Notice of Proposed Rule

State Historical Society

Notice is hereby given that pursuant to ss. 44.02 (24), 44.34 (4) and 227.11 (2) (a), Stats., and interpreting s. 71.07 (9r), Stats., and according to procedure set forth in s. 227.16 (2) (e), Stats., the State Historical Society will adopt the following rule as proposed in this notice without public hearing unless within 30 days after publication of this notice on **March 1, 1996**, the State Historical Society 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.

The State Historical Society of Wisconsin proposes an order to create ch. HS 3, relating to a state 25% tax credit program for rehabilitation of owner–occupied historic residences.

Analysis Prepared by the State Historical Society of Wisconsin

Statutory authority: ss. 44.02 (24), 44.34 (4) and 227.11 (2) (a)

Statute interpreted: s. 71.07 (9r)

This chapter establishes the procedures that the State Historical Society will use to certify applications under the State Historic Rehabilitation Tax Credit program.

The State of Wisconsin offers a 25% income tax credit to owner–occupants who substantially rehabilitate buildings listed in the National Register of Historic Places or the State Register of Historic Places or that are determined through the application process to be eligible for listing in the state or national registers of historic places. The tax credit is equal to 25% of the cost of eligible rehabilitation work, up to a maximum of $10,000 for individuals, or $5,000 for married persons filing separately. To qualify for the credit, an owner must:

a) Use the property as the owner's personal residence;

b) Spend at least $10,000 on eligible rehabilitation work;

c) Formally apply to receive the credit and receive approval before beginning tax credit–eligible work; and

d) Plan and execute the project in a way that does not destroy the building's historical integrity.

By s. 71.07 (9r) (b) 3, Stats., the State Historical Society of Wisconsin, is responsible for:

a) Certifying that the property is listed in the National Register of Historic Places or the State Register of Historic Places, or is eligible for listing in either register;

b) Certifying that proposed rehabilitation work, including both eligible activities and additional work, conforms with the Secretary of the Interior's Standards for Rehabilitation, which have been written into s. HS 3.06 (6) of the rule; and

c) Certifying that the completed project conforms to the approved work plan.

By s. 71.07 (9r) (b) 4, Stats., the Wisconsin Department of Revenue is responsible for enforcement of the rule that limits the credit to expenditures made during a 2 year period, unless an owner elects a 5 year period. Owners claiming the 5 year period are subject to s. 71.07 (9r) (b) 4, Stats., which requires that work must be "initially planned for completion in phases." This means that owners must apply for the 5 year period before beginning tax credit–eligible work. Because the work indicated in the 5 year phasing plan is identical to that of the certification application, s. HS 3.08 requires that, if an owner requests a 5 year period, it becomes part of the certification application which, under s. 71.07 (9r) (b) 3. b., Stats., must be approved by the State Historical Society. Enforcement of the 5 year expenditure period is the responsibility of the Wisconsin Department of Revenue.

By s. 44.02 (24), Stats., the State Historical Society is required to provide the public with applications, materials and instructions about applying for the credit. Application forms are referenced in the rule.

Except as cited above, enforcement and administration of s. 71.07 (9r), Stats., is the responsibility of the Wisconsin Department of Revenue.

Text of Rule

SECTION 1. Chapter HS 3 is created to read:

Chapter HS 3
STATE HISTORIC REHABILITATION TAX CREDITS

HS 3.01 Authority. This chapter is promulgated under the authority of ss. 44.02 (24), 44.34 (4) and 227.11 (2) (a), Stats. and provides a process to implement s. 71.07 (9r), Stats.

HS 3.02 Purpose. This chapter establishes procedures that the state historical society will use to make its determinations regarding the eligibility of projects to rehabilitate historic property for 25% state investment tax credits.

Note: In addition to these requirements of the state historical society, the taxpayer claiming the credit must meet other requirements of the department of revenue.

HS 3.03 Definitions. In this chapter:

(1) "Completion date" means the date indicated in the approved part 2 application by which all eligible activity is to be completed.

(2) "Eligible activity" means those portions of a project for which the owner may claim the costs under the 25% rehabilitation tax credit program under s. 71.07 (9r) (a) and (b) 1m., Stats.

(3) "Eligible property" means real property located in the state of Wisconsin that has been determined to be historic property that is used as an owner–occupied personal residence and is not actively used in a trade or business, held for the production of income, or held for sale or other disposition in the ordinary course of the owner's trade or business.

(4) "Five year phasing application" means state form HPD:WTC004, "Request for Five–Year Project Phasing.," available from the division of historic preservation, state historical society, 816 State Street, Madison, Wisconsin 53706.

(5) "Listing date" means the date on which the property or the district in which it is physically located is listed in the national register or state register.

(6) "National register" means the list of properties and districts of historic, archeological, architectural, and engineering significance in the national register of historic places maintained by the national park service, U. S. department of the interior under provisions of 16 U.S.C. s. 470.

(7) "Officer" means the state historic preservation officer appointed under s. 44.32, Stats.

(8) "Outbuilding" means any building within the legal boundaries of a property that contains eligible property under s. HS 3.03 (3).

(9) "Owner" means the natural person whose name is listed in the county register of deeds as holding record title to the property or who holds equitable title as a land contract vendee.

(10) "Part 1 application" means state form HPD:WTC001, "Historic Preservation Certification Application, Part 1 –– Evaluation of Significance," available from the division of historic preservation, state historical society, 816 State Street, Madison, Wisconsin 53706.

(11) "Part 2 application" means state form HPD:WTC002, "Historic Preservation Certification Application, Part 2 –– Description of Rehabilitation," available from the division of historic preservation, state historical society, 816 State Street, Madison, Wisconsin 53706.

(12) "Part 3 application" means state form HPD:WTC003, "Request for Certification of Completed Work," available from the division of historic preservation, state historical society, 816 State Street, Madison, Wisconsin 53706.

(13) "Physical work" means construction or destruction in preparation for construction.

(14) "Project period" means the period from the start of physical work until the completion of all eligible activity.

(15) "Rehabilitation work" means an activity that has received, or is the subject of an application to receive, a general certification by the society under s. HS 3.04, including both eligible activity and other physical work that may be undertaken during or within 12 months before the project period.

(16) "Society" means the state historical society.

(17) "State register" means the list of properties and districts of historic, archeological, architectural, and engineering significance in the Wisconsin state register of historic places maintained by the state historical society under s. 44.36, Stats., including interim listings under s. 44.36 (5) (a) 3., Stats.

HS 3.04 General certification by the society. For purposes of s. 71.07 (9r) (b) 3, Stats., a project is certified when the officer has made a determination of historic property under s. HS 3.05 and certifies in writing that the property is historic property and that the rehabilitation work meets the rehabilitation standards under s. HS 3.06. The officer shall rescind certification if the applicant does not submit a part 3 application under s. HS 3.06 (1) and (2) or the officer denies the part 3 application under s. HS 3.07 (5).

HS 3.05 Determination of historic property. Before the officer may certify the rehabilitation work, under s. HS 3.06, a property shall be determined to be historic property through the following processes:

(1) INDIVIDUALLY LISTED PROPERTY.

(a) A property is historic property if the officer certifies that it is listed individually in the national register or the state register.

(b) The owner shall apply for and receive written determination of historic property by the officer. The owner shall apply using a part 1 application.

(c) If the rehabilitation project includes work on an outbuilding, the owner shall include in the part 1 application a description of the outbuilding and photographs for the officer to determine that the outbuilding contributes to the significance of the historic property.

(d) If the officer determines that the part 1 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(e) If the officer determines that the part 1 application is complete, the officer shall review and approve or deny the part 1 application in writing.

(f) When the officer determines a property to be historic property, the officer shall sign the part 1 application and return it to the owner indicating that the property is historic property.

(2) DISTRICT PROPERTY.

(a) A property is historic property if it is included in a district that is listed in the national register or the state register and if the officer certifies in writing that it contributes to the significance that caused the district to become eligible for listing in one or both registers.

(b) The owner shall apply for and receive written determination of historic property by the officer. The owner shall apply using a part 1 application.

(c) If the rehabilitation project includes work on an outbuilding, the owner shall include in the part 1 application a description of the outbuilding and photographs for the officer to determine that the outbuilding contributes to the significance of the historic property.

(d) If the officer determines that the part 1 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(e) If the officer determines that the part 1 application is complete, the officer shall review and approve or deny the part 1 application in writing.

(f) When the officer determines a property to be historic property, the officer shall sign the part 1 application and return it to the owner indicating that the property is historic property.

(3) PROPERTY DETERMINED ELIGIBLE.

(a) A property is historic property if it is determined by the officer to be eligible for listing in the national register or the state register.

(b) The owner shall apply for and receive written determination of historic property by the officer. The owner shall apply using a part 1 application that describes the historic building, its site, and any outbuildings contained on the site.

(c) If the officer determines that the part 1 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(d) If the officer determines that the part 1 application is complete, the officer shall review and approve or deny the part 1 application in writing.

(e) When the officer determines a property to be historic property, the officer shall sign the part 1 application and return it to the owner indicating that the property is historic property.

HS 3.06 Certification of rehabilitation work. (1) The owner shall apply for and receive approval by the officer for proposed rehabilitation work using a part 2 application. The owner shall describe all rehabilitation work, including both eligible activities and non−eligible activities, such as site work and cosmetic interior work, and shall indicate on the part 2 application those portions of the project for which the tax credit will be claimed.

(2) The part 2 application shall document the condition and appearance of the property before the start of rehabilitation work, including photographic documentation of all affected portions of the property and, where necessary to describe the project, architectural plans. The officer may waive photographic documentation or architectural drawings in cases where documentation is impossible.

(3) The officer shall review the part 2 application if the owner has applied for a determination of historic property using a part 1 application and if the officer has determined that the property is historic property. If the officer reviews the part 1 application and determines that the property is not historic property, the officer shall return the part 2 application to the owner with an indication that the property is not historic property.

(4) If the officer determines that the part 2 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(5) If the officer determines that the part 2 application is complete, the officer shall review and approve, approve with conditions, or deny the part 2 application in writing.

(6) The officer shall approve the part 2 application if the officer determines that the proposed project meets all of the following rehabilitation standards:

(a) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

(b) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

(c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

(d) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

(e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

(f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(i) New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(j) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(7) The officer may approve the part 2 application with conditions if the officer determines that compliance with the conditions would result in the rehabilitation work meeting the rehabilitation standards.

(8) When the officer approves a part 2 application, the officer shall sign the part 2 application and return it to the owner indicating that the officer has certified the property as historic property and has approved the proposed work and any conditions that may be attached to the approval.

(9) An owner may reapply for certification of a rehabilitation project that has been denied by the officer. If the officer determines that the owner has made substantive revisions to the application to conform to the rehabilitation standards, the officer shall consider the application in accordance with procedures in this section.

HS 3.07 Certification of completed work. (1) Within 90 days of the completion of rehabilitation work the owner shall submit a part 3 application to the officer for approval. If the officer determines that the part 3 application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(2) If the officer does not receive a part 3 application within 90 days of the completion date, the officer shall notify the owner in writing that certification of rehabilitation will be rescinded unless the owner submits a complete part 3 application within 45 days of the date of the written notification. If the officer does not receive a complete part 3 application by the end of the 45 day period, the officer shall notify the secretary of the department of revenue in writing that certification of rehabilitation has been rescinded.

(3) If the officer determines that the part 3 application is complete, the officer shall review and approve or deny the part 3 application in writing.

(4) The officer shall approve the part 3 application if the officer determines that the rehabilitation work conforms to the part 2 application. When the officer approves a part 3 application, the officer shall sign and return it to the owner indicating that the officer has approved the rehabilitation work.

(5) The officer shall deny the part 3 application if the officer determines that the rehabilitation work does not conform to the part 2 application. When the officer denies a part 3 application, the officer shall issue a letter to the property owner notifying the owner of the reasons for the denial, any remedial action that the owner may take that will result in the approval of the part 3 application, and a date by which the remedial action must take place. If by the given date the officer determines that the project has been brought into conformance with the part 2 application, the officer shall sign and return it to the owner indicating that the officer has approved the rehabilitation work; if by the given date the owner has not demonstrated that work has been brought into conformance with the part 2 application, the officer shall notify by letter the secretary of the department of revenue that the rehabilitation work does not meet the rehabilitation standards.

HS 3.08 Approval of 5 year phasing. (1) The owner shall apply for and receive approval by the officer prior to the beginning of physical work if the owner elects to claim the costs of eligible activity not completed within a two year project period. Application shall be made using a 5 year phasing application submitted to the officer with the part 2 application.

(2) If the officer determines that the 5 year phasing application is incomplete, the officer shall return it to the owner with recommendations for making it complete.

(3) When the officer approves the 5 year phasing application, the officer shall sign the form and return it to the owner indicating that the phasing plan

has been approved and that the project period has been extended according to the approved application up to a maximum of five years.

Initial Regulatory Flexibility Analysis

The proposed rule will have no effect on small businesses. The ability to claim the credit is limited to natural persons who own and reside in historic houses. The rule imposes no restrictions on small businesses.

Fiscal Estimate

This rule will have no fiscal effect apart from the fiscal effect of the statute.

Notice of Hearing

Industry, Labor & Human Relations (Worker's Compensation, Chs. Ind 80–)

Notice is given that pursuant to s. 102.15 (1), Stats., the Department of Industry, Labor and Human Relations proposes to hold a public hearing to consider the creation of s. Ind 80.15, Wis. Adm. Code, relating to payments after an order.

Hearing Information

March 15, 1996
Friday
10:00 a.m.

Madison
Room 225
General Executive Facility I
201 E. Washington Ave.

A copy of the rules to be considered may be obtained from the State Department of Industry, Labor and Human Relations, Division of Worker's Compensation, 201 E. Washington Ave., P.O. Box 7901, Madison, WI 53707, by calling (608) 266–1340 at the appointed time and place the hearing is held.

Interested persons are invited to appear at the hearing and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from person unable to attend the public hearing, or who wish to supplement testimony offered at the hearing may be submitted no later than **March 19, 1996**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Richard D. Smith, at the address noted above. Written comments will be given the same consideration as testimony presented at the hearing. Persons submitting comments will not receive individual responses.

This hearing is held in an accessible facility. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266–1340 or Telecom–Communication Device for the Deaf (TDD) at Wisconsin Communications Relay System (TRS) 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 the Proposed Rules

Statutory Authority: s. 102.15 (1)

Statute Interpreted: s. 102.18 (3)

Currently, s. 102.18 (3), Stats., and s. LIRC 1.02, Wis. Adm. Code allow a party to a worker's compensation decision to petition the Labor and Industry Review Commission (LIRC) within 21 days after the Department of Industry, Labor and Human Relations mails a copy of the administrative law judge's findings and order. Unless modified by the judge within 21 days, the order is final if no petition is filed with LIRC.

The long–standing practice of administrative law judges in the Worker's Compensation Division has been to order payment within 10 days. This 10–day standard is inconsistent with allowing a party 21 days to appeal the administrative law judge's order. In these contested cases, this rule requires a party to pay within 21 days unless the party has appealed the administrative law judge's decision.

The rule codifies the current 10–day standard for cases in which an administrative law judge's order memorializes the mutual agreement of the parties to settle the dispute by stipulation or compromise. In those cases, where there is no longer a dispute, the 10–day payment standard would apply.

Initial Regulatory Flexibility Analysis

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

Generally, only those businesses that regularly employ 3 or more employes or which pay $500 in wages to employes in a calendar quarter are subject to the worker's compensation statutes.

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

This will relax current payment standards for contested claims from 10 days to 21 days.

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

None.

Fiscal Estimate

There is no fiscal effect.

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 s. 227.18, Stat., will hold a public hearing in **Room 472, 1 West Wilson Street, Madison, Wisconsin, on March 18, 1996, at 1:00 p.m**., or as soon thereafter as the matter may be reached, to consider the creation of s. Ins 3.50 (3) (f) through (h), (j) and (8h), Wis. Adm. Code, HMO quality assurance programs and rules.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements 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.

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 601.41 (3), 601.42, 611.13, 613.13, and 628.34 (12)

Statutes interpreted: ss. 601.42, 611.13, 613.13, and 628.34 (12)

This proposed rule implements quality assurance (QA) requirements for health maintenance organizations by requiring QA programs as part of each HMO's business plan. This rule also requires, within a specified time, each HMO to obtain accreditation from a third–party review organization approved by the commissioner and allows for access to that process by the commissioner's staff.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearing

Natural Resources (Fish, Game, etc, Chs. NR 1––)

Notice is hereby given that pursuant to ss. 29.174 (3) and 227.11 (2) (a), Stats., interpreting ss. 29.174, 29.107, 29.1075 and 29.103, Stats., the Department of Natural Resources will hold a public hearing on amendments to ch. NR 10, Wis. Adm. Code, relating to hunting and trapping.

Analysis

The proposed rule will:

1. Remove Clifton Coulee, a Monroe County leased public hunting ground (PHG) from the list of properties with special pheasant hunting regulations.

2. Add Harrington Beach state park and remove Brunet Island state park from the list of parks with muzzleloader deer hunts.

3. Clarify that coyote season is closed during the muzzleloader deer hunting season as articulated in the regulations pamphlet.

4. Clarify that deer harvested with a bonus permit must be registered in the unit of kill.

5. Clarify the definition of white deer.

6. Eliminate the requirement for stop devices on snares.

7. Replace the term "carcass tag" with "pelt tag" and initiate a new tagging system for bobcat, otter and fisher.

8. Recombine current turkey hunting zones 1 and 1A into a zone to be designated zone 1.

9. Change the opening date of the deer hunt for disabled hunters.

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

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

Hearing Information

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

March 19, 1996	**Room 511, GEF #2**
Tuesday	**101 South Webster St.**
At 1:00 p.m.	**MADISON, WI**

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Todd Peterson at (608) 267–2948 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments & Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Todd Peterson
Bureau of Wildlife Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **March 20, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WM–1–96] and fiscal estimate may be obtained from Mr. Peterson.

Fiscal Estimate

There is no fiscal effect associated with this proposed rule.

Notice of Hearings

Natural Resources (Fish, Game, etc, Chs. NR 1––)

Notice is hereby given that pursuant to ss. 29.174 and 227.11 (2) (a), Stats., interpreting ss. 29.085 and 29.174 (2) (a), Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 20 and 21, Wis. Adm. Code, relating to sport fishing.

Analysis

The proposed rule:

1. Clarifies the definition of an artificial lure.

2. Creates a definition of "barbless hooks", as hooks without barbs or hooks with the existing barb compressed against the shank of the hook.

3. Reduces the daily bag limit for walleye, sauger and hybrids thereof from 5 to 3 in Lake Superior.

4. Increases the minimum length for largemouth and smallmouth bass from 14" to 18"; and reduces the daily bag limit from 5 of each daily to 1 of each daily on Lake Mendota, Dane county; Fox lake, Dodge county; and Big Muskego lake, including Bass bay, Waukesha county.

5. Establishes a category system for walleye fisheries that places waters into one of 5 regulations based on characteristics of the walleye population. Each category would have a daily bag limit of 3, except for special regulations and urban waters.

6. Increases the minimum length limit from 26 to 32 inches and reduces the daily bag limit from 2 to 1 for northern pike on Fox lake, Dodge county.

7. Changes the boundary of the northern pike southern restoration zone from county lines to U.S. highway 10.

8. Changes the daily bag limit for panfish on the Chippewa flowage, Sawyer county, from (50 in total) to (50 in total, of which only 15 may be crappie), during the period from the first Saturday in May to November 30, and establishes a winter fishing season for panfish with a daily bag limit of (50 in total, none of which may be crappie), during the period from December 1 to March 1.

9. Reduces the daily bag limit from 50 to 15 in total and establishes a minimum length limit of 8 inches for bluegill, crappie, pumpkinseed (sunfish) and yellow perch in Big Muskego lake, and Bass bay, Waukesha county.

10. Establishes a catch and release angling season with artificial lures only for trout from March 1 to the first Saturday in May, for all trout waters statewide except spring ponds and other waters with seasons already designated in table 1 of the trout regulations.

11. Increases the minimum length limit for muskellunge on the Wisconsin–Minnesota boundary waters, and connected waters, Douglas county, from 36 to 40 inches.

Notice is hereby further given that pursuant to ss. 29.174 (3) and 227.11 (2) (a), Stats., interpreting s. 29.174 (2), Stats., the Department of Natural Resources will hold public hearings on revisions to ss. NR 10.01 (4), 10.09 (1), 11.04 (5) and 15.024 (3) and the repeal and recreation of s. NR 10.117, Wis. Adm. Code, relating to hunting and trapping.

The proposed rule:

1. Lengthens the beaver season in Zone C.

2. Allows the trapping and possession of otter during the latter portions of the current beaver trapping season in the North Zone.

3. Expands the fisher management zones and creates new fish management zones that include the remainder of the state.

4. Allows the hunting of listed species with .22 caliber or larger handguns and requires a minimum barrel length of 4 inches.

5. Allows the Department to modify deer seasons, deer registration and permit issuance in farmland deer management units.

6. Creates a no entry refuge on Pershing Wildlife Area.

Notice is hereby further given that pursuant to ss. 29.174 (3) and 227.11 (2) (a), Stats., interpreting ss. 29.174 (2) and 29.1085, Stats., the Department of Natural Resources will hold public hearings on the amendment of s. NR 10.102 (1) (d), the repeal and recreation of s. NR 10.30 and the creation of s. NR 10.102 (1) (f), Wis. Adm. Code, relating to bear hunting.

The proposed rule updates population goals and creates a goal for a new subunit A1 and requires that harvest permits issued for a permanent subzone be valid only for that subzone.

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

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

Hearing Information

Notice is hereby further given that the hearings will be held on **Monday, April 8, 1996 at 7:00 p.m**. at the following locations:

ADAMS	**Adams–Columbia Elec. Co–Op Bldg. 401 E. Lake St. FRIENDSHIP, WI**
ASHLAND	**Mellen High School Gym MELLEN, WI**
BARRON	**Auditorium Barron Co. Courthouse BARRON, WI**
BAYFIELD	**Drummond High School DRUMMOND, WI**
BROWN	**Auditorium Southwest High School GREEN BAY, WI**
BUFFALO	**Alma Area School Gym S1618 STH '35' ALMA, WI**
BURNETT	**Rm 165 Burnett Co. Gov. Center SIREN, WI**
CALUMET	**3rd Floor Assembly Room Calumet Co. Courthouse 206 Court Street CHILTON, WI**
CHIPPEWA	**Large Assembly Room Chippewa Co. Courthouse CHIPPEWA FALLS, WI**
CLARK	**National Guard Armory 411 W. 18th NEILLSVILLE, WI**
COLUMBIA	**Basement Columbia Co. Courthouse 400 De Witte St. PORTAGE, WI**
CRAWFORD	**Circuit Courtroom Crawford Co. Courthouse PRAIRIE DU CHIEN, WI**
DANE	**Dane County Expo Center (Next to Coliseum) MADISON, WI**
DODGE	**Public Safety Building 220 Ellison Street HORICON, WI**
DOOR	**Cafeteria Sturgeon Bay High School STURGEON BAY, WI**
DOUGLAS	**St. Croix High School SOLON SPRINGS, WI**
DUNN	**Dunn Co. Fish/Game Club 1900 Pine Ave MENOMONIE, WI**
EAU CLAIRE	**Auditorium So. Jr. High School EAU CLAIRE, WI**
FLORENCE	**Florence Natural Resources Ctr. Jct. of Hwys. 2 & 101 FLORENCE, WI**
FOND DU LAC	**Moraine Park Tech. College Hwy. 23 East FOND DU LAC, WI**
FOREST	**Crandon High School Hwy. 8 West CRANDON, WI**
GRANT	**Presentation Room Winskil Elementary School 861 W. Maple LANCASTER, WI**
GREEN	**Auditorium Government Service Building N3150 Hwy 81 MONROE, WI**
GREEN LAKE	**Multi–Purpose Room Green Lake High School 612 Mill St. GREEN LAKE, WI**
IOWA	**Cafeteria Dodgeville Elementary School DODGEVILLE, WI**
IRON	**Courtroom Iron Co. Courthouse HURLEY, WI**
JACKSON	**County Boardroom Jackson Co. Courthouse BLACK RIVER FALLS, WI**
JEFFERSON	**Room 205 Jefferson Co. Courthouse JEFFERSON, WI**
JUNEAU	**Court Room Juneau Co. Courthouse MAUSTON, WI**
KENOSHA	**Hearing Room Kenosha Co. Center BRISTOL, WI**
KEWAUNEE	**Circuit Court Room 212 Kewaunee Co. Courthouse KEWAUNEE, WI**

LA CROSSE	**Auditorium Central High School LA CROSSE, WI**
LAFAYETTE	**Cafeteria Darlington High School DARLINGTON, WI**
LANGLADE	**Langlade Co. Courthouse ANTIGO, WI**
LINCOLN	**Co. Supervisors Room Lincoln Co. Courthouse 1110 E. Main St. MERRILL, WI**
MANITOWOC	**Lecture Hall UW Center–Manitowoc MANITOWOC, WI**
MARATHON	**John Muir Middle School WAUSAU, WI**
MARINETTE	**Auditorium Wausaukee High School N11941 Hwy 141 WAUSAUKEE, WI**
MARQUETTE	**Marquette Co. Courthouse MONTELLO, WI**
MENOMINEE	**Basement Meeting Room Menominee Co. Courthouse KESHENA, WI**
MILWAUKEE	**Auditorium Nathan Hale High School 11601 W. Lincoln Ave WEST ALLIS, WI**
MONROE	**Auditorium Sparta High School SPARTA, WI**
OCONTO	**Cafeteria Suring High School SURING, WI**
ONEIDA	**Auditorium James Williams Jr. High RHINELANDER, WI**
OUTAGAMIE	**Wilson School 255 N. Badger Ave. APPLETON, WI**
OZAUKEE	**American Legion Hall No. 82 PORT WASHINGTON, WI**
PEPIN	**County Board Room Pepin Co. Govt. Center DURAND, WI**
PIERCE	**Auditorium Hillcrest Elementary School 350 S. Grant ELLSWORTH, WI**
POLK	**Government Center BALSAM LAKE, WI**
PORTAGE	**Auditorium Ben Franklin Jr. High School STEVENS POINT, WI**
PRICE	**Board Room Price Co. Courthouse PHILLIPS, WI**
RACINE	**Auditorium Union Grove High School UNION GROVE, WI**
RICHLAND	**Circuit Court Room Richland Co. Courthouse RICHLAND CENTER, WI**
ROCK	**Auditorium Rock Co. Health Care Center JANESVILLE, WI**
RUSK	**Auditorium Ladysmith High School LADYSMITH, WI**
ST. CROIX	**American Legion Post 240 410 Maple St. BALDWIN, WI**
SAUK	**A4 Lecture Hall UW – Baraboo Campus 1006 Connie Rd. BARABOO, WI**
SAWYER	**Auditorium Winter High School WINTER, WI**
SHAWANO	**Cafeteria Shawano Sr. High School SHAWANO, WI**
SHEBOYGAN	**Cafeteria Sheboygan Falls High School SHEBOYGAN FALLS, WI**
TAYLOR	**Multi–purpose Bldg. Taylor Co. Fairgrounds MEDFORD, WI**
TREMPEALEAU	**County Boardroom Trempealeau Co. Courthouse WHITEHALL, WI**
VERNON	**Circuit Courtroom Vernon Co. Courthouse VIROQUA, WI**
VILAS	**Plum Lake Community Bldg. SAYNER, WI**
WALWORTH	**Wisconsin Room Walworth Co. Courthouse Annex ELKHORN, WI**
WASHBURN	**Experimental Farm SPOONER, WI**
WASHINGTON	**Room 201 (Big Lecture Hall) UW–Washington Co. Campus WEST BEND, WI**
WAUKESHA	**North Hall Waukesha Co. Expo Center N1 W24848 Northview Rd. WAUKESHA, WI**

WAUPACA	**Grand Seasons Hotel 110 Grand Seasons Dr. WAUPACA, WI**
WAUSHARA	**County Board Room 265 Waushara Co. Courthouse WAUTOMA, WI**
WINNEBAGO	**Auditorium Oshkosh North High School OSHKOSH, WI**
WOOD	**Pittsville High School Gym PITTSVILLE, WI**

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Dawn Rees at (608) 267−3134 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rules may be submitted to:

Mr. Al Phelan, Conservation Congress Liaison
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **April 19, 1996**, and will have the same weight and effect as oral statements presented at the hearings.

Copies of Rules

A copy of the proposed rules [FM−4−96, WM−5−96, and WM−8−96] and fiscal estimates may be obtained from:

Ms. Dawn Rees, (608) 267−3134
Bureau of Legal Services
P.O. Box 7921
Madison, WI 53707

Fiscal Estimate

There is no significant fiscal effect.

Notice of Hearing

Natural Resources (Fish, Game, etc, Chs. NR 1−−)

Notice is hereby given that pursuant to ss. 29.174 (4a), 227.11 (2) (a) and 227.24, Stats., interpreting s. 29.174 (1) and (2), Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. FM−14−96 (E), relating to sturgeon spearing in Lake Winnebago.

Analysis

This emergency order took effect on **February 2, 1996**. This emergency order reduces the length of the sturgeon spearing season on Lake Winnebago from approximately 20 days to 9 days. The rule also provides the secretary of the Department with the authority to extend the sturgeon spearing season beyond the closing date for a period up to March 1, provided that water transparency, measured by an average of secchi disk visibility depth readings from throughout Lake Winnebago, is 10 feet or less.

Hearing Information

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

March 12, 1996 Tuesday At 6:00 p.m.	**Rolling Meadows Mtg. Room 560 W. Rolling Meadows Dr. FOND DU LAC, WI**

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Karl Scheidegger at (608) 267−9426 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the emergency rule may be submitted to:

Mr. Karl Scheidegger
Bureau of Fisheries Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **March 15, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [FM−14−96 (E)] may be obtained from Mr. Scheidegger.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

Natural Resources (Environmental Protection−−General, Chs. NR 100−−) (Environmental Protection−−WPDES, Chs. NR 200−−)

Notice is hereby given that pursuant to ss. 144.025 (2) (b) and 227.11 (2), Stats., interpreting ss. 144.025 (1) and 147.04 (5), Stats., the Department of Natural Resources will hold public hearings on amendments to ss. NR 149.22 and 219.05 Table A, Wis. Adm. Code, relating to whole effluent toxicity (WET) testing methods.

Analysis

Section NR 149.22 states test procedure requirements for laboratories to receive certification or registration for conducting whole effluent toxicity (WET) tests for compliance with Wisconsin Pollutant Discharge Elimination System (WPDES) permits. NR 219.05, Table A (parameters 9 and 10 and footnotes 8 to 10) lists the required test procedures to be followed when conducting whole effluent toxicity (WET) tests. Previously these chapters referred to U.S. Environmental Protection Agency documents, which have become outdated. NR 219.05, Table A (parameters 9 and 10 and footnote 8) and s. NR 149.22 are amended to reference the "State of Wisconsin Aquatic Life Toxicity Testing Methods Manual, 1st Edition", which includes testing procedures specific to situations in the state of Wisconsin.

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

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

Hearing Information

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

March 18, 1996
Monday
At 1:00 p.m.

Large Conference Room
Marathon Co. Courthouse
500 Forest St.
WAUSAU, WI

March 22, 1996
Friday
At 10:00 a.m.

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

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Kari Fleming at (608) 267−7663 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to:

Ms. Kari Fleming
Bureau of Wastewater Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **April 2, 1996**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WW−17−96] and fiscal estimate may be obtained from Ms. Fleming.

Fiscal Estimate

Local governments (i.e., towns, villages, cities, school districts, etc.) may be required to perform Whole Effluent Toxicity (WET) tests, if they own and/or operate wastewater treatment plants with discharges to surface waters. The proposed rule revision should not have significant effects on funding or costs associated with WET tests that are required of local governments. In fact, as indicated below, costs may decrease. State government costs are not expected to increase, since DNR workload should decrease due to some of the changes recommended in the new Methods Manual. Below is summary of the major changes proposed in the manual and an estimate of the changes in test costs associated with these changes. The estimates listed below are based on cost estimates provided by some of the certified laboratories who conduct these tests.

PROPOSED CHANGE IN TEST PROCEDURES	ESTIMATED CHANGE IN COST	REASONS FOR COST CHANGE
Reduction of Sample Holding Time	NONE	Most samples received already comply with new holding time
Extension of Sample Arrival Temperature Exemption	NONE	
Exclusion of *Daphnia Magna* test species	−$25.00 to −$75.00	Decreased labor
Change in Lab Water Hardness Adjustment Requirements	−$50.00	Decreased labor
New CO_2 Entrapment Method Requirement (to be required only of a subset of tests where artifactual toxicity is possible)	+$50.00 to +$100.00	More work and equipment necessary
Change of age required of fathead minnow test organism (from 20−60 days to 1−14 days)	NONE	Permits already issued with 20−60 day requirement will make use of older fish necessary for a few more years. After these permits have been reissued, test costs should decrease due to less labor associated with organism culturing.
New Requirement to Calculate and LC_{50}	NONE	
Report Form (New form is 4 pages, old requirements called for long narrative style	−$25.00 to −$45.00	Decreased labor.
TOTAL CHANGES IN COST =	**NO CHANGE TO −$120.00**	

Long−Range Fiscal Implications

None.

Notice of Hearings

Natural Resources (Environmental Protection−−General, Chs. NR 100−−) (Environmental Protection−− Investigation and Remediation, Chs. NR 700−−)

Notice is hereby given that pursuant to ss. 144.442, 144.76, 160.21 and 227.11, Stats., interpreting ss. 144.442, 144.76 and ch. 160, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 140, 722, 724 and 726, Wis. Adm. Code, relating to the closure of hazardous substance spill cases.

Analysis

The proposed amendments to ch. NR 726 will allow for case closure at certain hazardous substance spill sites with enforcement standards exceedances on the condition that a well restriction is recorded at the county register of deeds office. This conditional closure option will not apply to facilities, such as landfills, with a design management zone that has been established under s. NR 140.22. The well restriction must provide that a water supply well may not be installed on the property until applicable ch. NR 140 enforcement standards are met, except where the well meets applicable special well construction requirements.

To qualify for this conditional closure option, the responsible party would be required to demonstrate that:

1) There are naturally occurring physical, chemical or biological processes ("natural attenuation") occurring on the property or properties in question which will restore groundwater quality to ch. NR 140 groundwater quality standards within a reasonable period of time;

2) Groundwater contamination will remain within the boundaries of the property or properties for which well restrictions have been recorded; and

3) There are no risks to human health or the environment posed by relying on natural attenuation as long as the required well restrictions are enforced.

After a spill case has been closed conditionally and a well restriction has been recorded, the responsible party may, at any time after groundwater contaminant concentrations fall below ch. NR 140 preventive action limits (PAL), apply for unconditional closeout and request that the Department record an affidavit at the county register of deeds office which gives notice that the previously recorded well restriction is no longer required. The

responsible party may also apply for an exemption under s. NR 140.28 if concentrations fall below ch. NR 140 enforcement standards and the responsible party is able to document that it is not technically or economically feasible to reach ch. NR 140 preventive action limits (PAL) once an exemption is granted and the contaminant concentrations have decreased to the extent technically and economically feasible, the responsible party could apply for unconditional close out and could request that the Department record an affidavit at the county register of deeds office which gives notice that an exemption has been granted and that the previously recorded well restriction is no longer required.

Changes to chs. NR 140, 722 and 724 are proposed to:

1) Provide that relying on naturally occurring physical, chemical or biological processes is an acceptable response under ss. NR 140.24 and 140.26 in certain instances;

2) Specify criteria that are to be considered in determining what is a reasonable period of time to achieve ch. NR 140 groundwater standards;

3) Require environmental consultants to evaluate proposed engineered remedial systems using a siting criteria form supplied by the Department; and

4) Require environmental consultants to document, in the progress reports that are required under s. NR 724.13, their evaluation of the effectiveness of active remediation systems to determine when active systems can be turned off and natural attenuation can be relied upon to achieve groundwater quality standards within a reasonable period of time.

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

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

Hearing Information

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

March 14, 1996	**Room 611A, GEF #2**
Thursday	**101 South Webster St.**
At 12:00 p.m.	**MADISON, WI**
March 21, 1996	**Auditorium**
Thursday	**Havenswood State Forest**
At 6:00 p.m.	**6141 North Hopkins**
	MILWAUKEE, WI
March 22, 1996	**Room 203**
Friday	**Council Chambers**
At 12:00 p.m.	**City Hall**
	100 N. Jefferson
	GREEN BAY, WI
March 26, 1996	**Conference Room B**
Tuesday	**Portage Co. Courthouse**
At 12:00 p.m.	**15166 Church St.**
	STEVENS POINT, WI
April 1, 1996	**Room 2550**
Monday	**Eau Claire Co. Cthse.**
At 3:00 p.m.	**721 Oxford St.**
	EAU CLAIRE, WI
April 2, 1996	**Auditorium**
Tuesday	**UW Experimental Farm**
At 12:00 p.m.	**Route 2**
	SPOONER, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Sally Kefer at (608) 266–0833 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule [SW–12–96] and fiscal estimate may be sent to:

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

Written comments must be received no later than **April 16, 1996**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [SW–12–96] and fiscal estimate may be obtained from by Ms. Kefer or by calling (608) 264–6009.

Fiscal Estimate

Background

Chapters NR 722 and 724 will be amended to require additional detail for reporting requirements for engineered remedial systems. The result will be that the responsible party or consultant will conduct specific siting evaluations prior to installing engineered systems and will report on the effectiveness of the system on a six–month basis and will ask the questions:

"Should the system be turned off?"

"Should a less aggressive remedy be used to complete the cleanup of soils or groundwater at the site?"

A form with guidance will detail a format for submittal.

Chapter NR 726 requires that the soil standards in ch. NR 720 and groundwater standards in ch. NR 140 be met to close out a site. The ch. NR 726 amendment will allow for a site to be closed with groundwater standard exceedances with the application of a well restriction for water supply wells on the property deed. Chapter NR 140, the groundwater quality code, requires that a response be taken when a Preventative Action Limit (PAL) is attained at a site. Furthermore, the code identifies different types of actions which may be taken when groundwater standards are exceeded at a site. The ch. NR 140 amendment will include "natural attenuation" as a long–term option for remediation at the site until groundwater standards are met. This action may be used either as a final remedy at a site, in which case monitoring will occur until ch. NR 140 standards are met, or may be used as the final remedy to close out the site, in which case a well restriction must be placed on the property deed.

Responsible Parties (RPs) who have a hazardous substance release and who implement remediation of soils and/or groundwater at their site will be positively affected when an engineered remedy is switched to the natural attenuation remedy. The ability to select natural attenuation as the final remedy for groundwater (or switch from an engineered system) will potentially save millions of dollars for private individuals and for state remediation and reimbursement funds. This will be accomplished by foregoing the costs of engineering, installing and operating and maintaining a remedial system. There are some costs associated with the monitoring requirements for natural attenuation; however, they are significantly less than costs for monitoring an engineered remedy.

Fiscal Impact on Government

Of an estimated 1559 Environmental Cleanup Sites with engineered groundwater remedies in Wisconsin *(based on Survey of DNR District Remediation Staff of technologies used in Wisconsin, summarized in a DNR table dated July, 1995)*, approximately 50% or 780 sites *(as extrapolated from the report "Response to Special Committee on Remediation of Environmental Contamination" dated August, 1995, presented to the Special Legislative Committee on Remediation of Environmental Contamination)* could either turn off the active remedy and use natural attenuation as a final remedy or could meet the current ch. NR 726 requirements for a clean closure or could be closed with a well restriction. It is estimated that approximately 15% (117) of these sites are privately funded and/or ineligible for reimbursement by state reimbursement funds (PECFA and Agri–Chem). Another 10% (78) are sites where the RP is a municipality.

The estimated savings from foregoing operation, maintenance and monitoring costs from active engineered systems is $60,000 per year over a typical 17–year life span of a system. If all sites with noneffective engineered systems took advantage of using one of the options in the proposed rule change, then a significant cost savings could be realized as follows:

> For 585 sites eligible for state reimbursement funds (PECFA or AgriChemical) or the Environmental (cleanup) Fund, a savings of $35,100,000 annually or a total savings of $596, 700,000.
>
> For 78 municipal systems statewide, $4,680,000 annually or about $79,560,000. A significant number of these (municipal) dollars are eligible for reimbursement by PECFA but not from the AgriChem Fund.
>
> The private sector who pay "out of pocket" for remediation actions for the other 117 systems would realize a savings of approximately $119,340,000 over 17 years.

Please note these are only estimates and may vary. The point of this analysis is that the proposed rule should provide a significant savings on the cost of groundwater cleanup.

Notice of Hearing
Public Service Commission

Notice is hereby given that the Public Service Commission will hold a public hearing with respect to ch. PSC 185, relating to standards which must be met by Water Public Utilities.

Hearing Information

March 28, 1996
Thursday
At 1:30 p.m.

Flambeau River hearing room
Public Service Comm. Bldg.
610 North Whitney Way
MADISON, WI 53705

This building is accessible to people in wheelchairs through the main floor entrance (Lobby) on the front side of the building. Handicapped parking is available on the south side of the building. Any party with a disability who needs additional accommodations should contact Richard Teslaw at (608) 267–9766 or Ann Pfeifer at (608) 266–5473.

Written Comments

Interested people may submit written statements until **April 19, 1996**, in lieu of appearing at the hearing. Any comments received will be considered by the Commission. Such comments have equal weight with verbal comments given at the hearing.

The record will be held open after the hearing until **April 19, 1996** for further written comments.

Contact Person

For questions regarding specific provisions of these proposed rules or to request a copy of the proposed rules, please contact:

Thomas J. McDonald, Public Utility Rate Analyst
Telephone (608) 266–7236
Division of Water, Compliance & Consumer Affairs

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02, 196.06, 196.12, 196.15, 196.16, 196.19, 196.37, 227.11 (2) and 227.014

Statutes interpreted: ss. 196.02, 196.06, 196.12, 196.15, 196.16, 196.19, 196.37, 227.11 (2) and 227.014

The Public Service Commission proposes to repeal and recreate ch. PSC 185.

The Public Service Commission (Commission) is in the process of revising ch. PSC 185, governing the standards which must be met by Water Public Utilities. These standards are in the areas of recordkeeping, metering, billing, customer relations, and system operations. As revised, the rules will provide as follows:

Section PSC 185.11 – Statutory authority for and applicability of the rules.

Section PSC 185.12 – Definition rules –– define a number of terms used in this chapter. [contains several new definitions]

Section PSC 185.13 – Contains the general requirement that all utilities provide reasonably adequate service and facilities. [makes minor or minimum change]

Section PSC 185.15 – Prohibits free service or service at discriminatory rates. [makes minor or minimum change]

Section PSC 184.16 – Concerns protection of utility facilities. [makes minor or minimum change]

Section PSC 185.17 – Concerns measures to prevent interference with public service structures. [makes minor or minimum change]

Sections PSC 185.18 and 185.19 – Set forth requirements for the location and retention of utility service. [makes minor or minimum change]

Section PSC 185.21 – Sets forth requirements for rates and rate schedules. [makes minor or minimum change]

Section PSC 185.22 – Sets forth information that utilities must make available to customers. [improved and expanded language]

Section PSC 185.31 – Requires metering of all water service. [makes minor or minimum change]

Section PSC 185.32 – Sets forth requirements for meter reading and billing periods. [proposes to amend from 50 to 40 days the period in which a water bill must be rendered]

Section PSC 185.33 – Contains bill content requirements and regulations governing late payment charges, budget payment plans, applications for service, and customer refunds and interest.

Sections PSC 185.34 and 185.35 – Govern the adjustment of bills for inaccurate metering. [expands, revises and clarifies current rule]

Section PSC 185.36 – Sets forth the requirements governing utility requests for residential and nonresidential customer deposits –– for both new and existing customers.

Section PSC 185.37 – Contains the regulations governing when water utility service may and may not be disconnected or refused. This includes a requirement which prohibits disconnection when a heat advisory for a geographical area is in effect. [expands current language to allow utility to bill for current judgments or other fees]

Section PSC 185.38 – Sets forth the regulations governing deferred payment agreements. [expands and clarifies language]

Section PSC 185.39 – Contains the dispute procedures for resolving customer – utility disagreements. [clarifies language; extends timeframe]

Section PSC 185.41 – Requires a utility to keep a record of its employes authorized to enter customers' premises. [no changes from current rule]

Section PSC 185.42 – Requires a utility to keep a record of customer complaints. [minor language changes]

Section PSC 185.43 – Requires a utility to keep plant and construction records. [major revision of entire section to allow Class AB utilities to better understand their recordkeeping requirements and maintain Continuing Property Records]

Section PSC 185.44 – Requires utilities to keep records of service interruptions and other unusual occurrences. [no changes from current rule]

Section PSC 185.45 – Requires utilities to keep records of water pumped daily into the distribution system. [no change from current rule]

Section PSC 185.46 – Requires utilities to keep records of meter tests. [major revision to simplify and reduce metering equipment records]

Section PSC 185.47 – Requires utilities to keep records of: adjustment of customers' bills, main flushing, valve and hydrant operations, pumpage–metered consumption, and service interruptions. [no revision]

Section PSC 185.51 – Sets forth general requirements for the design and construction of water plant. [makes minor or minimum change]

Section PSC 185.52 – Sets forth construction requirements for water utility mains, service laterals, and metering configuration. [major revision; adds section on mobile home parks]

Section PSC 185.61 – Requires utilities to keep meters in good working condition, and sets forth other meter requirements. [makes minor or minimum change]

Section PSC 185.65 – Sets forth accuracy requirements for water meters. [minor language revision; table showing accuracy requirements for positive displacement meters moved from appendix to text of rule]

Section PSC 185.71 – Contains requirements for meter testing equipment and facilities. [makes minor or minimum change]

Section PSC 185.72 – Specifies calibration standards for meter testing equipment. [makes minor or minimum change]

Section PSC 185.73 – Sets forth the process for testing customer meters. [makes minor or minimum change]

Section PSC 185.74 – Sets forth test flow requirements for meter testing. [makes minor or minimum change]

Section PSC 185.75 – Contains the times and time periods for the testing of customer water meters. [makes minor or minimum change]

Section PSC 185.751 – Sets forth an "alternate sample–testing" method for water meter testing utilizing a random–selected sample of meters. [makes minor or minimum change]

Section PSC 185.76 – Specifies the time intervals between meter testing for different sizes of meters. [minor language revision; testing requirement for 5/8 and 3/4 inch meters changed from 8 to 10 years]

Section PSC 185.77 – Sets forth the requirements for meter testing on customer complaint. [minor language revision; revises amount charged to a customer for requesting a meter test]

Section PSC 185.78 – Permits customers to request official meter tests. [makes minor or minimum change]

Section PSC 185.79 – Requires that remote outside meters (ROMs) be tested at the same time the associated meter is tested. [makes minor or minimum change]

Section PSC 185.795 – Requires that –– for safety purposes –– an electrical jumper be connected across a meter setting or opening in the piping before a water meter is removed. [makes minor or minimum change]

Section PSC 185.81 – Requires that the water provided by all public utilities comply with State and Federal requirements for drinking water and be reasonably free from objectionable taste, color, odor, etc. [makes minor or minimum change]

Section PSC 185.815 – Provides that utilities must exercise reasonable diligence to provide a continuous and adequate supply of water. [no change from current rule]

Section PSC 185.82 – Imposes pressure and flow standards on public water utility systems. [makes minor or minimum change]

Section PSC 185.83 – Requires utilities to have station meters to measure the flow of water pumped into the water system; sets accuracy standards. [makes minor or minimum change]

Section PSC 185.84 – Requires utilities to plan for emergencies caused by fire, storm, or power failure. [no change from current rule]

Section PSC 185.85 – Requires utilities to monitor and minimize system losses. [makes minor or minimum change]

Section PSC.185.86 – Sets forth requirements for main flushing. [makes minor or minimum change]

Section PSC 185.87 – Establishes a requirement of operating system valves and hydrants at least once every two years. [no change from current rule]

Section PSC 185.88 – Requires water utilities to take steps to prevent and minimize service interruptions. [no change from current rule]

Section PSC 185.89 – Sets forth those circumstances in which utilities will be required to thaw customer laterals. [major language revision which carefully explains whether customer or utility is responsible for thawing frozen lateral]

Fiscal Estimate

There will be no adverse fiscal impact of these proposed rules on state or local units of government.

Initial Regulatory Flexibility Analysis

There will be no adverse fiscal impact of these proposed rules on small business.

Notice of Hearing
Regulation & Licensing

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 440.03 (2), 440.05 (1), 440.06 and 440.07 (3), Stats., and interpreting ss. 440.03 (2), 440.05 (1) and 440.08 (3) (b), Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to repeal s. RL 4.04 (2); to renumber s. RL 4.02 (1), (2) and (3); to renumber and amend ss. RL 4.02 (4), 4.03 and 4.06; to amend ch. RL 4 (title), ss. RL 4.01, 4.04 (3) (a), (b), (c), (e), (4) (title), (4), (5) and 4.05; and to create RL s. 4.02 (2), (6), (7) and (8), relating to examination fees, refunds and fees for test reviews.

Hearing Information

March 18, 1996 **Room 133**
Monday **1400 E. Washington Ave.**
10:00 a.m. **Madison, WI**

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **March 29, 1996** to be included in the record of rule–making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 227.11 (2), 440.03 (2), 440.05 (1), 440.06 and 440.07 (3)

Statutes interpreted: ss. 440.03 (2), 440.05 (1) and 440.08 (3) (b)

This proposed rule–making order makes changes that clarify, define and standardize terms and references in ch. RL 4, such as "authority," "examination fee," "initial credential fee" and "service provider."

The changes clarify that fee rules apply to examinations and reviews conducted by the department, and that service providers may have different rules, and that the department collects and refunds fees rather than the boards. An exception to full refunds for call up to military duty was eliminated so that a full refund would be assured to anyone called up.

The proposed rules change the method of notice of fee changes in order to reach the candidates directly via the application rather than indirectly via a newspaper notice.

An inaccurate statement that fee estimates are prepared in connection with the biennial budget request is removed.

Section RL 4.04 (4), Reexamination As Part of Disciplinary Proceeding, is expanded and retitled to include reexamination of previously licensed individuals prior to late renewal as authorized by s. 440.08 (3) (b).

Proctoring service policy is clarified to include proctor service rendered to eligible candidates in other states.

Text of Rule

SECTION 1. Chapter RL 4 (title) is amended to read:

Chapter RL 4 (title)
~~EXAMINATION AND REFUND FEES AND APPLICATION PROCEDURES~~
DEPARTMENT APPLICATION PROCEDURES AND APPLICATION FEE POLICIES

SECTION 2. RL 4.01 is amended to read:

RL 4.01 AUTHORIZATION. The following rules are adopted by the department of regulation and licensing pursuant to ~~s.~~ ss. 440.05, 440.06 and 440.07, Stats.

SECTION 3. RL 4.02 (1), (2) and (3) are renumbered RL 4.02 (4), (3) and (1).

SECTION 4. RL 4.02 (4) is renumbered 4.02 (5), as renumbered, is amended to read:

RL 4.02 (5) "Examination" means the written and practical tests required of an applicant by the ~~department or a board~~ authority.

SECTION 5. RL 4.02 (2), (6), (7) and (8) are created to read:

RL 4.02 (2) "Authority" means the department or the attached examining board or board having authority to grant the credential for which an application has been filed.

(6) "Examination fee" has the meaning given in s. 440.05 (1) (b), Stats.

(7) "Initial credential fee" has the meaning given in s. 440.05 (1) (a), Stats.

(8) "Service provider" means a party other than the department or board who provides services such as application processing, examination products or administration of examinations.

SECTION 6. RL 4.03 is renumbered RL 4.06 and amended to read:

RL 4.06 REFUNDS. (1) A refund of all but $10 of the applicant's fee submitted to the department shall be granted if:

(a) An applicant is found to be unqualified for an examination administered by the ~~department or board;~~ authority.

(b) An applicant is found to be unqualified for a credential for which no examination is required~~;~~.

(c) An applicant withdraws an application by written notice to the ~~department or board~~ authority at least 10 days in advance of any scheduled examination~~; or~~.

(d) An applicant who fails to take an examination administered by the ~~department or board~~ authority either provides written notice at least 10 days in advance of the examination date that the applicant is unable to take the examination, or if written notice was not provided, submits a written explanation satisfactory to the ~~department or board~~ authority that the applicant's failure to take the examination resulted from extreme personal hardship.

(2) An applicant eligible for a refund may forfeit the refund and choose instead to take an examination administered by the authority within 18 months of the originally scheduled examination at no added ~~charge~~ fee.

(3) An applicant who misses an examination as a result of being called to active military duty shall receive a full refund~~, except if an examination service vendor does not refund the applicant's costs to the department or board. These costs shall not be included in the department's or board's refund to the applicant~~. The applicant requesting the refund must supply a copy of the call up orders or a letter from the commanding officer attesting to the call up.

(4) Applicants who pay fees to ~~test~~ service providers other than the department are subject to the refund policy established by the ~~test~~ service provider.

SECTION 7. RL 4.04 (2) is repealed.

SECTION 8. RL 4.04 (3) (a), (b), (c), (e), (4) (title), (4) and (5) are amended to read:

RL 4.04 (3) EXPLANATION OF PROCEDURES FOR SETTING EXAMINATION FEES. (a) Fees for examinations shall be established under s. 440.05 (1) (b), Stats., at the department's best estimate of the actual cost of preparing, administering and grading the examination or obtaining and administering an approved examination from a ~~test~~ service ~~vendor~~ provider.

(b) Examinations shall be obtained from a ~~test~~ service ~~vendor~~ provider through competitive procurement procedures described in ch. Adm ~~5~~ 7. ~~Contracts established under these procedures may be made for one year, renewable twice at the option of the parties.~~

(c) Fees for examination services provided by the department shall be established based on an estimate of the actual cost of the examination services ~~prepared in connection with the department's biennial budget request~~. Computation of fees for examination services provided by the department shall include standard component amounts for contract administration services, test development services and written and practical test administration services.

(e) ~~Fees~~ Examination fees, ~~in an examination fee schedule~~ other than initial credential fees, shall be effective for examinations held 45 days or more after the date of publication of ~~the examination fee schedule~~ a notice in application forms. Applicants who have submitted fees in an amount less than that ~~established in the examination fee schedule~~ in the most current application form shall pay the correct amount prior to administration of the examination. Overpayments shall be refunded by the department. Initial credential fees shall become effective on the date specified by law.

(4) (title) REEXAMINATION OF PREVIOUSLY LICENSED INDIVIDUALS. Fees for ~~reexaminations~~ examinations ordered as part of a disciplinary proceeding or late renewal under s. 440. 08 (3) (b), Stats., are equal to the fee set for reexamination in the most recent examination ~~fee schedule published by the department~~ application form, plus $10 application processing.

(5) (title) PROCTORING EXAMINATIONS FOR OTHER STATES. (a) Examinations administered by Wisconsin may be proctored for persons applying for credentials in another state if the person has been determined eligible in the other state and meets Wisconsin application deadlines. Examinations not administered by Wisconsin will only be proctored for Wisconsin residents or licensees applying for credentials in another state.

(b) ~~Fees~~ Department fees for proctoring examinations of ~~Wisconsin residents or licensees~~ persons who are applying for a credential in another state are equal to the cost of administering the examination, plus any additional cost charged to the department by the ~~test~~ service ~~vendor~~ provider. ~~This service is available only for professions credentialed in Wisconsin.~~

SECTION 9. RL 4.05 is amended to read:

RL 4.05 FEE FOR TEST REVIEW. (1) The fee for supervised review of examination results by a failing applicant which is conducted by the department is $28.

(2) The fee for review of examination results by a service provider is the fee established by the service provider.

SECTION 10. RL 4.06 is renumbered RL 4.03 and amended to read:

RL 4.03 TIME FOR REVIEW AND DETERMINATION OF CREDENTIAL APPLICATIONS. ~~(1) DEFINITIONS. In this section:~~

~~(a) "Authority" means the department or the attached examining board or board having authority to grant the credential for which an application has been filed.~~

~~(b) "Department" means the department of regulation and licensing~~.

~~(2)~~ (1) TIME LIMITS. An authority shall review and make a determination on an original application for a credential within 60 business days after a completed application is received by the authority unless a different period for review and determination is specified by law.

~~(3)~~ (2) COMPLETED APPLICATIONS. An application is completed when all materials necessary to make a determination on the application and all materials requested by the authority have been received by the authority.

~~(4)~~ (3) EFFECT OF DELAY. A delay by an authority in making a determination on an application within the time period specified in this section shall be reported to the permit information center under s. 227.116, Stats. Delay by an authority in making a determination on an application within the time period specified in this section does not relieve any person from the obligation to secure approval from the authority nor affect in any way the authority's responsibility to interpret requirements for approval and to grant or deny approval.

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, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266–0495

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

Department of Development

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**

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 (5)

Health and Social Services

(Health, Chs. HSS 110––)

1. 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

2. 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

3. 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

4. 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

5. 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**

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

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 (2)

Insurance

1. 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**

2. 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**

EMERGENCY RULES NOW IN EFFECT

Natural Resources

(Fish, Game, etc., Chs. NR 1––)

Rules were adopted amending **s. NR 20.03 (1) (q) 2. b.** and creating **s. NR 20.036**, relating to sturgeon spearing in Lake Winnebago.

FINDING OF EMERGENCY

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

Department Fisheries staff have recently shown that due to increasing spearing pressure and increasing spearer success rates the Winnebago lake sturgeon population, particularly the mature female portion, is experiencing overexploitation. Improvements in system water quality along with optimal weather conditions have provided clear water and optimal spearing conditions in recent years resulting in three of the four highest harvests on record in recent years resulting in three of the four highest harvests on record since 1990. To prevent the possible overharvest of sturgeon during the 1996 spearing season, an Emergency Order is required.

Publication Date: **February 2, 1996**
Effective Date: **February 2, 1996**
Expiration Date: **July 1, 1996**
Hearing Date: **March 12, 1996**
[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

State Public Defender

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.

Development (CR 95–212):
Ch. DOD 15 – Relating to the community–based economic development program.

Development (CR 95–213):
Ch. DOD 6 – Relating to the community development block grant portion of the Wisconsin development fund.

Funeral Directors Examining Board (CR 95–63):
SS. FD 2.04, 2.10 and 2.13 – Relating to discrimination, sanitation and confidentiality.

Health & Social Services (CR 95–180):
Ch. HSS 230 – Relating to county relief programs funded by block grants.

Health & Social Services (CR 95–220):
SS. HSS 122.06 and 122.07 – Relating to prior review of projects to demonstrate the worth of new nursing home designs.

Industry, Labor & Human Relations (CR 95–231):
Ch. ILHR 41 – Relating to boilers and pressure vessels.

Medical Examining Board (CR 95–173):
SS. Med 4.03 and 4.06 – Relating to expiration and renewal of temporary camp or locum tenens licenses.

Natural Resources (CR 96–16):
S. NR 10.32 – Relating to duck zone boundary for migratory game bird hunting.

Revenue (CR 95–202):
S. Tax 2.31 – Relating to compensation of nonresident members of professional athletic teams.

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.

Educational Approval Board (CR 95−6):

An order affecting s. EAB 5.11, relating to fees which the Board charges to schools requesting approval under s. 38.51 (10), Stats.

Effective 04−01−96.

Medical Examining Board (CR 95−78):

An order affecting ss. Med 19.02, 19.03 and 19.08, relating to occupational therapists and occupational therapy assistants.

Effective 04−01−96.

Health & Social Services (CR 95−174):

An order creating s. HSS 157.035, relating to fees for registration of ionizing radiation installations.

Effective 04−01−96.

Public Instruction (CR 95−156):

An order creating s. PI 11.13 (4) and (5), relating to interim alternative educational settings for children with exceptional educational needs (EEN) who bring firearms to school.

Effective 04−01−96.

Public Instruction (CR 95−181):

An order repealing chs. PI 17, 24, 27, 28, 30, 31, 34, 36, 37 and 38, relating to the elimination of obsolete rules.

Effective 04−01−96.

Transportation, Dept. of (CR 95−184):

An order affecting ch. Trans 106, relating to certification of traffic safety programs and instructions.

Effective 04−01−96.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

The following administrative rule orders have been published with the February 29, 1996 Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.

For subscription information, contact Document Sales at (608) 266–3358.

Agriculture, Trade & Consumer Protection (CR 95–17):
An order affecting ss. ATCP 29.01, 29.15, 29.152, 29.154 and 29.155, relating to pesticide worker protection and pesticide application site posting.
Effective 03–01–96.

Agriculture, Trade & Consumer Protection (CR 95–60):
An order affecting chs. ATCP 10 & 11 and ss. ATCP 12.01 & 12.05, relating to animal health and diseases of bovine animals, cervidae, goats, South American camelidae and swine.
Effective 03–01–96.

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.

Chiropractic Examining Board (CR 95–4):
An order repealing and recreating ch. Chir 5, relating to the requirements for continuing chiropractic education for chiropractors, and specifying criteria for approval of programs for continuing education credit.
Effective 03–01–96.

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 95–172):
An order affecting chs. Ind 72 and ILHR 272, relating to the minimum wage, subminimum wage licenses for rehabilitation facilities, and employment in home care premises.
Effective 03–01–96.

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 93–203):
An order affecting ch. NR 203, relating to changes to notice procedures and holding public informational hearings for nonsubstantive WPDES permit modifications.
Effective 03–01–96.

Natural Resources (CR 95–48):
An order affecting ch. NR 149 and ss. NR 219.04, 219.05, 219.06 & 700.13, relating to:
1) Laboratory certification and registration;
2) Sample preservation procedures;
3) Analytical methodology; and
4) Laboratory procedures.
Effective 03–01–96.

Natural Resources (CR 95–76):
An order affecting chs. NR 700, 708, 712, 714, 716, 718, 720, 722, 724, 726, 728, 738 and 750, relating to the assessment and collection of fees and the establishment of application review procedures for the contaminated land recycling program.
Effective 03–01–96.

Natural Resources (CR 95–77):
An order repealing and recreating s. NR 1.40 (2), relating to Natural Resources Board policies for land acquisition.
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.

Natural Resources (CR 95–98):
An order repealing and recreating s. NR 10.01 (1) (b), (g) and (u), relating to the 1995 migratory game bird season.
Effective 03–01–96.

Natural Resources (CR 95–100):
An order affecting ch. NR 50 and s. NR 190.09, relating to the outdoor recreation, snowmobile and lake planning grants.
Effective 03–01–96.

Natural Resources (CR 95–132):
An order affecting ss. NR 1.21, 1.212 and 1.213, relating to the administration of private forestry assistance.
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.

Psychology Examining Board (CR 95–10):

An order affecting s. Psy 4.02, relating to continuing education.

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 91–98):

An order amending ss. Trans 149.03, 149.04 and 149.06, relating to the inspection of a repaired salvage vehicle; and repealing ch. MVD 5 and creating ch. Trans 305, relating to standards for motor vehicle equipment.

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.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection
(CR 95–17)

Ch. ATCP 29 – Pesticide worker protection and pesticide application site posting.

Summary of Final Regulatory Flexibility Analysis:

Types of businesses that will be affected by the rule change.

Any owner or employer of any agricultural establishment that uses pesticides whose label requires both posting and oral notification would be affected by this rule.

Reporting, record keeping and other procedures required for compliance with the rules.

Posting of Treated Areas:

Under the new federal Worker Protection Standards (WPS), all agricultural pesticides must be labeled with a restricted entry time interval. An employer may not allow workers to enter a treated area until the restricted entry interval has expired. In order to prevent workers from entering a treated area, an employer must orally warn the workers or post warning signs at entrances to the treated areas. Labels for acutely toxic pesticides require "dual notice" to workers, including both posting and oral warnings.

This rule changes current state posting requirements for agricultural pesticide applications, so that posting is required for agricultural pesticides labeled with a "dual notice" requirement. This rule retains current posting requirements for all nonagricultural pesticide applications (e.g., structural and lawn care applications).

This rule change current state standards for warning signs, other than lawn care signs. The new warning signs must be at least 8 1/2" by 11" in size. Sites subject to the WPS must be posted according to the WPS. Other sites where posting is required may be posted with either a WPS sign, or a non–WPS sign as specified in the rule. The non–WPS sign specification are flexible to allow incorporation with other warning signs required for chemigation sites or no trespassing signs.

Under this rule, posting would be required whenever:

Posting is required under the federal worker protection standards.

The pesticide label requires "dual notice" to agricultural workers and the application site is located within 100 feet of a public road or within 300 feet of a residence, migrant labor camp, school, day care facility, health care facility, commercial or industrial facility, public recreation area or other nonagricultural area routinely frequented by humans.

The area is treated with a nonagricultural pesticide whose label specifies a time interval for safe reentry.

The pesticide label requires that the treated area be posted.

Under this rule, sites subject to the WPS must be posted with WPS warning signs not more than 24 hours before an application occurs and must be covered or removed no more than 3 days after the restricted entry interval has expired. Other sites where posting is required may be posted with either WPS signs or non–WPS signs. If WPS signs are used they must be posted and removed as indicated above. If non–WPS signs are used they must be posted prior to the pesticide application and can remain posted indefinitely.

Agricultural Emergencies; Early Entry

Under WPS, states may declare a situation to be an "agricultural emergency" where worker entry is allowed to carry out certain tasks during restricted entry intervals. The rule defines "agricultural emergencies" and establishes conditions that must be met prior to allowing early entry.

This rule serves as a generic "declaration of emergency." If the emergency conditions specified in this rule are met, no further state agency declaration is needed in order for an agricultural employer to allow early entry of workers into a treated area. However, even in an "agricultural emergency," the early entry must comply with federal worker protection standards which are incorporated by reference in this rule.

Under this rule, if agricultural workers enter a treated area in response to an "agricultural emergency", the agricultural employer must provide a written report of early entry to DATCP.

Safety Training:

Under the WPS, pesticide safety training is required for agriculture workers and pesticide handlers. Training must comply with minimum standards, and must be provided by an approved trainer. This rule establishes minimum qualifications for provided by an approved trainer. This rule establishes minimum qualifications for approved trainers. It also requires agricultural employers, handler employers and trainers to keep specified training records.

Types of professional skills necessary for compliance with the rules.

No additional skills beyond the pesticide applicator certification currently required under ch. ATCP are needed.

Summary of Comments from Legislative Committees:

The rule was referred to the Senate Committee on Transportation, Agriculture and Local Affairs on September 26, 1995 and to the Assembly Committee on Agriculture on October 10, 1995. the department received no formal comments from either committee.

2. Agriculture, Trade & Consumer Protection
(CR 95–60)

Chs. ATCP 10 & 11 – Animal diseases and animal movements.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule modified current animal health rules related to bovine animals (cattle and American bison), cervidae (e.g., captive deer and elk), goats, south American camelidae (e.g., llamas) and swine. This proposed rule also modifies current disease reporting requirements and clarifies health documentation for animals imported to consignment sales. Specific portions of the rule covering reduced testing and a cervidae tuberculosis program will impact businesses within the state. The majority of the proposed rule modifies current procedures to agree with changes in the federal disease control programs and does not materially affect small businesses.

Reduced Testing for Brucellosis and Tuberculosis

The reduction of test for brucellosis will result in about 40,000 fewer tests to be run by the Wisconsin Animal Health Laboratory (WAHL) and a similar number of samples would not have to be drawn by private veterinarians. Assuming an average fee of $7.50 for the veterinarian and $.50 for the WAHL, Wisconsin veterinarians would lose about $300,000 in fees, and the WAHL would lose about $20,000 in program revenues. The livestock owners would save $320,000 per year from this change.

Tuberculosis Program for Cervidae

The proposed rule provides opportunities for a cervidae (deer or elk) grower to have his or her herd tuberculosis status certified. This certification requires certain tuberculosis testing schedules depending on the level of certification. Since this is a voluntary program, it is assumed that those producers who elect to participate do so from some economic or business advantage.

Summary of Comments from Legislative Committee:

The rule was referred to the Senate Committee on Transportation, Agriculture and Local Affairs on October 25, 1995, and to the Assembly committee on Agriculture on October 27, 1995. the department received no comments from either committee.

3. Agriculture, Trade & Consumer Protection
(CR 95–104)

ATCP Code – Nonsubstantive rule organization and drafting changes.

Summary of Final Regulatory Flexibility Analysis:

This rule will have no effect on small business.

Summary of Comments from Legislative Committees:

The rule was referred to the Senate Committee on Transportation, Agriculture, Local and Rural Affairs on October 4, 1995 and to the Assembly Committee on Agriculture on October 11, 1995. The department received no comments or request for hearing from either committee.

4. Agriculture, Trade & Consumer Protection
(CR 95–112)

Ch. ATCP 136 – Recovering, reclaiming, recycling and selling refrigerant used in mobile air conditioners or trailer refrigeration equipment.

Summary of Final Regulatory Flexibility Analysis:

This rule repeals and recreates ch. ATCP 136, Wis. Adm. Code, Mobile Air Conditioners, to reflect statutory changes under 1991 WI Act 97 and 1993 WI Act 243. The rule ensures greater consistency with recent federal regulations adopted under the 1990 Clean Air Act Amendments, and reorganizes and clarifies current rules regulating businesses engaged in the repair and servicing of mobile air conditioners. The rule interprets ss. 100.45 and 100.20, Stats., based upon statutory authority granted under ss. 93.07(1), 100.20(2) and 100.45(5)(a), Stats.

The goal of DATCP's mobile air conditioner program is to prevent, to the greatest extent possible, the release of ozone–depleting refrigerants into the environment during service and repair of automotive air conditioning and trailer refrigeration systems. Under this program, the Department regulates the recovery, recycling and sale of ozone–depleting refrigerants and their substitutes to ensure that refrigerants are properly recovered and recycled, prevent misrepresentations in the sale of refrigerants, and protect businesses and consumers from contaminated refrigerants.

Overall Effect on Small Businesses

Many businesses that service, install and repair mobile air conditioners and trailer refrigeration equipment are small businesses with fewer than 25 employees. This rule requires businesses engaged in regulated activities to purchase certified recovery/recycling equipment in order to handle refrigerants. Equipment must meet federally approved standards. The equipment varies in price, depending upon its refrigerant recovery and recycling capabilities. Typically, equipment can cost from $800 to $4,500.

This rule also requires technicians employed by regulated businesses to complete approved training programs. Training costs also vary, and range from $10 to $60, depending upon the program sponsor, program length and course materials.

Each business that repairs or services mobile air conditioners or trailer refrigeration equipment, or recycles used refrigerant, must register with the department and pay an $80 annual fee per business location. This fee is unchanged by this rule. However, the rule imposes a $160 registration fee surcharge for businesses that are found operating without a valid registration certificate.

Under this rule, technicians will be registered with the Department as part of the ongoing annual business registration process. No additional fees will be charged for this technician registration process. More than 10,000 technicians are currently employed in businesses registered with the Department.

Equipment and Training Requirements

There is no practical way to lessen equipment or training requirements for small businesses without significantly undermining the effectiveness of the program. Equipment standards which are incorporated in the rule are based on national industry standards, consistent with state and federal law. Equipment standards are essential to ensure safe and proper handling and storage of refrigerants, as well as protect businesses and consumers from equipment and MVAC system damage due to refrigerant cross−contamination.

Training is essential to ensure that technicians use equipment properly and follow the requirements of state and federal law. Motor vehicles are the single largest source of chlorofluorocarbon emissions in the U.S. Relaxed standards for small businesses could result in a significant increase in refrigerant released to the atmosphere, and also pose the risk of placing Wisconsin businesses in noncompliance with federal regulations.

Likewise, the regulatory approach of registering businesses has proven to be an efficient and cost effective means of ensuring compliance with approved equipment standards, technician training requirements, and overall program compliance.

Small businesses have been given considerable regulatory flexibility under this rule. No business is required to perform service or repair of mobile air conditioners or trailer refrigeration equipment. Businesses that choose to engage in regulated activities may invest in less expensive recovery−only equipment or more expensive recycling equipment. The rule also recognizes a common repair business repair option to contract specific functions related to the recovery and recycling of refrigerants to regulated businesses.

Business Registration Fees

Current business registration fees are set at a flat $80 per year regardless of the size of the business. This rule maintains this fee structure. The flat fee simplifies the registration application and renewal process, and is relatively small compared to annual business revenues for air conditioning service and repair work.

In developing this rule, the department considered a variable fee structure based on the number of certified technicians in a shop. The intent was to provide a reduction in fees for some smaller businesses, many of which employ three or less certified technicians. In order to provide any appreciable reduction in registration fees for smaller shops and still maintain adequate program revenues, a business registration fee was considered which was based on a $10 charge per year per technician. This provided a small break of $15–$25 for 1,400 shops, but fees approaching $700 per year for many larger businesses. Roughly 70 shops would have seen their fees increase by more than $100.

This fee hike for larger businesses could not be justified based on compliance rates. Experience has shown that most staff time is spent, and most compliance problems arise, in smaller shops. The current $80 fee is small relative to the total charges for air conditioning work by repair and servicing shops, and is small compared to the investment in equipment. Therefore, department staff concluded that the current annual registration fee is the most appropriate approach.

Record Keeping Requirements

The rule creates certain record–keeping requirements for repair businesses and refrigerant suppliers. The rule provides considerable flexibility to businesses in terms of how the information is kept. In most cases, work orders, purchase records or sales records may be used to comply with record–keeping requirements. These are types of records that are already maintained by businesses. In other cases, a simple repair log will suffice. The rule also recognizes repair order forms and invoices used by the automotive repair industry throughout the state to comply with ch. ATCP 132, Wis. Adm. Code, relating to motor vehicle repair. The rule was also revised to reduce these record–keeping requirements from three years to two years. Therefore, the rule does not impose any significant paperwork requirements on small businesses.

Summary of Comments:

The rule was referred to the Senate Committee on Transportation, Agriculture and Local Affairs on November 22, 1995, and to the Assembly Committee on Environment and Utilities on November 29, 1995. The Department received no comments from either committee.

5. Chiropractic Examining Board (CR 95–4)

Ch. Chir 5 – Requirements for continuing chiropractic education for chiropractors, and specifying criteria for approval of programs for continuing education credit.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

6. Health & Social Services (CR 95–106)

Ch. HSS 343 – Youth aftercare conduct and revocation.

Summary of Final Regulatory Flexibility Analysis:

These rules will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. The rules apply to the Department, to county departments of social services and human services and to youth on aftercare supervision following their release from juvenile institutions.

Summary of Comments:

No comments were reported.

7. Health & Social Services (CR 95–155)

S. HSS 110.145 – Qualifications of ambulance service medical directors.

Summary of Final Regulatory Flexibility Analysis:

These rules will not have a significant economic impact on a substantial number of small businesses. Fewer than 25 of the 400 or so ambulance service companies in the state providing services beyond basic life support are small businesses. The qualifications established in the rules are minimal. One of the two is already met by all current medical directors. The other is not burdensome.

Summary of Comments:

No comments were reported.

8. Industry, Labor & Human Relations (CR 95–172)

Ch. ILHR 272 – Minimum wage.

Summary of Final Regulatory Flexibility Analysis:

The rules do not impose new compliance or reporting requirements on small businesses.

Summary of Comments of Legislative Standing Committees:

No comments were received.

9. Insurance (CR 95–175)

SS. Ins 6.57 (4), 6.58 (5) and 6.59 (4) – Fees for listing insurance agents, fees for the renewal of corporation licenses and other licensing procedures.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

10. Natural Resources (CR 93–203)

Ch. NR 203 – Changes to public notice procedures for nonsubstantive WPDES permit modifications.

Summary of Final Regulatory Flexibility Analysis:

Because of the nature of the changes to ch. NR 203, there will be no adverse impact to small businesses. Although certain small businesses may be covered by WPDES permits, the rule change does not result in more stringent reporting requirements or the imposition of additional schedules or deadlines for small businesses, unless they agree with the changes. The code revision will allow permittees and the Department to save time, money and paperwork.

Summary of Comments by Legislative Review Committees:

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

11. Natural Resources (CR 95–48)

Chs. NR 149, 219 and 700 – Laboratory certification and registration, sample preservation procedures, analytical methodology and laboratory procedures.

Summary of Final Regulatory Flexibility Analysis:

Approximately 10 – 15% of the regulated laboratories would fit the definition of "small business". The proposed amendments to chs. NR 219 and 700 are not anticipated to have a significant economic impact on a small business. The proposed amendments to ch. NR 149 are expected to have varied economic impacts on a small business, but only the requirement to report all analytical data down to the limit of detection was identified as having a significant economic impact. The proposed amendments do not include exemptions, less stringent reporting requirements or alternate schedules for compliance for a small business. The purpose of the rule is to ensure that all regulated laboratories follow certain minimum quality control requirements in order to generate consistent and reliable data. A less stringent requirement for small commercial laboratories would not be consistent with the reporting requirements for the other types of laboratories and, therefore, would defeat the purpose of these amendments.

Summary of Comments by Legislative Review Committees:

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

12. Natural Resources (CR 95–85)

Ch. NR 51 – Stewardship program.

Summary of Final Regulatory Flexibility Analysis:

The revisions to ch. NR 51 affect program administration and will not have a significant economic impact on small businesses. Therefore, a final regulatory analysis is not required.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Senate Committee on Environment and Energy and the Assembly Committee on Natural Resources. On November 19, 1995, the Assembly Committee on Natural Resources held a public hearing. The Committee asked for modifications to s. NR 51.03 (11) regarding the department's access to property on which an easement is acquired with a stewardship grant and to s. NR 51.04 (2) regarding when a nonprofit conservation organization must provide evidence to the department that is has the financial capacity and ability to acquire property and provide for its long–term management and care. The modifications were approved by the Natural Resources Board and incorporated into the rule.

13. Natural Resources (CR 95–76)

Ch. NR 750 – Assessment and collection of fees and the establishment of application and review procedures for the contaminated lands recycling program.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule establishes procedures and criteria for the application and collection of fees for those parties interested in receiving a liability exemption in exchange for a thorough investigation and cleanup of environmental contamination associated with their property. Since this is an elective program, the Department expects no negative impacts on small businesses.

Summary of Comments by Legislative Review Committees:

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

14. Natural Resources (CR 95–77)

S. NR 1.40 (2) – Natural Resources Board policies for land acquisition.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not regulate small businesses; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

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

15. Natural Resources (CR 95–91)

S. NR 728.11 – Actions taken by DNR to implement chs. NR 700 to 736.

Summary of Final Regulatory Flexibility Analysis:

The requirements for responding and addressing discharges of hazardous substances are not changed by this rule amendment. The responsible party and/or property owner for a site is still required to restore the environment to the extent practicable. However, under this rule some lower priority sites will be placed on hold with no further enforcement action initiated until adequate staff resources become available.

Summary of Comments by Legislative Review Committees:

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

16. Natural Resources (CR 95–98)

Ch. NR 10 – 1995 Migratory game bird season.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments by Legislative Review Committees:

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

17. Natural Resources (CR 95–100)

Chs. NR 50 & 190 – Outdoor recreation snowmobile and lake planning grants.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not regulate small businesses; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

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

18. Natural Resources (CR 95–132)

SS. NR 1.21, 1.212 & 1.213 – Administration of private forestry assistance.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not regulate small businesses; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

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

19. Pharmacy Examining Board (CR 95–135)

SS. Phar 6.02 (1m), 8.05 (4), 13.02 (11) (f) – Licensing outpatient hospital pharmacies; to the time in which a controlled substance listed in schedule II must be dispensed; and to exempting certain pharmacies from the distributor licensing requirements when selling prescription drugs to practitioners for office dispensing.

Summary of Final Regulatory Flexibility Analysis:

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

20. Psychology Examining Board (CR 95–10)

Ch. Psy 4 – Continuing education.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

21. Transportation (Dept.) (CR 91–98)

Chs. Trans 149, 305 & Ch. MVD 5 – Standards for vehicle equipment.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule has no significant impact on small businesses.

Summary of Comments:

No comments were reported.

22. Transportation (Dept.) (CR 95–87)

Ch. Trans 140 – Requirements for motor vehicle dealers and other licensees and the conditions under which financial statements may be required.

Summary of Final Regulatory Flexibility Analysis:

The rule will have no adverse effect on small businesses beyond any effect imposed by the statutes.

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

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

Executive Order 270. Relating to a Proclamation that the Flags of the United States and the State of Wisconsin be Flown at Half–Staff as a Mark of Respect for the late Ralph Hanson, Former Chief of the University of Wisconsin Police Department.

Executive Order 271. Relating to the Creation of the Governor's Advisory Task Force on Education and Learning.

Executive Order 272. Relating to a Proclamation that the Flags of the United States and the State of Wisconsin be Flown at Half–Staff as a mark of Respect for the Late Judge Patrick J. Rude of the Circuit Court of Rock County.

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