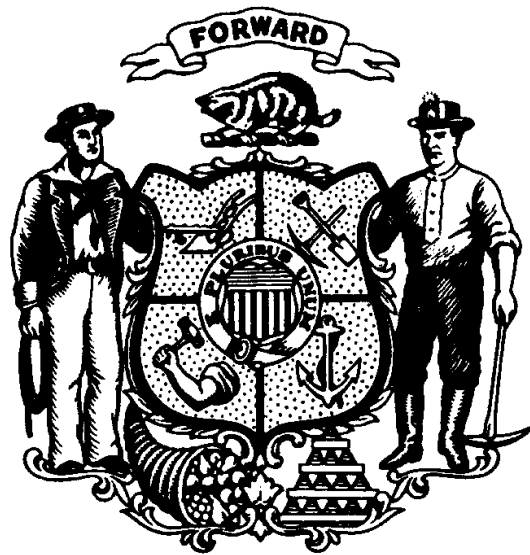


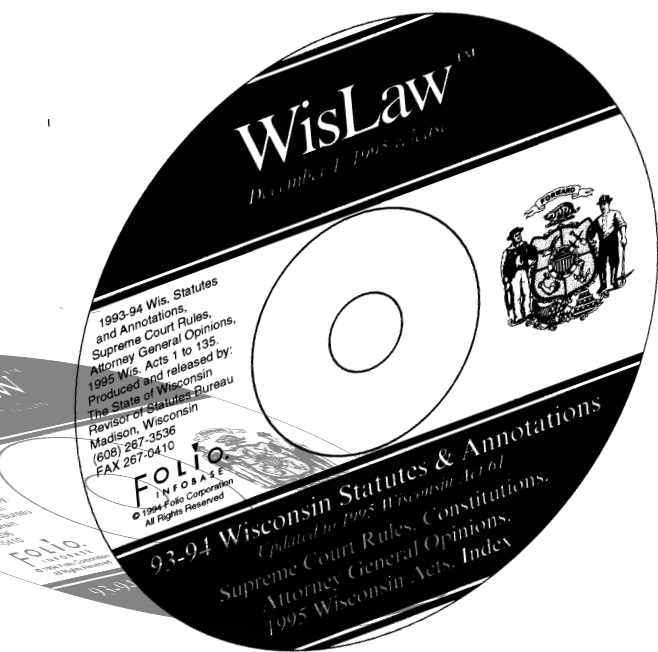
WISCONSIN ADMINISTRATIVE REGISTER

No. 483



Publication Date: March 31, 1996
Effective Date: April 1, 1996

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



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NOTICE SECTION

Notice of Hearing

Wisconsin Gaming Commission

Notice is hereby given that pursuant to s. 561.02, Stats., and interpreting ss. 562.02 (1) (a) and 562.057 (5), Stats., the Wisconsin Gaming Commission will hold a public hearing at the **Wisconsin Gaming Commission's office situated at 150 East Gilman Street, Suite 1000, in the city of Madison, Wisconsin, on Monday, the 15th day of April, 1996, at 10:00 a.m.** to consider the amendment of s. WGC 24.13 (1) (d), relating to the reduction of simulcast fees from \$50.00 per performance to \$15.00 per performance.

Analysis Prepared by the Wisconsin Gaming Commission

Summary:

Section WGC 24.13 (1) (d) is amended to reduce the simulcast fees from \$50.00 per performance to \$15.00 per performance.

Emergency Rules:

This rule was promulgated as an emergency rule effective March 1, 1996.

Initial Regulatory Flexibility Analysis

There is no effect on small businesses.

Reference to Applicable Forms

Not applicable.

Fiscal Estimate

The revised s. WGC 24.13 (1) (d) has a fiscal impact on the general fund. The identified reduction in fees will be approximately \$200,000 per year.

Agency Contact Person

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

Text of Rules

Section 1. WGC 24.13 (1) (d) is amended to read:

Submit a fee of ~~\$15~~ \$50 for each race performance received from an out-of-state host track. The fee shall be paid no later than 48 hours after the conclusion of the race day in which the simulcast performance started or, if the 48-hour period does not include a business day, on the first business day immediately following the close of the race day. This provision regarding the payment of fees shall not be applicable if the guest track schedules 3 or fewer races of a race performance from an out-of-state host track.

Notice of Hearing

Health & Social Services (Community Services, Chs. HSS 30-)

Notice is hereby given that pursuant to s. 51.42(7)(b), Stats., the Department of Health and Social Services will hold a public hearing to consider the repeal of s. HSS 61.74, the amendment of ss. HSS 61.93(2) and

61.97(1), the repeal and recreation of s. HSS 61.94(6) and the creation of ch. HSS 34, relating to standards for emergency mental health service programs.

Hearing Information

**April 23, 1996
Tuesday
From 1 p.m. to 3 p.m.**

**Room B139
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

Section 51.42 (1) (b), Stats., makes a county primarily responsible for the well-being, treatment, and care of mentally ill persons who live in the county and for ensuring that individuals in the county who need emergency mental health services receive those services promptly. Section 51.42 (7) (b), Stats., directs the Department to promulgate rules that establish standards and other requirements for community mental health service programs operated by counties or from which counties purchase services.

All standards for certification of community mental health programs now included in subch. IV of ch. HSS 61 are being renumbered and revised. Eventually there will be separate chapters for inpatient services, outpatient services, emergency services, adult day treatment, child day treatment, and child in-home services.

This order renumbers and modestly updates the Department's current standards for certification of community mental health emergency service programs and creates a considerably expanded alternative set of standards for certification of those programs. The alternative standards are for programs that seek reimbursement from the Medical Assistance program, under ss. 49.43 to 49.475 and 49.49 to 49.497, Stats., and chs. HSS 101 to 108, for the cost of services provided to Medical Assistance recipients, or that seek reimbursement from insurers who issue group or blanket disability policies and therefore are subject to s. 632.89, Stats. The current rules, s. HSS 61.74, date from 1977 and have never been updated.

The new, alternative standards, as set out in subch. III of ch. HSS 34, cover qualifications of program staff, supervision of staff, orientation and ongoing training of staff, establishment of county-wide plans for coordinating the provision of crisis services, required services, criteria for service eligibility, assessment of a person's need for services and of the kinds of services needed, contact notes, crisis plans and handling of client complaints, in addition to procedures for applying for program certification and sanctions for not complying with requirements.

This order also amends the outpatient mental health clinic standards in subch. V of ch. HSS 61 to replace the term "nervous or mental disorder" with the term "mental disorder" as the reason why a person needs mental health treatment. "Nervous or mental disorder" is defined in s. HSS 61.96 (4) and used at two places in the rules for outpatient mental health clinics. It was going to be replaced when the outpatient mental health clinic rules are updated. It is being replaced at this time because the definition of it, which is the only definition of the term in the Department's standards for community mental health service programs, no longer adequately describes persons in need of mental health treatment and receiving mental health treatment and is not consistent with the definition of "mental disorder" in the revised emergency service standards. For purposes of mandatory coverage of undefined "nervous and mental disorders" under s. 632.89, Stats., the Office of Commissioner of Insurance views emergency services as a type of outpatient services, and so to ensure that insurance will cover all standard diagnoses, the more limited definition of "nervous or mental disorder" in s. HSS 61.96 is replaced by the new definition of "mental disorder."

Contact Person

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

George Hulick, (608) 266-0907 or,
if you are hearing impaired, (608) 267-9880 (TDD)
Bureau of Community Mental Health Services
P.O. Box 7851
Madison, WI 53707-7851

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

Written Comments

Written comments on the proposed rules received at the above address no later than **April 30, 1996** will receive the same consideration as testimony presented at the hearing.

Fiscal Estimate

The Department for many years has had standards for community mental health emergency service programs. Compliance with the standards on the part of county-operated and county-contracted programs is a condition for receipt of state community aid funds. Those standards are being renumbered and updated by this rulemaking order. The changes will not affect the expenditures or revenues of state government or local governments.

This order also creates an alternative, more demanding set of standards for emergency service programs that seek Medical Assistance reimbursement. Compliance with these standards will increase program costs but will also increase program revenues. A program may choose to be certified by the Department under either the current or Medical Assistance-related standards. It is not known how many of the 73 currently certified programs, about half of which are county-operated, will choose to be certified under the Medical Assistance-related standards, but it is likely that most of those that are county-operated will choose that option. Costs to the Department of certifying programs under those standards will not increase. Increased Medical Assistance expenditures for this new covered service added by the creation of ss. 49.45 (41) and 49.46 (2) (b) 15, Stats., by 1995 Wis. Act 27, were taken into consideration during legislative deliberations.

Initial Regulatory Flexibility Analysis

These revised rules for certification of mental health emergency service programs apply to the Department, to county departments of human services under s. 46.23, Stats., or community programs under s. 51.42 Stats., that request certification or are certified to operate an emergency mental health services program and to county-contracted private service providers that request certification or are certified to operate an emergency mental health services program on behalf of the county. The rules will not directly affect small businesses as defined in s. 227.114 (1) (a), Stats.

Under s. 51.42 (1) (b), Stats., a county is made responsible for ensuring that individuals in the county who need emergency mental health services receive those services promptly. To receive state community aid funding for this purpose, a county may operate its own emergency services program or contract with a hospital or other private organization for operation of an emergency service program, but in any case the program must be certified by the Department under these rules. About 25 of the 73 currently certified programs are operated by hospitals for counties.

The revised rules permit a county to operate or contract for the operation of an emergency mental health services program that either meets a basic set of certification standards, which are the current standards modestly updated, or meets new, alternative standards that are more stringent but qualify the service provider for reimbursement under the Medical Assistance (Medicaid) program.

Notice of Hearing

Health & Social Services

(Economic Support,

Chs. HSS 200--)

Notice is hereby given that pursuant to s.49.193(3m)(b) and (e), and (9m)(b)2. and 3. and (c)1.a., Stats., as created by 1995 Wis. Act 12, and s.49.50(2), Stats., the Department of Health and Social Services will hold a public hearing to consider the amendment of ss.HSS 201.03(11m), (12) and (15), 201.14(3)(f), 201.19(1)(a), (g) and (h), 206.09(3)(intro.) and 206.10(1), and the creation of ss.HSS 201.045, 201.19(2m), 206.03(6m) and (25m), 206.065 and 206.09(3m) and (4m), relating to participation of Aid to Families with Dependent Children (AFDC) applicants and recipients in the Pay for Performance Demonstration Project, and emergency rules now in effect on the same subject.

Hearing Information

April 16, 1996	Room 751
Tuesday	State Office Building
Beginning at 10 a.m.	1 W. Wilson Street
	Madison, WI

The hearing site is fully accessible to people with disabilities. Take a center elevator to reach Room 751.

Analysis Prepared by the Department of Health and Social Services

Under s. 49.19, Stats., families inquiring about the Aid to Families with Dependent Children (AFDC) program are immediately encouraged to apply for assistance without exploring possible alternatives to welfare. Once determined eligible, many families come to consider the AFDC program a program of long-term financial support, sometimes spanning generations. Yet AFDC was originally meant to be a temporary, emergency program.

Wisconsin has obtained approval from the Food and Consumer Service of the U.S. Department of Agriculture and from the Administration for Children and Families of the U.S. Department of Health and Human Services to conduct a Pay for Performance (PFP) demonstration project. The project began March 1, 1996 on the basis of emergency rules that were published and effective on that date. The major objective of the Pay for Performance demonstration project is to focus on freedom from public assistance by encouraging immediate attachment to the work force and helping families explore alternatives to AFDC before becoming dependent on AFDC. The demonstration project is being conducted statewide except in Dane, Dodge, Jefferson and Waukesha counties. In those counties individuals may be assigned to a control group which will be exempt from the demonstration project requirements to permit evaluation of the demonstration project. Statutory authority for the Department to operate two related demonstration projects, Self-Sufficiency First and Pay for Performance, was included in 1995 Wis. Act 12. Under the federal government's terms and conditions of approval for the demonstration project, the Department is now calling the combined project Pay for Performance.

Under the emergency rules and the proposed permanent rules that will replace the emergency rules, the Pay for Performance demonstration project has two components.

The first component encourages alternatives to AFDC through services of a financial planning resource specialist (FPRS) and up-front job search. This component is directed at helping applicants identify alternatives to AFDC, facilitating immediate orientation and referral to the Job Opportunities and Basic Skills (JOBS) program and requiring job search before receiving AFDC. Cooperation is made an AFDC eligibility requirement. An individual who fails without good cause to cooperate with these requirements will be ineligible to receive AFDC benefits for himself or herself and his or her family.

For an individual who becomes an AFDC recipient after fulfilling the applicant job search requirements, there is a second component of the Pay for Performance demonstration project. This requires the JOBS case manager to design an employability plan for the recipient that focuses on employment

at the earliest opportunity and requires the recipient to participate in a set number of hours of participation in JOBS program activities or work to maintain AFDC eligibility. Failure, without good cause, to maintain participation as assigned will result in sanctions in the next possible month based on the number of hours missed without good cause multiplied by the federal minimum wage. Failure to participate in at least 25% of the assigned hours will result in no AFDC benefits being paid for that month and a reduction to \$10 in food stamp benefits.

Contact Person

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

Sue Larsen, (608) 266-3288 or,
if you are hearing impaired, (608) 267-9880 (TDD)
Division of Economic Support
P.O. Box 7935
Madison, WI 53707

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

Written Comments

Written comments on the proposed rules received by Dianne Reynolds at the above address no later than **April 23, 1996** will receive the same consideration as testimony presented at the hearing.

Fiscal Estimate

All costs to the Department and local governments for operation of the Pay for Performance demonstration project were included in 1995 Wis. Act 12. There are no additional costs for state government or local governments from promulgation of these rules.

Initial Regulatory Flexibility Analysis

These rules relate to county and tribal administration of a federal-state program. They will not directly impact on small businesses as defined in s. 227.114 (1) (a), Stats.

Notice of Hearing
Insurance, Commissioner of

The Commissioner of Insurance, pursuant to the authority granted under s. 601.41 (3), Stats., and according to the authority granted under s. 227.18, Stats., will hold a public hearing at the time and place indicated below, or as soon thereafter as the matter may be reached, to consider the adoption of a proposed rule-making order affecting s. Ins 17.01, 17.26 and 17.28, Wis. Adm. Code, relating to patients compensation fund and mediation fund fees for fiscal year 1996-97.

Hearing Information

April 18, 1996 **Room 188**
Thursday **121 East Wilson Street**
10:00 a.m. **MADISON, WI**

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, (608) 266-0110
Services Section
Office of the Commissioner of Insurance
121 East Wilson St.
P.O. Box 7873
MADISON, WI 53707-7873

The Office of the Commissioner of Insurance and the Board of Governors of the Patients Compensation Fund propose an order to amend s. Ins 17.01 (3) (intro.); to repeal and recreate s. Ins 17.28 (6); and to amend s. Ins 17.26 (4) (a), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1996, future medical expense attachment point changing from \$25,000 to \$100,000.

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 601.41 (3), 655.004, 655.27 (3) (b) and 655.61
Statutes interpreted: ss. 655.27 (3) and 655.015

The Commissioner of Insurance, with the approval of the Board of Governors (Board) of the Patients Compensation Fund (Fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the Fund. This rule establishes those fees for the fiscal year beginning July 1, 1996. These fees represent an overall 10% increase over the fees paid for the current fiscal year. The Board approved this increase at its meeting on February 21, 1996, based on the recommendation of the Board's actuarial and underwriting committee.

The Board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the Director of State Courts. This rule implements the Director's funding level recommendation by establishing mediation panel fees for the next fiscal year at \$38.00 for physicians and \$3.00 per occupied bed for hospitals, the same as current year fees.

This rule also makes a technical edit in s. Ins 17.26 required by 1995 Wis. Act 10 which pertains to administration of future medical expenses. Act 10 requires fund administration of future medical expenses commencing at the \$100,000 level instead of the previous \$25,000 level.

Text Of Rule

SECTION 1. Ins 17.01 (3) (intro.) is amended to read:

Ins 17.01 (3) FEE SCHEDULE. The following fee schedule shall be effective July 1, ~~1995~~ 1996.

SECTION 2. Ins 17.28 (6) is repealed and recreated to read:

Ins 17.28 (6) FEE SCHEDULE. The following fee schedule is in effect from July 1, 1996, to June 30, 1997:

(a) Except as provided in pars. (b) to (g) and (6e), for a physician for whom this state is a principal place of practice:

Class 1	\$3,215
Class 2	\$6,430
Class 3	\$13,825
Class 4	\$19,290

(b) For a resident acting within the scope of a residency or fellowship program:

Class 1	\$1,608
Class 2	\$3,216
Class 3	\$6,914
Class 4	\$9,648

(c) For a resident practicing part-time outside the scope of a residency or fellowship program:

All classes \$1,929

(d) For a medical college of Wisconsin, inc., full-time faculty member:

Class 1	\$1,286
Class 2	\$2,572
Class 3	\$5,530
Class 4	\$7,716

(e) For a physician who practices fewer than 500 hours during the fiscal year, limited to office practice and nursing home and house calls, and who does not practice obstetrics or surgery or assist in surgical procedures:

\$804

(f) For a physician for whom this state is not a principal place of practice:

Class 1	\$1,608
Class 2	\$3,216
Class 3	\$6,914
Class 4	\$9,648

(g) For a nurse anesthetist for whom this state is a principal place of practice:

\$824

(h) For a nurse anesthetist for whom this state is not a principal place of practice:

\$412

(i) For a hospital:

1. Per occupied bed \$203; plus

2. Per 100 outpatient visits during the last calendar year for which totals are available

\$10.17

(j) For a nursing home, as described under s. 655.002 (1) (j), Stats., which is wholly owned and operated by a hospital and which has health care liability insurance separate from that of the hospital by which it is owned and operated:

Per occupied bed \$38

(k) For a partnership comprised of physicians or nurse anesthetists, organized for the primary purpose of providing the medical services of physicians or nurse anesthetists, whichever of the following is applicable:

1. If the total number of partners and employed physicians and nurse anesthetists is from 2 to 10

\$115

2. If the total number of partners and employed physicians and nurse anesthetists is from 11 to 100

\$1,150

3. If the total number of partners and employed physicians and nurse anesthetists exceeds 100

\$2,876

(L) For a corporation, including a service corporation, with more than one shareholder organized under ch. 180, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, whichever of the following is applicable:

1. If the total number of shareholders and employed physicians and nurse anesthetists is from 2 to 10

\$115

2. If the total number of shareholders and employed physicians and nurse anesthetists is from 11 to 100

\$1,150

3. If the total number of shareholders and employed physicians or nurse anesthetists exceeds 100

\$2,876

(m) For a corporation organized under ch. 181, Stats., for the primary purpose of providing the medical services of physicians or nurse anesthetists, whichever of the following is applicable:

1. If the total number of employed physicians and nurse anesthetists is from 1 to 10

\$115

2. If the total number of employed physicians and nurse anesthetists is from 11 to 100

\$1,150

3. If the total number of employed physicians or nurse anesthetists exceeds 100

\$2,876

(n) For an operational cooperative sickness care plan:

1. Per 100 outpatient visits during the last calendar year for which totals are available

\$0.25; plus

2. 2.5% of the total annual fees assessed against all of the employed physicians.

(o) For a freestanding ambulatory surgery center, as defined in s. Ins 120.03 (10):

Per 100 outpatient visits during the last calendar year for which totals are available

\$49

(p) For an entity affiliated with a hospital, the greater of \$100 or whichever of the following applies:

1. 15% of the amount the entity pays as premium for its primary health care liability insurance, if it has occurrence coverage.

2. 20% of the amount the entity pays as premium for its primary health care liability insurance, if it has claims-made coverage.

SECTION 3. Ins 17.26 (4) (a) is amended to read:

Ins 17.26 Payments for future medical expenses. (4) ADMINISTRATION. (a) If a settlement, panel award or judgment is subject to s. 655.015, Stats., the insurer or other person responsible for payment shall, within 30 days after the date of the settlement, panel award or judgment, pay the fund the amount in excess of \$25,000 \$100,000 and shall provide the fund with an executed copy of the document setting forth the terms under which payments for medical expenses are to be made.

SECTION 4. INITIAL APPLICABILITY. This rule first applies on July 1, 1996.

Fiscal Estimate

The Patients Compensation Fund (Fund) is a segregated fund. Annual fund fees are established to become effective each July 1, based on actuarial estimates of the Fund's needs for payment of medical malpractice claims. The proposed fees were approved by the Fund's Board at its February 21, 1996 meeting.

There is no effect on GPR.

The increase in segregated revenues is approximately \$5 million and represents an overall 10% increase in the Fund's projected revenue of \$50 million for fiscal year 1995-96. Estimated revenue for fiscal year 1996-97 is approximately \$55 million.

The Fund is required to assess, collect and remit mediation panel fees to the state court system. These mediation panel fee levels remain constant with last year's rates. The projected target base is \$300,000.

Notice of Hearing Medical Examining Board

Notice is hereby given that pursuant to authority vested in the Medical Examining Board in ss. 15.08 (5) (b), 227.11 (2), 448.01 (11) and 448.02 (3), Stats., and interpreting s. 448.01 (11), Stats., the Medical Examining Board will hold a public hearing at the time and place indicated below to consider an order to amend s. Med 10.02 (2) (q), relating to unprofessional conduct.

Hearing Information

**April 25, 1996
Thursday
9:00 A.M.**

**Room 179A
1400 East Washington Ave.
Madison, WI**

Written Comments

Interested people are invited to present information at the hearing. People appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may

also be submitted in writing without a personal appearance by mail addressed to:

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

Written comments must be received by **May 6, 1996** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation & Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2), 448.01 (1) and 448.02 (3)

Statute interpreted: s. 448.01 (11)

In this proposed rule-making order, the Medical Examining Board amends s. Med 10.02 (2) (q), to remedy the failure of the present rule to provide authority for the Board to bring disciplinary action against a licensee who has been subject to an adverse licensure action in another jurisdiction, which adverse action is either not the result of formal disciplinary proceedings, as when an application for an initial license in the other jurisdiction is denied or is granted on a limited basis, or is taken without any finding of misconduct, as often happens when the adverse action is taken pursuant to a stipulation by which it is agreed that no such finding shall be made.

Text of Rule

SECTION 1. Med 10.02 (2) (q) is amended to read:

Med 10.02 (2) (q) Having a license, certificate, permit, registration, or other practice ~~privilege~~ credential granted by another state or by any agency of the federal government to practice medicine and surgery or treat the sick, limited, restricted, suspended, or revoked, or having been subject to other ~~disciplinary~~ adverse action by the state licensing authority or by any agency of the federal government, including but not limited to the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct.

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 & Contact Person

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

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

Notice of Hearing Medical Examining Board

Notice is hereby given that pursuant to authority vested in the Medical Examining Board in ss. 15.08 (5) (b), 227.11 (2), 448.04 (1) (f) and 448.40 (1), Stats., and interpreting s. 448.05 (5), Stats., the Medical Examining

Board will hold a public hearing at the time and place indicated below to consider an order to repeal s. Med 8.11; to amend ch. Med 8 (title), ss. Med 8.01, 8.02 (2), (3) and (4), 8.03, 8.05, 8.05 (1) (intro.), (cm), (2) (b) 4., 5., 6., (c) and (4), 8.06 (1) (intro.) and (2) (a), 8.07 (1) and (2) (intro.), 8.08 (1), (2) (intro.), (a), (b), (c), (d), (e) 1., 2. and 3., 8.09 and 8.10; and to create s. Med 8.02 (3m), relating to physician assistants.

Hearing Information

**April 25, 1996
Thursday
9:15 A.M.**

**Room 179A
1400 East Washington Ave.
Madison, WI**

Written Comments

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

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

Written comments must be received by **May 10, 1996** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation & Licensing

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

Statute interpreted: s. 448.05 (5)

In this proposed rule-making order, the Medical Examining Board amends the current administrative code relating to physician assistants to reflect the name change that took place in 1993 Wis. Act 105. That legislation changed the term "physician's assistant" to "physician assistant."

This rule-making order further clarifies when a physician delegates the preparation of a prescription to a physician assistant, what items are required to be on that prescription so that a pharmacist will be able to fill the prescription.

And, finally, s. Med 8.11 is repealed. This section required the Board to review prescribing requirements for physician assistants and to report to the Legislature no later than January 1, 1986 the Board's recommendations to the rule. This section is antiquated and therefore being repealed.

Text of Rule

SECTION 1. Chapter Med 8 (title) is amended to read:

Chapter Med 8 PHYSICIAN'S PHYSICIAN ASSISTANTS

SECTION 2. Med 8.01 is amended to read:

Med 8.01 Authority and purpose. The rules in this chapter are adopted by the medical examining board pursuant to authority in ss. 15.08 (5), 227.11, 448.04 (1) (f) and 448.40, Stats., and govern the certification and regulation of ~~physician's~~ physician assistants.

SECTION 3. Med 8.02 (2) and (3) are amended to read:

Med 8.02 (2) "Council" means the council on ~~physician's~~ physician assistants.

(3) "Certificate" means documentary evidence issued by the board to applicants for certification as a ~~physician's~~ physician assistant who meets all of the requirements of the board.

SECTION 4. Med 8.02 (3m) is created to read:

Med 8.02 (3m) "DEA" means the United States drug enforcement administration.

SECTION 5. Med 8.02 (4) is amended to read:

Med 8.02 (4) "Educational program" means a program for educating and preparing ~~physician's~~ physician assistants which is approved by the board.

SECTION 6. Med 8.03 is amended to read:

Med 8.03 Council. As specified in s. 15.407 (1) and (2), Stats., the council shall advise the board on the formulation of rules on the education, examination, certification and practice of a ~~physician's~~ physician assistant.

SECTION 7. Med 8.05, 8.05 (1) (intro.), (cm), (2) (b) 4., 5., 6., (c) and (4) are amended to read:

Med 8.05 Panel review of applications; examinations required. The board may use a written examination prepared, administered and scored by the national commission on certification of ~~physician's~~ physician assistants, or a written examination from other professional testing services as approved by the board.

(1) APPLICATION. An applicant for examination for certification as a ~~physician's~~ physician assistant shall submit to the board:

(cm) Proof that the applicant is currently certified to assist primary care physicians by the national commission on certification of ~~physician's~~ physician assistants.

(2) (b) 4. Has been convicted of a crime, the circumstances of which substantially relate to the practice of ~~physician's~~ physician assistants;

5. Has not practiced patient care as a ~~physician's~~ physician assistant for a period of 3 years prior to application, unless the applicant has been graduated from a school approved for ~~physician's~~ physician assistants within that period; or,

6. Has been found to have been negligent in the practice as a ~~physician's~~ physician assistant or has been a party in a lawsuit in which it was alleged that the applicant has been negligent in the practice of medicine.

(c) An application filed under this chapter shall be reviewed by an application review panel of at least 2 ~~physician's~~ physician assistant council members designated by the chairperson of the board to determine whether an applicant is required to complete an oral examination under par. (a). If the application review panel is not able to reach unanimous agreement on whether an applicant is eligible for certification without completing an oral examination, the application shall be referred to the medical examining board for a final determination.

(4) **CERTIFICATION; RENEWAL.** At the time of certification and each biennial registration of certification thereafter, a ~~physician's~~ physician assistant shall list with the board the name and address of the supervising physician and shall notify the board within 20 days of any change of a supervising physician.

SECTION 8. Med 8.06 (1) (intro.) and (2) (a) are amended to read:

Med 8.06 Temporary certificate. (1) An applicant for certification may apply to the board for a temporary certificate to practice as a ~~physician's~~ physician assistant if the applicant:

(2) (a) Except as specified in par. (b), a temporary certificate expires on the date the board grants or denies an applicant permanent certification. Permanent certification to practice as a ~~physician's~~ physician assistant is deemed denied by the board on the date the applicant is sent notice from the board that he or she has failed the examination required by s. Med 8.05 (1) (c).

SECTION 9. Med 8.07 (1) and (2) (intro.) are amended to read:

Med 8.07 Practice. (1) SCOPE AND LIMITATIONS. In providing patient services, the entire practice of any ~~physician's~~ physician assistant shall be under the supervision of a licensed physician. The scope of practice is limited to providing patient services specified in sub. (2). A ~~physician's~~ physician assistant's practice may not exceed his or her educational training or experience and may not exceed the scope of practice of the supervising physician. A task assigned by the supervising physician to a ~~physician's~~ physician assistant may not be delegated by the ~~physician's~~ physician assistant to another person.

(2) PATIENT SERVICES. Patient services a ~~physician's~~ physician assistant may provide include:

SECTION 10. Med 8.08 (1), (2) (intro.), (a), (b), (c), (d), (e) 1., 2. and 3. are amended to read:

Med 8.08 Prohibitions and limitations. (1) ACUPUNCTURE AND INDEPENDENT PRESCRIBING PROHIBITED. A ~~physician's~~ physician assistant may not practice acupuncture in any form and may not prescribe or dispense any drug independently. A supervising physician may direct a ~~physician's~~ physician assistant to prepare a prescription order according only to procedures specified in sub. (2).

(2) PRESCRIBING LIMITATIONS. A ~~physician's~~ physician assistant may prepare a prescription order only if all the following conditions apply:

(a) The ~~physician's~~ physician assistant prepares the prescription order only in patient situations specified and described in established written protocols. The protocol shall be reviewed at least annually by the ~~physician's~~ physician assistant and his or her supervising physician, ~~and~~.

(b) The supervising physician and ~~physician's~~ physician assistant determine by mutual agreement that the ~~physician's~~ physician assistant is qualified through training and experience to prepare a prescription order as specified in the established written protocols, ~~and~~.

(c) When practicable, the ~~physician's~~ physician assistant consults directly with the supervising physician prior to preparing a prescription order. In any case the supervising physician shall be available for consultation as specified in s. Med 8.10 (2), ~~and~~.

(d) The prescription orders prepared under procedures in this section contain, in addition to other information required by law, the name, address and telephone number of the supervising physician, the DEA registration number of the supervising physician if the prescription is prepared for a controlled substance, ~~and~~ the name and address of the ~~physician's~~ physician assistant, legibly printed, the DEA registration number of the physician assistant if the prescription is prepared for a controlled substance and if the physician assistant is registered with DEA, and the signature of the ~~physician's~~ physician assistant, ~~and~~.

(e) 1. Reviews and countersigns the prescription order prepared by the ~~physician's~~ physician assistant, ~~or~~.

2. Reviews and countersigns within one day the patient record prepared by the ~~physician's~~ physician assistant practicing in the office of the supervising physician or at a facility or a hospital in which the supervising physician has staff privileges, ~~or~~.

3. Reviews by telephone or other means, as soon as practicable but within a 48-hour period, and countersigns within one week, the patient record prepared by the ~~physician's~~ physician assistant who practices in an office facility other than the supervising physician's main office of a facility or hospital in which the supervising physician has staff privileges.

SECTION 11. Med 8.09 and 8.10 are amended to read:

Med 8.09 Employe status. No ~~physician's~~ physician assistant may be self-employed. If the employer of a ~~physician's~~ physician assistant is other than a licensed physician, the employer shall provide for, and may not interfere with, the supervisory responsibilities of the physician, as defined in s. Med 8.02 (6) and required in ss. Med 8.07 (1) and 8.10.

Med 8.10 Employment requirements; supervising physician responsibilities. (1) No physician may supervise more than 2 ~~physician's~~ physician assistants unless the physician submits a written plan for the supervision of more than 2 assistants and the board approves the plan. A ~~physician's~~ physician assistant may be supervised by more than one physician.

(2) Another licensed physician may be designated by the supervising physician to supervise a ~~physician's~~ physician assistant for a period not to exceed 8 weeks per year. Except in an emergency, the designation shall be made in writing to the substitute supervising physician and the ~~physician's~~ physician assistant. The supervising physician shall file with the board a copy of the substitution agreement before the beginning date of the period of his or her absence.

(3) The supervising physician or substitute supervising physician shall be available to the ~~physician's~~ physician assistant at all times for consultation either in person or within 15 minutes of contact by telephone or by 2-way radio or television communication.

(4) A supervising physician shall visit and conduct an on-site review of facilities attended by the ~~physician's~~ physician assistants at least once a month. Any patient in a location other than the location of the supervising physician's office shall be attended personally by the physician consistent with his or her medical needs.

SECTION 12. Med 8.11 is repealed.

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 & Contact Person

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

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

Notice of Hearing

Natural Resources

(Fish, Game, Chs. NR 1-)

Notice is hereby given that pursuant to ss. 29.155(1g) and 227.11(2)(a), Stats., interpreting s. 29.155(1j) and (1r), Stats., the Department of Natural Resources will hold a public hearing on the creation of s. NR 19.025, Wis. Adm. Code, relating to the waiver of approvals, fees and other requirements of ch. 29, Stats., for an educational, recreational skills activity. 1993 Wis. Act 217 allows the Department to waive fishing and hunting approval requirements for special events or programs that involve fishing or hunting and that are sponsored or approved by the Department. It further allows the Department, by rule, to waive conditions, limitations or restrictions of ch. 29, Stats., for these activities.

The proposed rule establishes the procedures to be followed and the conditions, limitations and restrictions required of a sponsor to obtain a waiver of portions of ch. 29, Stats., for conducting an education, recreational fishing or hunting skills activity. The rule only allows the waiver of approval fees for individuals who are novice hunters or fisher persons. Individuals can only participate in the program if they have less than two years of hunting or fishing experience.

Initial Regulatory Flexibility

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.

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

April 16, 1996
Tuesday
at 11:00 a.m.

Room 717, GEF #2
101 S. 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 Gerald Meronk at (608) 266-4539 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 Mr. Gerald Meronk, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707 no later than **April 19, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [LE-16-95] and fiscal estimate may be obtained from Mr. Meronk.

Fiscal Estimate

Fiscal Impact. We assume that this proposal will only affect novices in hunting and fishing who do not currently purchase hunting or fishing approvals. Therefore there will be no loss of current revenue. We assume there will be less than 100 skills activities events per year. If processing the application takes 1 hour per application, then the administrative cost to the department will be \$2,000.00 (100 events X 1 hr. x \$20/hr.). The department can handle this proposal under its current appropriation.

Notice of Hearing

Natural Resources

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

Notice is hereby given that pursuant to ss. 30.635 and 227.11(2)(a), Stats., interpreting s. 30.635, Stats., the Department of Natural Resources will hold a public hearing on the creation of s. NR 5.21(2), Wis. Adm. Code, relating to waiver of the slow-no-wake speed restriction on Lake Buteau, Lincoln County. On October 27, 1995, the Department received a petition from 60 citizens for waiver of the slow-no-wake speed restriction on Lake Buteau. Section 30.635, Stats., provides that on lakes 50 acres or less having public access, motorboats may not be operated in excess of slow-no-wake speed. Lake Buteau is 49 acres. The proposed rule would allow the use of motorboats on Lake Buteau for high speed boating and waterskiing.

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.

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

April 25, 1996
Thursday
at 4:30 p.m.

Board Room
Lincoln Co. Courthouse
1110 E. Main St.
Merrill

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 William Engfer at (608) 266-0859 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 Mr. William Engfer, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707 no later than **April 29, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [LE-25-96] and fiscal estimate may be obtained from Mr. Engfer.

Fiscal Estimate

This proposal would neither increase or decrease enforcement on the lake. The department can carry out this rule within its current appropriation.

Notice of Hearing

Natural Resources

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

Notice is hereby given that pursuant to ss. 30.635 and 227.11(2)(a), Stats., interpreting s. 30.635, Stats., the Department of Natural Resources will hold

a public hearing on the creation of s. NR 5.21(2), Wis. Adm. Code, relating to waiver of the slow-no-wake speed restriction on Moody Lake, Oconto County. On October 12, 1995, the Department received a petition from the Town of Breed, Oconto County for waiver of the slow-no-wake speed restriction on Moody Lake. Section 30.635, Stats., provides that on lakes 50 acres or less having public access, motorboats may not be operated in excess of slow-no-wake speed. Moody Lake is 18 acres. The proposed rule would allow the use of motorboats on Moody Lake for high speed boating and waterskiing during the hours of 10:00 a.m. to 4:00 p.m.

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.

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

May 9, 1996
Thursday
at 4:30 p.m.

Room 1004
Oconto Co. Courthouse
301 Washington St.
Oconto

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 William Engfer at (608) 266-0859 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 Mr. William Engfer, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707 no later than **May 17, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [LE-28-96] and fiscal estimate may be obtained from Mr. Engfer.

Fiscal Estimate

This proposal would neither increase or decrease enforcement on the lake. The department can carry out this rule within its current appropriation.

Notice of Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.085, 29.174(3), 29.33(1) and (7) and 227.11(2)(a), Stats., interpreting ss. 29.085 and 29.174(2)(a), Stats., the Lake Michigan and Lake Superior Commercial Fishing Boards will hold public hearings on the amendment of s. NR 25.08(3)(b), Wis. Adm. Code, relating to the transfer of individual licensee catch quotas upon the death or incapacity of the quota holder. This amendment adopts a more liberal rule for quota transfers upon the death or disability of a commercial fisher.

If a designated transferee or immediate family member fails to meet one or more of the quota transfer eligibility criteria, other than initially lacking the \$5,000 minimum investment or the 2 years' crew experience, this proposed rule allows the Department of Natural Resources to transfer the quota to the person but hold the quota in abeyance for up to 2 years, giving the person time to qualify for the quota transfer. In cases where it is apparent to the Department that the person cannot possibly qualify within 2 years, the Department would be able to offer the quota to the next person in line without waiting for the 2-year abeyance period to end. This amendment makes it less

likely that a deceased or incapacitated fisher's quotas will be extinguished for lack of a qualified transferee.

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.

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

April 16, 1996
Tuesday
at 5:00 p.m.

Classroom E143
UWC-Manitowoc County
705 Viebahn
Manitowoc

April 18, 1996
Thursday
at 5:00 p.m.

County Board Room
Bayfield Co. Courthouse
117 E. Fifth St.
Bayfield

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 William Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Fiscal Estimate

There is no fiscal effect.

Written Comments

Written comments on the proposed rule may be submitted to Mr. William Horns, Bureau of Fisheries Management, P.O. Box 7921, Madison, WI 53707 no later than **April 29, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FM-7-96] and fiscal estimate may be obtained from Mr. Horns.

Notice of Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.085, 29.174(3), 29.33(1) 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 the amendment of s. NR 25.04(2)(b), Wis. Adm. Code, relating to the transfer of Great Lakes commercial fishing licenses upon the death or incapacity of the licensee. The proposed rule adopts a more liberal rule for license transfers upon the death or incapacity of a commercial fisher. The proposed rule allows a designated transferee or immediate family member who initially lacks the \$5,000 minimum investment or the 2 years' crew experience to receive the license and retain it for up to 2 years. During that period, the person could use the license and either meet the criteria needed to retain the license or arrange to transfer the license to a qualified third party recipient.

In addition, if a designated transferee or immediate family member fails to meet one or more of the other license transfer eligibility criteria, the amendment allows the Department to transfer the license to the person but hold the license in abeyance for up to 2 years, giving the person time to qualify for licensing. In cases when it is apparent to the Department that the person cannot possibly qualify within 2 years, the Department would be able to offer the license to the next person in the order without waiting for a 2-year abeyance period to end. This amendment makes it less likely that a deceased

or incapacitated fisher's license will be extinguished for lack of a qualified transferee.

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.

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

April 16, 1996
Tuesday
at 5:00 p.m.

Classroom E143
UWC-Manitowoc County
705 Viebahn
Manitowoc

April 18, 1996
Thursday
at 5:00 p.m.

County Board Room
Bayfield Co. Courthouse.
117 E. Fifth St.
Bayfield

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 William Horns at (608) 266-8782 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 Mr. William Horns, Bureau of Fisheries Management, P.O. Box 7921, Madison, WI 53707 no later than **April 29, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FM-11-96] and fiscal estimate may be obtained from Mr. Horns.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

Natural Resources
(Environmental Protection-
General, Chs. NR 100-)
(Environmental Protection-
Investigation & Remediation,
Chs. NR 700-)

Notice is hereby given that pursuant to ss. 144.76 and 227.11(2)(a), Stats., interpreting s. 144.76, Stats., the Department of Natural Resources will hold public hearings on the repeal of chs. NR 158 and 705, amendments to chs. NR 700, 708, 712, 716, 722, 724 and 726, and the creation of ch. NR 706, Wis. Adm. Code, relating to hazardous substance discharge notification requirements and source confirmation. Chapter NR 706 will clarify that if a substance is discharged that does not fall within the definition of a "hazardous substance" because it poses no actual threat to human health or safety or the environment, then no notification is required. Chapter NR 706 also provides that if a hazardous substance is discharged, but is not discharged to the environment, then no notification is required.

Chapter NR 706 incorporates three notification exemptions for discharges that are immediately cleaned up or evaporate before they can be cleaned up: specific de minimis quantities for petroleum-based products;

specific de minimis quantities for fertilizers and pesticides; and the use of federally listed reportable quantities. For discharges that fall into one of these three exemptions, no notification is required if the discharge is immediately cleaned up, or if such a small quantity is discharged that it evaporates before a timely clean up can be accomplished, unless there is reason to believe that the discharge poses a threat to human health or safety or the environment. If there is reason to believe that the discharge will pose a threat to human health or safety or the environment, then the Department must be notified, regardless of the quantity discharged.

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.

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

April 15, 1996
Monday
at 11:30 a.m.

Conf. Rooms A & B
Portage Co. Cthse.
1516 Church St.
Stevens Point

April 15, 1996
Monday
at 4:30p.m.

Meeting Room 1
Outagamie Co. Cthse.
Admin. Bldg.
410 S. Walnut St.
Appleton

April 18, 1996
Thursday
at 11:30 a.m.

Room 140
DNR Southeast Dist. Hdqrs.
2300 N. Martin Luther King Jr. Dr.
Milwaukee

April 23, 1996
Tuesday
at 4:30 p.m.

Large Room
Ag. Research Station
Route 2
Spooner

April 24, 1996
Wednesday
at 11:30 a.m.

Room 2550
Eau Claire Co. Cthse.
721 Oxford Ave.
Eau Claire

April 25, 1996
Thursday
at 11:30 a.m.

Room 305
GEF #3
125 S. Webster St.
Madison

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 Robin Schmidt at (608) 267-7569 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. Robin Schmidt, Bureau of Solid and Hazardous Waste Management, P.O. Box 7921, Madison, WI 53707 no later than **April 30, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [SW-13-96] and fiscal estimate may be obtained from Ms. Schmidt.

Fiscal Estimate

A significant number of spills related to petroleum and agrichemicals will no longer need to be reported based on this new rule. Therefore, the work associated with recording the spills, completing the notification forms and

entering the information into the data base will be reduced proportionately. The workload associated with answering technical questions from spillers will continue, however, the information will no longer be processed into our tracking system/data base. There should not be any fiscal impact to local governments.

Notice of Hearing Regulation and Licensing

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2) and 480.08 (6), Stats., and interpreting s. 480.08 (6), Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to create ch. RL 128, relating to continuing education requirements by registered auctioneers.

Hearing Information

**April 22, 1996
Monday
10:00 A.M.**

**Room 180
1400 East Washington Ave.
Madison, WI**

Written Comments

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

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

Written comments must be received by **May 6, 1996** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation & Licensing

Statutes authorizing promulgation: ss. 227.11 (2) and 480.08 (6)

Statute interpreted: s. 480.08 (6)

In this proposed rule-making order, the Department of Regulation and Licensing sets forth policies and procedures relating to the satisfaction of continuing education requirements by registered auctioneers. It also sets forth policies and procedures relating to the approval of instructors and courses which satisfy the continuing education requirements.

Section RL 128.01 sets forth the authority for the proposed rules. These proposed rules were developed with the advice and recommendations of the Auctioneer Board and the Board supports this proposed rule-making order.

Section RL 128.02 establishes a one-time 9-hour continuing education requirement which all registered auctioneers would be required to satisfy prior to the first renewal of their registration, except that auctioneers who initially register less than 6 months before the renewal date would have until the following renewal date to complete the requirement. This section also defines "hour," permits instructors to receive credit for instructing, permits the Department to extend the time for completing the education to those who fall under at least one of 3 conditions stated in the rule, requires auctioneers to certify completion of the education at the time of renewal and prohibits the Department from renewing the registration of an auctioneer who has not completed the education.

Section RL 128.03 breaks the 9 hours of required continuing education into three 3-hour courses and requires auctioneers to successfully complete each 3-hour course. This section also requires auctioneers to successfully complete an examination administered by an approved school at the end of the course. This section describes the number and type of examination questions, states the minimum passing score and states several other conditions relating to the examination requirement.

Section RL 128.04 sets forth policies and procedures relating to approval of courses and instructors. It states conditions concerning the availability of

courses, monitoring attendance, evaluating courses, conducting examinations at the end of courses, and conducting courses without the instructor physically present in the classroom. Finally, this section states 3 qualifications, one of which must be met by an individual who wishes to be approved by the Department to teach the continuing education courses.

Section RL 128.05 sets forth the requirement that auctioneers must attend all the required hours and successfully complete the course examination in order to receive credit for attending a course. Program providers must give a certificate of completion to each auctioneer who successfully completes a course. Program providers must retain attendance records and certification of completion records for at least 5 years after courses have been conducted.

Text of Rule

SECTION 1. Chapter RL 128 is created to read:

Chapter RL 128 EDUCATIONAL PROGRAM

RL 128.01 Authority. The following rules are adopted pursuant to ss. 227.11 (2) and 480.08 (6), Stats.

RL 128.02 Education requirements prior to first renewal. (1) Every registered auctioneer shall complete at least 9 hours in an educational program prior to the first renewal date of the registration under s. 440.08 (2) (a), Stats., except that a registered auctioneer who is initially registered less than 6 months prior to the first renewal date shall complete the educational program prior to the date for the second renewal of the registration under s. 440.08 (2) (a), Stats.

(2) An hour consists of a period of 50 minutes of actual classroom instruction and shall not include time spent in writing examinations.

(3) A registered auctioneer may attend approved courses of one or more program providers in order to complete the courses which are part of the educational program.

(4) A registered auctioneer who acts as an instructor of an approved educational program or course shall receive credit toward satisfaction of the registered auctioneer's educational requirement. The registered auctioneer may not receive credit for teaching a specific course more than one time.

(5) The department may grant an extension of time for completion of the educational program by a registered auctioneer and the registered auctioneer may obtain a renewal registration for the extension period granted for one of the following:

(a) Health reasons which prevented attendance at the educational program, course or examination.

(b) Active duty in the military service with assignment to a duty station outside Wisconsin.

(6) A registered auctioneer shall certify that he or she has met the educational requirements when applying for renewal of the registration. The department shall deny the renewal application until the certification is provided.

(7) To audit for compliance, the department may require any registered auctioneer to submit evidence of completion of 9 hours in an approved educational program for the period specified in sub. (1). Every registered auctioneer shall retain evidence of completion for at least 5 years from the date of completion.

RL 128.03 Courses; examinations. (1) **COURSES.** The educational program shall consist of 3 courses and shall cover all of the topics under each paragraph title, be presented during no less than the number of hours stated after each paragraph title, and include:

(a) *Course A.* 3 hours.

1. Auction contracts.
2. Trust accounts.
3. Conduct.

(b) *Course B.* 3 hours.

1. Registration requirements.
2. Advertising.

(c) *Course C.* 3 hours.

1. Real estate auctions.
2. Federal and state laws related to auctions.

(2) **EXAMINATIONS.** A program provider shall give a written examination subsequent to the completion of instruction of each course or

combination of courses. A registered auctioneer, except a registered auctioneer who teaches a course, shall pass the examination in order to successfully complete the course. The examination shall consist of at least 5 multiple-choice questions for each hour of instruction. The program provider shall design the examination so that a person who is competent to protect the public when practicing as an auctioneer would achieve a score of 70% or more. A registered auctioneer who fails to achieve a passing score on an examination shall be permitted to retake the examination within a reasonable time as determined by the program provider. A registered auctioneer who twice fails an examination shall not be credited with having completed the course and is required to retake the course.

RL 128.04 Approval of educational programs; courses and instructors. (1) A program provider seeking initial approval from the department of an educational program or a course shall submit its application on a form provided by the department prior to the first date the program or course is offered. The program provider shall include a designation of the courses to be provided, name and outline, name and qualifications of the instructors, date, time segments, and location. The department shall notify the provider whether the program or course has been approved or denied within 20 business days from the date the application is received.

Note: Applications for educational program and course approval are available from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(2) The educational program and courses shall be available to all registered auctioneers regardless of membership in any organization.

(3) Program providers shall agree to monitor attendance at the beginning and end of each course and to furnish each participant successfully passing the applicable examination written evidence of having completed the course. Program providers shall retain copies of attendance records and evidence of completion of the courses by registered auctioneers for at least 5 years from the date the courses were presented.

(4) Program providers shall agree to distribute course evaluation survey forms to registered auctioneers who attend the courses offered by the providers. Program providers shall retain the originals of the completed forms for at least 12 months after the date of completion of the course and, upon request from the department, make them available to the department.

(5) Program providers shall agree to conduct an examination at the end of each course or combination of courses, as provided in s. RL 128.03 (2).

(6) Program providers shall agree not to make the questions or answers to the questions available to registered auctioneers before they take a specific examination. Program providers shall keep tests and answer sheets in a secure location at all times before and after administration of the examination, including during construction and printing.

(7) Program providers shall make arrangements so that when instruction is provided by some means without the instructor physically present in the classroom and the students are unable to interact with the person doing the instructing another approved instructor will be present in the classroom. If the students are able to interact with the person doing the instructing, then a monitor, but not necessarily an approved instructor, shall be present.

(8) Course instructors shall be approved by the department. An instructor whose auctioneer registration has been limited, suspended or revoked may not instruct in approved courses while the disciplinary action is in effect. An approved instructor shall possess at least one of the following qualifications:

(a) Be an auctioneer registered in this state who is currently practicing auctioneering, and who has engaged in such practice for at least 5 years.

(b) Be an attorney who is engaged in the field of auctioneering-related law.

Note: Applications for approval of instructors are available from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

RL 128.05 Certification of completion of courses. (1) **COMPLETION REQUIREMENTS.** A registered auctioneer shall attend all the required hours and satisfactorily complete the course examination administered by the program provider before the program provider may give a certificate of completion to the registered auctioneer.

(2) **CERTIFICATION OF COMPLETION.** Program providers shall provide an individual certificate of completion to all registered auctioneers upon satisfactory completion of courses.

(3) **RETENTION OF RECORDS.** Program providers shall retain attendance records and a record of registered auctioneers who have been provided a certificate of completion for at least 5 years after the course has been conducted.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

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

Notice of Proposed Rule Commissioner of Securities

Notice is hereby given that pursuant to ss. 551.63(1) and 551.22(7), Stats., and interpreting s. 551.22(7), Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the Office of the Commissioner of Securities will adopt the following rule as proposed in this notice, without public hearing unless, within 30 days after publication of this notice on **April 1, 1996**, the Office of the Commissioner of Securities is petitioned for a public hearing by 25 natural persons who will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Analysis Prepared by the Office of the Commissioner of Securities

This rule designates the Chicago Stock Exchange as a national securities exchange qualifying for registration exemption status under the "trading marketplace" exemption in s. 551.22(7) Stats., but only with respect to "Tier 1" securities listed and traded on that exchange. Rule changes have been proposed by the Chicago Stock Exchange, subject to approval by the U.S. Securities and Exchange Commission ("SEC"), to create a two-tier structure for listings. The rule changes would increase the Chicago Stock Exchange's quantitative and qualitative listing standards and requirements for purposes of Tier 1 securities listed thereon so as to be equivalent to the listing standards and requirements employed by: (i) the American Stock Exchange (which for some years has been an exchange specified in s. 551.22(7), Stats.); (ii) by the National Association of Securities Dealers NASDAQ/National Market System (that was added to s. 551.22(7), Stats., in legislation during 1990); and (iii) by the Pacific and the Philadelphia Stock Exchanges that were designated as qualifying exchanges for purposes of s. 551.22(7), Stats.,—but only with respect to Tier 1 securities traded thereon—in this Office's 1995 rule revision process in rules that became effective January 1, 1996. By specifying in this rule that the exemption exists only for the Chicago Stock Exchange Tier 1 listed securities, the securities listed on that Exchange's Tier 2 —which have appreciably lower quantitative and qualitative standards—will not qualify for use of the exemption.

The rule contains language which provides that its effectiveness is conditional upon the Chicago Stock Exchange's proposed rule changes with regard to its Tier 1 securities being approved by the SEC. The rule also contains language which provides that its effectiveness is conditional upon a Memorandum of Understanding ("MOU") being entered into and being in

force and effect between the Chicago Stock Exchange and the North American Securities Administrators Association, Inc. ("NASAA") on behalf of its member jurisdictions. The MOU provides the framework for consideration by individual NASAA member jurisdictions to grant securities registration exemption status under their respective "trading marketplace" exemptions [s. 551.22(7) in Wisconsin] on the basis that under the MOU:

(1) The Chicago Stock Exchange has established listing and maintenance standards, as well as specified corporate governance provisions, all as published in rules approved by the U.S. Securities and Exchange Commission, for equity securities to qualify for trading on Tier 1 of that Exchange that are equivalent to the standards and requirements currently applied by the American Stock Exchange, by the NASDAQ/NMS, and by the Pacific and the Philadelphia Stock Exchanges (for Tier 1 securities traded thereon); and

(2) A decertification/termination process is established whereby the Commissioner can decertify/terminate the designation of the Chicago Stock Exchange as qualifying for registration exemption status under s. 551.22(7), Stats., by issuance of an order upon a determination that the requirements for listing or maintenance have been so changed or insufficiently applied that the protection of investors contemplated by the exemption designation no longer exists. Additionally, the Commissioner by order can deny or revoke exemption status with respect to a specific issue of securities or category of securities. The MOU establishes the procedure to be followed with respect to the decertification/termination process, including notice of and opportunity for hearing, written findings of fact and conclusion of law, and judicial review.

Text of Rule

SECTION 1. SEC 2.01(3)(e) is created to read:

SEC 2.01(3)(e) The Chicago stock exchange is designated as a national securities exchange qualifying for registration exemption status under s. 551.22(7), Stats., but only with respect to Tier 1 securities listed on that exchange, provided that proposed rule changes with respect to its Tier 1 securities are approved by the U.S. Securities and Exchange Commission, and provided that a Memorandum of Understanding is entered into and is in force and effect between the Chicago stock exchange and the North American Securities Administrators, Inc. The designation is subject to the authority of the commissioner to revoke the designation by order based upon a determination that the exchange's requirements for listing or maintenance for Tier 1 securities as contained in the Memorandum of Understanding and as published in the Commerce Clearing House NASAA Reports, have been so changed or insufficiently applied that the protection of investors contemplated by the exemption no longer exists. The commissioner also may deny or revoke, by order, registration exemption status accorded by this paragraph with respect to a specific issue of securities or category of securities on the exchange. The issuance of any order by the commissioner under this paragraph shall be in accordance with the provisions of the Memorandum of Understanding relating to notice of and opportunity for hearing, written findings of fact and conclusions of law, and judicial review.

Fiscal Estimate

This rule will not have any anticipated fiscal effect on annual agency registration and/or exemption fee revenue. A copy of a full fiscal estimate may be obtained upon request to the Office of the Commissioner of Securities, 101 East Wilson Street, 4th Floor, P.O. Box 1768, Madison, WI 53701.

Initial Regulatory Flexibility Analysis

This rule amendment will only affect small business in the context of making a public offering of securities. Namely, a small business that obtains a listing for its securities on Tier 1 of the Chicago Stock Exchange can realize the benefits of this rule that exempts such an offering from the need to go through the securities registration, filing and review process under the Wisconsin Uniform Securities Law.

Contact Person

For additional information, or if there are questions concerning the proposed rule, contact Randall E. Schumann, General Counsel, Office of the Commissioner of Securities, 101 East Wilson Street, 4th Floor, P.O. Box 1768, Madison WI 53701. (608) 266-3414.

Notice of Hearing

Tourism

Notice is hereby given that pursuant to s. 41.17 (4) (g), Stats., the Wisconsin Department of Tourism will hold a hearing to consider a proposed order to amend s. Tour 1.02 (6) and 1.03 (3) (a), (b), (d) and (e) and (4) and 1.05 (3) (d) to (f) and to create ss. Tour 1.02 (3m) and 1.03 (3) (f) and (3m) relating to the joint effort marketing program at the following place and time: **Department of Tourism, Room 6, 123 West Washington Avenue, Madison, Wisconsin on Thursday, April 11, 1996 at 10:00 a.m.**

Analysis Prepared by the Department of Tourism

Section s. 41.17, Stats., creates a joint effort marketing program and s. 41.17 (4) (g), Stats., authorizes the Department to adopt rules required to administer the program. The program provides for grants to non-profit organizations engaged in tourism activities. Grant funds may be used for the development of publicity, the production and media placement of advertising and direct mailings that are part of a project and overall advertising plan of the applicant organization intended to increase tourism in Wisconsin.

The proposed rule defines an "event" and changes the definition of a "project" by identifying 5 specific types of projects (a new event, new target marketing, new advertising media, sales promotion and one time one of a kind projects).

The proposed rule also specifies the maximum funding available for each project type. During a first year of funding, each of the project types other than the one time one of a kind projects are eligible for the same funding as is provided under existing rules. The one time one of a kind projects are eligible to receive one time funding up to a maximum of 5% of the fiscal year budget for joint effort marketing grants. A sales promotions is eligible for a maximum of two years of funding.

Projects that relate to existing events including new target marketing and new advertising media are limited to one year of funding unless the Department determines that a second year is necessary because severe weather, some other natural event or act of God had a substantial negative impact upon the prior year operation of the event. Under the proposed rules more stringent standards are created for the required determinations related to increased travel and economic impact for first year funding of a project related to an existing event. To fund these projects related to existing events, the Department must make a determination that the increased travel and economic impact generated by the project substantially exceeds the economic impact and travel previously generated by the event to which the project relates.

The proposed rule provides that an eligible applicant may receive funding for no more than one project for any event. A recipient of funding for a sales promotion may not apply for another sales promotion until the third fiscal year following receipt of the prior sales promotion grant.

Finally, the proposed rule requires that all income earned by an event supported by a joint effort marketing grant be used to finance the event.

Initial Regulatory Flexibility Analysis

Notice is hereby given that pursuant to s. 227.14, Stats., the proposed rule will have minimal impact on small businesses. The initial regulatory flexibility analysis as required by s. 227.17 (3)(f), Stats., is as follows:

- 1) Type of small business affected by the rule: None.
- 2) The proposed reporting, bookkeeping and other procedures required for compliance with the rule: None.
- 3) The types of professional skills necessary for compliance with the rule: None.

Fiscal Estimate

The proposed rule has no fiscal effect.

Contact Person

Dennis Fay, General Counsel, 608/266-6747.

Text of Rule

Pursuant to the authority vested in the Department of Tourism, by s. 41.17 (4) (g), Stats., and interpreting s. 41.17, Stats., the Department hereby amends and creates rules as follows:

SECTION 1. Tour 1.02 (3m) is created to read:

TOUR 1.02 (3m) "Event" means an activity or group of activities sponsored by a non-profit organization that occur within an identified period of limited duration and which are likely to attract the interest of visitors from outside of the local area where the activities are conducted.

SECTION 2. Tour 1.02 (6) is amended to read:

Tour 1.02 (6) "Project" means an activity the purpose of which is to increase tourism, which includes any of the development of publicity, and the development and media placement of advertising, or direct mail and, which is a part of the advertising plan of the applicant, and which is described in par. (a), (b), (c), (d) or (e).

(a) The project publicizes an event which has never before been held in the community or area, which the applicant intends to repeat regularly and which is beyond the scope of the daily operations of the applicant.

(b) The project involves the placement of advertising in a geographic area where advertising for the event has not previously been placed or the placement of advertising which reaches a demographic audience not previously reached.

(c) The project involves the placement of advertising in a media where advertising for the event has not previously been placed.

(d) The project involves a sales promotion that offers a significant incentive during a limited period of time intended to persuade the targeted customer to visit the community or area.

(e) The project publicizes a one time one of a kind event of major significance and which has the potential to generate media coverage at least throughout the midwest.

SECTION 3. Tour 1.03 (3) (a), (b), (d) and (e) are amended to read:

Tour 1.03 (3) (a) ~~No~~ For projects described in s. Tour 1.02 (6) (a) to (d), no more than 7% of the joint effort marketing fiscal year budget.

(b) No more than 50% of the project's related event's fiscal year budget.

(d) ~~No~~ For projects described in s. Tour 1.02 (6) (a) to (d), no more than 50% of the eligible advertising expenses for the second year a project receives funds under this chapter.

(e) ~~No~~ For a project described in s. Tour 1.02 (6) (a), no more than 25% of the eligible advertising expenses for the third year a project receives funds under this chapter.

SECTION 3. Tour 1.03 (3) (f) is created to read:

Tour 1.03 (3) (f) For a project described in s. Tour 1.02 (6) (e) no more than one time funding for not more than 5% of the joint effort marketing fiscal year budget.

SECTION 4. Tour 1.03 (3m) is created to read:

TOUR 1.03 (3m) The department may provide funding for one project per event.

SECTION 4. Tour 1.03 (4) is amended to read:

TOUR 1.03 (4) A project described in s. Tour 1.02 (6) (a), may receive up to 3 years of funding, and the 3 years are not required to be consecutive. A project described in s. TOUR 1.02 (6) (d), may receive up to 2 consecutive years of funding. A recipient of funding for a project described in s. Tour 1.02 (6) (d) may apply for another project under s. Tour 1.02 (6) (d) no earlier than the third fiscal year following the fiscal year during which funding was granted. Projects described in s. Tour (6) (b) and (c) are limited to one year of funding unless the department determines that a second year of funding is necessary because severe weather, some other natural event or act of God had a substantial negative impact upon the prior year operation of the event. For each year of funding requested, an application shall be submitted and a determination made as provided under this chapter.

SECTION 5. Tour 1.05 (3) (d) to (f) are amended to read:

Tour 1.05 (3) (d) That the proposed project will generate increased ~~travel~~ visitors into or within the state, and if the project relates to an existing event that the increase is substantial in comparison to the visitors previously generated by the event.

(e) The applicant has the ability to finance its share of the cost of the project, and all income generated by the event publicized by the project is being used to finance the event.

(f) That the project will make a positive economic impact in the local area, and if the project relates to an existing event that the impact is substantial in comparison to the impact previously produced by the event.

Notice of Hearings

Department of Transportation

Notice is hereby given that pursuant to ss. 85.16(1), 218.01(5)(c), 227.11(2) and 342.34(3m), Stats., and interpreting ss. 218.01(3)(a), (5)(c) and (7a), 340.01(18p), (25r), (28e) and (55g), 342.10, 342.15, 342.16 and 342.34, Stats., the Department of Transportation will hold public hearings at the following locations to consider the amendment of ch. Trans 139, Wis. Adm. Code, relating to motor vehicle trade practices:

May 7, 1996
Tuesday
10:00 a.m.

Portage County Public Library
1001 Main Street
Stevens Point, WI

May 9, 1996
Thursday
1:30 p.m.

Room 144-B, Hill Farms State
Transportation Building
4802 Sheboygan Avenue
Madison, Wisconsin

The public record on this proposed rule making will be held open until **June 7, 1996**, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Joan Loden, Department of Transportation, Division of Motor Vehicles, Dealer Section, Room 806, P. O. Box 7909, Madison, WI 53707-7909.

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

A copy of the proposed rule may be obtained upon request from Ms. Loden at the above address, or by calling (608) 267-0404. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396.

NOTE: This hearing is being conducted at 2 locations in order to give the public greater opportunity to present its facts, arguments and opinions. The records from both locations will be combined into a single Hearing Record on which the Department will base its decisions. Individuals need only attend one of the public hearings for their testimony to be fully considered.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 218.01(5)(c), 227.11(2) and 342.34(3m)

STATUTES INTERPRETED: ss. 218.01 (3) (a), (5)(c) and (7a), 340.01(18p), (25r), (28e) and (55g), 342.10, 342.15, 342.16 and 342.34

General Summary of Proposed Rule. The proposed changes to ch. Trans 139 are in response to the following:

- 1993 Wisconsin Act 63, the Title Branding Law, which took effect June 1, 1994, created permanent brands on vehicle titles that provide historical information about the vehicle. This information, whether it appears on the dealer's title to the vehicle or will appear on the new owner's title, is an important and valuable disclosure to a potential buyer. This affects the pre-sale disclosure of a used vehicle's history required by this proposed rule.

- Chapter Trans 305 took effect March 1, 1996, and replaced MVD 5. This affects vehicle equipment disclosures required by this rule.

- A Department team with industry representation recommended making other changes to the Used Vehicle Disclosure Label to improve readability and understandability, and to reflect changes that have taken place in the industry, including changes in automotive technology and sales practices.

The proposed rule amends ch. Trans 139 in the following ways:

- **Definitions for vehicle history and use disclosure** – New definitions are created for the purpose of disclosing a vehicle's history and use. The history and use disclosure required by the rule is not limited to only those conditions that would require a brand.

- **Inspection standard** – The inspection standard a dealer will be held to is stated using plain language, replacing "ascertain as a result of reasonable diligence" with "find using reasonable care."

- **Junk vehicles** – Consistent with long-established Department policy, junk vehicles cannot be retitled and operated on the highways. Only salvage vehicles can be repaired and retitled.

●**Wisconsin Buyers Guide** – A plain language name for the used vehicle disclosure label will make it more apparent to consumers that the label and its contents is meant for them and will mirror the federal Buyers Guide. The “Wisconsin Buyers Guide” will continue to be completed in duplicate but the original will stay with the dealer, who is required to keep it for 5 years, and the copy will go to the consumer.

●**Title brands** – The history and prior use disclosures were expanded to include brands that are on the current title or will be on the new title as part of its pre-sale disclosure per the Title Branding Law.

●**Vehicle description** – Vehicle description requirements will provide more useful information to the potential buyer, including engine size, i.e., cubic inches or liters and number of cylinders, and drive type, i.e., front wheel, rear wheel or four wheel drive.

●**Warranty information** – Warranty information is expanded to better clarify the distinction between manufacturer and dealer warranties.

●**Unfair practice standard** – The Department standard for determining an unfair practice is stated as an item improperly reported that the dealer could have found using reasonable care if the item is reported to the dealer within 30 days.

●**Exclusions to disclosure requirement** – Exclusions to the requirement that a dealer complete and display a buyers guide for a vehicle were expanded to include heavy vehicles except motor homes, junk vehicles and unrepaired salvage vehicles. Junk and salvage vehicle disclosures are specified.

●**Odometer Statements** – Dealers are required to show the title to consumers and, if the dealer got title in their own name pursuant to ch. Trans 154, the dealer is required to show all prior owner odometer statements contained on other documents the dealer must retain.

Fiscal Estimate

One time costs will be incurred to produce a camera ready copy of the revised Wisconsin Buyers Guide for all interested forms vendors. This cost is minimal and can be absorbed under current programs.

Initial Regulatory Flexibility Analysis

No regulatory flexibility analysis was prepared since the proposed rule will have no adverse effect on small businesses beyond any effect imposed by the statutes.

Contact Person and Copies of Proposed Rule

This analysis was prepared by Joan Loden, Policy Analyst, Dealer Section, Wisconsin Department of Transportation, Room 806, P.O. Box 7909, Madison, Wisconsin 53707-7909; or by phone at (608) 267-0404. Copies of the proposed rule may also be obtained upon request, without cost, by writing to, or calling, Joan Loden at the address, or phone number, indicated above. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. **Alternate formats of the proposed rule will be provided to individuals at their request.**

Notice of Hearing

Department of Transportation

Notice is hereby given that pursuant to ss. 85.16(1) and 85.23, Stats., and interpreting s. 85.23, Stats., the Department of Transportation will hold a public hearing in **Room 88 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on Wednesday, the 17th day of April, 1996, at 9:00 AM**, to consider the amendment of ch. Trans 6, Wis. Adm. Code and the emergency rule amendment to ch. Trans 6, relating to administration of the federal Section 18 program.

The public record on this proposed rule making will be held open until April 19, 1996, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Don Chatfield, Wisconsin Department of Transportation, Division of Investment Management, Room 701, P. O. Box 7914, Madison, WI 53707-7914.

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

A copy of the proposed rule may be obtained upon request from Mr. Chatfield at the above address, or by calling (608) 266-3973. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1) and 85.23

STATUTE INTERPRETED: s. 85.23

General Summary of the Emergency and Proposed Rule. This proposed rule amends ch. Trans 6 to provide for a Governor's certification that the intercity bus needs of the state are being adequately met as is allowed by current federal guidelines.

Fiscal Effect

The Department estimates that this rule change will have a positive impact upon counties, cities, and villages which provide public transportation through the federal Section 18 program. A total of 43 municipal recipients of the funds would share approximately \$605,629 in additional 1996 funds, thereby reducing the need for local funds.

Initial Regulatory Flexibility Analysis

This proposed rule should have no significant adverse impact on small businesses.

Copies of Proposed Rule

Copies of this proposed rule or the emergency rule are available without cost upon request by writing to Don Chatfield, Wisconsin Department of Transportation, Division of Investment Management, Room 701, P. O. Box 7914, Madison, WI 53707-7914, or by calling (608) 266-3973. Alternate formats of the proposed rule will be provided to individuals at their request. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351.

Notice of Hearing

Veterans Affairs

Notice is hereby given that pursuant to ss. 45.35 (3) and 45.358 (3m), Stats., and interpreting ss. 45.358 and 45.37 (15), Stats., the Department of Veterans Affairs will hold a public hearing at the **Wisconsin Veterans Home, Marden Center, in the City of King, Wisconsin, on Friday, the 19th day of April, 1996 at 9:45 a.m.**

Analysis and Summary Prepared by the Department of Veterans Affairs

By creating ch. VA 14 Wis. Adm. Code the department establishes fees for burial at veterans cemeteries in the state of Wisconsin. The rules establish a \$250 fee for the burial of a dependent child, a spouse or an unremarried surviving spouse who does not reside at the Wisconsin Veterans Home at the time of death. No burial fee will be charged to a veteran, a guard or reserve member who qualifies for burial in the cemetery under s. 45.358, Stats., or a spouse of unremarried surviving spouse who dies while residing at the Wisconsin Veterans Home. In addition, if a funeral director does not provide and install a crypt liner, a \$150 charge will be assessed for a preset burial crypt liner for each burial.

Initial Regulatory Flexibility Analysis

This rule is not expected to have an adverse impact on small businesses.

Fiscal Estimate and Contact Person

A copy of the proposed rules and the full fiscal estimate may be obtained by writing to:

John Rosinski, (608) 266-7916
WI Dept. of Veterans Affairs
P.O. Box 7843
Madison, WI 53707-7843

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 (2)

Emergency Response Board

1. 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
Hearing Date: March 28, 1996

2. Rules adopted revising **ch. ERB 4**, relating to a fee for transporting hazardous material.

FINDING OF EMERGENCY

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

It is necessary to provide adequate protection against the risks to life and property inherent in the transportation of hazardous materials in commerce.

This emergency rule is being promulgated to allow continuation of the Wisconsin hazardous materials transportation registration program established in s. 166.20(7g), Stats. The State Emergency Response Board (SERB) promulgated a rule, **ch. ERB 4**, to implement the program. The original rule had a sunset date of June 30, 1995. A revised **ch. ERB 4** was promulgated December 1, 1995, but was superseded by statutory changes to s. 166.20(7g), Stats., enacted in the Department of Transportation (DOT) biennial budget.

The emergency rule will enable the DOT to collect registration fees for the billing period July 1, 1995 through June 30, 1996. This was agreed upon as a necessary step by several agencies including SERB, Division of Emergency Government and DOT in consultation with Legislative Council and Joint Committee For Review of Administrative Rules staff. Through this collection, DOT will meet the statutory requirement to collect an annual registration fee for the transport of hazardous materials. These fees are deposited to the State Transportation Fund to partially offset the DOT appropriations funding the level A and level B hazardous materials emergency response teams in Wisconsin. The legislature has supported the

emergency response team system in Wisconsin by adopting legislation to authorize teams and fund them through a combination of fees and the State Transportation Fund.

The SERB, the Department of Military Affairs—Division of Emergency Government and the Department of Transportation are jointly developing a permanent rule to reflect the statutory fee structure enacted by the legislature in the DOT 1995–97 biennial budget. It is expected a revised permanent rule will be promulgated later this year.

Publication Date: February 23, 1996
Effective Date: February 23, 1996
Expiration Date: July 22, 1996
Hearing Date: April 2, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Wisconsin Gaming Commission

1. 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

2. A rule was adopted amending **s. WGC 24.13 (1) (d)**, relating to simulcasting fees.

FINDING OF EMERGENCY

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

The previous fee of \$50 per performance made simulcasting cost prohibitive, and as a result, prevented the expansion of employment and residual economic benefits. The emergency rule will allow for the increased economic activity.

Publication Date: March 1, 1996
Effective Date: March 1, 1996
Expiration Date: July 29, 1996
Hearing Date: April 15, 1996

[See Notice this Register]

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 for 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 (4)

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 months 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

4. Rules were adopted revising chs. HSS 201 and 206, relating to pay for performance demonstration project under the AFDC program.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 12 (2) and (3) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.193 (3m) and (9m), 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 March 1, 1996.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Under s. 49.19, Stats, families inquiring about the Aid to Families with Dependent Children (AFDC) program are immediately encouraged to apply for assistance without exploring possible alternatives to welfare. Once determined eligible, many families come to consider the AFDC program a program of long-term financial support, sometimes spanning generations. Yet AFDC was originally meant to be a temporary, emergency program.

Wisconsin has obtained approval from the Food and Consumer Service of the U.S. Department of Agriculture and from the Administration for Children and Families of the U.S. Department of Health and Human Services to conduct a Pay for Performance (PFP) demonstration project beginning March 1, 1996. The major objective of the Pay for Performance demonstration project is to focus on freedom from public assistance by encouraging immediate attachment to the work force and helping families explore alternatives to AFDC before becoming dependent on AFDC. The demonstration project will be conducted statewide except in Dane, Dodge, Jefferson and Waukesha counties. In those counties individuals may be assigned to a control group which will be exempt from the demonstration project requirements to permit evaluation of the demonstration project. Statutory authority for the Department to operate two related demonstration projects, Self-Sufficiency First and Pay for Performance, was included in 1995 Wis. Act 12. Under the federal government's terms and conditions of approval for demonstration project, the Department is now calling the combined project Pay for Performance.

The first component of the Pay for Performance demonstration project encourages alternatives to AFDC through services of a financial planning resource specialist (FPRS) and up-front job search. This component is directed at helping applicants identify alternatives to AFDC, facilitating immediate orientation and referral to the Job Opportunities and Basic Skills (JOBS) program and requiring job search before receiving AFDC.

Cooperation is made an AFDC eligibility requirement. An individual who fails without good cause to cooperate with these requirements will be ineligible to receive AFDC benefits for himself or herself and his or her family.

For an individual who becomes an AFDC recipient after fulfilling the applicant job search requirements, there is a second component of the Pay for Performance demonstration project. This requires the JOBS case manager to design an employability plan for the recipient that focuses on employment at the earliest opportunity and requires the recipient to participate in a set number of hours of participation in JOBS program activities or work to maintain AFDC eligibility. Failure, without good cause, to maintain participation as assigned will result in sanctions in the next possible month based on the number of hours missed without good cause multiplied by the federal minimum wage. Failure to participate in at least 25% of the assigned hours will result in no AFDC benefits being paid for that month and a reduction to \$10 in food stamp benefits.

These are the rules for the implementation of the Pay for Performance demonstration project.

Publication Date: March 1, 1996
Effective Date: March 1, 1996
Expiration Date: July 29, 1996
Hearing Date: April 16, 1996
 [See Notice this Register]

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: May 9, 1996

EMERGENCY RULES NOW IN EFFECT

Insurance

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

EMERGENCY RULES NOW IN EFFECT

Public Instruction

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

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. 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

2. Rule was adopted amending **s. Trans 6.04 (1) (e)**, relating to the administration of the federal section 18 program.

FINDING OF EMERGENCY

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is that without a Governor's certification that the intercity bus service needs of the state are being adequately met, many small urban and rural transit systems will see sharp, unplanned reductions in the amount of financial assistance they receive in 1996. These cuts may result in service reductions, fare increases and the need for local governments to cover a higher share of operating losses than has been budgeted.

Publication Date: March 13, 1996
Effective Date: March 13, 1996
Expiration Date: August 10, 1996
Hearing Date: April 17, 1996

[See Notice this Register]

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

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

Administration (CR 95-234):

Ch. Adm 9 – Relating to contract administration fees and subscription service.

Health & Social Services (CR 95-143):

SS. HSS 110.01 to 110.10 – Relating to licensing of ambulance service providers, licensing of emergency medical technicians–basic (EMT’s–basic) and certification of EMT’s–basic to perform defibrillation.

Health & Social Services (CR 95-198):

Ch. HSS 182 – Relating to grants for prevention of lead poisoning or exposure to lead.

Health & Social Services (CR 95-208):

Ch. HSS 73 – Relating to conditions of hardship for granting an exception to limits on use of community long–term support funds to pay for services for residents of community–based residential facilities (CBRF’s).

Industry, Labor & Human Relations (CR 96-5):

Ch. Ind 80 – Relating to self–insurance application fees.

Industry, Labor & Human Relations (CR 96-6):

S. Ind 80.62 – Relating to the uninsured employers fund.

Insurance, Office of the Commissioner of (CR 96-10):

S. Ins 18.13 (5) – Relating to creating a network of providers for the Health Insurance Risk–Sharing Plan (HIRSP) who will provide services at a discount greater than that which is already mandated by statute.

Insurance, Office of the Commissioner of (CR 96-11):

S. Ins 18.07 (5) (b) and (bg) 1. and 2 – Relating to 1996–97 premium rates for the Health Insurance Risk–Sharing Plan (HIRSP).

Natural Resources (CR 95-12):

Ch. NR 323 – Relating to bird nesting and similar habitat structures in navigable waters.

Natural Resources (CR 95-149):

SS. NR 116.03, 116.12 and 116.13 – Relating to regulating camping in floodplain areas.

Natural Resources (CR 95-188):

Chs. NR 500 to 526 and ss. NR 150.03 and 605.05 – Relating to solid waste management.

Natural Resources (CR 95-192):

Chs. NR 400 to 499 – Relating to revision of the definition of volatile organic chemical (VOC); and to updating, clarification and corrective changes throughout the NR 400 series.

Natural Resources (CR 95-193):

Chs. NR 161, 162, 163 and 165 – Relating to financial assistance under the Clean Water Fund program.

Public Instruction (CR 95-157):

SS. PI 3.03, 3.39, 3.55, 3.57, 3.58 and 4.08 – Relating to substitute teacher permits, special education program aide licenses, principal licenses and general education components.

Regulation & Licensing (CR 95-163):

Chs. RL 80 to 87 and Appendix I – Relating to real estate appraisers.

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.

Development (CR 95-212):

An order affecting ss. DOD 15.03, 15.035, 15.04, 15.045, 15.05, 15.06, 15.07 and 15.08, relating to the community-based economic development program.

Effective 05-01-96.

Industry, Labor & Human Relations (CR 95-148):

An order amending ch. ILHR 145 (title) and s. ILHR 145.01, relating to active fresh perishable fruit and vegetable processing seasons.

Effective 05-01-96.

Public Defender (CR 95-219):

An order creating ss. PD 6.015, 6.025, 6.06, 6.07 and 6.08, relating to determining clients' ability to pay for the cost of legal representation, referring uncollected accounts to Department of Administration for collections and requiring the agency to provide written notice to clients of their repayment obligation.

Effective 04-01-96.

Public Defender (CR 95-224):

An order affecting s. PD 1.04 (5) and (7), relating to the certification of private attorneys for appellate cases and to the certification equivalent for staff attorneys.

Effective 05-01-96.

Public Defender (CR 95-230):

An order amending s. PD 3.02 (1), relating to cost of counsel, and s. PD 3.04 (1), relating to partial indigency.

Effective 05-01-96.

Transportation, Dept. of (CR 95-115):

An order affecting ch. Trans 131, relating to the motor vehicle inspection and maintenance program (MVIP).

Effective 05-01-96.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

The following administrative rule orders have been adopted and published in the March 31, 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.

Accounting Examining Board (CR 95-138):

An order affecting ss. Acy 3.04, 3.05, 3.055, 3.09, 3.11 and 4.035, relating to examinations, educational and graduation requirements, and late renewal.

Effective 04-01-96.

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

An order affecting ss. A-E 2.05, 3.05, 4.05, 4.06, 4.08, 5.04, 6.05, 9.05 and 10.05, relating to the examination review procedure, renewal of credentials, requirements for registration as a professional engineer and education as an experience equivalent for registration as a professional engineer.

Effective 04-01-96.

Banking, Office of the Commissioner of (CR 95-119):

An order affecting s. Bkg 3.05, relating to leasing of personal property.

Effective 04-01-96.

Banking, Office of the Commissioner of (CR 95-120):

An order affecting s. Bkg 3.01, relating to bank-owned banks, lending and depository authority.

Effective 04-01-96.

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.

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.

Industry, Labor & Human Relations (CR 94-132):

An order affecting chs. ILHR 2 and 13, relating to compressed natural gas.

Effective 04-01-96.

Insurance, Office of the Commissioner of (CR 94-24):

An order affecting ss. Ins 3.49, 4.10, 17.001, 18.05, 18.07, 18.12 & 18.15 and ch. Ins 5, relating to administrative procedures for contested cases under the jurisdiction of the Office of the Commissioner of Insurance and related boards.

Effective 04-01-96.

Insurance, Office of the Commissioner of (CR 95-154):

An order affecting s. Ins 3.25, relating to prima facie premium rates, basic loss ratios, guaranteed issue amounts of life insurance coverage, maximum age limitations and reporting of experience data connected with credit life and credit accident & sickness insurance.

Effective 04-01-96.

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.

Natural Resources (CR 95-102):

An order amending s. NR 165.06 (2) (b), (6) and (7) (a), relating to the interest rate subsidy for the small loan program.

Effective 04-01-96.

Natural Resources (CR 95-165):

An order amending s. NR 212.40, relating to water quality based allocations of pollutant discharges to waters of the state.

Effective 04-01-96.

Public Defender (CR 95-219):

An order creating ss. PD 6.015, 6.025, 6.06, 6.07 and 6.08, relating to determining clients' ability to pay for the cost of legal representation, referring uncollected accounts to Department of Administration for collections and requiring the agency to provide written notice to clients of their repayment obligation.

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.

Savings & Loan, Office of the Commissioner of (CR 95-114):

An order repealing and recreating s. SB 8.03, relating to liquidity levels required for savings banks.

Effective 04-01-96.

Savings & Loan, Office of the Commissioner of Banking, Office of the Commissioner of Credit Unions, Office of the Commissioner of (CR 95-214):

An order amending ss. Bkg 14.10, CU 63.10, S-L 12.10 and SB 12.10, relating to advertising the ownership of remote service units, customer bank communication terminals and remote terminals (collectively referred to as automatic transfer machines (ATM's)).

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.

Transportation, Dept. of (CR 95-201):

An order affecting s. Trans 4.06 (4), relating to the urban mass transit operating assistance program.

Effective 04-01-96.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Accounting Examining Board (CR 95-138)

Chs. Accy 3 & 4 – Examinations, educational and graduation requirements, and late renewal.

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.

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

Chs. A-E 2, 3, 4, 5, 6, 9 & 10 – Examination review procedure, renewal of credentials, requirements for registration as a professional engineer and education as an experience equivalent for registration as a professional engineer.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

3. Health & Social Services (CR 95-174)

S. HSS 157.035 – Fees for registration of ionizing radiation installations.

Summary of Final Regulatory Flexibility Analysis:

About 2,824 out of the 4,631 radiation installations in the state are small businesses, as “small business” is defined in s. 227.114 (1) (a), Stats. The small businesses are mainly dentists but there are also chiropractors, podiatrists and veterinarians, single physician offices and a few small industrial firms that do testing with radioactive material.

The rules increase the annual registration renewal fee. This is done to cover increased costs of the program and is authorized by s. 254.35 (3) (g), Stats.

This regulatory program is financed by fee revenues. The Department cannot charge small businesses a lower registration renewal fee per x-ray device when the lower fee is unrelated to lower inspection costs without unfairly shifting program costs to radiation installations that are not small businesses.

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

No comments were received from small businesses about the fee increases during public review of the proposed rules.

Summary of Comments of Legislative Standing Committees:

No comments were received.

4. Industry, Labor & Human Relations (CR 94-132)

Chs. ILHR 2 & 13 – Compressed natural gas.

Summary of Final Regulatory Flexibility Analysis:

Sections 101.02 (1) and (15) (a) and 101.12 (1), Stats., give the department authority to adopt rules for the design, construction, location, installation, operation, repair and maintenance of compressed natural gas equipment and systems. The proposed rules of Clearinghouse Rule No. 94-132 are minimum requirements to provide the needed level of safety, and any exceptions from compliance would be contrary to the statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees:

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

5. Insurance (CR 95-154)

S. Ins 3.25 – Credit insurance rates and underwriting.

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.

6. Insurance (CR 94-24)

Chs. Ins 3, 4, 5, & 18 – Administrative procedures for contested cases under the jurisdiction of OCI and related boards.

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:

The legislative standing committees had no comments on this rule.

7. Medical Examining Board (CR 95-78)

Ch. Med 19 – Occupational therapists and occupational therapy assistants.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will have no significant economic impact on small businesses, as defined in s. 227.14 (1) (a), Stats.

8. Natural Resources (CR 95-102)

S. NR 165.06 – Interest rate subsidy for the small loan program.

Summary of Final Regulatory Flexibility Analysis:

The rules do not regulate small business; 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 Environment and Utilities and the Senate Committee on Environment and Energy. There were no comments.

9. Natural Resources (CR 95-165)

S. NR 212.40 – Fox River wasteload allocation.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule does not affect any small business. 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 Environment and Utilities and the Senate Committee on Environment and Energy. On January 11, 1996, the Senate Committee on Environment and Energy held a public hearing. No request for modifications was received.

10. Transportation (Dept.) (CR 95-184)

S. Trans 106.01 – Certification of traffic safety programs and instructions.

Summary of Final Regulatory Flexibility Analysis:

This rule will have no adverse impact on small businesses.

Summary of Comments:

No comments were reported.

11. Transportation (Dept.) (CR 95-201)

S. Trans 4.06 – Urban Mass Transit Operating Assistance Program.

Summary of Final Regulatory Flexibility Analysis:

This rule should have no significant adverse impact on small businesses.

Summary of Comments:

No comments were reported.

PUBLIC NOTICE

Public Notice

Health & Social Services

(Medical Assistance Reimbursement of Nursing Homes)

The State of Wisconsin reimburses nursing homes for long-term health care services provided to low income persons under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Social Services, is called Medical Assistance (MA) or Medicaid. Federal Statutes and regulations require that a state plan be developed that provides the methods and standards for setting payment rates for covered nursing home services. A plan that describes the nursing home reimbursement systems (methods of payment for costs incurred by efficiently and economically operated providers) is now in effect.

The Department is proposing changes in the methods of payment to nursing homes and, therefore, in the plan describing the nursing home reimbursement system. The changes are effective April 1, 1996.

The proposed changes would give the Department authority to make special payments to nursing facilities to cover the extraordinary costs associated with natural or man-made disasters. The changes would apply only to instances of total nursing facility evacuation and would allow coverage of the costs associated with caring for the evacuated residents at any utilized evacuation locations.

The estimated increase in annual aggregate expenditures attributable to these changes for nursing homes serving MA residents is approximately \$1.3 million all funds, including patient liability. This will permit an average net increase in nursing home rates of 0% percent over the previous rate period.

The proposed changes are being implemented to address emergency funding situations brought about by natural or man-made disasters.

Copies of the Proposed Changes

Copies of the proposed changes are available free of charge by writing to:

Bureau of Health Care Financing
Division of Health
P.O. Box 309
Madison, WI 53701-0309

or the proposed changes may be reviewed at the main office at any county department of social services or human services.

Written Comments

Written comments on the proposed changes may be sent to the Bureau of Health Care Financing, Division of Health, at the above address. The comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 250 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. The proposed changes may be modified based on comments received.

EXECUTIVE ORDERS

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

Executive Order 273. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Paul Kafer, Long-Time Teacher of the Kenosha Unified School District.

Executive Order 274. Relating to a Proclamation Declaring a State of Emergency in Waupaca County and Calling to Active Duty Such Elements of the Wisconsin National Guard as are Necessary to Address this Emergency.

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