

# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 484**



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



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## NOTICE SECTION

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### **Notice of Hearing**

#### **Architects, Landscape Architects Professional Geologists, Professional Engineers, Designers and Land Surveyors**

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Notice is hereby given that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 443.09 (6), Stats., the Examining Board of Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to amend ss. A–E 3.05 (8), 4.08 (7) (a), 5.04 (8) (a), 6.05 (9) (a), 9.05 (6) (a) and 10.05 (6) (a); and to create ss. A–E 4.08 (7) (b) (title), 6.05 (9) (b) (title), 9.05 (6) (b) (title) and 10.05 (6) (b) (title), relating to examination reviews.

#### **Hearing Information**

**April 29, 1996  
Monday  
8:30 a.m.**

**1400 East Washington Avenue  
Room 133  
Madison, Wisconsin**

#### **Appearances at the Hearing**

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **May 6, 1996** to be included in the record of rule-making proceedings.

#### **Analysis Prepared by the Department of Regulation and Licensing**

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2)

Statute interpreted: s. 443.09 (6)

In this proposed rule-making order the Examining Board of Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors amends its rules relating to examination reviews by applicants. There is nothing in the current rules indicating how many times an applicant may review an examination. These amendments should prevent applicants from reviewing the same examination twice or more as recommended by national examination providers. The purpose of an examination review is to help the applicants recognize what they did wrong; not be given an opportunity to learn the entire examination contents.

Also, in order to make the language consistent in all sections relating to examination reviews, titles are created for some paragraphs, “one-year limitation” and “review procedure.”

#### **Text Of Rule**

**SECTION 1.** A–E 3.05 (8) (a) is amended to read:

A–E 3.05 (8) EXAMINATION REVIEW. (a) One-year limitation. ~~Any~~ An applicant for an architect examination may review questions on any part of an examination failed by the applicant within one year from the date of the

examination, as specified in s. 443.09 (6), Stats. An applicant may review the examination only once.

**SECTION 2.** A–E 4.08 (7) (a) is amended to read:

A–E 4.08 (7) EXAMINATION REVIEW. (a) (title) One-year limitation. ~~Any~~ An applicant for an engineer examination may ~~only~~ review questions on any part of an examination failed by the applicant within one year from the date of the examination, as specified in s. 443.09 (6), Stats. An applicant may review the examination only once.

**SECTION 3.** A–E 4.08 (7) (b) title is created to read:

A–E 4.08 (7) (b) (title) Review procedure.

**SECTION 4.** A–E 5.04 (8) (a) is amended to read:

A–E 5.04 (8) EXAMINATION REVIEW. (a) One-year limitation. ~~Any~~ An applicant for a designer examination may ~~only~~ review questions on any part of an examination failed by the applicant within one year from the date of the examination, as specified in s. 443.09 (6), Stats. An applicant may review the examination only once.

**SECTION 5.** A–E 6.05 (9) (a) is amended to read:

A–E 6.05 (9) EXAMINATION REVIEW. (a) One-year limitation. ~~Any~~ An applicant for a land surveyor examination may ~~only~~ review questions on any part of an examination failed by the applicant within one year from the date of the examination, as specified in s. 443.09 (6), Stats. An applicant may review the examination only once.

**SECTION 6.** A–E 6.05 (9) (b) (title) is created to read:

A–E 6.05 (9) (b) (title) Review procedure.

**SECTION 7.** A–E 9.05 (6) (a) is amended to read:

A–E 9.05 (6) EXAMINATION REVIEW. (a) (title) One-year limitation. ~~Any~~ An applicant for a landscape architect examination may ~~only~~ review questions on any part of an examination failed by the applicant within one year from the date of the examination, as specified in s. 443.09 (6), Stats. An applicant may review the examination only once.

**SECTION 8.** A–E 9.05 (6) (b) (title) is created to read:

A–E 9.05 (6) (b) (title) Review procedure.

**SECTION 9.** A–E 10.05 (6) (a) is amended to read:

A–E 10.05 (6) EXAMINATION REVIEW. (a) (title) One-year limitation. ~~Any~~ An applicant for a professional geologist examination may review questions on any part of an examination failed by the applicant ~~if the request is received~~ within one year from the date of the examination, as specified in s. 443.09 (6), Stats. An applicant may review the examination only once.

**SECTION 10.** A–E 10.05 (6) (b) (title) is created to read:

A–E 10.05 (6) (b) (title) Review procedure.

#### **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.

#### **Final Regulatory Flexibility Analysis**

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

#### **Copies of Rule and Contact Person**

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266–0495.

## ***Notice of Proposed Rule Dentistry Examining Board***

Notice is hereby given that pursuant to ss. 15.08 (5) (b), 227.11 (2) and 447.02 (2) (c), Stats., and interpreting ss. 447.01 (12), 447.02 (2) (c), 447.03 (3) (g) and 447.065, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Dentistry Examining Board will adopt the following rules as proposed in this notice, without public hearing unless, within 30 days after publication of this notice, on **April 15, 1996**, the Dentistry Examining Board is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

### ***Analysis Prepared by the Department of Regulation and Licensing***

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 447.02 (2) (c)

Statutes interpreted: ss. 447.01 (12), 447.02 (2) (c), 447.03 (3) (g) and 447.065

This proposed rule-making order of the Dentistry Examining Board makes a technical clarification to s. DE 12.01 (3). On February 1, 1996, an amendment to that rule became effective which permits a dentist to delegate the polishing portion of an oral prophylaxis to an unlicensed person ([Clearinghouse Rule 95-054](#)). However, the location of the new language in the body of the rule is such that it could be misinterpreted as also permitting the procedures subsequently listed in the provision to be delegated. The purpose of the structural change made in the proposed order is to assure that the rule is interpreted consistent with the intent of the prior amendment; that being to authorize the delegation of only the polishing portion of an oral prophylaxis to an unlicensed person. The modification does not change the language or substance of the rule as it became effective on February 1, 1996. Rather, it merely relocates the relevant language in the rule to provide clarity respecting the intent and substantive effect of the prior amendment.

### ***Text Of Rule***

**SECTION 1.** DE 12.01 (3) is amended to read:

DE 12.01 (3) Is intended, interpreted, or represented to be preliminary assessments, dental hygiene treatment planning, oral screenings, oral prophylaxes ~~or any portion of an oral prophylaxis other than supragingival rubber cup and air polishing after calculus is removed if necessary~~, scaling or root planing, or dental sealants, ~~or any portion of an oral prophylaxis other than supragingival rubber cup and air polishing after calculus is removed if necessary~~.

### ***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.

### ***Final Regulatory Flexibility Analysis***

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

### ***Copies of Rule and Contact Person***

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

## ***Notice of Hearing Department of Employment Relations***

Notice is hereby given that pursuant to s. 230.04(5), Stats., and interpreting s. 230.04(1), Stats., the Department of Employment Relations will hold a public hearing at the time and place shown below to consider the creation of permanent rules relating to the rate of pay as a result of voluntary demotions by employees who are notified they may be subject to layoff. The hearing will also include emergency rules promulgated on the same subject. The emergency rules became effective March 18, 1996 upon publication in the [Milwaukee Journal Sentinel](#). The texts of the emergency rules and the proposed permanent rules are identical.

### ***Hearing Information***

**May 3, 1996  
Friday  
9:00 a.m. to 10:00 a.m.**

**Monona Room (Lower Level)  
Dept. of Employment Relations  
137 East Wilson Street  
Madison, WI 53702**

The hearing site is accessible to persons with disabilities. If you need an interpreter, materials in alternate format or other accommodations for this meeting, please inform the contact person listed at the end of this notice before the hearing.

Written comments on the rules may be sent to the contact person by **Monday, May 6, 1996**. Written comments will receive the same consideration as written or oral testimony presented at the hearing.

### ***Analysis Prepared by the Department of Employment Relations***

The Department's authority to promulgate these rules is found in s. 230.04 (5), Stats. The rules implement the powers and duties of the Secretary under s. 230.04 (1), Stats.

Employees who have permanent status in the state classified service may voluntarily demote to a position in a lower pay range. Under current Department rules, if an employee voluntarily demotes, the employee's rate of pay may be set at any point within the new pay range which is not greater than the last rate received (s. ER 29.03 (8)(b)). The employee's pay is subject to the maximum of the new pay range.

State classified employees may also voluntarily demote in lieu of layoff. If an employee voluntarily demotes as a result of layoff to the highest available vacancy for which the employee is qualified within the agency, the employee must be maintained at his/her current rate of pay, even if the pay rate exceeds the maximum of the new class (s. ER 29.03 (8)(c)).

Under current rules, however, there are no specific provisions governing employees who voluntarily demote after being notified that layoffs may occur in the agency and their position is "at risk" of being affected by the layoffs. The pay of employees who voluntarily demote under these circumstances is subject to the maximum of the new pay range under s. ER 29.03 (8)(b).

The emergency rule and proposed permanent rule both allow an employee who is "at risk" of layoff to voluntarily demote and retain his/her current pay rate under certain circumstances — even if the current pay rate exceeds the maximum of the new pay range. Specifically, the change applies to an employee who has been notified in writing by the appointing authority that layoffs may occur in the agency and the employee's position may be affected by the impending layoffs. If such an employee voluntarily demotes, he/she may be allowed to retain his/her present rate of pay if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which the employee is demoting. If the present rate of pay is above the maximum for the new class, it may be red circled, subject to s. ER 29.025.

### ***Text of Rule***

**SECTION 1.** ER 29.03(8) (bm) is created to read:

29.03(8) (bm) An employee who voluntarily demotes within the agency after the employee has been notified in writing by the appointing authority that layoffs may occur in the agency and the employee's position may be affected by the impending layoffs, may be allowed to retain his or her present rate of pay if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which

the employee is demoting. If the present rate of pay is above the maximum for the new class, it may be red circled, subject to s. ER 29.025.

### ***Fiscal Estimate***

The fiscal effect on the State is indeterminable because it is impossible to identify how many employees will be affected by the change and how many employees would end up going through the formal layoff process.

### ***Initial Regulatory Flexibility Analysis***

The proposed rule does not affect small business; therefore, an initial regulatory flexibility analysis is not required.

### ***Contact Person***

Please contact the person listed below with questions about the hearing or the rules, or to obtain a copy of the emergency rule (including the Finding of Emergency), the proposed permanent rule or the fiscal estimate.

Bob Van Hoesen  
Department of Employment Relations  
137 East Wilson Street  
Madison, WI 53702  
608-267-1003

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## ***Notice of Public Hearing*** ***Industry, Labor & Human Relations*** ***(Plumbing, Chs. ILHR 81–87)***

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Notice is given that pursuant to s. 145.02 (2), Stats., the Department of Industry, Labor and Human Relations proposes to hold a public hearing to consider the revision of chs. ILHR 82 and 84, Wis. Adm. Code, relating to plumbing plans and adopted standards.

### ***Hearing Information***

**May 3, 1996**  
**Friday**  
**10:00 a.m.**

**Madison**  
**Room 103, GEF-1**  
**201 E. Washington Avenue**

A copy of the rules to be considered may be obtained from the State Department of Industry, Labor and Human Relations, Division of Safety and Buildings, 201 E. Washington Avenue, P.O. Box 7969, Madison, WI 53707, by calling (608) 266-9375 or at the appoint time and place the hearing is held.

Interested persons are invited to appear at the hearing and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearing, may be submitted no later than **May 10, 1996**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Ronald Acker at the address noted above. Written comments will be given the same consideration as testimony presented at the hearings. Persons submitting comments will not receive individual responses.

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

### ***Analysis of Proposed Rules***

Statutory Authority: s. 145.02 (2)

Statute Interpreted: s. 145.02 (3) (intro.) and (g)

The Department of Industry, Labor and Human Relations is responsible for adopting and enforcing administrative rules relative to the design, construction, installation and inspection of plumbing. Under the rules of ch. ILHR 82, plans and specifications for specified types of plumbing

installations in public buildings are required to be submitted for review to the department or to an agent municipality.

The current rules require plans and specifications to be submitted for review for plumbing installations in public building involving 6 or more plumbing fixtures. The proposed rules change the plan submittal threshold from 6 or more to 11 or more plumbing fixtures.

The rules of ch. ILHR 82 also cover the installation of cross connection control devices. The proposed rules contain revisions to the installation requirements for cross connection control devices that require annual testing.

The proposed rules also include updating of all the of the adopted standards in the Plumbing Code. Because of this standards update, several rule changes are included in order to maintain consistent terminology for the various plumbing products.

### ***Initial Regulatory Flexibility Analysis***

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

The proposed rules will affect any business that will be installing 10 or less plumbing fixtures in a public building.

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

The proposed rules require no reporting, bookkeeping or other procedures beyond those required by current rules.

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

There are no types of professional skills necessary for compliance with the rules.

### ***Fiscal Estimate***

The proposed rules will result in a small decrease in the number of plumbing plans submitted to the department. The department estimates that this decrease will result in a 10 percent reduction in revenue generated from the plan submittals. However, the department has been experiencing an 8 to 12 percent increase per year in revenue generated from plumbing plan submittals. Therefore, no significant fiscal impact is anticipated as a result of the proposed rules.

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## ***Notice of Hearing*** ***Revenue***

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Notice is hereby given that pursuant to ss. 70.32(2)(c)1 and 227.11(2)(a), Stats., and interpreting ss. 70.32(2) and 70.32(2r)(a), Stats., the State of Wisconsin Department of Revenue will hold a public hearing, at the **General Executive Facility 3, Room 207, 125 South Webster Street, in the City of Madison, Wisconsin, on the 26th day of April, 1996, commencing at 1:30 p.m.** to consider the proposed rule relating to the assessment of agricultural land in 1996 and 1997.

### ***Analysis by the Wisconsin Department of Revenue***

Statutory Authority: ss. 70.32(2)(c)1 and 227.11(2)(a)

Statutes Interpreted: s. 70.32(2) and (2r)(a)

Chapter Tax 18 is repealed and recreated to guide assessors in classifying and valuing agricultural property for the assessments on January 1, 1996 and January 1, 1997.

Under prior law, agricultural land was assessed for property tax purposes at the market value of its highest and best use. 1995 Wis. Act 27 changes the way agricultural land is assessed for property taxes, and requires the Department of Revenue to promulgate rules and define terms necessary to implement the new assessment procedure.

This rule provides the following definitions:

(1) "Land devoted primarily to agricultural use" means land classified agricultural in 1995 that is not in a use that is incompatible with agricultural use on the assessment date. Swamp or waste or productive forest land located in villages and cities is not devoted primarily to agricultural use, and agricultural buildings and improvements and the land necessary for their location and convenience are not devoted primarily to agricultural use.

Under prior law, swamp or waste or productive forest land located in villages and cities was classified agricultural because villages and cities were

not permitted to classify land swamp or waste or productive forest land. Since 1995 Act 27 requires villages and cities to use the swamp or waste and productive forest land classifications, all such land located in villages or cities is to be reclassified swamp or waste or productive forest, according to the Wisconsin Property Assessment Manual.

(2) "Other" means agricultural buildings and improvements and the land necessary for their location and convenience.

(3) "Parcel of agricultural land" means land devoted primarily to agricultural use within a single legal description.

The definition of "parcel of agricultural land" used here implements the intent of the legislature in only freezing the assessment of agricultural land. If a "parcel of agricultural land" were defined as the complete legal description of a tract which was predominantly agricultural, the assessment of non-agricultural land within the legal description would be frozen.

Similarly, the assessment of agricultural land within a legal description which was not predominantly agricultural would not be frozen.

Under 1995 Act 27, the assessment of each parcel of agricultural land on January 1, 1996 and on January 1, 1997 is frozen at the amount of its assessment on January 1, 1995. "Other", which consists solely of agricultural buildings and improvements and the land necessary for their location and convenience, is assessed according to s. 70.32(1), Stats., on January 1, 1996 and January 1, 1997.

### **Initial Regulatory Flexibility Analysis**

The rule is not expected to directly affect small business and, therefore, under s. 227.114(8)(b), a regulatory flexibility analysis is not required.

### **Fiscal Estimate**

Under prior law, agricultural land was assessed at full market value. Under current law, parcels of agricultural land are assessed on both January 1, 1996 and on January 1, 1997 at their January 1, 1995 level of assessment.

Since the taxable value of agricultural land will not increase on January 1, 1996 nor on January 1, 1997, property taxes will be shifted from agricultural land to other classes of property. Therefore, state equalization aids will be reallocated and state forestry taxes will be lower than under prior law. The property tax shift will also affect state costs for tax credit programs and state tax revenues. In addition, the state and municipalities will incur costs to implement the new assessment system.

#### Local Fiscal Effect

Property Tax Shifts. The equalized value of agricultural land was \$9.02 billion on January 1, 1995. Assuming its value grows by 5.9% in 1996 and 1997, as it did in 1995, agricultural land assessments would be \$0.53 billion (5.9% x \$9.02 billion) lower in 1996, and \$1.10 billion [(1.059 x 1.059 x \$9.02 billion) - \$9.02 billion] lower in 1997 than under prior law. Assuming a net statewide tax rate of \$23 per \$1,000 of value, \$12.2 million (\$0.53 billion x 0.023) in property taxes would be shifted from agricultural land to other classes of property in 1996, and \$25.3 million (\$1.10 billion x 0.023) would be shifted in 1997.

Property taxes on agricultural land would be 5.57% less and property taxes on other classes of property would be 0.25% higher in 1996 than under prior law. In 1997, property taxes on agricultural land would be 10.89% less, and property taxes on other classes of property would be 0.48% higher than under prior law.

Administrative Costs. Under the new system for assessing agricultural land, property assessors will have to reclassify agricultural buildings and improvements into a new class of property, called "Other". In addition, some agricultural land in cities and villages must be reclassified "Productive Forest Land" or "Swamp or Waste" under the new classification system. Also, the number of objections filed with Boards of Review are likely to increase as the new system of property classification and assessment of agricultural land is implemented. The costs of reclassification and other implementation costs required under the new system cannot be reliably estimated.

#### State Fiscal Effect

Revenue and Expenditure Effects. The property tax shift from agricultural land to other classes of property of \$12.2 million in 1996 and \$25.3 million in 1997 would also affect state revenues and expenditures. The major effects are:

(1) Farmland Preservation Credits will decline in 1996 and 1997 since claimants' property taxes will be lower and household incomes will be higher than under prior law. Credits in 1996 will be about \$1.0 million lower due to a property tax decline of about \$3.3 million and a resulting increase in

household income of about \$3.3 million. Credits in 1997 will be about \$2.0 million lower due to a property tax decline of about \$6.8 million and a resulting increase in household income of about \$6.8 million.

(2) The Farmland Tax Relief Credit is 10% of up to \$10,000 in property tax paid on agricultural land. Assuming \$8 million of the \$12.2 million shift of 1996 property taxes from agricultural land, and \$16 million of the \$25.3 million shift of 1997 property taxes, are attributable to Farmland Tax Relief Credit claimants, the credit will decline by about \$0.8 million (10% x \$8 million) in 1996 and by about \$1.6 million (10% x \$16 million) in 1997. The \$0.8 million and \$1.6 million decline in Farmland Tax Relief Credit will increase the amount available for the lottery credit by \$0.8 million in 1996 and by \$1.6 million in 1997.

(3) The State Forestry Tax, levied at \$0.20 per \$1,000, would be about \$100,000 (\$0.0002 x \$0.53 billion) less in 1996, and about \$220,000 (\$0.0002 x \$1.1 billion) less in 1997 than under prior law.

Administrative Costs. The Department of Revenue will have to reprogram computer systems to include "Other" property and update equalization databases for property reclassifications and for changes in acreages. The Department will also have to change a number of property tax reporting forms and systems. In addition, the *Wisconsin Property Assessment Manual* will require revision to incorporate the substance of this rule.

### **Contact Person**

Following the public hearing, the hearing record will remain open until **May 3, 1996**, for additional written comments.

Copies of the complete rule text and fiscal estimate are available at no charge on request from Gregory Landretti at the address listed below. An interpreter for the hearing-impaired will be available on request for the hearing. Please make reservations for a hearing interpreter by **April 22, 1996**, either by writing:

Gregory Landretti  
Office of Assessment Practices  
Wisconsin Department of Revenue  
125 S. Webster Street  
Madison, WI 53702  
by calling (608) 266-8202,  
or via the Office's Fax telephone  
(608) 264-6887.

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## **Notice of Hearing**

### **Savings & Loan, Office of the Commissioner of**

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Notice is hereby given that pursuant to s. 215.02 (7) (a), Stats., the Office of the Commissioner of Savings and Loan will hold a public hearing at the time and place indicated below to consider creating a rule, relating to establishing a procedure for a mutual savings and loan association with deposits not insured by a deposit insurance corporation to reorganize to another type of mutual depository institution (including a state credit union) whose deposits are insured.

### **Hearing Information**

**April 25, 1996  
Thursday  
10:00 a.m.**

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

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

*Statutory authority:* s. 215.02 (7) (a)

*Statutes interpreted:* ss. 215.02 (7) (a) and 215.50 (1)

Pursuant to the authority invested in the Commissioner of Savings and Loan by s. 215.02 (7) (a), Stats., the Commissioner hereby adopts s. S-L 3.02, relating to establishing a procedure for a mutual savings and loan association with deposits not insured by a deposit insurance corporation to convert to another type of mutual depository institution (including state credit union) with insured deposits.



Among Wisconsin's 12 state savings and loans ("S&Ls"), only one (Employees' Mutual Saving Building and Loan Association in Milwaukee) does *not* have FDIC insurance of its deposit accounts. This rule provides a procedure whereby that S&L or any similar S&L may convert to another type of mutual depository institution (including a state credit union) with insurance of deposit accounts.

The rule provides that an S&L with noninsured deposit accounts may convert to another type of depository institution (including a state credit union) with insured accounts. The rule then prescribes:

1) In sub. (1), the requirement of approval of the Commissioner of Savings and Loan if certain safety and soundness standards are met.

2) In sub. (2), the majority of members of the S&L must approve the reorganization after proper notice and a properly-held meeting.

3) In sub. (3), the information which must be submitted to the Commissioner is identified.

4) In sub. (4), it is stated that the new depository institution will be a continuation of the corporate existence of the S&L and that all obligations, responsibilities and rights of the S&L transfer to the new institution.

5) Sub. (5) states that upon formation of a depository institution, the S&L is dissolved.

6) Sub. (6) provides for the rule to sunset on December 31, 1997.

### **Fiscal Estimate**

This rule will have no fiscal impact on the Office of the Commissioner of Savings and Loan. The required reviews and procedures will be done with existing personnel and resources and the \$1,000 fee should cover all anticipated costs.

### **Initial Regulatory Flexibility Analysis**

This rule will provide all savings and loan associations having no insurance of deposit accounts — including those covered by the definition of "small business" under s. 227.114 (1) (a), Stats., — with the procedure to convert to another type of depository institution (including a state credit union) with insured deposit accounts. The rule will apply to only one S&L at present, and is unlikely to apply to any other S&L in the future; however, exempting small businesses from this rule would be contrary to the statutory objectives which are the basis for the rule (i.e., providing a safe procedure for conversion from a S&L with no insurance of deposit accounts to another depository institution with insurance of deposit accounts).

### **Text of Rule**

SECTION 1. S–L 3.02 is created to read:

**S–L 3.02 Reorganization and securing insurance of accounts.** (s. 215.50 (1), Stats.) (1) REORGANIZATION AUTHORIZED. With the approval of the commissioner, a mutual association, the deposit accounts of which are not insured by a federal insuring agency, may reorganize into another type of mutual depository institution, including a state credit union, in a transaction in which it obtains insurance of deposit accounts.

(2) STANDARDS FOR REORGANIZATION. The transaction shall be completed pursuant to a plan of reorganization approved by the commissioner and which the commissioner finds does all the following:

(a) Is fair and equitable to all depositors in the reorganizing association.

(b) Provides for establishment, on behalf of depositors at the reorganizing association, of insured accounts in the reorganized institution on the same terms previously in effect. However, the membership rights attributable to the depository by virtue of their accounts may be modified to reflect any statutory or other regulatory differences between the reorganizing association and the reorganized depository institution.

(c) Complies with any other requirements prescribed in writing by the commissioner.

(3) APPROVAL OF PLAN OF REORGANIZATION. The plan of reorganization shall be approved by an affirmative vote of the majority of all votes entitled to be cast by members of the reorganizing association. The association shall mail a notice of a meeting to vote on the plan of reorganization to each member and post one in each association office at least 10 days prior to the meeting. The notice shall state the date, time, place and purpose of the meeting; provide a summary of the plan of reorganization; and include any other information specified by the commissioner.

(4) APPLICATION. Within 90 days after the date of the meeting at which a plan of reorganization is adopted, the association shall submit the following to the commissioner:

(a) A certified copy of the minutes in the meeting at which the plan was adopted.

(b) Evidence of issuance of a document by a state or federal regulator or both authorizing the transaction if the reorganized entity has a primary regulator other than the commissioner, proof of approval of insurance of accounts for the reorganized institution and a timetable of steps to be taken to effect the reorganization.

(c) A \$1,000 fee for processing of the reorganization application.

(d) Any additional information that the commissioner may require pertaining to insurance of accounts or the reorganization.

(5) CONTINUATION OF RIGHTS AND OBLIGATIONS. Upon reorganization, the corporate existence of the association shall terminate and the resulting depository institution shall be deemed a continuation of the association. All property and rights of the association shall vest in the resulting depository institution at the time of reorganization and all of its obligations shall become those of the resulting institution. Transactions, actions and other judicial proceedings to which the association was a party may be conducted, prosecuted and defended by the successor.

(6) COMMISSIONER'S FINAL DOCUMENT. Upon completion of the reorganization, the commissioner shall issue a certificate cancelling the corporate existence of the association and no further business shall be conducted by that association.

(7) EXPIRATION DATE. This section shall expire at the close of December 31, 1997.

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## **Notice of Hearing**

### **Transportation, Dept. of**

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Notice is hereby given that pursuant to s. 348.27 (9t), Stats., as created by 1995 Wis. Act 163, and interpreting s. 348.27 (9t), Stats., as created by 1995 Wis. Act 163, the Department of Transportation will hold a public hearing at the time and place indicated below, to consider the creation of ch. Trans 258, Wis. Adm. Code, relating to seed potato overweight permits.

### **Hearing Information**

**May 13, 1996**  
**Monday**  
**10:00 a.m.**

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

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

### **Written Comments**

The public record on this proposed rule-making will be held open until **May 20, 1996**, to permit the submission of written comments from people unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to:

Kathleen Nichols, Division of Motor Vehicles  
Motor Carrier Services Section, Room 151  
Wis. Dept. of Transportation  
P. O. Box 7980  
Madison, WI 53707-7980

### **Copies of Proposed Rule**

A copy of the proposed rule may be obtained upon request, without cost, from Ms. Nichols at the above address, or by calling (608) 266-6648. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the proposed rule will be provided to individuals at their request.

## **Analysis Prepared by the Wisconsin Department of Transportation**

*Statutory Authority:* s. 348.27 (9t), Stats., as created by 1995 Wis. Act 163

*Statute Interpreted:* s. 348.27 (9t), Stats., as created by 1995 Wis. Act 163

### **General Summary of Proposed Rule**

1995 Wis Act 163 created s. 348.27 (9t), Stats., which directs the Department to issue permits for divisible loads of seed potatoes to be hauled at weights in excess of the statutory maximum weights of 80,000 pounds. These permits are to allow transportation of seed potatoes on a year-round basis, including through the spring thaw when all other types of overweight permits are ordinarily suspended to prevent road damage. This permit type is only valid along the "seed potato route," State Trunk Highway 64 from Antigo to Marinette, and then along U.S. Highway 41 to the Michigan border. Michigan potato farmers use high-quality Wisconsin potatoes from the Antigo, Wisconsin area for seed.

The law provides that the Department may specify configuration requirements for the trucks used to carry such loads and may establish an alternate route to be used by trucks by administrative rule. This proposed rule-making addresses both those issues and sets forth the other administrative procedures needed for the issuance of these overweight permits in a manner consistent with the Department's other overweight permit rules in chs. Trans 250 to 280.

Proposed s. Trans 258.06 sets forth the basic eligibility requirements for the permit. First, the vehicle may only be used empty or when hauling seed potatoes under the permit. The vehicle may not weigh more than 90,000 pounds when loaded nor exceed the statutory weight limits of s. 348.15 (3) (c), Stats., by more than 10,000 pounds. Because of the special vehicle configuration requirements needed to reduce the risk of highway damage caused by hauling through the spring thaw, maximum axle weights that are lower than the normal axle weights for legal loads are required as well. This is possible because most of these trucks are expected to come from the state of Michigan, which allows such trucks to operate legally under its weight laws. Maximum vehicle size is limited to 65 feet in length, 13 feet 6 inches in height and 8 feet 6 inches in width.

Under proposed s. Trans 258.07 (4), overweight seed potato trucks may be operated within 15 road miles of the route in order to drop off and retrieve loads and to acquire supplies or engage in other normal trucking activities. The shipper is expected to obey other traffic laws and obtain such local permits as are required, as would any other overweight permit holder: proposed s. Trans 258.07.

Permits may be suspended, revoked, or denied for the same types of reasons as any other overweight permit, such as operating in violation of the permit or altering a permit: proposed s. Trans 258.10 (1). Because the trucks that are expected to utilize this permit are expected to be primarily Michigan trucks, s. Trans 258.10 permits the Department to suspend, revoke or deny a permit upon request of the State of Michigan if that state has taken similar action against the shipper for good cause: proposed s. Trans 258.10 (1) (h).

Insurance requirements for permitted vehicles are laid out in proposed s. Trans 258.09. Carrying insurance is required as a condition of the permit.

Proposed s. Trans 258.11 sets forth a proposed alternative seed potato route. There are currently three wooden timber bridges located along State Trunk Highway 64 between Langlade and Mountain. The Department conducts regular inspection of these bridges. If it appears that these overweight trucks are causing damage to these bridges, the Department may require that the alternate route specified in proposed s. Trans 258.11 (2) be used in order to avoid these three bridges. The Department may make the declaration either by either publishing a notice in an Antigo area newspaper or by mailing notice to all permit holders.

If the Department determines it must specify a different alternative route, the administrative rule will need to be amended in order to meet the statutory requirements of s. 348.27 (9t), Stats., as created by 1995 Wis Act 163.

### **Fiscal Estimate**

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

## **Initial Regulatory Flexibility Analysis**

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

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## **Notice of Hearing Transportation, Dept. of**

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Notice is hereby given that pursuant to s. 110.05, Stats., and interpreting ss. 110.05, 340.01 (23g), 341.25 (1) (k), 344.55, 346.475 and 346.94 (15), Stats., the Department of Transportation will hold a public hearing at the time and place indicated below, to consider the amendment of ch. Trans 301, Wis. Adm. Code, relating to Human Services Vehicles (HSVs).

### **Hearing Information**

**May 10, 1996  
Friday  
1:30 p.m.**

**Room 144-B  
Hill Farms State Trans. Bldg.  
4802 Sheboygan Ave.  
MADISON, WI**

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

### **Written Comments**

The public record on this proposed rule-making will be held open until **May 14, 1996**, to permit the submission of written comments from people unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to:

Lt. Lyle Walheim, Division of State Patrol  
Dept. of Transportation, Room 551  
P. O. Box 7912  
Madison, WI 53707-7912

### **Copies of Proposed Rule**

A copy of the proposed rule may be obtained upon request, free of charge, from the Division of State Patrol at the above address, or by calling (608) 266-6936. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the proposed rule will be provided to individuals at their request.

## **Analysis Prepared by the Wis. Dept. of Transportation**

*Statutory Authority:* s. 110.05

*Statutes Interpreted:* ss. 110.05, 340.01 (23g), 341.25 (1) (k), 344.55, 346.475 and 346.94 (15)

### **General Summary of Proposed Rule**

Chapter Trans 301 was promulgated in 1982 to establish operation and equipment standards for human services vehicles (HSVs) in order to promote safe transportation of elderly (65 or over) or disabled people in connection with assistance programs for elderly or disabled people.

In general, this proposed rule changes some of these operation and equipment requirements to conform with changes in federal vehicle safety regulations and federal laws such as the Americans with Disabilities Act of 1990. The proposed changes also reflect the availability of vehicles other than school buses that are designed and equipped for safe transportation of elderly and handicapped people and allows these vehicles to qualify as human services vehicles. Other changes are made to reflect the correct cross-references in state law regarding human services vehicles.

In addition, there are minor substantive changes to correct practical limitations in the existing rule; for example, the rule is amended to allow personal possessions of elderly or disabled passengers to be transported with them. Finally, the rule expressly prohibits the use of audio headsets by drivers.

In all probability, the proposed changes in the rule will allow more vehicles, properly equipped in accordance with federal standards, to qualify and operate safely as human services vehicles.

## **Fiscal Estimate**

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district or sewerage district.

## **Initial Regulatory Flexibility Analysis**

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

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## **Notice of Hearing Transportation, Dept. of**

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Notice is hereby given that pursuant to ss. 85.16 (1), 218.01 (5) (c) and 227.11 (2), Stats., and interpreting s. 341.21, Stats., the Department of Transportation will hold a public hearing at the time and place indicated below to consider the amendment of ch. Trans 139, Wis. Adm. Code, relating to fee for title and registration processing contractors.

## **Hearing Information**

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

**Room 144–B  
Hill Farms State Trans. Bldg.  
4802 Sheboygan Ave.  
MADISON, WI**

## **Written Comments**

The public record on this proposed rule-making will be held open until **May 16, 1996**, to permit the submission of written comments from people unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to:

Joan Loden, Dealer Section  
Division of Motor Vehicles, Room 806  
Dept. of Transportation  
P. O. Box 7909  
Madison, WI 53707–7909

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

## **Copies of Rule**

A copy of the proposed rule may be obtained upon request, without cost, 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. Alternate formats of the proposed rule will be provided to individuals at their request.

## **Analysis Prepared by the Wis. Dept. of Transportation**

*Statutory Authority:* ss. 85.16 (1), 218.01 (5) (c) and 227.11 (2)

*Statute Interpreted:* s. 341.21

### **General Summary of Proposed Rule.**

The proposed changes to ch. Trans 139 are in response to 1995 Wis. Act 113, section 128, which created s. 341.21, Stats., a provision for the Department to contract with any person for services relating to the processing and distribution of original or renewal registrations and certificates of titles. The Department is planning to contract with dealer licensees to perform these services.

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

**Charging a fee** — This provides for a dealer licensee to charge a fee to provide the services specified in s. 341.21, Stats., if they are under contract with the Department to provide these services. The amount of the fee will be specified in the contract with the Department.

## **Fiscal Estimate**

This proposed rule will have no fiscal effect beyond effect imposed by the statutes.

## **Initial Regulatory Flexibility Analysis**

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

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## **Notice of Proposed Rule Transportation, Dept. of**

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Notice is hereby given that pursuant to the authority of ss. 85.13, 110.06 (1), 227.014, 345.28 and 345.47 (1) (d), Stats., and interpreting ss. 85.13, 341.08 (4m), 341.10 (7) and (7m), 341.63, 341.64, 345.17, 345.28 and 345.47 (1) (d), and ch. 342, Stats., according to the procedure set forth in s. 227.16 (2) (e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending ch. Trans 128 without public hearing unless, within 30 days after publication of this notice on **April 15, 1996**, the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

## **Written Comments**

Questions about this rule and any petition for public hearing may be addressed to:

Traffic Violation & Registration Program Unit (TV&RP)  
Telephone (608) 267–9791  
Division of Motor Vehicles, Room 233  
Dept. of Transportation  
P. O. Box 7909  
Madison, WI 53707–7909

## **Copies of Proposed Rule**

Copies of the rule may be obtained upon request, without cost, by writing the address or calling the phone number given above. Hearing-impaired individuals may contact the Department using TDD (608) 266–0396. If you are hearing-impaired and would require an interpreter at a hearing, please make reservations for a hearing interpreter at least 10 days before a hearing by contacting the Department at the above address or phone number. Also, alternative formats of the proposed rule will be provided to individuals at their request.

## **Analysis Prepared by the Wis. Dept. of Transportation**

*Statutory Authority:* ss. 85.13, 110.06 (1), 227.014, 345.28 and 345.47 (1) (d)

*Statutes Interpreted:* ss. 85.13, 341.08 (4m), 341.10 (7) and (7m), 341.63, 341.64, 345.17, 345.28 and 345.47 (1) (d), and ch. 342

### **General Summary of Proposed Rule**

The amendments to this proposed rule-making are outlined below. Other revisions which include numerous additions, corrections and deletions were also made to this chapter in the interests of both grammatical accuracy and proper format. An explanation of these proposed amendments are as follows:

**Trans 128.02** – The definition of person was added because companies and other legal entities that can own a vehicle are affected by the program. The definition of “working capital” was dropped because it is no longer valid or used (See changes to s. Trans 128.12).

**Trans 128.04 and 128.05** – The wording on the form size was deleted. Since the DOT controls the printing and production of the forms, there is no reason to write requirements for them into the rule. Also, if there are any changes needed for the form, or, if program enhancements allow for the use of computer generated forms, the flexibility afforded by removing this text will be available without rewriting the rule each time a forms change is done. The wording for case purge criteria was changed. The older wording implied that cases are removed from the system 6 years after the date they were put

on. This is not true. The purge program is run approximately every six months with all cases older than 6 years being purged at that time. The old wording implied that we would run the purge program every day. Doing so would be prohibitively expensive and extremely difficult. There is no statutory requirement for us to release cases after six years.

**Trans 128.08 (3)** – Allows for electronic storage of suspension orders.

**Trans 128.07 (5)** – Clarifies that WisDOT uses its internal customer information records to identify vehicles subject to registration action.

**Trans 128.12 (2) and deleting old Trans 128.12 (3)** – Development cost amortization and working capital accumulation were necessary originally to adjust the costs of the program. Because the TV&RP program funds are no longer segregated from the DOT general funding, these provisions are incorrect and are amended to reflect the current funding mechanism.

**Trans 128.12 (3) (b)** – Changes to the wording that formerly required the analysis of the segregated fund and recalibration of the fees charged. Now fees can be adjusted if costs of the program warrant review. This enables the current fees to remain in place and allows for easier planning and consistency on the part of the municipalities in the program.

**Trans 128.12 (4) (d)** – If the department adds ACH (electronic bank debiting) capabilities to its financial system, this will allow the use of that system as a cost and time savings option for municipality customers.

### ***Fiscal Estimate***

Small savings may occur if storage of suspension orders is accomplished electronically.

### ***Initial Regulatory Flexibility Analysis***

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

### ***Text of Proposed Rule***

Under the authority vested in the state of Wisconsin, Department of Transportation, by ss. 85.13, 110.06 (1), 227.014, 345.28 and 345.47 (1) (d), Stats., the Department of Transportation hereby proposes an order to amend a rule interpreting ss. 85.13, 341.08 (4m), 341.10 (7) and (7m), 341.63, 341.64, 345.17, 345.28 and 345.47 (1) (d), and ch. 342, Stats., relating to a traffic violation and registration program.

**SECTION 1** Trans 128.01 (1) is amended to read:

Trans 128.01 (1) **STATUTORY AUTHORITY.** As authorized by ss. 85.13, 110.06 (1), 227.11, 345.28, and 345.47 (1) (d), Stats., the purpose of this chapter is to establish the department of transportation's department's administrative interpretation of ss. 85.13, 341.08 (4m), 341.10 (7) and (7m), 341.63, 341.64, 345.17, 345.28, and 345.47 (1) (d), and ch. 342, Stats., relating to a traffic violation and registration program to refuse vehicle registration as a result of unpaid judgments and to suspend or refuse vehicle registration as a result of unpaid parking tickets.

**SECTION 2** Trans 128.02 (2) is amended to read:

Trans 128.02 (2) "Authority" has the same meaning as in s. 345.28 (1) (a), Stats., and includes state agency as defined in sub. (9) (10).

**SECTION 3** Trans 128.02 (8) to (11) are renumbered Trans 128.02 (9) to (12).

**SECTION 4** Trans 128.02 (8) is created to read:

Trans 128.02 (8) "Person" has the meaning set out in s. 990.01 (26), Stats.

**SECTION 5** Trans 128.02 (12) is repealed.

**SECTION 6** Trans 128.03 (2) (intro.) and (a) to (f) are amended to read:

Trans 128.03 (2) **CONTENTS OF NOTIFICATION.** The notification from the local unit of government or other authority shall include all of the following:

- (a) The effective date of participation;
- (b) Method of payment as described in s. Trans ~~128.12(5); 128.12(4).~~
- (c) Estimated annual volume of cases that will be sent to the department;
- (d) Whether there is a municipal court, and, if so, the name, address, and phone number of the court and the address where court payments should be made;
- (e) The name, address, and phone number of the authority or delegated agency and the address where citation payments should be made;

(f) A statement describing the approval of participation action taken by the authority; ~~and.~~

**SECTION 7** Trans 128.04 (1) (title), (a) (intro.) and (a) 1 to 7. c., (b) (intro.) and 1. to 3., and (4) are amended to read:

Trans 128.04 (1) **CONTENT.** (a) ~~The notice of unpaid judgment shall be \$5" x 55" and, in addition to the information required by s. 345.47 (1) (d), Stats., the notice of unpaid judgment shall contain, and the court shall provide all of the following:~~

1. The name and address of the court;
2. The name of the local unit of government or other authority ~~that the action is on behalf of; taking action.~~
3. The signature or facsimile signature of the judge or the representative authorized by the court;
4. The date the notice is signed;
5. The title of the person signing;
6. The 13 position judgment case number generated as prescribed by the department to include a unique number assigned to each court, the date, and a serial number; ~~and.~~
7. A section for notice of satisfaction containing:
  - a. The signature or facsimile signature of the judge or representative authorized by the court;
  - b. The date the judgment was satisfied;
  - c. The date the satisfaction is signed;

(b) The notice also shall allow for reporting of the following information at the discretion of the court:

1. The court case number assigned by the court;
2. The state of issue and year of expiration of the license number of the vehicle involved;
3. The state of issue and driver's license number of the person named on the notice; ~~and.~~

(4) **RECORD DISPOSAL.** An unpaid judgment case which has not been satisfied as described in sub. (3), ~~shall may be purged removed~~ from the department's records 6 years ~~from the date the case was entered on after initial entry in~~ the department's records.

**SECTION 8** Trans 128.05(1)(title), (a)(intro.), (a) 1 to 9. b., and (4) are amended to read:

Trans 128.05 (1) **CONTENT.** (a) ~~The notice of unpaid citation shall be \$5" x 55" and, in addition to the information required by s. 345.28(4), Stats., shall contain, and the authority or delegated agency shall provide the following information in the format prescribed by the department:~~

1. The name and address of the authority or delegated agency;
2. The signature or facsimile signature of the authorized representative;
3. The title of the person signing;
4. The date the notice is signed;
5. The 13 position citation case number generated as prescribed by the department to include a unique number assigned to each authority, or delegated agency, the date, and a serial number;
6. The type of license plate as prescribed by the department for the license number of the vehicle involved;
7. The year of expiration of the Wisconsin license number of the vehicle involved;
8. The amount of payment due from the person against whom the citation was issued; ~~and.~~
9. A section for notice of satisfaction containing:
  - a. The signature or facsimile signature of the authorized representative;
  - b. The date the citation was satisfied; ~~and.~~

(4) **RECORD DISPOSAL.** An unpaid citation case which has not been satisfied as described in sub. (3), ~~shall may be purged removed~~ from the department's records 6 years ~~from the date the case was entered on after initial entry in~~ the department's records.

**Note:** The Department disposes of such records on a semi-annual basis.

**SECTION 9** Trans 128.06 (2) (b) is amended to read:

Trans 128.06 (2) (b) When the department is notified by a court of an unpaid ~~judgement~~ judgment, and the person named by the court is the owner of a vehicle with a non-expiring registration, a letter shall be mailed providing information about the unpaid judgment and indicating the department shall cancel the registration. Cancellation of registration shall occur after the expiration of 30 days from the date of mailing the letter to the registrant unless the department receives evidence required by s. Trans 128.04 that all judgments have been satisfied.

**SECTION 10** Trans 128.07 (3) is amended to read:

Trans 128.07 (3) RECORD OF ACTION. When ~~an order of~~ a suspension ~~letter order~~ is computer created, the computer shall also ~~generate~~ create a computer image file or microfiche of the text of the letter as the record of action, or shall store the information included on the suspension order so that a copy of the text of the suspension order may be recreated. Records stored under this subsection may be destroyed at the same time or after record of the suspension is removed from the department's database of vehicle records under s. Trans 128.05 (4).

**SECTION 11** Trans 128.08 (1) (intro.), (b) and (c), and (5) (c) (intro.), (c) 1. and 2. are amended to read:

Trans 128.08 (1) SCOPE. ~~From the date the If~~ department ~~enters the records show that~~ notification of a person's unpaid judgment or unpaid citation ~~on the department's records has been mailed, the department shall not permit the person to may not:~~

(b) Renew the registration of a vehicle if the department meets the notification requirements of s. 341.08 (4m), Stats., by mailing one of the following:

1. ~~Mailing the~~ The renewal registration notice described in s. Trans 128.10 (1) (b), (c) and (d) where the department is notified by a court or authority or delegated agency prior to creating a notification of renewal; ~~or,~~

2. ~~Mailing the~~ The letter described in s. Trans 128.06 (2) where the department is notified by a court, authority or delegated agency after the renewal of a registration but before the beginning of the new registration period.

(c) Re-register a vehicle, ~~including, but not limited to, changes in change~~ the gross weight at which a vehicle is registered, or change the operating status of a vehicle or the issuance of obtain replacement license plates for any vehicle.

(5) (c) The applicant's or registrant's name is exactly the same or a reasonably logical variation of a name as stated in pars. (a) and (b), and the address is the same as one of the following:

1. The address supplied on the notice of unpaid judgment or notice of unpaid citation; ~~or,~~

2. The address obtained from the department's record for the license plate number supplied on the notice of unpaid judgment or notice of unpaid citation; ~~or,~~

**SECTION 12** Trans 128.08 (5) (d) is created to read:

Trans 128.08 (5) (d) The applicant or registrant has the same customer identification number on the department's records as the person identified on the notice of unpaid judgment or unpaid citation.

**SECTION 13** Trans 128.09 (1) (a), (b), (c) (intro.), (c) 1. to 9. and (2) (b) are amended to read:

Trans 128.09 (1) (a) The initial purchaser is a Wisconsin motor vehicle dealer as defined in s. 218.01 (1) (a), Stats.; ~~or~~

(b) The purchaser, other than a motor vehicle dealer, provides the department with a signed statement that the seller of the vehicle will not have possession, use of, or receive any benefit from the operation of the vehicle after the application for transfer of ownership is completed by the department; ~~or,~~

(c) It is an involuntary transfer of ownership including any of the following:

1. Repossession under s. 342.17 (2); ~~or,~~
2. Deceased under s. 342.17 (4); ~~or,~~
3. Divorce settlement under s. 342.17 (4); ~~or,~~
4. Bankruptcy under s. 342.17 (4); ~~or,~~
5. Abandoned vehicle under s. 342.40 (2); ~~or,~~
6. Towing or storage lien under s. 779.415; ~~or,~~
7. Mechanics lien under s. 779.41; ~~or,~~

8. Landlord lien under s. 704.05 (5); ~~or,~~

9. Court order; ~~or,~~

(2) (b) Return to the purchaser all fees submitted by ~~him or her the purchaser~~ with an explanation why the transfer of ownership was refused. If registration was issued in error, the fees may be returned only after the purchaser complies with a department request for return of the registration.

**SECTION 14** Trans 128.10 (1) (b) (intro.), (b) 1. to 6., (c) (intro.), (c) 1. to 6. and (3) (a) to (c) are amended to read:

Trans 128.10 (1) (b) The renewal form used for a registration which is subject to unpaid judgments based on information obtained under s. 345.47 (1) (d), Stats., shall also include the following:

1. The date judgment was entered; ~~or,~~
2. The amount of the judgment; ~~or,~~
3. The place where the judgment may be paid; ~~or,~~
4. The court case number; ~~or,~~
5. The judgment case number; ~~or,~~
6. A notification that the registration shall not be renewed until all citations are paid; ~~and,~~

(3) (a) Suspended under s. 20.905 (2), 341.63 (1), 344.08 or 344.14, Stats.;

(b) Revoked under s. 344.25, Stats.;

(c) Canceled under s. 342.255, Stats.; ~~or~~

**SECTION 15** Trans 128.11 (1) (b) (intro.), (b) 1. to 3., (2) and (3) are amended to read:

Trans 128.11 (1) (b) If the department is not satisfied that a registration refusal was in error, the person shall submit to the department a signed statement containing all of the following:

1. A list of the description and license number of all vehicles owned; ~~or,~~
2. Wisconsin operator's license number; ~~or,~~
3. Date of birth; ~~or,~~

(2) ERROR IDENTIFIED BY COURT. To correct an error in a notice of unpaid judgment sent to the department, a court shall submit a notice of satisfaction to the department as described in s. Trans 128.04. To establish a correct record, the court shall submit a new notice of unpaid judgment containing the correct information and per case payment required by s. Trans ~~428.12 (4)~~ 128.12 (3).

(3) ERROR IDENTIFIED BY AN AUTHORITY OR DELEGATED AGENCY. To correct an error in a notice of unpaid citation sent to the department, an authority or delegated agency shall submit a notice of satisfaction to the department as described in s. Trans 128.05. To establish a correct record, the authority or delegated agency shall submit a new notice of unpaid citation containing the correct information and per case payment required by s. Trans ~~428.12 (4)~~ 128.12 (3).

**SECTION 16** Trans 128.12 (2) (b) is amended to read:

Trans 128.12 (2) (b) The cost of enhancements, improvements or additional development of the system ~~after the initial implementation date, not covered by sub. (3),~~ shall be amortized over the 4 year period following the implementation of such enhancements, improvements or additional development.

**SECTION 17** Trans 128.12 (3) is repealed.

**SECTION 18** Trans 128.12 (4) is renumbered Trans 128.12 (3) and, as renumbered, Trans 128.12 (3) (a) 1 is amended to read:

Trans 128.12 (3) (a) 1. The estimated annual volume of cases that will be received by the department which serves as the denominator in the rate calculation equation; ~~or,~~

**SECTION 19** Trans 128.12 (3) (a) 2, as renumbered, is repealed.

**SECTION 20** Trans 128.12 (3) (a) 3, as renumbered, is renumbered Trans 128.12 (3) (a) 2 and amended to read:

Trans 128.12 (3) (a) 2. The estimated ~~costs~~ cost of operation, including employee salaries and fringe benefits, office space, office supplies and equipment, postage, computer charges, printing and forms, the annual amount of amortized enhancement, as described in sub. (2), and other necessary expenses, and adjustments for the previous payment rate period to reflect actual experience which is an element of which serves as the numerator in the rate calculation equation; and,

**SECTION 21** Trans 128.12 (3) (a) 4, as renumbered, is repealed.

**SECTION 22** Trans 128.12 (3) (b) (intro.), as renumbered, is amended to read:

Trans 128.12 (3) (b) The rate of payment ~~shall may be calculated~~  
~~recalculated each July and, in addition, may be recalculated whenever, from~~  
~~time to time to reflect the costs of the program to the department. Rate~~  
~~increases, if any, may be imposed only on or after the next July 1 following~~  
~~the recalculation.~~

**SECTION 23** Trans 128.12 (3) (b) 1. and 2., as renumbered, are repealed.

**SECTION 24** Trans 128.12 (5) is renumbered Trans 128.12 (4) and, as renumbered, Trans 128.12 (4) (d) is created to read:

Trans 128.12 (4) (d) Automatic debit of the participants banking account through the automated clearing house, or ACH, transaction system of the federal reserve bank.

**Note:** The Department expects to be capable of using automatic bank account debits by the year 2000.

**SECTION 25** Trans 128.12 (6) and (7) are renumbered Trans 128.12 (5) and (6) and amended to read:

Trans 128.12 (5) ACCOUNTING REPORT. The department shall provide to each active participant a monthly report on the status of their financial account established under sub. ~~(5)-(e)~~ (4) (c).

(6) REFUNDS. When a participating local unit of government or other authority has elected to pay under sub. ~~(5)-(e)~~ (4) (c), and later terminates participation as provided in s. Trans 128.03, any unused balance in the account shall be refunded by the department.

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## EMERGENCY RULES NOW IN EFFECT

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*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.*

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### EMERGENCY RULES NOW IN EFFECT

#### Department of Agriculture, Trade & Consumer Protection

Rules were adopted amending **ch. ATPC 100 (note)** and creating **s. ATPC 100.76 (3m)** and **subchapter VI of ch. ATPC 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

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### 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

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## 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

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## 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

### *Department of Employment Relations*

A rule was adopted creating **s. ER 29.03 (8) (bm)**, relating to the rate of pay as a result of voluntary demotions by employees who are notified they may be subject to layoff.

## FINDING OF EMERGENCY

The Department of Employment Relations 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:

Many state agencies are undergoing reorganizations, either at the directive of the Governor and State Legislature or on their own initiative. These organizational changes are occurring to promote efficient and effective administration of state agencies, improve delivery of services and improve coordination of similar programs. Numerous permanent positions in the classified civil service are being restructured because of a reduction in force due to a lack of work or funds or owing to material changes in duties organization. Incumbents of those positions will soon face critical career decisions and alternatives that involve new duties, classification and/or physical location of their work site.

This emergency rule allows employees who have been notified that they are “at risk” of layoff to maintain their current rate of pay if they voluntarily demote under certain circumstances within an agency. “At risk” means the employee has received written notification that layoffs may occur in the agency and the employee’s position may be affected by they layoffs. The employee may be allowed to retain his/her present rate of pay only if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which the employee is demoting.

If the option of maintaining the employee’s pay rate is not available to the employee and the agency, employees will be forced to choose between options that may result in a reduction in pay, transfer or demotion to a less desirable location or position, or the employee may eventually be laid off. These consequences may adversely affect employee morale, undermine the efficient use of human resources and reduce the benefits of the agency reorganization. Retention of an employee’s current rate of pay can be used by the agency as an incentive for employees to move to positions they might otherwise not choose.

For these reasons and because employee layoffs may occur before the Department could promulgate permanent rule, the Department believes a finding of emergency is warranted to preserve the welfare of individual employees and the civil service system.

**Publication Date:** March 18, 1996

**Effective Date:** March 18, 1996

**Expiration Date:** August 15, 1996

**Hearing Date:** May 3, 1996

[See Notice this Register]

## 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

## 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

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## 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

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## 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

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## 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

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## 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

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## 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

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## 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

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

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

**Agriculture, Trade & Consumer Protection (CR 95–14):**

Ch. ATPC 123 – Relating to telecommunications services and cable television services.

**Corrections, Dept. of (CR 95–227):**

SS. DOC 328.03, 328.04, 328.043 to 328.495 and 328.05 – Relating to supervision fee charged to probationers and parolees.

**Dentistry Examining Board (CR 95–218):**

SS. DE 2.03 and 5.02 – Relating to the statutory renewal dates for licenses, and to provide the correct citation relating to records which must be kept by dentists for controlled substances.

**Health & Social Services (CR 95–113):**

Ch. HSS 94 and s. HSS 96.04 – Relating to the rights of patients receiving treatment for mental illness, a developmental disability, alcohol abuse or dependency or other drug abuse or dependency standards for grievance procedures for these patients.

**Industry, Labor & Human Relations (CR 96–24):**

S. Ind 80.15 – Relating to payment after an order.

**Insurance, Office of the Commissioner of (CR 95–204):**

SS. Ins 3.455 and 3.46 and Appendices 2, 3 and 4 – Relating to the requirements for long–term care insurance sold in Wisconsin.

**Railroads, Office of the Commissioner of (CR 96–25):**

Chs. OCT 1 to 7 – Relating to the name and subject jurisdiction of the Office of the Commissioner of Railroads.

**Transportation, Dept. of (CR 96–4):**

Ch. Trans 112 – Relating to medical standards for driver licensing.



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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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*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.*

**Agriculture, Trade & Consumer Protection****(CR 95–147):**

An order affecting ch. ATPC 30, Appendix A, relating to atrazine use restrictions.

Effective 05–01–96.

**Agriculture, Trade & Consumer Protection****(CR 95–167):**

An order affecting ch. ATPC 70, relating to food processing plants.

Effective 05–01–96.

**Development (CR 95–213):**

An order affecting ch. DOD 6, relating to the Community Block Grant portion of the Wisconsin Development Fund.

Effective 05–01–96.

**Health & Social Services (CR 94–188):**

An order affecting ss. HSS 108.02, 152.065, 153.07 and 154.07, relating to recovery of the cost of benefits:

1) From the estate of:

A) A person who was a client of the Community Options Program (COP); or

B) A participant in:

i) The aid program for persons with chronic renal disease;

ii) The aid program for persons with hemophilia; or

iii) The aid program for adults with cystic fibrosis; or

2) From the estate of the surviving spouse of that person.

Effective 05–01–96.

**Health & Social Services (CR 95–90):**

An order creating ch. HSS 86, relating to appeal by a county of an independent professional review determination that a resident of a state center for the developmentally disabled from that county is appropriate for community care.

Effective 05–01–96.

**Health & Social Services (CR 95–180):**

An order repealing and recreating ch. HSS 230, relating to county relief programs funded by block grants.

Effective 06–01–96.

**Optometry Examining Board (CR 95–142):**

An order affecting chs. Opt 3 and 4 and ss. Opt 5.08, 6.04, 6.05 and 7.05, relating to examinations, continuing education and late renewal.

Effective 05–01–96.

**Personnel Commission (CR 95–176):**

An order affecting ss. PC 1.01, 3.02, 3.03 and 3.04, relating to fee payments for appeals.

Effective 06–01–96.

**Personnel Commission (CR 95–177):**

An order affecting chs. PC 1 and 2 and ss. PC 3.01, 4.02, 4.05 and 5.05, relating to updated information about the Commission's jurisdiction over appeals and complaints, and the procedures followed by the Commission.

Effective 06–01–96.

**Personnel Commission (CR 95–178):**

An order amending ss. PC 1.01 and 1.07 and affecting ch. PC 6, relating to appeals held by arbitration hearing.

Effective 06–01–96.

**Public Service Commission (CR 95–139):**

An order creating ch. PSC 160, relating to the provision of universal telecommunications service and the establishment of a universal service fund.

Effective 05–01–96.

**Railroads, Office of the Commissioner of (CR 95–118):**

An order affecting ss. OCT 5.02, 5.03, 5.04, 5.07 and 5.10, relating to adequate revenue, rate effectiveness, early implementation of tariffs and agency procedures.

Effective 06–01–96.

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