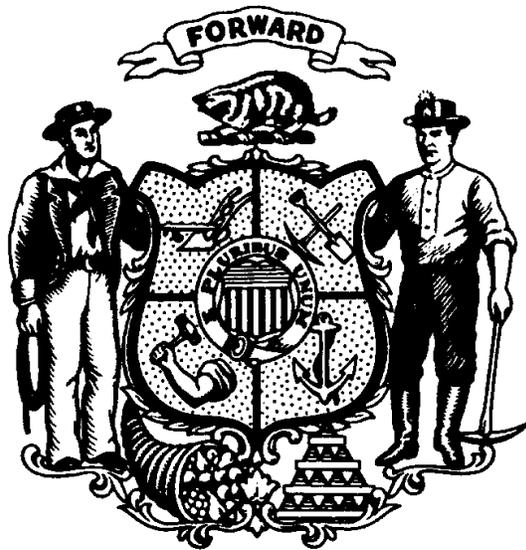


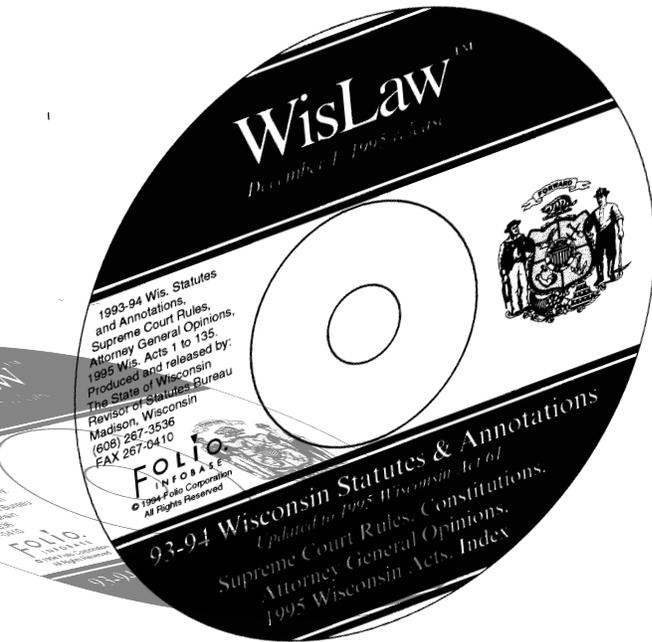
# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 487**



Publication Date: July 14, 1996  
Effective Date: July 15, 1996

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



# WisLaw™

## *Wisconsin Statutes & Annotations, Session Laws, and other legal research material on CD-ROM*

The December 1, 1995 release of *WisLaw™* is now available in both DOS and Windows. The CD-ROM includes the 1993–94 Wisconsin Statutes and Annotations (updated to 1995 Wisconsin Act 61), 1995 Wisconsin Acts 1 to 135, and other legal research materials.

*WisLaw™*, the computer-searchable CD-ROM, may now be ordered in both the DOS and Windows version of Folio PreViews search and retrieval software. The December 1, 1995 release of *WisLaw™* includes the **1993–94 Wisconsin Statutes and Annotations, Supreme Court Rules**, and recent **Opinions of the Attorney General**. For the first time, the **1995 Wisconsin Acts 1 to 135**, with hypertext links to the affected statutes, are included on *WisLaw™*.

*WisLaw™* is only available by subscription for 12-month periods; the number of CDs to be released in any 12-month period is indeterminate. *WisLaw™* End-user license and subscription order forms are available at Document Sales in Madison, WI (608) 266–3358. A 12-month subscription plus a license for no more than one simultaneous user costs \$99. A 12-month subscription plus a license for no more than 4 simultaneous users costs \$149. A 12-month subscription plus a license for no more than 10 simultaneous users costs \$199. Shipping is included. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% Wisconsin stadium sales tax.

Document Sales accepts credit card orders. Payments by check, money order, or credit card should be made payable to *WI Department of Administration* and mailed to Document Sales, P.O. Box 7840, Madison, WI 53707–7840.

Prior releases of *WisLaw™* are still available; these CDs provide the end-user with research capabilities that are available nowhere else. No on-line statutory re-search and retrieval system permits the researcher to examine past versions of the Statutes. In many instances, the facts of the researcher's case arose under and are governed by statutes which are no longer current. *WisLaw™* end-users can select the appropriate *WisLaw™* release, insert it into a CD reader, and enjoy sophisticated search and retrieval capabilities in searching the statutes in effect when the facts of the case arose. Prior releases of *WisLaw™* may be licensed for the discounted single simultaneous-user license fee of \$30.00. Supplies are limited.

---



---

## TABLE OF CONTENTS

---



---

**Emergency Rules Now In Effect.****Pages 5 to 14.**

Agriculture, Trade &amp; Consumer Protection:

Rules relating to potato late blight.  
Rules relating to animal health.

Corrections:

Rules relating to supervision fees for probationers and parolees.

Development:

Rule relating to the community block grant program.

Emergency Response Board:

Rules relating to a fee for transporting hazardous material.

Employment Relations (Dept.):

Rule relating to rate of pay as a result of voluntary demotions by employes subject to layoff.

Gaming Commission:

Rules relating to simulcasting fees.

Health &amp; Social Services:

Community Services, Chs. HSS 30--  
Rules relating to treatment foster care for children.

Health &amp; Social Services:

Health, Chs. HSS 110--  
Rules relating to authorized action of EMTs--intermediate and --paramedic.  
Rules relating to permit fees.

Health &amp; Social Services:

Economic Support, Chs. HSS 200--  
Rules relating to a benefit cap pilot project under the AFDC program.  
Rules relating to the pay for performance program.

Industry, Labor &amp; Human Relations:

Uniform Dwellings, Chs. ILHR 20-25  
Rules relating to dwellings constructed in flood hazard zones.

Industry, Labor &amp; Human Relations:

Building & Heating, etc., Chs. ILHR 50-64  
Multi-Family Dwelling, Ch. ILHR 66  
Rules delaying energy efficiency revision to chs. ILHR 50-64 and 66.

Industry, Labor &amp; Human Relations:

Unemployment Compensation, Ch. ILHR 100-150  
Rule relating to a limited waiver of work search requirement.

Insurance, Commissioner of:

Rules relating to Patients Compensation Fund and Mediation Fund fees.

Natural Resources:

Fish, Game, etc., Chs. NR 1-  
Rules relating to deer hunting permits.  
Rules relating to size and bag limits for Lac du Flambeau reservation.  
Rules relating to the 1996 deer hunting season.  
Rules adopted amending chs. NR 20 and 25, relating to fishing for yellow perch in Lake Michigan. **[FIRST APPEARANCE]**

Public Instruction:

Rules adopted revising ch. PI 11, relating to dispute resolution concerning children with exceptional educational needs (EEN). **[FIRST APPEARANCE]**

Revenue:

Rules relating to assessment of agricultural property in 1996.

Securities, Commissioner of:

Rules adopted revising s. SEC 2.01, relating to alternative accounting guidelines for certain financial statements. **[FIRST APPEARANCE]**

Transportation (Dept.):

Rule relating to the federal section 18 program.  
Rules relating to seed potato overweight permits.

**Scope Statements.**

Agriculture, Trade &amp; Consumer Protection:

Agriculture, Trade &amp; Consumer Protection:

Financial Institutions:

Health &amp; Social Services:

Public Instruction:

Revenue:

**Pages 15 to 18.**

Chs. ATCP 60, 70, 71, 75 and 80 – Relating to food dairy license fees.

Ch. ATCP 143 – Relating to corn marketing order assessment rate.

Ch. Bkg 73 – Relating to allowing adjustment service companies (ASC) to accept voluntary contributions.

S. HSS 211.03 (5) – Relating to tribal medical relief programs funded by block grants, successor to the Relief of Needy Indian Persons (RNIP) program.

Ch. PI 11 – Relating to the manner in which hearings are to be initiated, the manner in which hearing officers will be appointed, and their qualifications and duties in conducting due process hearings for the resolution of special education disputes between parents and school districts.

SS. Tax 11.002, 11.01, 11.35 and 11.97 – Relating to registration and reporting requirements for sales and use tax purposes.

**Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse.**

Corrections:

Corrections:

Health &amp; Social Services:

Transportation:

**Page 19.**

SS. DOC 309.25, 309.26, 309.27, 309.28 and 309.29 – Relating to legal resources for inmates.

Ch. DOC 325 – Relating to the temporary release of an inmate from an institution under supervision.

Chs. HSS 124, 132 and 134 – Relating to fees for review of hospital, nursing home and facility for the developmentally disabled (FDD) construction plans, including review for compliance with the state building code.

Chs. Trans 102 – Relating to commercial driver's license (CDL) waivers for snowplow operators employed by local units of government with populations of less than 3,000.

**Notice Section.**

Agriculture, Trade &amp; Consumer Protection:

Chiropractic Examining Board:

Elections Board:

Public Defender:

Transportation:

**Pages 21 to 26.**

Hearings to consider ch. ATCP 77, relating to laboratory certification fees.

Hearings to consider revision to ch. Chir 6 and creation of ch. Chir 11, relating to patient records.

Proposed creation of s. ElBd 1.855, relating to contributions from conduit accounts.

Proposed creation of s. ElBd 1.30 (3), relating to revocation of exemption from filing campaign finance reports.

Proposed creation of s. ElBd 1.655 (1) (f) and (5), relating to identification of the source of communications.

Proposed amendment of s. ElBd 1.85, relating to conduit registration and reporting requirements.

Hearing to consider revision to s. PD 2.03, relating to assignment of counsel.

Hearing to consider amendment to s. PD 3.039, relating to redetermination of indigency.

Hearing to consider s. Trans 102.22, relating to CDL (commercial driver's license) waivers for snowplow operators of small municipalities.

**Notice of Submission of Proposed Rules to the  
Presiding Officer of Each House of the Legislature,  
Under S. 227.19, Stats.**

Agriculture, Trade & Consumer Protection:	(CR 96-9) – Ch. ATCP 100
Barbering & Cosmetology Examining Board:	(CR 96-1) – S. BC 3.03 (5)
Health & Social Services:	(CR 94-122) – S. HSS 55.90
Health & Social Services:	(CR 95-70) – Ch. HSS 275
Health & Social Services:	(CR 95-226) – Ch. HSS 111
Health & Social Services:	(CR 96-3) – Ch. HSS 112
Medical Examining Board:	(CR 96-47) – Ch. Med 8
Natural Resources:	(CR 96-23) – Ch. NR 20.015, 20.02, 20.03, 20.037 and 21.04
Physical Therapists Affiliated Credentialing Board:	(CR 96-52) – S. PT 3.01 (4)
Revenue:	(CR 96-56) – S. Tax 2.47
Transportation:	(CR 96-88) – Ch. Trans 107

**Page 27.**

**Administrative Rules Filed With the Revisor of Statutes  
Bureau.**

Agriculture, Trade & Consumer Protection:	(CR 95-14) – Ch.ATCP 123
Emergency Response Board:	(CR 96-35) – Ch. ERB 1
Employment Relations, Dept. of:	(CR 96-51) – S. ER 29.03 (8) (bm)
Health & Social Services:	(CR 94-193) – Ch. HSS 62
Natural Resources:	(CR 94-180) – SS. NR 1.15 (2) (a), 10.104 and 10.28
Natural Resources:	(CR 95-194) – S. NR 19.02
Natural Resources:	(CR 95-196) – SS. NR 10.01 (1) (g) 1. L. and 10.31 (11) and s. NR 10.01 (1) (g) 1. m.
Natural Resources:	(CR 96-22) – SS. NR 10.01, 10.02, 10.106, 10.145, 10.27, 10.29 and 10.40
Regulation & Licensing:	(CR 95-210) – Ch. RL 9
Securities, Commissioner of:	(CR 96-65) – S. SEC 2.01 (3) (e)
Transportation:	(CR 96-43) – S. Trans 6.04 (1) (e)
Veterans Affairs, Dept. of:	(CR 96-46) – Ch. VA 14

**Page 28.**



---



---

## EMERGENCY RULES NOW IN EFFECT

---



---

*Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.*

*Emergency rules are published in the official state newspaper, which is currently the Milwaukee Journal Sentinel. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.*

*Extension of the effective period of an emergency rule is granted at the discretion of the Joint Committee for Review of Administrative Rules under s. 227.24 (2), Stats.*

*Notice of all emergency rules which are in effect must be printed in the Wisconsin Administrative Register. This notice will contain a brief description of the emergency rule, the agency finding of emergency, date of publication, the effective and expiration dates, any extension of the effective period of the emergency rule and information regarding public hearings on the emergency rule.*

---

### EMERGENCY RULES NOW IN EFFECT (2)

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

1. Rules were adopted creating **s. ATCP 21.15**, relating to potato late blight.

#### Finding of Emergency

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection finds, pursuant to s. 224.24 (1), Stats., that an emergency rule is necessary to preserve the public peace, health, safety or welfare. The following circumstances justify the emergency rule:

1) In recent years, new forms of the highly virulent "Irish potato famine" fungus, *Phytophthora infestans*, have caused increasingly devastating losses to potato and tomato growers in the United States and Canada. The fungus causes a disease of potato plants which is commonly known as "late blight."

2) The National Association of State Departments of Agriculture reports that late blight epidemics in 1992, 1993 and 1994 were the worst in decades, and that some individual farm losses have amounted to hundreds of thousands of dollars in a single year. The University of Wisconsin estimates that Wisconsin growers lost up to \$10 million in 1994 and \$6 million in 1995 due to late blight.

3) The potato industry is one of Wisconsin's most important agricultural industries. In 1995, Wisconsin was the 3rd leading state in the nation in potato production. Cash receipts to Wisconsin potato growers totalled over \$150 million in 1995. Potatoes are an important food source for the people of Wisconsin and other states. Potato production also supports important processing and distribution industries in Wisconsin. The uncontrolled spread of late blight would have a devastating impact on Wisconsin potato growers, and would seriously affect the public health, safety and welfare.

4) Late blight appears on potato plant leaves, stems and tubers. It causes foliar lesions which are followed by severe defoliation in

wet weather. It can also reduce marketable yield by directly infecting and rotting potato tubers. Once late blight appears, it spreads rapidly and can cause total crop loss.

5) Late blight fungal spores can be carried to other plants by many things, including wind, rain, machinery, workers, wildlife and infected seed potatoes. The University of Wisconsin reports that spores can be transported over 25 miles by storms.

6) There are very few registered fungicides in the United States that are effective in controlling the new forms of late blight fungus.

7) Because of the lack of registered fungicides, and the ease with which the late blight fungus spreads, potato growers must mitigate the spread of the disease by removing sources of the overwintering inoculum. Among other things, potato growers must properly dispose of potato cull piles and potato plants which germinate from waste potatoes.

8) If individual potato growers fail to implement necessary cultural practices to mitigate the spread of late blight, that failure will have a potentially devastating impact on other growers and on the Wisconsin potato industry as a whole.

9) In order to ensure that growers take adequate steps to mitigate the spread of late blight, it is necessary to adopt rules that spell out critical problems and establish sanctions for growers who fail to comply. Because of the imminent threat of harm to the potato industry, rules are urgently needed prior to the 1996 planting and growing season.

10) Under normal rulemaking procedures, it is not possible for the Department to adopt rules prior to the 1996 planting and growing season. Pending the adoption of permanent rules, the following emergency rules are needed to protect the public health, safety and welfare, and to mitigate the spread of late blight during the 1996 planting and growing season.

**Publication Date:** May 1, 1996  
**Effective Date:** May 1, 1996  
**Expiration Date:** September 28, 1996  
**Hearing Date:** May 30, 1996

2. Rules adopted revising **chs. ATCP 10 to 12**, relating to animal health.

#### Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection ("department") finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

(1) 1995 Wis. Act 79 was published December 8, 1995. Under its provisions, no person may keep farm-raised deer in Wisconsin after June 1, 1996, unless that person is registered with the department.

(2) 1995 Wis. Act 79 requires the department to adopt rules which specify the fee for registration. In addition, rules are necessary to establish the mechanism for registration.

(3) Prior to 1995 Wis. Act 79, persons who kept farm-raised deer were required to be licensed by the department of natural resources (DNR). Many persons who keep farm-raised deer will have become licensed with DNR for calendar year 1996. Those licenses will be transferred to the department as registrations.

(4) Permanent rules implementing 1995 Wis. Act 79 will not take effect until on or about January 1, 1997. This emergency rule establishes an interim procedure for registering herds of farm-raised

deer, pending the effective date of the permanent rules. Without this emergency rule, no person would be able to start a farm-raised deer herd in Wisconsin between June 1, 1996, and the effective date of the permanent rules, because there would be no way to register that herd.

(5) 1995 Wis. Act 79 also requires animal owners to provide a means of testing those animals for tuberculosis without endangering the animal or the person performing the test. In addition, a non-statutory provision of that Act requires all keepers of farm-raised deer to have the deer tested for tuberculosis between December 8, 1995, and June 30, 1997.

(7) Concerns for the safety of farm-raised deer during testing prohibit testing during significant periods of the year. For example, deer should not be tested during the birthing season, the rut season and the season in which the animals are in velvet. Therefore testing is restricted to periods in late August to early October or during January and February.

(8) The department anticipates that many keepers of farm-raised deer will perform their testing in July, August or September of 1996, before a permanent rule can be adopted. This emergency rule establishes three alternative ways in which the animal owner can insure the safety of the persons doing the testing. This is necessary to insure the safety of the person conducting the test and to permit the keeper of farm-raised deer to know what constitutes adequate restraint of the animals.

(9) In September, 1995, the United States department of agriculture adopted new regulations relating to identification and slaughter shipment of bovines or cervidae which are reactors or suspects for bovine tuberculosis. Wisconsin's current administrative rules are in conflict with the current federal regulations. This emergency rule will make Wisconsin's rules consistent with the federal regulations, so that persons who comply with federal law will not be placed in violation of state law.

(10) In March 1996, the department was advised by the United States department of agriculture that the Russian federation intends to prohibit shipment of poultry meat into the Russian federation from any state which does not require veterinarians to report the presence of specific poultry diseases to the state animal health agency. Wisconsin's current administrative rules do not require reporting of 5 of the diseases which concern the Russian federation.

(11) Wisconsin poultry producers ship poultry meat valued in excess of \$1 million per year to the Russian federation. By adopting a provision requiring veterinarians to report the existence of 5 diseases to the department, the department will protect the poultry producers' export market in the Russian federation. The department has proposed a permanent rule requiring reporting of the diseases. This emergency rule protects the export market during the period before the permanent rule is effective.

**Publication Date:** June 3, 1996  
**Effective Date:** June 3, 1996  
**Expiration Date:** October 31, 1996

---

## EMERGENCY RULES NOW IN EFFECT

### *Department of Corrections*

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

### **Exemption From Finding of Emergency**

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

## **Analysis prepared by the Department of Corrections**

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

Currently, offenders on probation or parole pay no supervision fee. Through this emergency rule making order, the Department will charge offenders on probation and parole a supervision fee. Offenders under administrative or minimum supervision and supervised by the Department will pay a fee sufficient to cover the cost of supervision. Offenders under medium, maximum, or high risk supervision will pay a supervision fee based on the ability to pay.

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

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

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

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

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

**Publication Date:** December 21, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Date:** February 13, 16 & 22, 1996  
**Extension Through:** July 28, 1996

---

## EMERGENCY RULES NOW IN EFFECT

### *Development*

Rule adopted amending **ss. DOD 6.18 (1) and 6.32 (2)**, relating to the community development block grant portion of the Wisconsin development fund.

### **Finding of Emergency**

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

On the evening of January 5, 1996, a fire broke out at Stella Foods' cheese processing and packaging plant in the Village of Lena, Wisconsin, resulting in more than \$15 million in property damage, more than \$10 million in business interruption losses, and the loss of more than 300 full-time equivalent jobs for that small rural community. As a result of the fire, 70 percent of Stella Foods' plant was destroyed, all dairy and cheese processing ground to a halt, and approximately 350 dairy farmers had to find alternative facilities to receive and process their dairy products.

The scope of the Stella Foods fire and resulting damages was exacerbated by the lack of adequate water supply and pressure to fight the fire. To address various water supply, waste water treatment and insurance needs, and to persuade Stella Foods to reconstruct the Lena plant and rehire more than 300 former employees, the Village of Lena needs to replace its 50-year old 40,000 gallon water tank with a new 300,000 gallon water tank at an estimated cost of approximately \$890,000, and to upgrade its current waste water treatment plant at an estimated cost of approximately \$900,000. Adoption of these emergency rules will allow the Department of Development to provide the Village of Lena with the financial assistance to address the foregoing problems.

**Publication Date:** April 3, 1996  
**Effective Date:** April 3, 1996  
**Expiration Date:** August 31, 1996  
**Hearing Date:** May 8, 1996

---

## EMERGENCY RULES NOW IN EFFECT

### *Emergency Response Board*

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 of 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

---

## EMERGENCY RULES NOW IN EFFECT

### *Wisconsin Gaming Commission*

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

### Health and Social Services

#### (Community Services, Chs. HSS 30--)

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 Date:** January 24, 25 & 26, 1995

---

## EMERGENCY RULES NOW IN EFFECT (2)

### Health and Social Services

#### (Health, Chs. HSS 110--)

1. 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 Date:** March 1 & 8, 1996  
**Extension Through:** July 28, 1996

2. Rules adopted revising **chs. HSS 172, 175, 178, 195 to 198**, relating to permits and permit fees.

#### Finding of Emergency

The Department of Health & 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:

The Department and agent local government health departments regulate campgrounds, camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations, under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with health, sanitation

and safety standards established by the Department by rule. The Department's rules are in chs. HSS 172, 175, 178, 195, 196, 197 and 198, Wis. Adm. Code. None of these facilities may operate without receiving a permit from the Department or an agent local government health department. A permit is evidence that a facility complies with the Department's rules on the date of issuance of the permit. All permits except those for bed and breakfast establishments are one-year permits. A facility is charged a permit fee. Permit fee revenues support the regulatory program.

In 1993 the Budget Act for 1993-95 directed the Department to establish permit fees by rule beginning July 1, 1994. Until then the fees had been set by statute.

This rulemaking order increases permit fees effective July 1, 1996, by about 10% for campgrounds; recreational and educational camps; swimming pools that serve the public; restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending operators and commissaries. It also increases preinspection fees for restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending commissaries.

The fees are increased to cover higher costs for these regulatory programs.

The rules are being promulgated as emergency rules to protect public health and safety. The fee increases will take effect on July 1, 1996, which is the beginning of a new permit period. Raising the fees as provided in this order will enable the Department to avoid running a deficit in program revenue and so avoid having to reduce inspections of food-serving, lodging and recreational facilities and taking longer to respond to foodborne and waterborne disease outbreaks.

The fees established by this order do not apply to facilities regulated by local health departments granted agent status under s. 254.69, Stats. Permit fees for those facilities are established by the local health departments, pursuant to s. 254.69 (2) (d), Stats.

**Publication Date:** June 8, 1996  
**Effective Date:** July 1, 1996  
**Expiration Date:** November 28, 1996

---

## EMERGENCY RULES NOW IN EFFECT (2)

### *Health & Social Services*

#### **(Economic Support, Chs. HSS 200-)**

1. 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  
**Extension Through:** July 28, 1996

2. 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

---

## **EMERGENCY RULES NOW IN EFFECT**

### ***Industry, Labor & Human Relations*** **(Uniform Dwellings, Chs. ILHR 20–25)**

Rules adopted revising **chs. ILHR 20 and 21**, relating to one- and two-family dwellings constructed in flood hazard zones.

#### **Finding of Emergency**

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

The Federal Emergency Management Agency (FEMA) has informed some municipalities that it will no longer allow variances to a local ordinance that prohibits the construction of homes in flood fringe areas where the foundation extends below the base flood elevation. FEMA regulations allow this type of construction in some locations but require the construction to meet a suitable building code. The Uniform Dwelling Code, which regulates new home construction in Wisconsin, has never addressed this issue. FEMA's actions have halted some residential projects, causing serious financial hardship for those affected Wisconsin builders and residents.

The proposed rules add requirements to the Uniform Dwelling Code for construction in flood fringe areas in order to meet FEMA requirements. The primary source of these rules is the National

Building Code published by Building Officials and Code Administrators International, Incorporated (BOCA).

**Publication Date:** May 8, 1996  
**Effective Date:** May 8, 1996  
**Expiration Date:** October 5, 1996

---

## **EMERGENCY RULES NOW IN EFFECT**

### ***Industry, Labor & Human Relations*** **(Building & Heating, etc., Chs. ILHR 50–64)** **(Multi-Family Dwellings, Ch. ILHR 66)**

Rule adopted delaying the effective date of a rule revision to portions of **chs. ILHR 50 to 64 and 66**, relating to energy efficiency.

**Note: A lawsuit has been filed challenging the validity of this emergency rule action.**

#### **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:

1. On August 8, 1995, the Department adopted revised rules relating to ventilation and energy conservation in public buildings and places of employment. The purpose of these rules was to improve indoor air quality in buildings and to comply with the federal Energy Policy Act of 1992 which requires all states to revise their commercial building codes to meet or exceed the American Society of Heating, Refrigerating and Air-Conditioning Engineers/Illuminating Engineering Society (ASHRAE/IES) standard 90.1-1989. The rules went into effect on April 1, 1996.

2. Information has been recently provided to the Department that indicates that two of the provisions of the rules will cause excessive costs for building owners without commensurate benefit.

3. The emergency rule is being promulgated to avoid economic hardship caused by imposing unnecessary building construction and operating costs on building owners and operators.

#### **Emergency Rule Analysis**

The emergency rule will delay the effective date of the Energy Conservation related and Heating, Ventilating and Air Conditioning related rules for one year to give the Department and its advisory committee time to study the effect of the rules and make any necessary changes.

**Publication Date:** April 6, 1996  
**Effective Date:** April 6, 1996  
**Expiration Date:** September 3, 1996  
**Hearing Date:** May 28, 1996

---

## **EMERGENCY RULES NOW IN EFFECT**

### ***Industry, Labor & Human Relations*** **(Unemployment Compensation, Chs. ILHR 100–150)**

Rules adopted creating **s. ILHR 127.035**, relating to a limited waiver of work search requirement.

#### **Finding of Emergency**

The department of industry, labor and human relations finds that an emergency exists within the state of Wisconsin 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:

Under s. 108.04(2)(b), Stats., the requirements for searching for work, as a condition of eligibility for unemployment insurance benefits, are to be prescribed by rule of the department. The statute further provides that the department may by general rule waive those requirements under certain conditions to be stated by the department. ILHR 127.02(2) allows the department to waive a claimant's work search requirement if she or he has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which a claim is filed for unemployment insurance benefits.

On or about January 6, 1996, the Stella Foods plant in Lena, WI burned down. As a result, most of the workers were temporarily laid off. The company committed to rebuilding and reopening the plant. 35% of the plant was reopened after cleaning and about half the workers were recalled. The other 65% of the plant is being rebuilt. The company originally expected to be able to recall all or most workers within approximately 12 weeks. As a result, a work search waiver was granted to these claimants. Due to the vagaries of construction scheduling, especially during the winter months in Wisconsin, the rehire dates will be later than originally anticipated. The company expects to be able to open a line in part of the new construction in June or July of 1996 and will recall additional workers at that time. The company expects to be able to recall all workers by Labor Day.

Lena's population is approximately 590. The Stella Foods plant is a major employer in the Lena/Oconto Falls labor market, providing approximately 10% of all jobs in that labor market. Half of the jobs available with the plant remain unfilled. This constitutes 5% of all the jobs in that labor market. The unemployment rate in Oconto county before this fire was already 7.6%.

The department believes that the number of affected employees and the nature of the labor market in the Lena/Oconto Falls area makes it very unlikely that any substantial number of affected Stella Foods employees would be able to obtain suitable alternative work as a result of customary work search activities.

The existing permanent rule relating to work search requirements does not provide for waiver of the requirements in these circumstances. The department believes that it is necessary to promulgate this emergency rule in order to avoid wasting administrative funds and to avoid the hardship for other employers in the Lena/Oconto Falls area which will occur if this number of employees in this small labor market area are required to repeatedly canvass such other employers in order to comply with customary work search requirements. Other employers' hiring of those temporarily laid off due to the fire could also impose a hardship on other unemployed individuals in the labor market who do not have any such assurance of being recalled to their former jobs.

**Publication Date:** April 15, 1996  
**Effective Date:** April 15, 1996  
**Expiration Date:** September 12, 1996  
**Hearing Date:** May 28, 1996

---

## EMERGENCY RULES NOW IN EFFECT

### Insurance

Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1996.

### Finding of Emergency

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is

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

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule no. 96-045, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1996. The permanent rule was delayed pending legislative action on Senate Bill 378 which, if passed, would have resulted in a lowering of the fund fees originally proposed by the fund's board of governors. Senate Bill 378 was tabled by the assembly on May 8, 1996, before it adjourned for the year on May 13, 1996.

The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 1, 1996. Because the provisions of this rule first apply on July 1, 1996, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on April 18, 1996.

**Publication Date:** May 28, 1996  
**Effective Date:** May 28, 1996  
**Expiration Date:** October 24, 1996

---

## EMERGENCY RULES NOW IN EFFECT (4)

### Natural Resources

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

1. Rules were adopted revising **ss. NR 1.15 (2) (a), 10.104 and 10.28**, relating to deer hunting permits.

### Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. There is great public interest in white-tailed deer and their management in Wisconsin. Failure to adopt these rules would require that the 1996 antlerless deer quotas be based upon existing overwinter population goals that do not reflect the public interest in deer management. There has been more than a year of comprehensive public involvement in developing this rule.

**Publication Date:** April 15, 1996  
**Effective Date:** April 15, 1996  
**Expiration Date:** September 12, 1996  
**Hearing Date:** May 20, 1996

2. Rules adopted amending **s. NR 20.038**, relating to special size and bag limits for the Lac du Flambeau reservation.

### 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:

The department has recently come to an interim agreement with the Lac du Flambeau band regarding their off-reservation harvest goals. This rule change is needed for the 1996 fishing season in order to meet our obligation in the agreement, thus, an Emergency Order is required. This agreement will promote preservation and protection of public peace, safety, and welfare in the ceded territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters. Pursuant to litigation arising from *Lac Courte Oreilles v. Voight*, 70 F. 2d 341 (7th Cir. 1983), the Chippewa bands of Wisconsin, which includes the Lac du Flambeau, have the right to take walleye from off-reservation waters using efficient methods such as spearing and netting. The Lac du Flambeau have made initial 1996 harvest declarations for

off-reservation lakes that are sufficiently high to require the department to reduce the daily bag limit to 0 on several lakes, consistent with the formula of s. NR 20.037. The Lac du Flambeau have agreed to reduce harvest declarations to a level commensurate with a daily bag limit of 2 walleye this year and a daily bag limit of 3 in future years, provided that the state reduces its daily bag limits for walleye to 3, with a minimum length limit of 18" and increase the muskellunge minimum length limit to 40" on waters within the Lac du Flambeau reservation. The state has agreed to do so in order to provide more socially acceptable sports fishing opportunity on off-reservation waters. This will lessen tensions caused by severely reduced bag limits and will assist local businesses dependent on the sport fishery.

**Publication Date:** May 3, 1996  
**Effective Date:** May 3, 1996  
**Expiration Date:** September 30, 1996  
**Hearing Date:** June 12, 1996

3. Rules were adopted revising **chs. NR 10 and 11**, relating to the 1996 deer hunting seasons.

### Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and to minimize deer nuisance problems, thereby protecting the public peace, health, safety or welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify our rules will result in the failure to provide hunting opportunity and comply with administrative rules.

**Publication Date:** May 3, 1996  
**Effective Date:** August 12, 1996  
**Expiration Date:** January 9, 1997  
**Hearing Date:** June 11, 1996

4. Rules adopted amending **ss. NR 20.02 (1) (c) and 25.05 (1) (e)**, relating to sport and commercial fishing for yellow perch in lake Michigan.

### Finding of Emergency

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

The yellow perch population in Lake Michigan is rapidly declining. This decline reflects six consecutive years of extremely poor reproduction. Sport and commercial harvests of adult yellow perch must be limited immediately in order to maximize the probability of good reproduction in the near future.

**Publication Date:** July 1, 1996  
**Effective Date:** July 1, 1996  
**Expiration Date:** November 28, 1996

---

## EMERGENCY RULES NOW IN EFFECT

### Public Instruction

Rules adopted revising **ch. PI 11**, relating to dispute resolution concerning children with exceptional educational needs between school boards and parents.

### Finding of Emergency

Wisconsin is required under state and federal law to provide a due process hearing system for the resolution of special education disputes between parents and school districts. 1996 Wis. Act 431 will significantly revise that process and will require the department rather than school districts to conduct the due process hearings. Although the Act outlines the process, it does not fully describe the manner in which hearings are to be initiated, the manner in which hearing officers will be appointed, their qualifications and duties. The current rules addressing those issues will not apply under the new statutory process. It is, therefore, necessary to adopt an emergency rule addressing these issues so that the due process hearing system will remain available to parents and districts when the Act becomes effective.

**Publication Date:** June 25, 1996  
**Effective Date:** June 25, 1996  
**Expiration Date:** November 22, 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  
**Extension Through:** September 1, 1996

---

## EMERGENCY RULES NOW IN EFFECT

### Securities

Rules adopted creating **s. SEC 2.01 (1) (c) 5 and (d) 5**, relating to designating alternative accounting guidelines for the preparation of financial statements for certain governmental issuers of securities.

## Finding of Emergency

The Office of the Commissioner of Securities for the State of Wisconsin 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 follows:

### A. Background Information Regarding Predecessor Emergency Rules Issued in 1982 and 1994.

Chapter 53, laws of 1981, took effect on January 1, 1982 and provided that the exemption from registration under s. 551.22 (1), Stats., for securities (other than revenue obligations) issued by any state or any local subdivision of the state or any agency or corporate or other instrumentality thereof, will be available "...only if the issuer's financial statements are prepared according to generally accepted accounting principles or guidelines which the commissioner designates by rule." The purpose of that statutory provision was to insure that financial statements prepared by governmental entities relating to their debt securities offerings are based on some recognized uniform accounting standards in order that a potential public investor can make a fully-informed and well-reasoned decision whether to purchase such debt securities.

As a result of the amendments created by Chapter 53, Laws of 1981, those governmental issuers of general obligation securities after January 1, 1982 that did not have their current financial statements prepared totally according to generally accepted accounting principles ("GAAP"), would not be able to utilize the securities registration exemption in s. 551.22 (1) (a), Stats., for the sale of their securities to the general investing public. Rather, those governmental issuers of such securities first would have had to obtain a registration which involves an extensive filing and review process under the Wisconsin Uniform Securities Law or, alternatively, make a regulatory filing under a registration exemption in order to offer the securities to the general public.

At the time the amendment to s. 551.22 (1) of the Stats., was enacted in 1982, many governmental issuers did not prepare their financial statements totally in accordance with GAAP. The result of the statutory change would have posed a hardship on those issuers of governmental general obligation securities subject to the full-GAAP financial statement requirement due to the time it would take for governmental issuers to be able to have their financial statements prepared totally according to GAAP.

To alleviate any disruption to the borrowing plans of governmental issuers of securities and the municipal securities marketplace, the Wisconsin Commissioner of Securities office promulgated emergency rules in 1982 that included the designation of alternative accounting guidelines (from full-GAAP) for the preparation of financial statements for certain governmental issuers of securities. The alternative (to full-GAAP) accounting guidelines were set forth by emergency rule in s. SEC 2.01 (1) (c) 2 and 3 for financial statements for fiscal years ending on or before December 31, 1985. [which was extended in later years by subsequent rule to December 31, 1990] which were either: (i) prepared in accordance with GAAP, but which were qualified for the fixed asset group or (ii) prepared in compliance with accounting guidelines or procedures mandated by state law or by rule of any state agency or recommended by any state agency. Additional emergency rule subsections under s. SEC 2.01 (1) (d) adopted in 1982 provided the method of determining accounting principles and guidelines.

Similar action to adopt emergency rules was taken in 1994 by the Commissioner of Securities Office after being informed by representatives of Wisconsin municipal/governmental securities issuers, bond attorneys and certified public accountant firms that the Governmental Accounting Standards Board ("GASB") had issued in June 1991 Statement No. 14: "The financial reporting entity." GASB Statement No. 14 requires that housing authorities and other types of authorities, commissions or boards of municipal/governmental entities (referred to as "component units") be included in the financial statements of the particular municipal/governmental entity in order for such financial statements to be considered "full-GAAP" without qualification.

GASB Statement No. 14 became effective accounting periods beginning after December 31, 1992.

The parties who informed the Commissioner's Office regarding GASB Statement No. 14 stated that GASB Statement No. 14 would have an immediate, negative impact on the availability or use of the registration exemption in s. 551.22 (1) (a), Stats., by those governmental/municipal securities issuers who had component units that would be subject to GASB Statement No. 14 and who heretofore have had their general purpose financial statements prepared in full compliance with GAAP. In particular, auditors for such municipal/governmental issuers with component units subject to GASB statement No. 14 generally would no longer be able to issue unqualified opinions for general purpose financial of municipal governmental issuers—namely, that such financial are prepared, totally and without qualification, on the basis of generally accepted accounting principles. Two areas of concern in that regard were identified by the auditor groups, and with respect to each of the two areas, although the auditors could include unaudited information regarding such component units in the governmental issuers' general purpose financial statements, the auditor's opinion would have to be qualified, thus precluding use of the s. 551.22 (1) (a) exemption on a self-executing basis for offers and sales of the governmental issuers' securities to the public.

Therefore, in similar fashion to emergency rule-making action taken by the agency in 1982, and for the purpose of alleviating disruption that would occur to the near-term borrowing/bonding plans of governmental issuers of securities claiming registration exemption status under s. 551.22 (1) (a), Stats., and because it would require a period of time for those governmental issuers to be able to have their financial statements prepared according to full-GAAP including the additional requirement under GASB Statement No. 14 (which necessitates having the audit report include all "component units" of a governmental/municipal issuer), the Office of the Wisconsin Commissioner of Securities, in consultation with representatives of municipal issuers, municipal bond dealers, financial advisors, bond attorneys and certified public accountant groups, promulgated emergency rules that: (i) designated (in current subpar. (c)2) as an alternative accounting guideline, GAAP but where the auditor's opinion is qualified with respect to the omission of component units required to be included by GASB Statement No. 14; (ii) designated (in current subpar. (c)3) as an alternative accounting guideline, GAAP but where the auditor's opinion is qualified with respect to the unaudited financial statements of an included component unit; and (iii) designated (in current subpar. (c)4) as an alternative accounting guideline, GAAP but where the auditor's opinion is qualified with respect to the general purpose financial statements for component units whose securities financial statements are not presented in accordance with generally accepted accounting principles, but which are included in the reporting entity in accordance with GASB Statement No. 14.

### B. Recent Accounting Developments Warranting Present Emergency rule Treatment.

The Commissioner's Office was recently informed by representatives of various Wisconsin governmental securities issuers (principally with respect to Wisconsin public school district and Wisconsin vocational school district issuers of debt securities), bond attorneys, and certified public accounting firms that interpretations by the Governmental Accounting Standards Board ("GASB") through its staff with respect to accounting treatment for property tax recognition may cause many Wisconsin public school districts and vocational school districts to have the audit opinions for their financial statements qualified with respect to the deferral of taxes. The existence of a qualified audit opinion would preclude use of the s. 551.22 (1) (a), Stats., registration exemption on a use of the s. 551.22 (1) (a), Stats., registration exemption on a self-executing basis for offers and sales of a school district's debt securities to the public.

The specific accounting issue involves interpretation of the current accounting standard for property tax recognition established by the National Council on Governmental Accounting ("NCGA") Interpretation 3 "Revenue Recognition—Property Taxes." The accounting interpretation issue is presented as a result of the interplay of the following two factors: (1) most public school and

vocational school districts operate on (and their financial statements are prepared on) a July 1 to June 30 fiscal year; (2) the Wis. Statutes authorize the various Wisconsin local units of government to allow the payment of property taxes (which provide the funding for payment of public school and vocational school district debts and obligations) to be made in installments on January 1 and July 31 of a given year (for example 1996) relating to taxes levied (in the 1996 example given) for a school district's fiscal year extending from July 1, 1995 to June 30, 1996.

Because the July 31 date for payment of the second property tax installment is after the June 30 fiscal year for the school districts, the staff of the GASB in communications with representatives of Wisconsin accounting organizations and school district associations on the issue, set forth the GASB staff's view that the July 31 tax installment revenues may not be recognized for purposes for fiscal years ending the preceding June 30. As a result, auditors for Wisconsin public school districts and vocational school districts would need to show in such school districts' financial statements, deferred revenue for the July 31 installment property taxes. Despite requests for reconsideration, the GASB staff has not changed its position.

Such GASB staff interpretation has resulted in property tax revenue and fund balance amounts as shown in most Wisconsin school districts' audit reports being different from that required to be shown in such districts' Annual Reports and budget documents, thus causing confusion as to what a particular district's financial position actually is. The State of Wisconsin Department of Public Instruction believes that the GASB staff interpretation, in the context of the Wisconsin statutes governing the timing of property tax levies and payments, does not result in appropriate school district revenue and fund balance financial statement presentations.

As a consequence, Wisconsin public school and vocational school districts may be requesting that their external auditors prepare their district's audited financial without showing deferred revenue for uncollected property taxes—which may result in the auditor issuing a qualified opinion. The issuance of such a qualified audit opinion would preclude use of the s. 551.22 (1) (a), Stats., registration exemption on a self-executing basis for offers and sales in Wisconsin of the school district's debt securities to the public.

Therefore, in similar fashion to emergency rule-making action taken by the agency in 1982 and 1994, and for the purpose of alleviating disruption that would occur to the near-term borrowing/bonding plans of governmental school district issuers that regularly claim exemption status under s. 551.22 (1) (a), Stats., for the offer and sale in Wisconsin of their debt securities, the Office of the Wisconsin Commissioner of Securities, in consultation with representatives of school district issuers, bond attorneys and accounting groups, is adopting these emergency rules designating an alternative-to-full-GAAP financial statement provision to deal with this accounting issue to enable school district issuers to continue to use the exemption in s. 551.22 (1) (a), Stats., on a self-executing basis.

The emergency rule created in s. SEC 2.01 (1) (c)5 designates as a permitted alternative accounting guideline for purposes of use of the registration exemption in s. 551.22 (1) (a), Stats., GAAP, but where the auditor's opinions is qualified with respect to the recognition of property tax revenue. The emergency rule created in s. SEC 2.01 (1) (d)5 provides that the auditor's opinion with respect to the financial statements of a school district issuer covered by the

emergency rule in s. SEC 2.01 (1) (c)5 must contain language corresponding to the qualification language in s. SEC 2.01 (1) (c)5.

**Publication Date:** June 24, 1996  
**Effective Date:** July 1, 1996  
**Expiration Date:** November 28, 1996

---

## EMERGENCY RULES NOW IN EFFECT (2)

### Department of Transportation

1. 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

2. Rules adopted creating **Ch. Trans 258**, relating to seed potato overweight permits.

#### 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 safety and welfare. Although the Department will pursue promulgation of this rule through normal procedure, the Department finds an emergency exists for the following reasons: (1) seed potatoes are transported to market between late February and April. Promulgation of an administrative rule through the normal process would not be timely for this planting season; (2) the Department believes the Legislature intended the provisions of 1995 Wis. Act 163 to be effective during this spring planting season. In order to promulgate rules in time for this spring growing season, this emergency process must be employed. The statute does not specify truck configurations, such as trailer length, axle spacing and weight distribution, but delegates responsibility to the Department. Without specified configurations vehicles that will impose damage to the roadway will be eligible for permits; and (3) the statute confers authority to identify an alternate route through rule but does not specify the alternate route. A suitable alternate route should be in place prior to the issuance of permits to allow diversion of permitted loads if any of the low weight bridges along the primary route manifests overstress. Closure of any of those bridges would substantially impede movement of other legal weight traffic in an area with few alternate routes.

**Publication Date:** April 3, 1996  
**Effective Date:** April 3, 1996  
**Expiration Date:** August 31, 1996  
**Hearing Date:** May 13, 1996

---



---

## STATEMENTS OF SCOPE OF PROPOSED RULES

---



---

### *Agriculture, Trade & Consumer Protection*

**Subject:**

Food and dairy license fees. (Chs. ATCP 60, 70, 71, 75 and 80)

**DESCRIPTION OF POLICY ISSUES**

**Preliminary objective:**

Provide adequate funding for state food safety programs. This rule could increase license fees for any or all of the following:

- Food processing plants
- Food warehouses
- Retail food establishments
- Dairy plants
- Dairy farms

**Preliminary policy analysis:**

The Department of Agriculture, Trade and Consumer Protection enforces Wisconsin's food safety laws. Among other things, the Department licenses and inspects food processing plants, retail food establishment, food warehouses, dairy plants and dairy farms. These programs are designed to safeguard public health, and ensure a safe and wholesome food supply. They also facilitate the sale of Wisconsin dairy and food products in interstate and international markets.

Wisconsin's food safety programs are funded by general tax dollars (GPR) and industry license fees (PR). In 1991, license fees funded about 40% of program costs. The 1993-95 biennial budget act reduced GPR funding, and required a higher percentage (50%) of license fee funding. However, the Department has not increased license fees since 1991. Program costs have also increased, due to external factors, such as inflation and statewide pay increases, over which the Department has not control. As a result, the Department projects a deficit in its food safety budget by fiscal year (FY) 1997-98.

In order to maintain current food safety inspection services, the Department is considering the need to increase license fees by rule. The Department has not yet determined whether, or to what extent, specific license fees may be increased.

**Policy alternatives:**

● **Keep food and dairy license fees at their current levels.** If the Department continues to inspect food and dairy establishments at the current frequency, this will produce a deficit in the food safety program revenue account beginning in fiscal year (FY) 1997-98.

● **Reduce the current frequency of food inspection.** This could have the following consequences:

- Increased food safety risks. In 1990, a Food Safety Task Force found that the Department was not inspecting food establishments with adequate frequency, and recommended increased inspection for food safety. (This finding was limited to food, not dairy, establishments.)

- Interstate sales of milk and dairy products would be jeopardized. Wisconsin sells approximately 85% of its dairy output in interstate commerce. Dairy inspection frequency is dictated by the interstate Pasteurized Milk Ordinance (PMO), and cannot be unilaterally altered by the State of Wisconsin. If the Department fails to inspect at the frequency dictated by the PMO, the federal Food and Drug Administration will decertify the state, and other states will refuse to accept shipments of grade A

milk and dairy products from Wisconsin. This will cripple Wisconsin's dairy industry.

**Statutory authority:**

The Department licenses and inspects food processing plants under s. 97.29, Stats., and ch. ATCP 70, Wis. Adm. Code. Under s. 97.29 (3), Stats., the Department may adjust license fees by rule.

The Department licenses and inspects food warehouses under s. 97.27, Stats., and ch. ATCP 71, Wis. Adm. Code. Under s. 97.27 (3), Stats., the Department may adjust license fees by rule.

The Department licenses and inspects retail food establishments under s. 97.30, Stats., and ch. ATCP 75, Wis. Adm. Code. Under s. 97.30 (3), Stats., the Department may adjust license fees by rule.

The Department licenses and inspects dairy plants under s. 97.20, Stats., and ch. ATCP 80, Wis. Adm. Code. Under s. 97.20 (2), Stats., the Department may adjust license fees by rule.

The Department licenses and inspects dairy farms under s. 97.22, Stats., and ch. ATCP 60, Wis. Adm. Code. Under s. 97.22 (2), Stats., the Department may adjust license fees by rule.

**Staff time required:**

The Department estimates that it will use approximately 0.5 FTE (full-time equivalent) staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. The Department will assign existing staff to develop this rule.

### *Agriculture, Trade & Consumer Protection*

**Subject:**

Corn Marketing Order Assessment Rate. (Ch. ATCP 143)

**DESCRIPTION OF POLICY ISSUES**

**Preliminary objective:**

Increase the current corn marketing order assessment rate from one-tenth of one cent (\$0.001) per bushel to one-half of one cent (\$0.005) per bushel.

**Preliminary policy analysis:**

DATCP is authorized under ch. 96, Stats., to adopt marketing orders for agricultural commodities. Each marketing order and marketing order amendment must be approved in a referendum of affected agricultural producers and must be adopted as an administrative rule.

A marketing order requires producers of an agricultural commodity, such as corn, to pay an assessment specified in the marketing order. A marketing board elected by the producers spends assessment funds for market promotional purposes specified in the marketing order, subject to ch. 96, Stats., and DATCP rules.

DATCP created the corn marketing order (ch. ATCP 143) in 1983, with the approval of the state's corn producers. The Wisconsin Corn Growers Association has now asked the DATCP Secretary to amend the marketing order.

This rule would increase the current corn marketing order assessment rate from one-tenth of one cent (\$0.001) per bushel on all corn grown in this state and sold into commercial channels, to one-half of one cent (\$0.005) per bushel on all corn sold in this state. The increase would generate an additional \$400,000 for market promotion, research, and education. The proposed assessment rate would be consistent with the rate in the adjoining corn-producing states of Iowa and Illinois.

**Policy alternatives:**

- **No change.** DATCP could keep the marketing order assessment rate at the current level of \$0.001 per bushel on all corn grown in this state and sold into commercial channels.

However, the Wisconsin Corn Growers Association, which represents a large number of corn growers in the state, has petitioned the Department for a higher assessment.

**Statutory authority:**

The Department proposes to amend s. ATCP 143.06 (1) under authority of ss. 96.05 and 96.08, Stats.

**Staff time required to develop and adopt rule:**

The Department would incur one-time costs of \$35,000 to cover mailing, public communications, travel, and publication costs, and approximately 0.3 FTE (full-time equivalent) staff time to coordinate the rule amendment process, draft the rule, prepare related documents, hold public hearings, communicate with affected persons and groups, and conduct the referendum. The Wisconsin Corn Growers Association fully reimburses the Department for the cost of adoption.

**Financial Institutions, Dept. of**

**Subject:**

(Ch. Bkg 73)

**DESCRIPTION OF POLICY ISSUES**

**Objective of the proposed administrative rule:**

Adjustment service companies (ASC) are licensed under s. 218.02, Wis. Stats., to:

- ① Contract with debtors to formulate budgets;
- ② Pro-rate debtors' funds;
- ③ Remit payments to creditors on the debtor's behalf; and
- ④ Contact creditors on the debtor's behalf to seek reduction of the debt owed.

ASC's help individuals pay their debts, based on a budget worked out by the ASC in conjunction with the creditors. Many of these individuals are poor money managers and require budget counseling in order to satisfactorily meet their credit obligations. Under current law, an ASC may either receive a voluntary contribution from a creditor, or charge the debtor a fee to cover administrative costs. An ASC may not do both.

This change will allow ASC's to accept voluntary contributions from creditors as well as charge a fee to debtors to cover operational and administrative costs. This request is being made on behalf of the Consumer Credit Counseling Services (CCCS), which are non-profit agencies of the United Way of Wisconsin. Of the 17 ASC's currently licensed and regulated by the Department of Financial Institutions, 10 are CCCS's located throughout Wisconsin.

These agencies provide community education programs along with special programs designed for low income families, the unemployed, elderly and at-risk groups. A component of the CCCS's is to provide debt management and counseling to these groups. Due to funding cutbacks, the CCCS's have requested that they be allowed to accept voluntary contributions from the creditors, while being permitted to charge the debtors a minimal administrative fee.

**Existing policy, potential policy implications and alternatives:**

The reasoning behind this portion of the rule was to keep the net income of the ASC's within a certain parameter by limiting the amount of revenue that could be generated from counseling debtors. The proposed change is a reversal of the existing administrative rule; however, this is a needed policy revision.

- The proposed change will not have an adverse impact on debtors, since the fee structure for the debtor remains intact. Under current law, this fee is limited to 10% of the amount of money paid to the licensee, to be distributed to a creditor or creditors or \$120 in any calendar month, whichever is less. Furthermore, ASC's such as the CCCS have a policy of charging the administration fee only in cases where the debtor can afford the charge.

- The proposed change will not have an adverse impact on creditors, since all donations or fees received by the ASC are strictly voluntary, and are capped at 15% of the funds disbursed to the individual creditor or creditors.

- The proposed change will have an impact on the ASC's because they will now be able to accept funds from two sources (provided the creditor is willing to make a voluntary contribution, and the debtor has demonstrated the ability to pay the administrative fee). This may result in increased net income for these entities.

An alternative to implementing this proposed change would be to:

- 1) Raise the limit on the amount the ASC can charge a debtor; or
- 2) Raise the limit a creditor may contribute; or
- 3) Require the creditor to contribute to the ASC.

These alternatives are not appropriate from a policy, fiscal and political perspective.

Given these considerations, the proposed administrative rule change should be adopted.

**Statutory authority:**

Statutory authority for this administrative rule change can be found under s. 218.02 (9), Wis. Stats.

**Time estimates:**

It is estimated that the total amount of time devoted to the creation and implementation of this rule will be less than 10 hours.

**Health & Social Services, Dept. of**

**Subject:**

S. HSS 211.03 (5) – Relating to tribal medical relief programs funded by block grants, successor to the Relief of Needy Indian Persons (RNIP) program.

**DESCRIPTION OF POLICY ISSUES**

**Description of objective(s):**

To bring the Department rules into conformity with a recent change made in s. 49.029 (3), Stats., by 1995 Wis. Act 216.

**Description of policies — relevant existing policies, proposed new policies and policy alternatives considered:**

Before this statute change, s. 49.01 (2g), Stats., provided that the term "health care services," for purposes of the new county and tribal relief block grant program, did not include services for persons with mental illness, a developmental disability, alcoholism or drug abuse, including inpatient and outpatient treatment services and emergency services. In other words, a tribal governing body administering a tribal medical relief program funded by a block grant could not use block grant funds to pay for those services.

The Department's administrative rules for the tribal medical relief programs, effective as emergency rules on January 1, 1996 and as permanent rules on June 1, 1996, reproduced the statutory definition of "health care services."

Act 216 amended s. 49.029 (3), Stats., for just tribal governing body use of relief block grant funds, to state that notwithstanding the definition of "health care services" in s. 49.01 (2g), as created by Act 27, health care services provided by tribal governing bodies may include treatment services for alcohol and other drug abuse.

The Department will amend its definition of "health care services" for tribal governing bodies in s. HSS 211.03 (5), to include treatment services for alcohol and other drug abuse.

**Statutory authority:**

Section 49.029 (2), Stats., as created by 1995 Wis. Act 27.

**Estimates of staff time and other resources needed to develop the rules:**

Three hours.

**Public Instruction, Dept. of**

**Subject:**

Ch. PI 11

**DESCRIPTION OF POLICY ISSUES**

**Describe the objective(s) of the proposed rule:**

Wisconsin is required under state and federal law to provide a due process hearing system for the resolution of special education

disputes between parents and school districts. 1996 Wis. Act 431 will significantly revise that process and will require the Department, rather than school districts, to conduct the due process hearings. Although the Act outlines the process, it does not fully describe the manner in which hearings are to be initiated, the manner in which hearing officers will be appointed, their qualifications and duties. The current rules addressing those issues will not apply under the new statutory process. It is, therefore, necessary to adopt a rule addressing these issues, so that the due process hearing system will remain available to parents and districts when the Act becomes effective.

**Describe any existing relevant policies to be included in the administrative rule:**

None. Appointment of hearing officers and conduct of hearings has occurred, pursuant to rule.

**Describe any new policies to be included in the administrative rule:**

None. Proposed rule outlines process for appointment of hearing officers and conduct of hearings under new statutory scheme, but does not incorporate any new “policies.”

**Describe policy alternatives:**

None. Rule must be changed to meet statutory requirements.

**Statutory authority:**

SS. 115.81 and 227.11 (2) (a)

**Estimate of the amount of time/staff resources necessary to develop rule:**

The amount of time needed for rule development by Department staff and the amount of other resources necessary is indeterminable. The time needed in creating the rule language, itself, will be minimal; however, the time involved with guiding the rule through the statutorily required rule promulgation procedures is fairly significant. The rule promulgation process takes more than 6 months to complete.

***Revenue, Dept. of***

**Subject:**

Registration and reporting requirements for sales and use tax purposes.

*Administrative Code reference:*

Sections Tax 11.002, 11.01, 11.35 and 11.97

**DESCRIPTION OF POLICY ISSUES**

**Objective of the rules:**

The objective of the rule order is to provide correct terminology and recognize certain legislative changes that have been made relating to local exposition district taxes, business tax registration and stadium sales and use taxes.

This rule order will revise various sections of ch. Tax 11, Wis. Adm. Code, to provide correct titles to forms used in registering for and reporting Wisconsin sales and use taxes. In addition, the rules will be revised to reflect recent legislative changes contained in 1993 Wis. Act 263 and 1995 Wis. Act 27 and 56, relating to local exposition district taxes, business tax registration and stadium sales and use taxes.

**Existing policies:**

This rule order reflects the Department of Revenue’s existing policy of providing accurate information to taxpayers, practitioners and Department employees about:

- 1) Registering for sales and use tax purposes; and
- 2) Forms necessary for reporting sales and use taxes.

**New policies proposed:**

No new policies are proposed.

**Policy alternatives:**

• **Do nothing.** The rules will be incorrect in that they do not reflect current titles of forms and legislative changes with respect to registration and reporting of sales and use taxes.

**Statutory authority:**

Section 227.11 (2) (a)

**Estimate of staff time required:**

The Department estimates it will take approximately 40 hours to develop this rule order. This includes drafting the rule order, review by appropriate parties, and preparing related documents. The Department will assign existing staff to develop this rule order.



---



---

## SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

---



---

### Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

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

#### **Corrections, Dept. of**

##### **Rule Submittal Date**

Notice is hereby given that pursuant to s. 227.14 (4m), Stats., on June 26, 1996, the Department of Corrections submitted to the Wisconsin Legislative Council Staff a proposed order affecting ss. DOC 309.25, 309.26, 309.27, 309.28 and 309.29.

##### **Analysis**

The subject matter of the proposed rule relates to legal resources for inmates.

##### **Agency Procedure for Promulgation**

A public hearing is required under s. 227.16 (1), Stats., and will be scheduled at a later date. The organizational unit that is primarily responsible for promulgation of the rule is the Division of Adult Institutions.

##### **Contact Person**

If you have any questions, you may contact David Whitcomb, Chief Legal Counsel, at (608) 267-3673.

#### **Corrections, Dept. of**

##### **Rule Submittal Date**

Notice is hereby given that pursuant to s. 227.14 (4m), Stats., on June 26, 1996, the Department of Corrections submitted to the Wisconsin Legislative Council Staff a proposed order affecting ch. DOC 325.

##### **Analysis**

The subject matter of the proposed rule relates to the temporary release of an inmate from an institution under supervision.

##### **Agency Procedure for Promulgation**

A public hearing is required under s. 227.16 (1), Stats., and will be scheduled at a later date. The organizational unit that is primarily responsible for promulgation of the rule is the Division of Adult Institutions.

##### **Contact Person**

If you have any questions, you may contact David Whitcomb, Chief Legal Counsel, at (608) 267-3673.

#### **Health & Social Services**

##### **Rule Submittal Date**

On June 20, 1996, the Department of Health and Social Services submitted proposed rules affecting chs. HSS 124, 132 and 134, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse, relating to fees for review of hospital, nursing home and facility for the developmentally disabled (FDD) construction plans, including review for compliance with the state building code.

##### **Analysis**

*Statutory authority:* ss. 50.02 (2) (a) and (b) 2. and 50.36 (1) and (2) (b) 2., Stats., as affected by 1995 Wis. Act 27

Until October 1, 1995, the Department reviewed construction plans for hospitals, nursing homes and facilities for the developmentally disabled (FDD) only to check for compliance with the Life Safety Code, whereas DILHR reviewed the same plans to check for compliance with the State Building Code. The State Budget Act for 1995-97 consolidated construction plan review responsibility for these facilities in DHSS effective October 1, 1995, and in ss. 50.02 (2) and 50.36 (2), Stats., as affected by 1995 Wis. Act 27, directed the Department to charge consolidated fees for plan review that are less than the separate fees charged by the Department and DILHR when both agencies reviewed the plans.

The proposed rules provide for consolidated fees that are 95% of the sum of what DHSS and DILHR were charging before October 1, 1995 and that DHSS has been charging since October 1, 1995 under the authority of s. 9126 (2) of Act 27.

##### **Agency Procedure for Promulgation**

Public hearing under ss. 227.16, 227.17 and 227.18, Stats., approval of rules in final draft form by the Secretary; and legislative standing committee review under s. 227.19, Stats.

Hearings will be scheduled later.

##### **Contact Person**

If you have any questions, you may contact Larry Hartzke, Division of Health, at (608) 267-1438.

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

##### **Rule Submittal Date**

Notice is hereby given that pursuant to s. 227.14 (4m), Stats., on July 1, 1996, the Department of Transportation submitted to the Wisconsin Joint Legislative Council Staff a proposed order affecting ch. Trans 102.

##### **Analysis**

The subject matter of the proposed rule relates to commercial driver's license (CDL) waivers for snowplow operators employed by local units of government with populations of less than 3,000.

##### **Agency Procedure for Promulgation**

A public hearing is required and will be scheduled at a later date. The organizational unit that is primarily responsible for promulgation of the rule is the Division of Motor Vehicles/Bureau of Driver Services.

##### **Contact Person**

If you have any questions, you may contact Julie Johnson, Paralegal, at (608) 266-8810.



---



---

## NOTICE SECTION

---



---

### Notice of Hearings

#### *Agriculture, Trade & Consumer Protection*

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed rule (proposed ch. ATCP 77, Wis. Adm. Code) relating to laboratory certification fees. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **August 16, 1996**, for addition written comments.

A copy of this rule may be obtained free of charge, from the Wisconsin Department of Agriculture, Trade & Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, or by calling (608) 224-4700. Copies will also be available at the public hearings.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **July 15, 1996**, either by writing to Debbie Mazanec, 2811 Agriculture Drive, P.O. 8911, Madison, WI 53708, (608) 224-4712, or by contacting the message relay system (TTY) at (608) 266-4399 to forward your call to the Department at (608) 224-5058. Handicap access is available at the hearings.

#### Hearing Information

**July 30, 1996**  
**Tuesday**  
**10:00 a.m. – 2:00 p.m.**

**Marathon County Health Dept.**  
**West Conference Room**  
**1200 Lakeview Drive**  
**Wausau, WI 54401**

**August 1, 1996**  
**Thursday**  
**10:00 a.m. – 2:00 p.m.**

**WI Dept. of Agriculture, Trade & Consumer Protection, Board Room**  
**2811 Agriculture Drive**  
**Madison, WI**

#### Analysis

Statutory Authority: ss. 93.07 (1), 93.12 (7) and 97.24 (3)

Statutes Interpreted: ss. 93.12 (4) & (7) and 97.24

The 1995-97 biennial budget act, 1995 Wis. Act 27, transferred much of the administration of Wisconsin's laboratory certification program from the department of health and social services to the department of agriculture, trade and consumer protection ("department"), effective July 1, 1996.

Under this program, the department will be responsible for certifying laboratories that test milk, food or water for compliance with public health standards prescribed by federal, state or local laws. Under 1995 Wis. Act 27, the department's public health lab certification program must be funded by certification fees paid by the certified laboratories. The department must establish these fees by rule.

Current rules governing the public health lab certification program are contained in ch. HSS 165, Wis. Adm. Code. The current rules remain in effect until the department amends or repeals them. This rule repeals portions of ch. HSS 165 related to lab certification and fees, and creates new certification and fee requirements under ch. ATCP 77, Wis. Adm. Code. The department expects to proposed additional rules related to the lab certification program later this year.

This rule does all of the following:

- Identifies the laboratories which must be certified by the department.

- Establishes a procedure by which a laboratory may obtain and annually renew its certification.

- Establishes certification fees.

Under this rule, a certified laboratory must pay the following fees:

- A basic annual certification fee of \$400, except that the basic fee is \$200 for a dairy plant laboratory which is solely engaged in performing antibiotic drug residue screening tests on bulk milk tanker loads of milk received at that dairy plant.

- A supplementary annual fee of \$120 for each different type of milk test performed by the laboratory, if the laboratory is engaged in milk testing. This supplementary fee finances proficiency testing of milk analysts, which is currently required under state and federal law. If a milk testing laboratory applies for certification in mid-year, this supplementary fee is prorated by the number of months remaining in the calendar year for which the applicant seeks certification.

#### Fiscal Estimate

Laboratories were previously certified and inspected by the Wisconsin Department of Health & Social Services (HSS) under s. 252.22, Stats., and ch. HSS 165, Wis. Adm. Code. 1995 Wis. Act 27 transferred laboratory certification and inspection to the Wisconsin Department of Agriculture, Trade & Consumer Protection (DATCP) under s. 93.12, Stats., effective July 1, 1996. DATCP is required to promulgate rules establishing a fee schedule to offset the cost of certification of laboratories.

Creation of ch. ATCP 77, (Laboratory Certification Fees) and repeal of s. HSS 165.21 has no effect on GPR funds, but will increase PRO funds.

The rule will increase revenues due to increased fees. Fees have been increased for existing laboratories. Portions of this program are mandatory and have been under-funded in the past. The Federal Pasteurized Milk Ordinance (PMO) requires laboratories examining milk and water for the grade A dairy industry to be certified. In order for grade A dairy plants to ship fluid mil and milk products out-of-state, the milk they process and the water they use must be examined at a laboratory certified under this program. Recently the PMO mandated a new category of laboratories be certified for the testing of raw bulk milk for drug residue. Many of this laboratories will now be required to pay certification fees. About 85% of milk produced in Wisconsin is shipped out-of-state.

Previously, H&SS exempted many local public health laboratories from paying fees. This rule will continue that exemption.

Approximately 45 local water laboratories are also certified under this program. Based on current data, local costs will increase approximately \$4500 under the proposed rule.

As stated above, this program has been underfunded;

- a. During the current fiscal year HSS collected \$72,000 in laboratory certification fees.

- b. The program is authorized 2.5 FTE's requiring \$175,000 annual funding.

- c. Proposed fees will likely generate \$180,000 annually, which should support the program for four (4) years without any additional fee increases.

The proposed annual fee schedule is as follows:

- a. Laboratory site fees of \$400 for fully certified laboratories and \$200 for laboratories which only screen bulk milk tankers for drug residue.

- b. Individual milk test fee of \$120.

The current fees charged by H&SS are based on \$104 fee for each type of test performed in the laboratory. For example, a laboratory performing standard plate counts, somatic cell counts and a drug residue test would have paid fees totalling \$312. Under this proposed

rule, the total fees would be \$760 (\$400 + \$360 (3 tests at \$120 each) = \$760).

### **Initial Regulatory Flexibility Analysis**

This rule establishes fees for certification of laboratories examining milk, water or food products for the protection of public health. This rule implements the provisions of 1995 Wis. Act 27 which shifts the administration and performance of the evaluation of milk, water and food laboratories from the Wisconsin Department of Health and Social Services, Division of Health, to the Wisconsin Department of Agriculture, Trade and Consumer Protection.

The proposed laboratory certification fee rule establishes fees to offset the costs of certification of laboratories as required in s. 93.12, Stats. These fees are based on recovering 100% of the costs of this program from the industry affected by the program.

The approximately 250 laboratories currently certified range from small, one person laboratories to large facilities with dozens of analysts. Chapter ATCP 77, Wis. Adm. Code, (Laboratory Certification Fees) will have a fiscal impact on "small businesses" as defined in s. 227.114 (1) (a), Stats. Annual laboratory fees are increased as compared to the previous \$104 per test fee charged by the Wisconsin Department of Health and Social Services, Division of Health. This fee increase is due to the fact that the laboratory certification program has been and continues to be, inadequately funded.

The proposed rule may impose some significant costs for businesses such as dairy plants that receive raw milk in bulk trucks. In order to comply with Interstate Milk Shipment requirements and s. ATCP 60.19 (2), Wis. Adm. Code, requirements, these plants must have drug residue testing facilities on site. These facilities may be fully certified laboratories or drug residue screening sites. Average fees for these sites can range from \$320 for one test to \$760 for three tests.

The proposed rule may increase costs for some full service laboratories. These laboratories currently pay a fee of \$104 per test. Average fees under the proposed rule can range from \$520 for one test to \$1600 for ten tests.

The proposed rule may impact local government water laboratories. These laboratories currently pay fees of \$104 per test based on the number of tests they run. Under the proposed rule, these laboratories would pay a \$400 site fee and no fees for tests.

The impact of the other proposed rule changes on small business is negligible. It would not be necessary for licensed establishments to retain additional professional services such as accounting or legal services to comply with this rule.

## **Notice of Hearing**

### **Chiropractic Examining Board**

Notice is hereby given that, pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 446.02 (7m), Stats., as created by 1995 Wis. Act 94, and interpreting s. 446.02 (7m), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal s. Chir 6.015; to amend s. Chir 6.02 (27); and to create ch. Chir 11, relating to patient records.

### **Hearing Information**

August 8, 1996  
Thursday  
8:45 a.m.

Room 179A  
1400 East Washington Ave.  
MADISON, WI

### **Written Comments**

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

opinions and argument may also be submitted in writing without a personal appearance by mail addressed to:

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

Written comments must be received by **August 22, 1996** to be included in the record of rule-making proceedings.

### **Analysis Prepared by the Dept. of Regulation & Licensing**

*Statutes authorizing promulgation:* ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 446.02 (7m), Stats., as created by 1995 Wis. Act 94.

*Statute interpreted:* s. 446.02 (7m)

In this proposed rule-making order, the Chiropractic Examining Board proposes to create ch. Chir 11, relating to minimum standards of patient recordkeeping by chiropractors. Section 446.02 (7m), Stats., created by 1995 Wis. Act 94, provides that a chiropractor shall create and maintain a patient record for every patient the chiropractor examines or treats. The patient record shall contain complete and comprehensive health care information as defined by the Board by this proposed rule. This proposed rule specifies the minimum format, contents and retention time for patient records required to be created and maintained by chiropractors licensed and practicing in the state of Wisconsin.

Section Chir 6.015 is repealed and replaced by the new definition of "patient record" in s. Chir 11.01 (1), for consistency with the terminology in s. 446.02 (7m) (a), Stats., and s. Chir 6.02 (27) is also amended for consistency with the term "patient record." The definition of "patient record" in proposed s. Chir 11.01 (1), includes a cross-reference to the term "patient health care records" as used and defined in ch. 146, Stats., to clarify that the terms "patient record" under the proposed rule and "patient health care records" are synonymous.

The requirement that patient records be created and maintained under this proposed rule applies to chiropractors consulting with, examining and treating patients in the normal course of practice and to chiropractors or peer review committees that conduct an examination, evaluation or make a recommendation under s. 632.87 (3) (b) 1., Stats.

### **Text of Rule**

**SECTION 1.** Chir 6.015 is repealed.

**SECTION 2.** Chir 6.02 (27) is amended to read:

Chir 6.02 (27) Failing to maintain patient health care records for a minimum period of 7 years after the last treatment or after the patient reaches the age of majority, whichever is greater.

**SECTION 3.** Chapter Chir 11 is created to read:

#### **Chapter Chir 11**

#### **PATIENT RECORDS**

**Chir 11.01 Definitions.** As used in this chapter:

(1) "Patient record" means patient health care records as defined under ch. 146, Stats., and includes all records related to the health of a patient prepared by or under the supervision or direction of a chiropractor, and all records from other health care providers obtained by, reviewed by, or relied upon by a chiropractor in consulting with, examining, or treating a patient.

(2) "SOAP format" means an outline system of recording patient health information in patient records which includes the four essential elements of:

- (a) Subjective complaints by the patient of his or her condition.
- (b) Objective findings of examination and diagnostic testing.
- (c) Assessment or diagnosis by the chiropractor of the patient's condition.
- (d) Plan for treatment, further diagnostic testing or referral to other health care providers.

**Chir 11.02 Patient record contents.** (1) Complete and comprehensive patient records shall be created and maintained by a chiropractor for every patient with whom the chiropractor consults, examines and treats, and for every patient with respect to whom a chiropractor or peer review committee conducts an examination, evaluation or makes a recommendation under s. Chir 6.02 (27).

(2) Patient records shall be maintained for the minimum period specified in s. Chir 6.02 (27).

(3) Patient records shall be prepared in substantial compliance with the requirements of this chapter, and as otherwise required by law.

(4) Patient records shall be complete, legible and understandable to other consulting health care providers or reviewing health care professionals.

(5) Patient records shall include written informed consent of the patient, or the parent or guardian of any patient under the age of 18, for examination, diagnostic testing and treatment.

(6) Rationale for diagnostic testing, treatment or other ancillary services shall be documented or readily inferred from the patient record.

(7) Patient health risk factors shall be identified and documented in the patient record.

(8) Patient records shall generally include, at the minimum, documentation of the patient's chief complaints, relevant health history, physical examination findings, diagnostic test results including x-rays, the chiropractor's assessment of the patient's condition, clinical impression or diagnoses, the chiropractor's plan for care, the treatments rendered, all other ancillary procedures or services rendered or recommended, the patient's progress and response to treatment and changes in treatment or diagnosis.

(9) Each entry in the patient record shall be dated and legibly signed by the chiropractor, chiropractic assistant or other person making the entry.

**Chir 11.03 Patient record elements.** Patient records shall be made and maintained in a SOAP format, or a substantial equivalent thereof, and include the following elements:

- (1) History of the present illness or complaints including:
  - (a) Patient's description of the chief complaint.
  - (b) History of trauma, if any.
  - (c) Onset of symptoms.
  - (d) Provocative factors.
  - (e) Palliative factors.
  - (f) Character or quality of pain or discomfort.
  - (g) Radiation of pain or discomfort.
  - (h) Severity of pain or discomfort on an ascending scale of 1 to 10.
  - (i) Frequency or timing of complaint, pain or discomfort.
  - (j) Previous episodes of complaint, pain or discomfort.
- (2) Past health and medical history including:
  - (a) Prior major illnesses and injuries.
  - (b) Prior surgeries.
  - (c) Prior hospitalizations.
  - (d) Current medications.
  - (e) Food, drug or environmental allergies.
- (3) Patient's social history including:
  - (a) Occupational history and current employment.
  - (b) Use of drugs, alcohol or tobacco.
  - (c) Other relevant social history.
- (4) Significant family medical history and health factors which may be congenital or familial in nature.
- (5) Review of patient systems including:
  - (a) Constitutional symptoms including but not limited to fever, weight gain or loss, or fatigue.

- (b) Cardiovascular.
- (c) Respiratory.
- (d) Musculoskeletal.
- (e) Integumentary.
- (f) Neurologic.

(6) Patient physical examination focusing on areas pertinent to the patient's chief complaints, including observation, palpation, range of motion, reflexes, provocative orthopedic testing, and neurologic testing.

(7) Patient assessment or diagnostic impression, including subluxation levels and assessment of risk factors.

(8) Patient treatment plan, including need for further diagnostic testing, therapeutic treatment plan including chiropractic adjustments, therapies and modalities, home exercises, modifications of daily activities and work activities, short and long term goals, and coordination with other health care professionals.

**Chir 11.04 Progress notes.** Patient records shall include progress notes for every patient encounter where the chiropractor consults with, examines or treats a patient and shall include the following elements:

- (1) Subjective complaints or report of patient of condition.
- (2) Objective findings from examination, including palpation, range of motion testing, provocative tests, neurologic tests and findings from supplemental diagnostic tests of x-rays.
- (3) Assessment or diagnoses of the patient's condition, including subluxation levels, patient's progress, patient's tolerance of testing and treatment, patient's compliance with treatment plan.
- (4) Plan for continuing treatment, discharge from treatment, or referral to other health care providers, including date for return treatment, changes in treatment plan, changes in adjusting procedure, spinal level of adjustment, therapies performed including type, location, intensity and duration, recommendations for patient self care or exercise, indicated imaging or diagnostic studies, and coordination of care with other health care providers.

**Chir 11.05 Independent evaluation.** A chiropractor or peer review committee conducting an independent evaluation, examination or making a recommendation under s. 632.87 (3) (b) 1., Stats., shall notify the treating chiropractor in writing of the name of the chiropractor or the names of the peer review committee's members conducting the independent evaluation, and the treating chiropractor shall include the written notice in the patient record.

### **Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

### **Initial Regulatory Flexibility Analysis**

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

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

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

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

## Notice of Proposed Rule

### *Elections Board*

Notice is hereby given that pursuant to ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., and interpreting ss. 11.01 (5m), 11.06 (11), 11.12 (5), 11.24 (1m), 11.26 (12m), and 11.50 (2) (b) 5., Stats., and according to the procedures set forth in s. 227.16 (2) (e), the State of Wisconsin Elections Board will adopt the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **July 15, 1996**, the Elections Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

### **Analysis**

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

Statutes interpreted: ss. 11.01 (5m), 11.06(11), 11.12(5), 11.24 (1m), 11.26 (12m), and 11.50 (2) (b) 5.

This rule applies to all contributions from conduit accounts. The rule sanctions verbal authorizations by the conduit contributor if contemporaneous written records of the verbal authorization are maintained by the conduit administrator. The rule makes clear that a conduit must make its contributions in the form of a negotiable instrument and may not make in-kind contributions. The rule also requires that a conduit's contributions must be transferred to the candidate, political party, or legislative campaign committee within 15 days of receiving authorization from the contributor.

### **Text of Rule**

**SECTION 1.** EIBd 1.855 is created to read:

**EIBd 1.855 Contributions from conduit accounts.**

(1) No contribution may be made from a conduit member's account without the conduit member's authorization which is specific as to the amount of the contribution and as to the identity of the candidate who is to receive the contribution. The conduit member's authorization may be made in writing, or may be made orally if a contemporaneous written record of the oral authorization is made by the conduit administrator.

(2) A contribution from a conduit account must be in the form of a check or other negotiable instrument made out to the named candidate or to the candidate's committee, or to a legislative campaign, political party or support committee. A conduit may not make an in-kind contribution.

(3) Contributions from a conduit account must be transferred to the candidate, political party, or legislative campaign or support committee, within 15 days of the conduit administrator's receipt of the member's authorization.

### **Initial Regulatory Flexibility Analysis**

The creation of this rule does not affect business.

### **Fiscal Estimate**

The creation of this rule has no fiscal effect.

## Notice of Proposed Rule

### *Elections Board*

Notice is hereby given that pursuant to ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., and interpreting ss. 11.01 (6), 11.05 (2r), 11.06, 11.08, 11.16 (1) and 11.20, Stats., and according to the procedures set forth in s. 227.16 (2) (e), Stats., the State of Wisconsin Elections Board will amend the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **July 15, 1996**, the Elections Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

### **Analysis**

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

Statutes interpreted: ss. 11.01(6), 11.05(2r), 11.06, 11.08, 11.16(1) and 11.20

The rule governs the change in campaign finance report filing status from exempt to nonexempt, for individuals, committees or groups. The amendment adds to the rule sub. (3) providing that state party transfers of party members' dues will not affect the exempt status of a local party that receives those transfers.

### **Text of Rule**

**SECTION 1.** EIBd 1.30 (3) is created to read:

(3) For purposes of qualifying for exempt status under s. 11.05(2r), Stats., the transfer of party member dues from a state political party to a local party shall not be considered a contribution from a single source. A local political party shall not lose its exempt status because of transfers to it by the state party of party member dues in excess of \$100.

### **Initial Regulatory Flexibility Analysis**

The creation of this rule does not affect business.

### **Fiscal Estimate**

The creation of this rule does not affect business.

## Notice of Proposed Rule

### *Elections Board*

Notice is hereby given that pursuant to ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., and interpreting ss. 11.01 (16), 11.06 (12), and 11.30 (2), (4) and (5), Stats., and according to the procedures set forth in s. 227.16 (2) (e), Stats., the State of Wisconsin Elections Board will amend the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **July 15, 1996**, the Elections Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

### **Analysis**

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

Statutes interpreted: ss. 11.01 (16), 11.06 (12), and 11.30(2), (4) and (5)

The rule provides that the source of any communication, including a telephone call, that has been paid for with money raised for political purposes – except a bona fide poll or survey which does not expressly advocate the election or defeat of a clearly identified candidate or a vote at a referendum – must be identified during the course of, or at the end of, the communication. The amendment adds a new subsection, [sub. (5)], establishing a special source identification for slate endorsements in political party communications.

### **Text of Rule**

**SECTION 1.** EIBd 1.655 (1) (f) and (5) are created to read:

(1) (f) "Political Party" has the meaning provided in s. 5.02 (13), Stats.

(5) If a political party makes a communication supporting the election of more than one candidate, the source identification for that communication shall be as follows: "Paid for by the (Name of party) Party as an in-kind contribution to the candidates named."

### **Initial Regulatory Flexibility Analysis**

The creation of this rule does not affect business.

### **Fiscal Estimate**

The creation of this rule has no fiscal effect.

## Notice of Proposed Rule

### *Elections Board*

Notice is hereby given that pursuant to ss. 5.05 (1) (f) and 227.11 (2) (a), Stats., and interpreting ss. 11.01 (5m), 11.02, 11.05 (9) (b),

11.06 (11), 11.12 (5), 11.20, 11.24 (1m), 11.26 (12m), and 11.50 (2) (b) 5., Stats., and according to the procedures set forth in ss. 227.16 (2) (e) Stats., the State of Wisconsin Elections Board will amend the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **July 15, 1996**, the Elections Board is petitioned for a public hearing by 25 persons who will be affected by the rule; by a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business, or professional group which will be affected by the rule.

### Analysis

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

Statutes interpreted: ss. 11.01 (5m), 11.02, 11.05 (9) (b),  
11.06 (11), 11.12 (5), 11.20, 11.24 (1m),  
11.26 (12m), and 11.50 (2) (b) 5.

The rule governs conduit registration and reporting requirements. The amendment to sub. (1) requires conduits to register no later than the date of the initial transfer of a contribution by the conduit, or within 5 days of receiving a contribution, whichever event occurs first. The amendment to sub. (4) increases, from \$50 to \$100, the amount of the cumulative contributions that generate a requirement to report a transferee's occupation and principal place of employment; and adds the further requirement that the contributor's name and address and the name and address of the contributor's principal place of employment must also be provided.

### Text of Rule

**SECTION 1.** EIBd 1.85 (1) and (4) are amended to read:

(1) A conduit, as defined in s. 11.01 (5m), Stats., is required to register no later than the date of the initial transfer of a contribution to a candidate, personal campaign committee, legislative campaign committee, or political party committee, or within five days of the receipt of a contribution from conduit member, whichever event occurs first.

(4) A conduit shall report to the transferee the full name and address, the occupation, and the name and address of the principal place of employment, if any, of the contributor if the contributor's cumulative contributions exceed \$100 50 for the calendar year.

### Initial Regulatory Flexibility Analysis

The creation of this rule does not affect business.

### Fiscal Estimate

The creation of this rule has no fiscal effect.

### Notice of Hearing

#### Public Defender

Notice is hereby given that pursuant to s. 977.02 (2m), (3), (4) and (6), Stats., interpreting ss. 977.07 and 977.08, Stats., the State Public Defender will hold a public hearing at the time and place indicated below to consider the creation of rules, relating to the procedures for assignment of counsel.

### Hearing Information

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

July 26, 1996	2nd Floor
Friday	315 North Henry St.
10:00 a.m. to	MADISON, WI
12:00 p.m. (noon)	

*Reasonable accommodations will be made at the hearing for people with disabilities.*

### Analysis by Agency

Statutory authority: s. 977.02 (2m), (3), (4) and (6)

Statutes interpreted: ss. 977.07 and 977.08

The proposed rules are necessary to reflect recent changes related to the procedures for assigning both staff and private counsel. Also, the proposed rules are needed for consistency among PD administrative rules. The proposed rules will aid in implementation of the statutory mandates related to the appointment of counsel and collections contained in the biennial budget act.

Specifically, proposed s. PD 2.03 (4) amends the language related to the categories of persons for which counsel is appointed. The amendments contained in proposed s. PD 2.03 (5) reflect recent statutory changes related to the repayment of attorney costs. Finally, proposed s. PD 2.03 (8) specifies the proper title of the person who may authorize group assignment of cases to the private bar.

### Initial Regulatory Flexibility Analysis

This rule would not have a regulatory effect on small businesses.

### Fiscal Estimate

The proposed amendments to s. PD 2.03 (4), (5) and (8) will have no fiscal impact. The proposed amendments reflect recent changes related to the procedures for assigning both staff and private counsel and are needed primarily to establish consistency with other PD administrative rules.

### Contact Person

For copies of the proposed rules, or if you have questions, please contact:

Ms. Gina Pruski  
Deputy Legal Counsel  
(608) 266-6782  
315 North Henry Street  
Madison, WI 53703-3233

### Written Comments

Written comments regarding this rule may be submitted in addition to or instead of verbal testimony at the public hearing. Such comments should be addressed to the contact person at the address stated above, and must be received by **July 26, 1996**.

### Notice of Hearing

#### Public Defender

Notice is hereby given that pursuant to s. 977.02 (2m) and (3), Stats., interpreting s. 977.06 (1) (b), Stats., the Office of the State Public Defender will hold a public hearing at the time and place indicated below to consider the creation of a rule, relating to the redetermination of indigency during the course of representation.

### Hearing Information

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

July 26, 1996	2nd Floor
Friday	315 North Henry St.
1:00 p.m. to	MADISON, WI
3:00 p.m.	

*Reasonable accommodations will be made at the hearing for people with disabilities.*

### Analysis by Agency

Statutory authority: s. 977.02 (2m) and (3)

Statute interpreted: s. 977.06 (1) (b)

The proposed amendment clarifies the administrative rule by deleting background information that explains the gross income eligibility table contained in the rule. The deleted information comprises a worksheet showing the disposable monthly income of a single person earning \$7.50 per hour and a summary of the agency's cost-of-counsel table in non-felony cases. Although this part of the rule supports the income levels contained in the table, the worksheet

and reference to the cost of counsel do not contribute to the substance of the rule, and their deletion will make the rule clearer.

### **Initial Regulatory Flexibility Analysis**

This rule would not have a regulatory effect on small businesses.

### **Fiscal Estimate**

The proposed amendments to s. PD 3.039 will have no fiscal impact. The proposed amendment clarifies the administrative rule by deleting background information that explains the gross income eligibility table contained in the rule. The deleted information consists of a worksheet showing the disposable monthly income of a single person earning \$7.50 per hour and a summary of the agency's cost-of-counsel table in non-felony cases. Deletion of the worksheet and reference to the cost of counsel has no fiscal effect.

### **Contact Person**

For copies of the proposed rules, or if you have questions, please contact:

Ms. Gina Pruski  
Deputy Legal Counsel  
(608) 266-6782  
315 North Henry Street  
Madison, WI 53703-3233

### **Written Comments**

Written comments regarding this rule may be submitted in addition to or instead of verbal testimony at the public hearing. Such comments should be addressed to the contact person at the address stated above, and must be received by **July 26, 1996**.

### **Notice of Hearing** *Transportation*

Notice is hereby given that, pursuant to s. 343.055, Stats., and interpreting s. 343.055, Stats., the Department of Transportation will hold a public hearing at the time and place indicated below, to consider the creation of s. Trans 102.22, Wis. Adm. Code, relating to CDL (commercial driver's license) waivers for snowplow operators employed by local units of government with populations of less than 3000.

### **Hearing Information**

July 30, 1996  
Tuesday  
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 and Contact Person**

The public record on this proposed rule-making will be held open until close of business **July 30, 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 written comments should be submitted to:

Wes Geringer  
Bureau of Driver Services, Room 351  
Department of Transportation  
P. O. Box 7920  
MADISON, WI 53707-7920

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

*Statutory Authority:* s. 343.055

*Statute Interpreted:* s. 343.055

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

Section 343.055 (5), Stats., directs the Secretary to incorporate federal waivers of commercial driver license requirements into state law by promulgation of administrative rules. On April 3, 1996, the U.S. Department of Transportation Federal Highway Administration published a limited waiver for backup snowplow drivers employed by local units of government. 61 Fed. Reg. 14677, April 3, 1996.

This proposed rulemaking extends the federal waiver to state drivers to the extent permitted under federal law. To be eligible for the waiver, the driver must be a backup driver that is employed by a local unit of government (contractors for government and their employees are not eligible.) The vehicle driven may only be operated within the confines of the political body's boundaries. The political subdivision may have a population of no more than 3000 people. All Wisconsin counties exceed this maximum population restriction, so only towns and municipal bodies will benefit from this legislation in Wisconsin. Finally, the driver may only operate under the waiver where the employee who ordinarily operates the vehicle is unavailable or in need of additional assistance due to a snow emergency. The customary operator of the vehicle is still required to hold a commercial driver license.

#### **Fiscal Estimate**

The Department anticipates no fiscal effect from this proposed rulemaking.

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

This proposed rule will not impact small businesses.

#### **Copies of Proposed Rule**

Copies of this proposed rule can be obtained upon request, without cost, from the Division of Motor Vehicles, Bureau of Driver Services, P.O. Box 7920, Madison, WI 53707-7920. For further information, contact Wes Geringer (608) 266-0614 or Gerry Bown (608) 266-0428.

---

---

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

---

---

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

**Agriculture, Trade & Consumer Protection (CR 96-9):**

Ch. ATCP 100 – Relating to payroll statements to milk producers and price discrimination in milk procurement.

**Barbering & Cosmetology Examining Board**

(CR 96-1):

S. BC 3.03 (5) – Relating to booth rental arrangements.

**Health & Social Services (CR 94-122):**

S. HSS 55.90 – Relating to higher quality of care standards for child care providers and the administration of staff retention and quality improvement grants for providers who meet the higher quality of care standards.

**Health & Social Services (CR 95-70):**

Ch. HSS 275 – Relating to appeal procedures for persons applying for or receiving vocational rehabilitation services.

**Health & Social Services (CR 95-226):**

Ch. HSS 111 – Relating to licensing of emergency medical technicians–intermediate (EMT’s–intermediate) and approval of operational plans for EMT’s–intermediate.

**Health & Social Services (CR 96-3):**

Ch. HSS 112 – Relating to licensing of emergency medical technicians–paramedic (EMT’s–paramedic) and approval of operational plans for use of EMT’s–paramedic.

**Medical Examining Board (CR 96-47):**

Ch. Med 8 – Relating to physician assistants.

**Natural Resources (CR 96-23):**

SS. NR 20.015, 20.02, 20.03, 20.037 and 21.04 – Relating to sport fishing.

**Physical Therapists Affiliated Credentialing Board**

(CR 96-52):

S. PT 3.01 (4) – Relating to temporary licenses to practice physical therapy.

**Revenue (CR 96-56):**

S. Tax 2.47 – Relating to the apportionment of net business incomes of interstate motor carriers.

**Transportation, Dept. of (CR 96-88):**

Ch. Trans 107 – Relating to driver licensing of people with chemical abuse or dependency problems.

---

---

## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

---

---

*The following administrative rules have been filed with the Revisor of Statutes Bureau and are in the process of being published. The date assigned to each rule is the projected effective date. It is possible that the publication of these rules could be delayed. Contact the Revisor of Statutes Bureau at (608) 266-7275 for updated information on the effective dates for the listed rules.*

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

An order creating ch. ATCP 123, relating to telecommunications and cable television service.

Effective 01-01-97.

**Emergency Response Board (CR 96-35):**

An order amending ch. ERB 1, relating to temporary construction facility hazardous chemical inventory reporting.

Effective 09-01-96.

**Employment Relations, Dept. of (CR 96-51):**

An order creating s. ER 29.03 (8) (bm), relating to the rate of pay as a result of voluntary demotions by employes who are notified they may be subject to layoff.

Effective 08-01-96.

**Health & Social Services (CR 94-193):**

An order affecting ch. HSS 62, relating to assessment and treatment of intoxicated drivers.

Effective 08-01-96.

**Natural Resources (CR 94-180):**

An order repealing and recreating ss. NR 1.15 (2) (a), 10.104 and 10.28, relating to deer hunting permits.

Part effective 08-01-96.

Part effective 09-01-96.

**Natural Resources (CR 95-194):**

An order creating s. NR 19.02, relating to requiring a handling fee for certain approvals required for hunting, trapping or fishing.

Effective 08-01-96.

**Natural Resources (CR 95-196):**

An order repealing and recreating ss. NR 10.01 (1) (g) 1. L. and 10.31 (11) and creating s. NR 10.01 (1) (g) 1. m., relating to migratory game bird hunting.

Effective 09-01-96.

**Natural Resources (CR 96-22):**

An order affecting ss. NR 10.01, 10.02, 10.106, 10.145, 10.27, 10.29 and 10.40, relating to hunting and trapping.

Effective 09-01-96.

**Regulation & Licensing (CR 95-210):**

An order creating ch. RL 9, relating to establishing a procedure for determining whether an applicant for credential renewal is liable for any delinquent taxes.

Effective 09-01-96.

**Securities, Commissioner of (CR 96-65):**

An order creating s. SEC 2.01 (3) (e), relating to designating the Chicago stock exchange under s. 551.22 (7), Stats.

Effective 08-01-96.

**Transportation, Dept. of (CR 96-43):**

An order amending s. Trans 6.04 (1) (e), relating to administration of the federal section 18 program.

Effective 08-01-96.

**Veterans Affairs, Dept. of (CR 96-46):**

An order creating ch. VA 14, relating to the establishment of fees for burial at state veterans' cemeteries.

Effective 09-01-96.



THE STATE OF WISCONSIN  
DEPARTMENT OF ADMINISTRATION  
DOCUMENT SALES UNIT  
P.O. BOX 7840  
MADISON, WISCONSIN 53707-7840

**First Class**  
U.S. POSTAGE PAID  
Madison, Wisconsin  
Permit Number 1369

**First Class Mail**

*Wisconsin  
Administrative  
Register*

*DATED MATERIAL. PLEASE DO NOT DELAY!*