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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 Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

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

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

EMERGENCY RULES NOW IN EFFECT

Department of Administration (Gaming Board)

Rules adopted revising **ch. WGC 13**, relating to the license fees of kennel owners that own and operate kennels at Wisconsin greyhound racetracks.

Finding of Emergency

Statutory Authority: ss. 16.004(1), 562.02(1) and 562.05(2)

Statutes Interpreted: ss. 562.02(1)(am) and 562.05(2)

The Department of Administration's Division of Gaming finds that an emergency exists and the rule amendments are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

For CY 1998, the Wisconsin racetracks were unable to recruit kennels to operate at the state's three existing racetracks. The 1997 license fee of \$750.00 per kennel is too cost prohibitive to the kennels and therefore they pursue booking agreements in other states. By decreasing the cost to \$350.00 and allowing the license to be valid at all Wisconsin racetracks, the racetracks will be able to attract quality kennels.

As a result of the increased competition for the availability of greyhounds throughout the country, license fees and purse revenues are the only considerations that racetracks have to offer when attempting to recruit kennels. If the racetracks are unsuccessful in recruiting new kennels or maintaining existing kennels, then races or whole performances would have to be canceled due to the lack of greyhounds.

In conjunction with the canceled races or performances and the associated decrease in handle, the revenue generated for the state related to greyhound racing would decrease accordingly.

Publication Date: December 8, 1997

Effective Date: December 8, 1997

Expiration Date: May 7, 1998

Hearing Date: February 26, 1998

EMERGENCY RULES NOW IN EFFECT (2)

Agriculture, Trade & Consumer Protection

1. Rules adopted creating **Ch. ATCP 36**, relating to the sale and use of pesticides containing the active ingredient clomazone.

Finding of Emergency

(1) Pesticides containing the active ingredient clomazone are used at spring planting on soybeans, tobacco, peppers, pumpkins, peas, cabbage and cucumbers. Clomazone is an effective herbicide which inhibits the formation of chlorophyll in target weeds.

(2) Clomazone is volatile. Off-target movement from clomazone applications can affect non-target plants located hundreds of feet from the application site. Off-target movement from clomazone applications can damage non-target plants by inhibiting the formation of chlorophyll in those plants.

(3) Off-target movement has occurred in many clomazone applications to date. Non-target plants exposed to off-target movement from clomazone applications turn yellow or white. Damage from 1997 clomazone applications was apparently more severe and long lasting than in prior years. In 1997, the department received 49 complaints of off-target movement to non-target plants. These complaints comprised 20% of all pesticide complaints received by the department in 1997. Department field staff report that these complaints represented only a fraction of the total number of clomazone off-target movement incidents that occurred. Off-target movement incidents have caused widespread public anger and concern, and have impaired public confidence in pesticide applications.

(4) The department proposes to adopt rules restricting the use of clomazone herbicides. The proposed restrictions are reasonably designed to reduce or eliminate damage to non-target plants from clomazone applications. Without these restrictions, continued clomazone applications will likely result in continued incidents of off-target movement and nontarget damage during the 1998 planting and growing season.

(5) Clomazone herbicides are commonly applied during spring planting. The department must adopt restrictions by emergency rule in order for those restrictions to take effect prior to the 1998 spring planting and application period. The department finds that an emergency rule under s. 227.24, Stats., is imperatively required to preserve the public peace and welfare in 1998, pending completion of normal rulemaking procedures under ch. 227, Stats.

Publication Date: March 15, 1998

Effective Date: March 15, 1998

Expiration Date: August 12, 1998

2. Rules adopted creating **ss. ATCP 10.68 and 11.58**, relating to fish farms and imports of live fish and fish eggs.

Exemption From Finding of Emergency

(1) The department of agriculture trade and consumer protection is adopting this emergency rule to implement s. 95.60, Stats., which was created by 1997 Wis. Act 27.

(2) Section 9104(3xr) of 1997 Wis Act 27 authorizes the department to adopt this emergency rule without the normal finding of emergency. It further provides that the emergency rule will remain in effect until January 1, 1999 or until a permanent rule takes effect, whichever comes first.

Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07(1), 95.60(4s)(e) and (5)

Statutes interpreted: s. 95.60

This emergency rule implements s. 95.60, Stats., by doing all of the following:

Establishing an interim procedure for registering fish farms in 1998. The department plans to adopt permanent rules, which may differ from this emergency rule, relating to registration of fish farms after 1998.

Establishing interim permit requirements for importing live fish or fish eggs into Wisconsin.

Requiring fish farm operators and fish importers to keep records.

Fish Farms

Registration

Under s. 95.60, Stats., as enacted by 1997 Wis. Act 27 effective October 14, 1997, the Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for registering fish farms in Wisconsin. The new annual registration program replaces an annual licensing program previously administered by the Department of Natural Resources (DNR).

DNR licensed more than 2000 fish farms for calendar year 1997. Fish farms previously licensed by DNR must now be registered with DATCP. DATCP's 1998 registration requirement takes effect immediately after DNR's 1997 license requirement expires.

Registration Procedures: General

This emergency rule establishes interim fish farm registration procedures. Under this emergency rule:

- No person may operate a fish farm without a DATCP registration certificate. A registration certificate expires on December 31, 1998.

- A registration certificate is effective on the day it is issued except that, if a fish farm operator licensed by DNR in 1997 files a renewal application with DATCP by April 10, 1998, the DATCP registration certificate is retroactive to January 1, 1998.

- Fish farm registrations are not transferable between persons or locations. A person who operates 2 or more fish farms at non-contiguous locations must obtain a separate registration certificate for each location.

Registration Categories

A fish farm operator must hold a type A, B, C or D registration certificate for that fish farm:

- A type A registration is normally required for a fish farm at which the operator does any of the following:

- *Hatches fish or produces fish eggs at that fish farm for sale or trade to any person.

- *Allows public fishing, for a fee, for fish hatched at that fish farm.

- A type B registration is normally required if the fish farm operator does any of the following and does not hold a type A registration:

- *Allows public fishing at the fish farm for a fee.

- *Sells or trades fish, from the fish farm, to any person.

- A type C registration authorizes the registrant to operate a fish farm. It does not authorize activities for which a type A or B registration is required, except that a type C registrant may do either of the following without a type A or B registration:

- *Sell minnows to any person

- *Sell fish or fish eggs to a type A registrant.

- A type D registration authorizes the registrant to sell or trade fish from a fish farm without a type A or B registration if all of the following apply:

- *The operator does not hatch fish, produce fish eggs or permit public fishing for a fee at that fish farm.

- *The fish farm consists solely of ponds used to hold or grow fish.

- *The operator holds a type A or B registration certificate for another fish farm located on a nonadjacent parcel of land.

Registration Fees

This emergency rule establishes the following registration fees:

| | |
|-----------------------|---------|
| · Type A registration | \$50.00 |
| · Type B registration | \$25.00 |
| · Type C registration | \$ 5.00 |
| · Type D registration | \$ 5.00 |

School systems operating fish farms must register with DATCP but are exempt from fees. The operator of a fish farm registered for less than a full year must pay the full year's fee.

If an operator was licensed by DNR in 1997, but files a renewal application with DATCP after April 10, 1998, the operator must pay a late renewal fee equal to 20% of the registration fee or \$5.00, whichever is greater.

Deadlines for DATCP Action on Registration Applications

If a person licensed by DNR to operate a fish farm in 1997 applies to register that fish farm with DATCP, DATCP must grant or deny the application within 30 days after the applicant files a complete application, including the correct fee, with DATCP. DATCP will deny the application, if the applicant has not filed a 1997 "private fish hatchery annual report" with the department of natural resources.

If a person applying to register a fish farm was not licensed by the department of natural resources to operate that fish farm in 1997, DATCP must grant or deny that person's registration application within 30 days after all of the following occur:

- The applicant files a complete application including the correct fee.

- DNR informs DATCP that DNR has approved the facility.

Recordkeeping

This emergency rule requires a fish farm operator to keep the following records for all fish and fish eggs which the operator receives from or delivers to another person:

- The name, address, and fish farm registration number if any, of the person from whom the operator received or to whom the operator delivered the fish or fish eggs.

- The date on which the operator received or delivered the fish or fish eggs.

- The location at which the operator received or delivered the fish or fish eggs.

- The size, quantity and species of fish or fish eggs received or delivered.

A fish farm operator must make these records available to DATCP, upon request, for inspection and copying.

Denying, Suspending or Revoking a Registration

DATCP may deny, suspend or revoke a fish farm registration for cause, including any of the following:

- Violating ch. 95, Stats., or applicable DATCP rules.

- Violating the terms of the registration

- Preventing a DATCP employee from performing his or her official duties, or interfering with the lawful performance of those duties.

- Physically assaulting a DATCP employee performing his or her official duties.
- Refusing or failing, without just cause, to produce records or respond to a DATCP subpoena.
- Paying registration fees with a worthless check.

Fish Imports

Import Permit Required

This rule prohibits any person from importing into this state, without a permit from DATCP, live fish or fish eggs for any of the following purposes:

- Introducing them into the waters of the state.
- Selling them as bait, or for resale as bait.
- Rearing them at a fish farm, or selling them for rearing at a fish farm.

A copy of the import permit must accompany every import shipment. An import permit may authorize multiple import shipments. There is no fee for an import permit. A person importing a non-native species of fish or fish eggs must also obtain a permit from the department of natural resources.

Import Permit Contents

An import permit must specify all of the following:

- The expiration date of the import permit. An import permit expires on December 31 of the year in which it is issued, unless DATCP specifies an earlier expiration date.
- The name, address and telephone number of the permit holder who is authorized to import fish or fish eggs under the permit.
- The number of each fish farm registration certificate, if any, held by the importer.
- Each species of fish or fish eggs which the importer is authorized to import under the permit.
- The number and size of fish of each species, and the number of fish eggs of each species, that the importer may import under the permit.
- The purpose for which the fish or fish eggs are being imported.
- The name, address and telephone number of every source from which the importer may import fish or fish eggs under the permit.
- The name, address, telephone number, and fish farm registration number if applicable, of each person in this state who may receive an import shipment under the permit if the person receiving the import shipment is not the importer.

Applying for an Import Permit

A person seeking an import permit must apply on a form provided by DATCP. The application must include all of the following:

- All of the information which must be included in the permit (see above).
- A health certificate for each source from which the applicant proposes to import fish or fish eggs of the family salmonidae.

DATCP must grant or deny a permit application within 30 days after it receives a complete application and, in the case of non-native fish DNR approval.

Denying, Suspending or Revoking an Import Permit

DATCP may deny, suspend or revoke an import permit for cause, including any of the following:

- Violating applicable statutes or rules.
- Violating the terms of the import permit, or exceeding the import authorization granted by the permit.
- Preventing a department employe from performing his or her official duties, or interfering with the lawful performance of his or her duties.
- Physically assaulting a department employe while the employe is performing his or her official duties.
- Refusing or failing, without just cause, to produce records or respond to a department subpoena.

Import Records

A person importing fish or fish eggs must keep all of the following records related to each import shipment, and must make the records available to the department for inspection and copying upon request:

- The date of the import shipment.
- The name, address and telephone number of the source from which the import shipment originated.
- The name, address, telephone number, and fish farm registration number if applicable of the person receiving the import shipment, if the person receiving the import shipment is not the importer.
- The location at which the import shipment was received in this state.
- The size, quantity and species of fish or fish eggs included in the import shipment.

Salmonidae Import Sources: Health Certificates

DATCP may not issue a permit authorizing any person to import fish or fish eggs of the family salmonidae (including trout, salmon, grayling, char, Dolly Vardon, whitefish, cisco or inconnu) unless a fish inspector or an accredited veterinarian certifies, not earlier than January 1 of the year preceding the year in which the applicant applies for the permit, that the fish and fish eggs from the import source were determined to be free of all of the following diseases:

- Infectious hematopoietic necrosis.
- Viral hemorrhagic septicemia.
- Whirling disease, except that eggs from wild stocks need not be certified free of whirling disease.
- Enteric redmouth.
- Ceratomyxosis.

A fish inspector issuing a health certificate must be a fish biologist who is certified, by the American Fisheries Society or the state of origin as being competent to perform health inspections of fish.

The accredited veterinarian or fish inspector must issue a health certificate in the state of origin, based on a personal inspection of the fish farm from which the import shipment originates. In the inspection, an accredited veterinarian or a fish inspector must examine a random statistical sample of fish drawn from each lot on the fish farm. From each lot, the veterinarian or inspector must examine a number of fish which is adequate to discover, at the 95% confidence level, any disease that has infected 5% of the lot.

Publication Date: March 16, 1998

Effective Date: March 16, 1998

Expiration Date: See section 9104 (3xr) 1997 Wis. Act 27

EMERGENCY RULES NOW IN EFFECT

Department of Commerce

(Building & Heating, etc., Chs. Comm/ILHR 50-64)

(Uniform Multifamily Dwellings, Ch. ILHR 66)

Rules adopted revising **chs. Comm 51, ILHR 57 and 66**, relating to commercial buildings and multifamily dwellings.

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that adoption of the rule is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under ss. 101.02 (15), 101.12, and 101.971 to 101.978, Stats., the Department protects public health, safety, and welfare by promulgating

construction requirements for commercial and public buildings, including multifamily dwellings. Present requirements include methods for stopping fire in one area of a building from spreading to another area through service openings in walls, floors, and ceilings, such as penetrations for plumbing and electrical components. The methods that were specified have been shown to fail under fire testing conditions.

The proposed rule impacts all public buildings, which includes multifamily dwellings, and replaces the failed firestopping methods with techniques, materials, and methods that have been tested and nationally recognized. The rule essentially mandates use of tested and listed fire-stop systems for nearly all penetrations of every wall, floor, and ceiling that is required to provide area-separation protection consisting of either a fire-protective membrane or fire-resistive rated construction. The rule also clarifies some problematic, technical provisions that have resulted in confusion and unnecessary costs. Without the proposed rule revisions, firestopping methods that have been proven to be ineffective would still be allowed to be utilized, thereby putting public safety and health at risk.

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

Publication Date: January 28, 1998
Effective Date: January 28, 1998
Expiration Date: June 27, 1998
Hearing Date: March 11, 1998

EMERGENCY RULES NOW IN EFFECT (2)

Department of Commerce

(Financial Resources for Businesses and Communities, Chs. Comm 105 to 128)

1. Rule adopted amending s. **Comm 108.21 (1) (f)**, relating to the emergency grants under the Community Development Block Grant (CDBG) program.

Finding of Emergency

The Department of Commerce (Commerce) 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:

A closer examination of the revised rules to take effect on November 1, 1997 will not allow Commerce to award emergency grants to local governments experiencing a natural disaster or catastrophic event using other state or federal grant funds as match. Those rules do not specify a source for the match funds, and up to the present time, many of the emergency grants did use state and/or federal grants as match. The most recent example of an emergency is the tornado that devastated the Village of Oakfield. In that case, the Federal Emergency Management Administration (FEMA) and state Division of Emergency Management (DEM) funds were used as match for a CDBG emergency grant.

The floods that occurred in June 1997 in the Milwaukee area may generate some emergency requests for repair and remediation activities. Under the rules that take effect November 1, 1997, Commerce would not be able to use the FEMA and DEM grants as match for these emergency projects.

The nature of the emergency program makes it impossible to anticipate future applications for obvious reasons. Commerce must have a program in place and ready to respond on short notice when an emergency occurs. The emergency rule will allow the use of other grant funds as match. It is very important that Commerce be ready

to respond in a timely manner to the needs of the citizens of this state in times of emergency.

Publication Date: October 30, 1997
Effective Date: November 1, 1997
Expiration Date: March 31, 1998
Hearing Date: January 13, 1998

2. Rule adopted creating **ch. Comm 110**, relating to the Brownfields Grant Program.

Exemption From Finding of Emergency

On October 14, 1997, 1997 Wis. Act 27 took effect. That act created s. 560.13, Stats., which appropriated \$5.0 million in funds for each of the state fiscal years of the biennium that can be distributed by the Department of Commerce in the form of grants for brownfields redevelopment or associated environmental remediation. The act requires the department to promulgate administrative criteria for issuing grants for brownfields redevelopment and associated environmental remediation, prescribing the amounts of grants that may be awarded, and including criteria for the awarding of grants on the basis of projects that promote economic development, positive effects on the environment, the total of and quality of the recipient's contribution to their project and innovative proposals for remediation and redevelopment. The act directs the department to promulgate an emergency rule to begin implementing the Brownfields Grant Program before permanent rules may be promulgated under ch. 227, Stats., and exempts the department from making a finding of emergency. This emergency rule was developed in consultation with the Department of Natural Resources and the Department of Administration.

Publication Date: December 31, 1997
Effective Date: December 31, 1997
Expiration Date: May 30, 1998
Hearing Date: February 12, 1998

EMERGENCY RULES NOW IN EFFECT (2)

Department of Corrections

1. Rules adopted revising **ch. DOC 310**, relating to inmates complaint review system.

Finding of Emergency

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

There is a Corrections Complaint Examiner with two investigator positions and a program assistant position at the Department of Justice. The number and placement of these Corrections Complaint Examiner positions have been in effect for years. At the present time there is a substantial backlog of approximately 3,000 inmate complaints which need to be reviewed by the Corrections Complaint Examiner. The Department of Justice's position is that it will no longer do the Corrections Complaint Examiner function.

The Department must change its administrative rule to reflect the placement of the Corrections Complaint Examiner function from the Department of Justice to the Department of Corrections. The Department must also change its administrative rule regarding inmate complaints to make the system more efficient as a substantial backlog now exists, and there will be no new positions at the Department of Corrections to do the work of the Corrections Complaint Examiner.

The Department's purpose in the inmate complaint review system is to afford inmates a process by which grievances may be

expeditiously raised, investigated, and decided. An efficient inmate complaint review system is required for the morale of the inmates and the orderly functioning of the institutions. An emergency exists due to the current backlog and the proposed moving of the function which will require the Department of Corrections to do the work of the Corrections Complaint Examiners with no new positions.

Publication Date: August 4, 1997
Effective Date: August 4, 1997
Expiration Date: January 2, 1998
Hearing Dates: October 15, 16 & 17, 1997
Extension Through: May 1, 1998

2. Rules adopted revising **chs. DOC 328 and 332**, relating to polygraph examinations for sex offenders.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that rules included in this order are necessary for the immediate preservation of public safety. A statement of the facts constituting the emergency is: A recent session law, 1995 Wis. Act 440, created s. 301.132, Stats., which directs the department to establish a sex offender honesty testing program. Section 301.132, Stats., became effective June 1, 1997. Lie detector testing of probationers and parolees is recognized as an effective supervision tool for determining the nature and extent of deviant sexual behavior and developing appropriate intervention strategies. In addition, it is anticipated that testing will improve treatment outcomes by overcoming offender denial and by detecting behaviors that lead to re-offending.

The testing program cannot be implemented without rules. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to implement the program for the safety of the public while permanent rules are being developed.

This order:

1. Creates definitions for offender, probation and parole agent, and lie detector examination process.
2. Adopts the statutory definitions of lie detector, polygraph, and sex offender.
3. Establishes the authority, purpose and applicability of the lie detector examination process.
4. Requires an offender who is a sex offender to submit to a lie detector test if required by the department.
5. Establishes criteria for the selection of offenders who are required to participate in the lie detector examination process.
6. Requires that the department provide notice to the offender who is required to participate in the lie detector examination process of the lie detector program requirements, instructions to complete any necessary questionnaires and of the date, time and location of the scheduled test.
7. Provides that an agent and an examiner shall determine the questions the offender may be asked during the lie detector examination process.
8. Allows an agent to consult with a treatment provider regarding the questions the offender may be asked during the lie detector examination process.
9. Provides that the department may administer the lie detector tests or contract with an outside vendor to administer the tests.
10. Provides for sanctions if a sex offender refuses to participate in the lie detector examination process.
11. Provides that an offender's probation or parole may not be revoked based solely on a finding of deception as disclosed by a lie detector test.

12. Identifies the circumstances under which the department may disclose information regarding the lie detector tests or the information derived from the lie detector examination process.

13. Provides that the department may not use the lie detector examination process as a method of punishment or sanction.

14. Provides that an offender shall pay the costs of the lie detector test and a \$5.00 administrative fee with each payment. The cost of the lie detector test may vary depending on the type of test used.

15. Establishes procedures for the collection of lie detector fees.

16. Provides for sanctions for an offender's failure to pay the lie detector fees.

17. Provides the criteria for lie detector fee deferrals.

18. Provides for the reporting and notice to the offender when payment of lie detector fees is not received.

The order provides for including the rules for the lie detector program in the same chapter of the Wisconsin Administrative Code, ch. DOC 332, as the rules for registration and community notification of sex offenders, which were published as emergency rules on June 1, 1997.

Publication Date: December 15, 1997
Effective Date: December 15, 1997
Expiration Date: May 14, 1998
Hearing Date: March 16, 1998

EMERGENCY RULES NOW IN EFFECT

Dentistry Examining Board

A rule was adopted revising **s. DE 2.04 (1) (e)**, relating to examination requirements for applicants licensed as dentists in other states.

Finding of Emergency

These rules are promulgated under s. 227.24 (1) (a), Stats. The Governor vetoed a provision in the budget bill which would have permitted dentists licensed in other states to obtain a license in Wisconsin, despite their not having passed a clinical licensing examination with a periodontal part. In doing so, the Governor requested the board adopt an emergency rule to permit these dentists to obtain licenses in Wisconsin under other reasonable and appropriate methods. The concern for the public health, safety and welfare is that this state's citizens are currently being deprived of necessary dental services from qualified dentists who, themselves, are experiencing substantial and perhaps unnecessary hardship in becoming licensed in Wisconsin. These rules are put into effect prior to the time they would be effective under routine rulemaking procedures to assure that the public is not deprived of necessary dental services from qualified dental professionals and that adequate safeguards for protecting the health and safety of dental patients are part of the licensing process.

Publication Date: October 18, 1997
Effective Date: October 18, 1997
Expiration Date: March 17, 1997
Hearing Date: January 7, 1998

EMERGENCY RULES NOW IN EFFECT (3)

Insurance

1. A rule was adopted revising **s. Ins 18.07 (5) (b)**, relating to a decrease in premium rates for the Health Insurance Risk-Sharing Plan (HIRSP), effective January 1, 1998.

Exemption From Finding of Emergency

Pursuant to s. 619.14 (5) (e), Stats., the Commissioner is not required to make a finding of an emergency to promulgate this emergency rule.

Analysis Prepared by the Office of the Commissioner of Insurance

January 1, 1998 Premium Adjustments

The Commissioner of Insurance, based on the recommendations of the Health Insurance Risk-Sharing Plan ("HIRSP") board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles. This rule adjusts the non-subsidized premium rates effective January 1, 1998. This change in rates will result in a reduction of approximately 14.5%, and is mandated by plan financing changes in 1997 Wis. Act 27.

Publication Date: November 20, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998
Hearing Date: December 30, 1997

- Rules were adopted amending s. **Ins 18.07 (5) (b)**, published as an emergency rule relating to a decrease in premium rates for the health insurance risk-sharing plan under s. 18.07 (5) (b), and correcting errors in the published rate table.

January 1, 1998 Premium Adjustment Correction

The Commissioner of Insurance, based on the recommendation of the Health Insurance Risk-Sharing Plan (HIRSP) board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles. An emergency rule, already promulgated and published, adjusts the non-subsidized premium rates effective January 1, 1998. This emergency amendment corrects 4 errors in the published rate table.

Exemption From Finding of Emergency

Pursuant to s. 619.14 (5)(e) Stats., the commissioner is not required to make a finding of an emergency to promulgate this emergency amendment to an emergency rule.

Publication Date: December 12, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998

- Rules were adopted amending s. **Ins 18.07 (intro.), (5) (a) and (5) (br)** and creating s. **Ins 18.07 (5) (bm)**, relating to the creation of a \$2500 deductible alternative to the health insurance risk-sharing plan effective January 1, 1998.

Exemption From Finding of Emergency

Pursuant to s. 619.14 (5)(e), Stats., the commissioner is not required to make a finding of an emergency to promulgate this emergency rule.

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 227.24, 601.41 (3), 619.11, 619.14 (5)(a) and (e), 619.17 (2) and 619.146

Statutes interpreted: s. 619.146

January 1, 1998 health insurance risk sharing plan with \$2500 deductible.

This change is mandated by 1997 Wis. Act 27 which created s. 619.146, Stats. This section requires that an alternative major medical expense coverage plan be offered with a \$2500 deductible

as described in section 2744 (a) (1) (C) of P.L. 104-191. Under s. 619.146 (2) (a) premium reductions do not apply to this alternative plan. Section 619.146 (2) (b) prescribes how the rates for the alternative plan are to be determined. Since the alternative plan is required by law to be offered by January 1, 1998 this emergency rule sets out the rates for that plan.

Publication Date: December 31, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998

EMERGENCY RULES NOW IN EFFECT (4)

Natural Resources

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

- Rule adopted creating s. **NR 27.07**, relating to notice of receipt of an application to incidentally take an endangered or threatened species.

Exemption From Finding of Emergency

1995 Wis. Act 296 establishes authority in the department of natural resources to consider applications for and issue permits authorizing the incidental take of an endangered or threatened species while a person is engaged in an otherwise lawful activity. Section 29.415 (6m) (e), Stats., as created, requires the department to establish by administrative rule a list of organizations, including nonprofit conservation groups, that have a professional, scientific or academic interest in endangered species or in threatened species. That provision further provides that the department then give notification of proposed takings under that subsection of the statutes to those organizations and establish a procedure for receipt of public comment on the proposed taking.

The proposed rule lists a number of organizations the department is familiar with as being interested in endangered and threatened species; a notification procedure to be used to notify them, and others, of a proposed taking; and a public comment procedure to be used for consideration of public comments. The notification procedure is not limited to mail distribution, but is broad to allow other forms of notification, such as electronic mail.

Publication Date: November 18, 1996
Effective Date: November 18, 1996
Expiration Date: See section 12m, 1996 Wis. Act 296
Hearing Date: January 14, 1997

- A rule was adopted revising s. **NR 45.10 (3) and (4)**, relating to reservations on state parks, forests and other public lands and waters under the Department's jurisdiction.

Exemption From Finding of Emergency

1997 Wis. Act 27, section 9137 (1) authorizes the department to promulgate these rules without a finding of emergency under s. 227.24, Stats.

Summary of Rules:

- Creates a process for accepting telephone reservations for department camp sites.
- Establishes time frame for making reservations.

Publication Date: December 15, 1997
Effective Date: April 1, 1998
Expiration Date: April 1, 1999

- Rules adopted creating **ch. NR 47, subch. VIII**, relating to the forest fire protection grant program.

Exemption From Finding of Emergency

Under Section 9137 (10x) of 1997 Wis. Act 27, the Department is not required to make a finding of emergency for these rules.

Publication Date: February 16, 1998
Effective Date: February 16, 1998
Expiration Date: July 15, 1998
Hearing Date: March 13, 1998

- Rules adopted creating **ch. NR 47, subch. VII**, relating to the private forest landowner grant program.

Exemption From Finding of Emergency

Under Section 9137 (10n) of 1997 Wis. Act 27, the Department is not required to make a finding of emergency for these rules.

Publication Date: February 20, 1998
Effective Date: February 20, 1998
Expiration Date: July 19, 1998
Hearing Date: March 13, 1998

EMERGENCY RULES NOW IN EFFECT

Natural Resources

(Environmental Protection—Air Pollution Control, Chs. NR 400—)

Rules adopted revising **s. NR 485.04**, relating to emission limitations for motor vehicles.

Finding of Emergency

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

Many 1980 to 1986 model year vehicles cannot reasonably maintain a level of emissions that would comply with the emission limitations scheduled to go into effect on December 1, 1997, under the current rule. In addition, the number of 1990 and older model year vehicles that would need to be repaired in order to comply with these limitations may exceed the number of vehicles the repair industry could effectively repair. Finally, after December 1, 1997, no fast-pass emission limitations will apply to some 1994 and newer model year vehicles. (Fast-pass limitations enable very clean vehicles to pass the I/M program's emission test in less time than the typical test.) Preservation of the public welfare necessitates the adoption of an emergency rule since: (1) the repairs that would need to be done on some 1990 and older model year vehicles attempting to comply with the emission limitations scheduled to go into effect on December 1, 1997, are likely to be costly and ineffective in keeping emissions low, and (2) the absence of fast-pass emission limitations for some newer vehicles would unnecessarily increase

the time motorists would need to wait in line at the I/M test stations prior to having their vehicles tested.

Publication Date: December 29, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998

EMERGENCY RULES NOW IN EFFECT (2)

Public Instruction

- Rules adopted creating **ch. PI 36**, relating to full-time open enrollment.

Finding of Emergency

The Department of Public Instruction finds 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:

1997 Wis. Act 27 created an inter-district public school open enrollment program in Wisconsin, beginning in the 1998–99 school year. Pupils in kindergarten to grade 12 may attend public school in a district other than the one in which they reside, if space is available (and subject to certain other limitations). A child may attend a prekindergarten or early childhood program in a nonresident school district if the resident district also offers the program and if the child is eligible for the program in the resident district.

The department is responsible for administering the program, including creating uniform application forms, administering school finance provisions, administering a transportation reimbursement program for low-income parents and collecting data and making reports to the legislature, deciding appeals and conducting outreach to inform parents about the program. Administrative rules are necessary to ensure uniform procedures throughout the state.

Parents must apply to the nonresident school district no earlier than February 2 and no later than February 20, 1998, for attendance in the 1998–99 school year. Therefore, the department is promulgating these emergency rules in order to notify pupils, parents, and school districts of the necessary timelines and requirements to participate in the program in time for the upcoming school year.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Publication Date: January 17, 1998
Effective Date: January 17, 1998
Expiration Date: June 16, 1998

- Rules adopted revising **ch. PI 40**, relating to the youth options program.

Finding of Emergency

The Department of Public Instruction finds 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:

Effective the 1998–99 school year, 1997 Wis. Act 27 renames the postsecondary enrollment options (PSEO) program to be the youth options program. For institutions of higher education (IHEs), the youth options program will operate essentially the same as it did under the PSEO program. However, the program makes several changes to the program as it relates to technical colleges and pupils attending technical colleges as described in the analysis.

The emergency rules make several modifications to ch. PI 40 in order to clarify certain provisions and to comply with statutory language changes made as a result of the Act.

By January 30, school districts must notify pupils of program changes effective in the 1998–99 school year; by March 1, pupils must notify school districts of their intent to participate in the program. Therefore, the department is promulgating these emergency rules in order to notify pupils, school districts, IHEs and technical colleges of the necessary timelines and requirements to participate in the revised youth options program in time for the upcoming school year.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Publication Date: January 16, 1998
Effective Date: January 16, 1998
Expiration Date: June 15, 1998

EMERGENCY RULES NOW IN EFFECT

Public Service Commission

Rules adopted amending **ss. PSC 160.05, 160.11 (6) and 160.17**, relating to the provision of universal telecommunications service and administration of the universal service fund and creating **ch. PSC 161**, establishing the Education Telecommunication Access Program.

ANALYSIS PREPARED BY THE PUBLIC SERVICE COMMISSION OF WISCONSIN

The Technology for Educational Achievement in Wisconsin (TEACH) initiative culminated in comprehensive legislation in 1997 Wis. Act 27 (Act 27). Newly enacted s. 196.2 18(4r)(b), Stats., mandates that the Public Service Commission (Commission), in consultation with the Department of Administration (Department) and Technology for Educational Achievement (TEACH) in Wisconsin Board (Board), promulgate rules—under the usual ch. 227, Stats., rulemaking procedures—establishing the Educational Telecommunications Access Program. Section 9141 of Act 27 mandates that the Commission promulgate emergency rules establishing the Educational Telecommunications Access Program, to provide school districts, private schools, technical college districts, private colleges and public library boards with access to data lines and video links, for the period before the effective date of permanent rules promulgated under s. 196.218(4r)(b), Stats., but not to exceed the period authorized under s. 227.24(1)(c) and (2), Stats.

These emergency rules establish the Educational Telecommunications Access Program to provide access to data lines and video links for eligible school districts, private schools, technical college districts, private colleges and public library boards at low monthly prices. These rules implement the TEACH legislation by:

- ◆ Defining the entities which may be eligible under this program, i.e., “private college,” “private school,” “public library board,” “school district” and “technical college district.”
- ◆ Defining a “data line” as a data circuit which provides direct access to the internet.
- ◆ Defining a “video link” as a 2–way interactive video circuit and associated services.
- ◆ Establishing technical specifications for a data line, including that such a line shall terminate at an internet service provider, unless the Board determines that an alternative is acceptable.
- ◆ Establishing technical specifications for a video link which exclude television monitors, video cameras, audio equipment, any

other classroom equipment or personnel costs associated with scheduling.

- ◆ Including privacy protections as required by s. 196.218 (4r)(c)5., Stats.
- ◆ Providing an application procedure which (1) allows a school district that operates more than one high school to apply for access to a data line and video link or access to more than one data line or video link, but not to more than the number of high schools in that district, (2) prohibits a school district from applying if it has received an annual grant from the Board in the current state fiscal year under an existing contract with the Department, (3) prohibits a technical college district from applying before April 1, 1998, and (4) prohibits a school district, private school, technical college district, private college or public library board from applying if it is receiving partial support funding through rate discounts under s. PSC 160.11.
- ◆ Requiring that the Board determine eligibility by applying criteria, including availability of funds and impact of the requested access on available funds, reasonableness of the requested access, readiness of the applicant to utilize the requested access and proposed uses of the requested access.
- ◆ Requiring the Board to determine by April 1, 1998, whether there are sufficient monies in the appropriation to include technical college districts in the program on or after that date.
- ◆ Establishing criteria for the Board to consider in prioritizing applications if monies in the universal service fund are insufficient to approve all pending applications.
- ◆ Providing for “alternative access,” defined as a service architecture or technology not available through the Department at the time of the application.
- ◆ Requiring monthly payments from the applicant to the Department for each data line or video link, not to exceed \$250 per month, except that the payment may not exceed \$100 per month for each line or link which relies upon a transport medium operating at a speed of 1.544 megabits per second.
- ◆ Providing that assessments for this program shall be made by the Commission under ch. PSC 160.

Exemption From Finding of Emergency

In Section 9141 of 1997 Wis. Act 27, the legislature specifically exempted the Commission from the finding of emergency required by ss. 227.24, Stats.

Publication Date: February 27, 1998
Effective Date: February 27, 1998
Expiration Date: July 26, 1998

EMERGENCY RULES NOW IN EFFECT

Transportation

Rules adopted creating **ch. Trans 512**, relating to the Transportation Infrastructure Loan 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 peace, safety and welfare. A statement of the facts constituting the emergency is that federally authorized funds for the Transportation Infrastructure Loan Program will be withdrawn if participating states are unable to meet the requirement to have at least one eligible project authorized for construction on or before April 1, 1998. There is insufficient time to have a permanent rule in place to meet the federal deadline. The state has been authorized \$1.5 million in additional federal funds to capitalize the

Transportation Infrastructure Loan Program. Without an emergency rule to implement the program, the state is in jeopardy of losing \$1.5 million in federal assistance.

Publication Date: January 5, 1998
Effective Date: January 5, 1998
Expiration Date: June 4, 1998
Hearing Date: January 15, 1998

EMERGENCY RULES NOW IN EFFECT

Veterans Affairs

Rules were adopted revising **ch. VA 12**, relating to the personal loan program.

Exemption From Finding of Emergency

1997 Wis. Act 27, s. 9154 authorizes the department to promulgate rules for the administration of the personal loan program using the emergency rule procedures without providing evidence of the necessity of preservation of the public peace, health, safety or welfare.

Analysis

By repealing and recreating **ch. VA 12**, Wis. Adm. Code, the department establishes the underwriting and other criteria necessary for the administration of the personal loan program. The personal loan program was authorized by the legislature and governor through the amendment of s. 45.356, Stats., upon enactment of 1997 Wis. Act 27.

Publication Date: October 17, 1997
Effective Date: October 17, 1997
Expiration Date: March 16, 1998
Hearing Date: January 9, 1998
Extension Through: May 14, 1998

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Economic Support, Chs. DWD 11 to 59)

Rules were adopted revising **s. DWD 12.25**, relating to amendments to the learnfare program.

Exemption From Finding of Emergency

The Department of Workforce Development promulgates a rule under the "emergency rule" procedure of s. 227.24, Stats., as authorized by section 9126 (5qh) of 1997 Wis. Act 27, which provides:

"Using the procedure under section 227.24 of the statutes, the department of workforce development may promulgate rules required under section 49.26 of the statutes, as affected by this act, for the period before the effective date of the permanent rules promulgated under section 49.26 of the statutes, as affected by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the department of workforce development need not provide evidence of the necessity of preservation of the public peace, health, safety or welfare in promulgating rules under this subsection."

Analysis

Statutory authority for rule: s. 49.26 (1) (gm) 2 and (h) 1
 Statute interpreted by the rule: s. 49.26

This rule implements changes to the learnfare program made by 1997 Wis. Act 27 by amending the existing rules on the learnfare program, s. DWD 12.25, Wis. Adm. Code, as follows:

Application of the school attendance requirement is changed from children aged 6 to 19 to children aged 6 to 17.

A child will not meet the learnfare attendance requirement if the child is not enrolled in school or was not enrolled in the immediately preceding semester.

Participation in case management is required for a child who does not meet the attendance requirements or who is a minor parent, a dropout, a returning dropout, or a habitual truant. If a child fails to meet the attendance requirements, or if the child and the child's parent fail to attend or reschedule a case management appointment or activity after two written advance notices have been given by the W-2 agency, the W-2 agency is required to impose a financial penalty unless an exemption reason or a good cause reason is verified.

The exemption reasons are the same criteria that have in the past been treated as good cause under learnfare. In addition, good cause for failing to participate in learnfare case management includes any of the following:

- Child care is needed and not available.
- Transportation to and from child care is needed and not available on either a public or private basis.
- There is a court-ordered appearance or temporary incarceration.
- Observance of a religious holiday.
- Death of a relative.
- Family emergency.
- Illness, injury or incapacity of the child or a family member living with the child.
- Medical or dental appointment for the minor parent or the minor parent's child.
- Breakdown in transportation.
- A review or fair hearing decision identifies good cause circumstances.
- Other circumstances beyond the control of the child or the child's parent, as determined by the W-2 agency.

The financial penalty will be imposed as a reduction of the benefit amount paid to a W-2 participant who is in a community service job (CSJ) or transitional placement and will be imposed as a liability against a W-2 participant who is in a trial job. The amount of the penalty will be \$50 per month per child, not to exceed \$150 per W-2 group per month. The financial penalty will be imposed each month until the child meets the school attendance or case management requirements or until exemption or good cause reason is verified.

Publication Date: January 2, 1998
Effective Date: January 2, 1998
Expiration Date: June 1, 1998
Hearing Date: March 16, 1998

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Wage Rates, chs. DWD 290-294)

Rule adopted revising **ch. DWD 290**, relating to prevailing wage rates for state or local public works projects.

Finding of Emergency

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

As explained in more detail in the analysis below, the Department of Workforce Development, acting under its statutory authority to adjust threshold limits in accordance with changes in construction costs, has determined that the increase in construction costs between April 1996 and November 1997 requires that the threshold limits for prevailing wage rate determinations be raised from \$30,000 to \$32,000 for single-trade projects and from \$150,000 to \$160,000 for multi-trade projects.

If these new threshold limits are not put into effect by an emergency rule, the old limits will remain in effect for approximately six months, until the conclusion of the regular rulemaking process. The practical effect of this would be that,

between now and 7/1/98, a single-trade project costing more than \$30,000 but less than \$32,000, or a multi-trade project costing more than \$150,000 but less than \$160,000, would not be exempt from the requirement to get a prevailing wage rate determination. A local unit of government or state agency proceeding with a public works project in this cost range during this period would incur the added cost and difficulty of complying with the state prevailing wage laws, despite the fact that the threshold limit adjustment is based on national construction cost statistics and is very unlikely to be changed by the regular rulemaking process. The Department is proceeding with this emergency rule to avoid imposing this potential added cost on local governments and state agencies.

Publication Date: February 13, 1998
Effective Date: February 13, 1998
Expiration Date: July 12, 1998
Hearing Date: March 27, 1998

STATEMENTS OF SCOPE OF PROPOSED RULES

Agriculture, Trade & Consumer Protection

Subject:

Chs. ATCP 10 to 14 – Relating to animal health.

Description of policy issues:

Preliminary objective:

Revise and restructure current animal health rules to:

- ◆ Make the rules more flexible, so the Department can respond more quickly to changing disease conditions, industry practices, veterinary medical practices and technology.
- ◆ Update and clarify current rules, and incorporate recent law changes.
- ◆ Eliminate obsolete rules and create new rules as necessary.
- ◆ Make the rules easier to read and understand.

Preliminary policy analysis:

The Department administers regulations to control animal diseases and promote animal health in this state. The Department has adopted extensive rules related to:

- Animal Diseases (ATCP 10)
- Animal Movement and Imports (ATCP 11)
- Livestock Markets, Dealers and Truckers (ATCP 12)
- Local Rabies Control Programs (ATCP 13)
- Livestock Branding (ATCP 14)

Animal health is critical to Wisconsin's agricultural industry, and also has important implications for human health. Animal health regulations must be clear and certain. But they must also be quickly adaptable to changing disease conditions, agricultural and commercial practices, veterinary medical practices and technology.

The Department completed its last comprehensive update of its animal health rules in 1992. The Department must again update its rules in light of new disease conditions, industry practices and technology. The Department hopes to make the rules more flexible, so that it can react more swiftly to changing conditions. In some cases, the rigidity and specificity of the current rules prevents the Department from modifying its disease control strategies in a timely way. The Department will consider rule changes that provide greater latitude for administrative discretion, where appropriate.

The Department may make significant changes in its control programs for certain diseases, such as Johne's disease (see prior scope statement dated May 13, 1996). The Department will also implement new legislation related to disease indemnities and other matters, and will renumber and reorganize current rules as necessary.

Policy alternatives:

○ No change. If the Department does not change chs. ATCP 10 to 14, the current rules will remain in effect. Many of the current rules are outdated in relation to current animal health concerns, industry practice and veterinary medical practice. Some do not accurately reflect current law. Others inhibit timely and effective response to changing animal health conditions. Outdated rules will cause confusion and unnecessary costs, and will impair animal health and disease control efforts.

○ Update current rules, but make no structural changes to increase flexibility. This would bring the rules temporarily up-to-date, but would leave the rules relatively inflexible. This may inhibit the Department's ability to respond quickly to changing animal health conditions in the future.

Statutory authority for the rule:

The Department proposes to revise and modify animal health rules under authority of s. 93.07 (1), Stats. The rules would interpret ch. 95, Stats., and other applicable laws.

Staff time required:

The Department estimates that it will use approximately 3.0 FTE (full time equivalent) staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions and communicating with affected persons and groups. The Department believes that, in the long run, the rule will save staff time and increase program efficiency. The Department will assign existing staff to develop this rule.

Agriculture, Trade and Consumer Protection

Subject:

Chs. ATCP 102 and 105 – Relating to sales of motor vehicle fuel below cost.

Description of policy issues:

Preliminary objectives:

Revise current rules prohibiting "sales below cost" and "price discrimination" in the sale of motor fuel. The rule changes will implement 1997 Wis. Act 55, which created a notification requirement for any seller who in good faith lowers the price of motor vehicle fuel to meet an existing price of a competitor.

Preliminary policy analysis:

Section 100.30, Stats., currently prohibits sales below "cost" as defined in the law. This law has been in effect since 1939; however, 1997 Wis. Act 55 modified several provisions of the current law, effective August 1, 1998.

1997 Wis. Act 55 makes three major revisions to s. 100.30, Stats.:

✓ The "cost" of motor vehicle fuel is now defined on the basis of "average posted terminal price".

✓ Dealers who sell below "cost" in order to meet a competitor's price must notify the Department of that fact before the close of that business day "in a form and manner required by the department".

✓ There is a new private remedy for competing sellers of motor vehicle fuel who are injured by illegal sales below cost.

The Department is proposing rule changes to implement 1997 Wis. Act 55:

⊕ Ch. ATCP 105, Wis. Adm. Code, currently interprets the "below cost sales" law. The Department must update this rule to make it consistent with the recent law changes. The Department also proposes to interpret the term "average posted terminal price", which is currently somewhat ambiguous.

⊕ The law changes require sellers of motor vehicle fuel to notify the Department if they intend to lower their price to meet a competitor's price. That notification must be given "in a form and manner required by the department". The Department proposes to clarify notice requirements by rule.

⊕ The Department currently administers motor fuel price discrimination rules under ch. ATCP 102, Wis. Adm. Code. Under the current rules, the terms "retailer", "wholesaler", "sell at retail" and "sell at wholesale" have the same meanings as specified in s. 100.30, Stats.; however, after 1997 Wis. Act 55 takes effect, those terms will no longer apply to motor vehicle fuels. Chapter ATCP 102 may need to be modified accordingly.

Policy alternatives:

► **No Change.** If the Department does not proceed with rule changes, the current rules will remain in effect. The rules will be inconsistent with current law, and will not provide clear interpretations of new statutory provisions. This will hamper administration of the new law.

Statutory authority for the rule:

The Department proposes to amend ch. ATCP 105 under authority of s. 97.07 (1), Stats., and under authority of s. 100.30 (7) (a), Stats., as created by 1997 Wis. Act 55, effective August 1, 1998. The Department proposes to amend ch. ATCP 102 under authority of ss. 97.07 (1) and 100.20, Stats.

Staff time required:

The Department estimates that it will use approximately 0.6 FTE (full time equivalent) staff to develop this rule. This includes investigation, drafting, preparing related documents, holding public hearings, and communicating with affected people and groups. The Department will use existing staff to develop this rule.

Corrections**Subject:**

DOC Code – Relating to a rule promulgation and amendment to expand the categories of felony offenders that may be held in custody at Department of Corrections institutions.

Description of policy issues:*Description of the objectives of the rule:*

The objective of the rule is public safety. The rule will allow for the detention of any convicted felon in a Department of Corrections institution. The present rule allows for detention of any parolee at a Department institution; however, only felony probationers with an imposed and stayed sentence can be detained at Department institutions. The Wisconsin Supreme Court ruling in Sullivan v. Kliesment, which allows the Milwaukee County Sheriff to refuse Department of Corrections detainees when dangerous overcrowding conditions prevail, necessitates this rule amendment. This rule amendment will protect former and potential victims from criminal behavior by felons that are being supervised by the Department.

Statutory authority for the rule:

S. 973.10, Stats. (Control and Supervision of Probationers)

Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

The Department estimates that it will take 50 hours to develop the rule, including drafting, cost estimates, public hearings and complying with rulemaking requirements.

Hearing and Speech Examining Board**Subject:**

HAS Code – Relating to continuing education requirements, initial and renewal of credentials, temporary practices; requirements relating to the fitting of hearing instruments by audiologists; creation of practical examinations to test for proficiency in the fitting of hearing instruments, restrictions relating to the use of titles, initials and designations; unlicensed practice and other minor and technical changes.

Description of policy issues:*Objective of the rule:*

To fulfill the requirements of 1997 Wis. Act 49 which requires the Hearing and Speech Examining Board to promulgate rules establishing the continuing education requirements; initial and renewal of credentials, temporary practices; requirements relating to the fitting of hearing instruments by audiologists; creation of practical examinations to test for proficiency in the fitting of hearing instruments, restrictions relating to the use of titles, initials and designations; unlicensed practice and other minor and technical changes.

Policy analysis:

The Hearing and Speech Examining Board is required to promulgate rules that will establish continuing education requirements; initial and renewal of credentials, temporary practices; requirements relating to the fitting of hearing instruments by audiologists; creation of practical examinations to test for proficiency in the fitting of hearing instruments; restrictions relating to the use of titles, initials and designations; unlicensed practice and other minor and technical changes.

Statutory authority for the rule:

Sections 15.08 (5) (b) and 227.11 (2), Stats., and ss. 459.09, 459.24, 459.26, 459.32 and 459.34, Stats., as amended by 1997 Wis. Act 49.

Estimate of the amount of state employe time and any other resources that will be necessary to develop the rule:

24 hours.

Natural Resources**Subject:**

Ch. NR 410 – Relating to revised air permit fees.

Description of policy issues:

Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:

The costs of reviewing and acting upon applications for construction permits are supported with application fees charged to those facilities receiving construction permits. The Bureau of Air Management is proposing to increase the ch. NR 410 construction permit fees to capture the costs associated with this program.

This action does not represent a change from past policy.

The existing policy is not changed by this rule proposal. The proposed ch. NR 410 fee change is necessary to support the New Source Review Permit Program (for direct, stationary sources). The current rule went into effect in FY 96 (fiscal year 1996), and does not now result in collection of the revenues necessary to support the new source review program.

Statutory authority for the rule:

S. 285.69 (1), Stats.

Anticipated time commitment:

The anticipated time commitment is 328 hours. Two public hearings will be held in September 1998 at Milwaukee and Wausau.

Pharmacy Examining Board**Subject:**

Phar Code – Relating to automated dispensing systems within pharmacies and inpatient health care facilities.

Description of policy issues:*Objective of the rule:*

The objective of the rule is to establish minimum requirements for pharmacies and inpatient health care facilities that use automated systems, similar to vending machines, to store, package and dispense patient medications.

Policy analysis:

Technologies are available that mechanically dispense patient medications pursuant to prescription or medical orders. These systems also collect, control and maintain transactional information such as the identity of the individual accessing the system, the name, strength, dosage form and quantity of the drug accessed and the name of the patient for whom the drug is prescribed or ordered. This technology results in efficiencies over labor intensive pharmaceutical acts such as manually filling medication containers and labeling the containers. Such cost-saving devices should be permitted in those settings in which there are adequate measures taken to assure the accuracy, accountability, security and patient confidentiality when the devices are utilized. Accordingly, rules need to be developed defining minimum standards for assuring these systems are working properly by accurately dispensing patient medications, that only authorized

and qualified personnel have access to them, that required records are maintained, and that procedures are in place to assure the security of the system and patient confidentiality.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2), and 450.02 (3) (a), (b), (d) and (e), Stats.

Estimate of the amount of state employe time and any other resources that will be necessary to develop the rule:

10 hours.

Public Instruction

Subject:

SS. PI 11.07, 11.14 and 11.35 – Relating to procedures, design and delivery of special education and eligibility criteria, including need for special education.

Description of policy issues:

Description of the objective of the rule:

* To revise s. PI 11.07, “Transfer pupils”, to permit local educational agencies (LEA) to treat a student with disabilities who transfers from out-of-state in the same manner as the LEA would treat a student with disabilities transferring from one district to another within Wisconsin.

* To revise s. PI 11.14, “Surrogate parents”, to eliminate the limitation in s. PI 11.14 (3) (d) that a person may not be appointed as a surrogate parent for more than 4 children at any one time.

* To revise s. PI 11.35, “Eligibility criteria”, to update and modify as appropriate six areas of impairment:

- ① Cognitive disabilities,
- ② Learning disabilities,
- ③ Hearing impairment,
- ④ Visual impairment,
- ⑤ Speech/language disabilities and
- ⑥ Emotional disturbance.

* To create a subsection of s. PI 11.35, to address the determination of need for special education.

* To bring language into conformity with newly-enacted subchapter V, Chapter 115, Stats.

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

For this rules revision package, the Department will propose no existing policies not already contained in these sections.

Describe any new policies to be included in the proposed rule:

New policy will be created to allow LEA’s to treat transfer students from out-of-state to be treated in the same manner as intrastate transfer students.

New policy will allow a surrogate parent to be appointed for more than four children at any one time.

New policy will be established to guide LEA’s in determining if a child found to have an impairment needs special education as a result of that impairment.

Describe policy alternatives:

Given the extensive public involvement and broad support for these revisions, no alternative policies would be appropriate at this time. Subsequent to public hearings, modifications to this proposal may be made.

Rationale for proposed rule development:

The purpose of this rule-making activity is to modify ch. PI 11, Wis. Adm. Code, to reflect extensive public input, received during twelve hearings on special education conducted around the state in November, 1996, and input received from nine task forces created to examine issues around procedures, the design and delivery of special education and eligibility criteria, including need for special

education. There was unanimous testimony at all the hearings regarding the need to be able to treat out-of-state transfer students in the same manner as intrastate transfer students, so that unnecessary delays in provision of special education do not occur. The Department received testimony requesting that the current rule limiting a surrogate parent to four children be revised, due to the difficulty in securing surrogate parents. Public testimony requested revision in the eligibility criteria for six categories of impairment. As a result of that testimony, six task forces were appointed to examine and make recommendations for rules revision of eligibility criteria for cognitive disabilities, learning disabilities, hearing impairment, visual impairment, speech/language disabilities, and emotional disturbance. Also, a task force was created to make recommendations for administrative rules to govern the determination of need for special education. Finally, this proposal will include technical amendments to bring the affected rules into conformity with newly-enacted subchapter V, chapter 115, Stats.

Statutory authority for the rule:

Subch. V, ch. 115, Stats.

Estimate of the amount of time that state employes will spend to develop the rule and of other resources necessary to develop the 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 required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

Revenue

Subject:

S. Tax 11.56 – Relating to Wisconsin sales and use tax treatment of sales and purchases made by printers.

Description of policy issues:

Objectives of the proposed rule:

The objectives of this rule order are:

1) Update the language contained in s. Tax 11.56 (1) (a), to reflect Department policy relating to technological advancements made within the printing industry;

2) Reflect the necessary changes due to the creation of s. 77.54 (43), Stats., by 1997 Wis. Act 27; and

3) Reflect the necessary changes due to the amendments to s. 77.51 (18) and (22) (a), Stats., by 1997 Wis. Act 27.

Existing policies:

This rule order reflects the Department of Revenue’s existing policy of providing accurate information to taxpayers, practitioners, and Department employes regarding sales and use taxes as they relate to printers.

Policy alternatives:

- Do nothing.

Section Tax 11.56 will be incorrect in that it does not reflect the proper Wisconsin sales and use tax treatment of amendments made to s. 77.51 (18) and (22) (a), Stats., by 1997 Wis. Act 27.

In addition, s. Tax 11.56 will only contain information related to the printing industry which is outdated for many printers due to technological advancements in the printing industry. Although the rule will not be incorrect without this information, it will be incomplete with respect to modern technology.

Statutory authority:

S. 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 45 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.

Transportation

Subject:

Ch. Trans 301 – Relating to human services vehicles (HSV's).

Description of policy issues:

Description of the objective of the rule:

Ch. Trans 301 relates to Human Services Vehicles (HSV's). This rulemaking establishes the specifications related to a strobe light on HSV's. The Department is also taking this opportunity to modify the position of the inspection sticker and clarify minor points of confusion in the current rule.

Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:

1997 Wis. Act 31 allows the option of having strobe lights installed on human services vehicles. The Department is to establish the rule for this provision. The Department will also modify the position of the inspection sticker to a better location.

Statutory authority for the rule:

S. 347.25 (2m), Stats.

Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule:

It is estimated that state employees will spend 20 hours on the rule-making process. No other resources.

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.

Health and Family Services

Rule Submittal Date

Notice is hereby given that on March 12, 1998, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority:

Sections 46.016 and 227.11 (2) (a) Stats., and s. 253.06, Stats., as affected by 1997 Wis. Act 27

The subject matter of the proposed rule affecting ss. HFS 149.02 (6) and 149.03 (7) relates to dates for expiration of vendor authorization and for vendor reauthorization under the supplemental food program for women, infants and children (WIC).

Reason for rules, intended effects, requirements:

These amendments to the WIC program rules change the standard dates every 2 years when vendor authorizations expire and the new contract period begins.

Reauthorization now takes place at the end of the calendar year. That is a busy time of year for vendors. Reauthorization involves a lot of paperwork, and there is at the same time revision of the authorized food list and required training for vendors. Moreover, WIC project staffs must notify all program participants about changes in the food list, and it is difficult to contact some participants at that time of year.

The rulemaking order moves the dates for expiration of vendor authorization and reauthorization back 2 months to October 31 and November 1.

Agency Procedure for Promulgation

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

Contact Person

If you have any questions, you may contact:

Robert Kramer
Division of Health
Telephone (608) 267-0997

Health and Family Services

Rule Submittal Date

Notice is hereby given that on March 12, 1998, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority:

Section 254.74 (1), Stats., and s. 254.61 (5) (g), Stats., as created by 1997 Wis. Act 27

The subject matter of the proposed rule affecting s. HFS 196.03 (22) (e) to (g) relates to exemption of concession stands at locally-sponsored sporting events from being regulated as restaurants.

Reason for rules, intended effects, requirements:

This order amends the Department's rules for restaurants to add an exemption to regulation for "a concession stand at a locally sponsored sporting event, such as a little league game" (s. 254.61 (5) (g), Stats., as created by 1997 Wis. Act 27), and to define both "concession stand" and "locally sponsored sporting event".

Identical emergency rules will be published on March 14, 1998.

Agency Procedure for Promulgation

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

Contact Person

If you have any questions, you may contact:

Edward Rabotski
Division of Health
Telephone (608) 266-8294

Insurance

Rule Submittal Date

In accordance with ss. 227.14 and 227.15, Stats., Wisconsin Office of Commissioner of Insurance submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on March 13, 1998.

Analysis

These changes will affect ss. Ins 17.01 (3) (intro.), 17.28 (4) (cm), 17.28 (6a), 17.35 (2b) (title), 17.28 (6), 17.35 (2b) (b), 17.35 (2b) (c) and (d), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, fund fee refunds and standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy.

Agency Procedure for Promulgation

The date for the public hearing is May 8, 1998.

Contact Person

To obtain a copy of the proposed rule, contact:

Meg Gunderson, OCI Central Files
Telephone (608) 266-0110

For additional information, please contact:

Alice M. Schuman, OCI Legal Unit
email at ashuman@mail.state.wi.us
Telephone (608) 266-9892

Public Instruction**Rule Submittal Date**

On March 10, 1998, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends s. PI 2.05 (2) (a), relating to the school district boundary appeals board (SDBAB).

Agency Procedure for Promulgation

A public hearing will be held on May 12, 1998. The Division for Finance and Management Services is primarily responsible for promulgation of this rule.

Contact Person

If you have questions regarding this rule, you may contact:

Karen Kucharz, School Management Consultant
Telephone (608) 266-2803

Public Instruction**Rule Submittal Date**

On March 10, 1998, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates s. PI 3.03 (12), relates to an urban teacher license, and amends s. PI 3.05, relating to environmental education.

Agency Procedure for Promulgation

A public hearing will be held on April 13, 1998. The Division for Learning Support: Instructional Services is primarily responsible for promulgation of this rule.

Contact Person

If you have questions regarding this rule, you may contact:

Peter Burke, Director
Bureau for Teacher Education
Licensing and Placement
Telephone (608) 266-1879

Transportation**Rule Submittal Date**

Notice is hereby given that on March 11, 1998, the Wisconsin Department of Transportation submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The subject matter of the proposed rule, ch. Trans 276, relates to allowing the operation of "double bottoms" (and certain other vehicles) on specified highways.

Agency Procedure for Promulgation

A hearing is required, and is scheduled for April 15, 1998. The organizational unit responsible for promulgation of this proposed rule is the Division of Transportation Infrastructure Development, Bureau of Highway Operations.

Contact Person

If you have any questions, you may contact:

Julie A. Johnson, Paralegal
Telephone (608) 266-8810

NOTICE SECTION

Notice of Hearings Health and Family Services (Health, Chs. HFS 110--)

Notice is hereby given that, pursuant to s. 252.16 (6), Stats., as affected by 1997 Wis. Act 27, and s. 252.17 (6), Stats., the Department of Health and Family Services will hold public hearings to consider the amendment of ch. HSS 138, Wis. Adm. Code, relating to subsidized health insurance premiums for certain persons with human immunodeficiency virus (HIV) infection, and the emergency rules now in effect on the same subject.

Hearing Information

The hearings will be held as follows:

April 22, 1998
Wednesday
Room 233
1414 E. Washington Ave.
MADISON, WI

April 23, 1998
Thursday
Conference Rooms 1 & 2
Italian Community Center
631 E. Chicago St.
MILWAUKEE, WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Dept. of Health & Family Services

This order revises ch. HSS 138 to incorporate changes made in the program by the 1997--99 Budget Act, 1997 Wis. Act 27. Act 27 amended s. 252.16, Stats., to change the program in the following ways for individuals who are unable to continue working or must reduce their hours of work:

☐ The Department is directed to pay the premium costs for any health insurance coverage for an eligible individual, whether group coverage or an individual policy, and not only, as formerly, for continuation coverage under a group health plan if available to the individual.

☐ Program participation is expanded from individuals in families with incomes up to 200% of the federal poverty line to individuals in families with incomes up to 300% of the poverty line, but individuals in families with incomes between 201% and 300% of the federal poverty line are expected to contribute toward payment of the insurance premium.

☐

The Department is directed to pay an individual's premiums for as long as the individual remains eligible for the program and not only, as formerly, for a maximum of 29 months. The rule changes add rule definitions for dependent, individual health policy, Medicare, subsidy under s. 252.16, Stats., and subsidy under s. 252.17, Stats., and modify rule definitions for employe and group health plan; raise the maximum family income for eligibility for the program to 300% of the federal poverty line; permit an individual to be eligible if covered or eligible for coverage under either a group health plan or an individual health policy; delete the provision that prohibits Medicare-eligible individuals from participating in the program since a Medicare supplement policy is now considered a type of individual health policy; require eligible individuals whose family income exceeds 200% of the federal poverty line to contribute 3% of the annual policy premium toward payment of the premium; and delete the time limit of 29 months after which the Department's payments are to end.

All of the rule changes, except the changes to the definitions, apply only in the case of subsidies under s. 252.16, Stats., that is, for individuals who because of a medical condition related to HIV infection are unable to continue working or must reduce their hours of work.

Contact Person

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

Richard Albertoni, (608) 267-6875 or,
if you are hearing-impaired, (608) 266-1511 (TTY)
Bureau of Public Health
1414 E. Washington Ave.
Madison, WI 53703

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

Written Comments

Written comments on the proposed rules received at the above address no later than **April 28, 1998**, will be given the same consideration as testimony presented at a hearing.

Fiscal Estimate

The rule changes will not affect the expenditures or revenues of state government or local governments. All costs and savings to the State from the rule changes were taken into consideration by the Legislature when 1997 Wis. Act 27 was passed. Local governments are not involved in program administration.

Initial Regulatory Flexibility Analysis

The rule changes will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. Chapter HSS 138 applies to certain persons with HIV infection and to the Department.

Notice of Hearing **Health & Family Services** **(Health, Chs. HFS 110--)**

Notice is hereby given that, pursuant to s. 46.016, Stats., s. 253.06, Stats., as affected by 1997 Wisconsin Act 27, and s. 227.11 (2) (a), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of ss. HFS 149.02 (6) and 149.03 (7), Wis. Adm. Code, relating to the standard dates for vendor authorization and reauthorization under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

Hearing Information

April 16, 1998
Thursday
Beginning at 1 p.m.
Conf. Rm. inside Rm.218
State Office Building
1 West Wilson
MADISON WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building or in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building.

Analysis Prepared by the Department of Health and Family Services

This order amends ch. HFS 149, Wis. Adm. Code, the Department's rules for designating and monitoring vendors who participate in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) established under 42 USC 1786. The WIC program in Wisconsin is administered by the Department and local project agencies.

WIC participants exchange WIC drafts for program-approved food items at grocery stores and pharmacies that are authorized by the state WIC office to be WIC vendors. Only grocery stores and pharmacies that are authorized WIC vendors may accept WIC drafts and be reimbursed by the state WIC office for foods provided to participants. Currently the rules provide that all vendor authorizations expire on December 31 of even-numbered years, and that the new contract period begins the next day. This order will change the expiration date to October 31 of even-numbered years, with the new contract period to begin the next day. These are more favorable dates for all parties involved in the reauthorization of vendors, including staff of local WIC projects, authorized vendors and state WIC office vendor monitoring staff.

Contact Person

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

Robert Kramer
Division of Health
P.O. Box 309
Madison, WI 53701-0309
(608) 266-0997 or,
if you are hearing impaired,
(608) 266-1511 (TTY)

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

Written Comments

Written comments on the proposed rules received at the above address no later than **April 21, 1998**, will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

The rule changes will not affect the expenditures or revenues of state government or local governments.

Vendors do not pay an authorization fee, and so state revenues will not be affected by earlier reauthorization.

Local WIC projects include 36 county health department projects, 11 county human service department projects, 4 city projects and 3 tribal projects. However, there is no local government financial participation in the operation of the projects. The Department contracts with the local projects to determine eligibility of persons for the WIC program and to provide nutrition counseling and program information to participants.

Initial Regulatory Flexibility Analysis

These rule amendments will affect all grocery stores and pharmacies that are approved vendors under the WIC Program. Most of the 1111 approved vendors (October 1997) are small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

The rule amendments move back the standard dates for expiration and reauthorization of biennial vendor licenses by two months as a convenience for vendors and local WIC project staff so that these dates do not fall, as they do now, at the end of the calendar year which is the busiest time of year for vendors. To become reauthorized a vendor must fill out lengthy application materials and receive training.

No new reporting, bookkeeping or other procedures are required for compliance with the rule changes.

No new types of professional skills are necessary for compliance with the rule changes.

Notice of Hearings

Health & Family Services (Health, Chs. HFS 110--)

Notice is hereby given that, pursuant to ss. 254.47 (4) and 254.68, Stats., the Department of Health and Family Services will hold public hearings to consider the amendment of chs. HFS 172, 175, 178 and 195 to 198, Wis. Adm. Code, relating to an increase in permit and related fees and establishment of a one-time technology improvement surcharge for the operation of public swimming pools, recreational and educational camps, campgrounds, hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and food and beverage vending operations and commissaries.

Hearing Information

April 13, 1998
Monday
Beginning at 1 p.m.

Room 260
Municipal Building
215 Martin Luther
King, Jr., Blvd.
MADISON WI

April 15, 1998
Wednesday
Beginning at 1 p.m.

West Conf. Rm., 3rd Fl.
City Administrative Bldg.
400 N. 4th Street
LA CROSSE WI

April 17, 1998
Friday
Beginning at 1 p.m.

Room 152
State Office Building
200 N. Jefferson Street
GREEN BAY WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

The Department and agent local health departments regulate all 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 in the state under the authority ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with the Department's health, sanitation and safety standards set out in administrative rules. The Department's rules for these facilities are found in chs. HFS 172, 175, 178, 195, 196, 197 and 198 of the Wisconsin Administrative Code. None of the facilities may operate without having a permit issued by the Department or an agent local health department. A permit is evidence that a facility complies with the Department's rules. Under the Department's rules, facilities are charged permit and related fees. Fee revenue supports the regulatory program.

This rulemaking order amends the Department's rules for operation of these facilities effective July 1, 1998 to increase permit fees for all facilities by 18% to increase the penalty for late payment of a permit fee from \$50 to \$75, to increase the pre-inspection fee for a new facility (applies only to hotels and motels, tourist rooming houses, restaurants, bed and breakfast establishments and vending machine commissaries) and to impose a one-time technology improvement surcharge payable on July 1, 1998 by all facilities.

Current revenues from permit fees are not sufficient to fully support the Department's existing regulatory staff and to finance necessary upgrading of computer systems. The fee increases and the one-time technology improvement surcharge will enable the Department to maintain the regulatory program at its current levels for frequency of routine inspections, responding promptly to complaints from the public and undertaking necessary enforcement action, and to modernize its permit issuance and information system.

This order does not affect 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 254.69 (2) (d), Stats.

Contact Person

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

Edward Rabotski
Environmental Epidemiology
and Prevention Section
Division of Health
P.O. Box 309
Madison WI 53701-0309
608-266-8294 or,
if you are hearing impaired,
608-266-1511 (TTY)

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

Written Comments

Written comments on the proposed rules received at the above address no later than **April 24, 1998**, will be given the same consideration as testimony presented at a hearing.

Fiscal Estimate

The Department issues permits for the operation of campgrounds, camps, public swimming pools, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending machines, operators and commissaries. An annual fee (biennial for a bed and breakfast establishment) is charged for a permit. An additional fee is charged if a permit fee is paid late. There is a one-time pre-inspection fee for a new facility, which applies only to hotels, motels, tourist rooming houses, restaurants, bed and breakfast establishments and vending machine commissaries. These fees must cover the costs of regulation by the Department.

This order increases permit fees and the related late fees and preinspection fees to cover increased program costs. The fee increases are effective July 1, 1998. The fee increases are expected to generate \$637,557 annually in increased program revenues (\$372,557 from permit fees, \$240,000 from preinspection fees and \$25,000 from late fees).

This order also provides for a one-time technology improvement surcharge of \$15 to \$25 to be paid by each permit-holder at the time the permit fee is paid for the July 1, 1998 to June 30, 1999 permit period. The one-time technology improvement surcharge is expected to generate \$332,355, which will be used to update the regulatory program's computerized information and processing system.

The fees established by this order apply only to facilities and operators issued permits by the Department, not those that are issued permits by local health departments serving as the Department's agents.

The Department itself regulates 9469 restaurants and 6582 other types of facilities. A few campgrounds, camps and swimming pools are operated by the Wisconsin Department of Natural Resources (DNR) or by local governments. Permit fees are increased 18% and the technology improvement surcharge is a one-time payment of \$15 to \$25 for each permit-holder, which means that the impacts of the revised fees and the one-time surcharge on state government and local governments are minimal.

Initial Regulatory Flexibility Analysis

These rule changes apply to all restaurants, hotels, motels, tourist rooming houses, bed and breakfast establishments, food and beverage vending operations and commissaries, campgrounds, camps and public swimming pools in Wisconsin that are issued permits by the Department. Most of these facilities are small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

The order amends the Department's rules to provide for an increase of about 18% in permit fees; a \$25 increase in the penalty fee, from \$50 to \$75, when a permit fee is not paid within the first 15 days of the permit period; an increase in the preinspection fee (this fee does not apply to swimming pools, camps, campgrounds or vending machines), from a range of \$25 to \$55 to a range of \$125 to \$275, before issuance of the initial permit, to better reflect the actual costs of the initial inspection; and a one-time technology improvement surcharge of \$15 to \$25 to be paid by each permit holder which will enable the Department to update its computerized information and processing system for the regulatory program.

There is some variation provided for in the amount of a permit fee, a preinspection fee or the technology improvement surcharge, based on the number of sites for a campground, the number of rooms in a hotel or motel, and the type or seating capacity of a restaurant.

The regulatory program is operated exclusively on the basis of fee revenue.

The fee increases and one-time technology improvement surcharge will enable the Department to maintain this regulatory program at its current levels for frequency of routine inspections to protect public health, responding promptly to complaints from the public and undertaking necessary enforcement action, and to modernize its permit issuance and information system.

Notice of Hearing

Commissioner of Insurance

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of a proposed rulemaking order affecting ss. Ins 17.01 (3) (intro), 17.28 (4) (cm), 17.28 (5) (intro), 17.28 (6) (a), 17.35 (2b) (b), 17.35 (2b) (c) and (d), Wis. Adm. Code, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1998, limiting fund fee refunds to the current and immediate prior fiscal year only, and establishing standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy.

Hearing Information

May 8, 1998
Friday
10:00 A.M.

Room 23, OCI
Dodge Co. Adm. Bldg.
121 East Wilson St.
MADISON, WI

Written Comments

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI by 5:00 p.m. on the date of the hearing. Written comments should be addressed to:

Alice M. Shuman, OCI
PO Box 7873
Madison, WI 53707

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 601.41 (3), 655.004, 655.23 (4), 655.27 (3) (b) and 655.61

Statutes interpreted: ss. 655.27 (3) and 655.23 (4)

The Commissioner of Insurance, with the approval of the Board of Governors (Board) of the Patients Compensation Fund (Fund), is required to establish by administrative rule the annual fees which participating health care providers must pay to the fund. This rule establishes those fees for the fiscal year beginning July 1, 1998. These fees incorporate changes to class 2 and 3 relativities based on experience factors with an overall impact of zero compared with fees paid for the 1997-98 fiscal year. The Board approved this change in relativities with no overall increase in fees at its meeting on February 25, 1998, based on the recommendation of the Board's actuarial and underwriting committee.

The Board is also required to promulgate by rule the annual fees for the operation of the patients compensation mediation system, based on the recommendation of the Director of State Courts. This rule implements the Director's funding level recommendation by establishing mediation panel fees for the next fiscal year at \$16.00 for physicians and \$1.00 per occupied bed for hospitals, representing a 50% decrease from 1997-98 fiscal year fees.

This rule also limits fund fee refunds to the current fiscal year and the immediate prior fiscal year in s. Ins 17.28 (4) (cm). This rule in s. Ins 17.35 (2b) (b), (c) and (d) sets standards for the application of the aggregate underlying liability limits upon the termination of a claims-made policy based on the actuarial equivalence of an occurrence policy.

Summary of Rule and Fiscal Estimate

For a summary of the rule, see the analysis contained in the proposed rulemaking order. There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

Contact Person

A copy of the full text of the proposed rule and fiscal estimate may be obtained from:

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

Notice of Hearing

Natural Resources

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

Notice is hereby given that pursuant to ss. 27.01(7)(e), (7m)(c), (8m)(c), (29.09(3m)(a), (3r)(c) and (d), Stats., interpreting ss. 27.01(7)(e), (7m)(c), (8m)(c), (29.09(1m), (3m)(a), (3r)(c) and (d), 29.102(1)(a) and 29.1025(1)(a), Stats., the Department of Natural Resources will hold a public hearing on the repeal and recreation of ch. NR 8 and amendment to s. NR 45.12(1), Wis. Adm. Code, relating to implementation of the automated license issuance system for parks vehicle admission receipts and hunting, fishing and trapping approvals. The proposed rule will establish which agents are authorized to issue which approvals; application, eligibility and contract requirements for license agents; license agent procedures for issuing approvals; applicant signature requirements and procedures for verifying residency; how stamp privileges are conferred under the automated system; and circumstances under which a person may purchase an approval for another person.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.14, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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

Hearing Information

April 20, 1998
Monday
at 1:00 p.m.

Room 717, GEF #2
101 S. Webster St.
Madison

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Joy Stewart at (608) 266-2159 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to Ms. Joy Stewart, Bureau of Management and Budget, P.O. Box 7921, Madison, WI 53707 no later than **April 22, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [CS-17-98] and fiscal estimate may be obtained from Ms. Stewart.

Fiscal Estimate

The Department estimates that development and implementation of the new ALIS system will require additional funding of \$657,000 in FY 98 and \$1,288,000 in FY 99. However, these funds were provided in the 1997-98 biennial budget. Promulgation of the required rules to implement the new ALIS system does not create an additional costs beyond those costs already covered in the biennial budget.

Notice of Hearings

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

Notice is hereby given that the Department of Natural Resources will hold public hearings on 2 proposed revisions to ch. NR 25, Wisconsin Administrative Code, pertaining to commercial fishing with trawls on Green Bay and Lake Michigan. Proposed order FH-14-98 is being proposed by the Department, while proposed order FH-26-98 is based on a citizen petition for rule-making under s. 29.174(3), Wis. Stats. The Department is required to hold a hearing on such petitions.

Notice is hereby further given that pursuant to ss. 29.085, 29.174(3), 29.33(1) and (4m)(e) and 227.11(2)(a), Stats., and 1997 Wis. Act 27, sec. 9137(13f), interpreting ss. 29.085, 29.174(2)(a) and 29.33(1) and 227.11(2)(a), Stats., the Department of Natural Resources will hold public hearings on proposed order FH-14-98 — revisions to ss. NR 25.05, 25.06 and 25.09, Wis. Adm. Code, relating to commercial fishing for alewife and smelt on Lake Michigan. Under 1997 Act 27, the 1997-99 Wisconsin State Budget, the Legislature superseded a Department rule that limited commercial trawling for smelt on Green Bay to nighttime hours by allowing trawling for smelt for 3 hours after sunrise. The Act also requires the Department to establish a total allowable annual commercial harvest limit for alewives from Lake Michigan and Green Bay. Governor Thompson, in vetoing related provisions of the budget bill, asked the Department to design the rule to prevent additional loss of the alewife forage base. The proposal sets an annual total allowable harvest limit for alewives at 42,070 pounds, with no more than 7,294 pounds to be taken from Green Bay and no more than 34,776 pounds to be taken from Lake Michigan. The proposal also requires all alewives, smelt and chubs harvested while trawling for smelt to be landed and weighed. Finally, the proposal requires the seasonal closure of the smelt trawl fishery in Green Bay and Lake Michigan if the respective annual alewife harvest limits are reached prior to the end of the normal smelt trawling seasons.

Notice is hereby further given that pursuant to ss. 29.085, 29.174(3), 29.33(1) and (4m)(e) and 227.11(2)(a), Stats., and 1997 Wis. Act 27, sec. 9137(13f), interpreting ss. 29.085, 29.174(2)(a) and 29.33(1) and 227.11(2)(a), Stats., the Department of Natural Resources will hold public hearings on proposed order FH-26-98 — revisions to ss. NR 25.02, 25.06 and 25.09, Wis. Adm. Code, relating to commercial fishing for alewife and smelt on Lake Michigan. On January 26, 1998, a citizen petition was received by the Department of Natural Resources petitioning for the following changes contained in proposed order FH-26-98:

1. Repeal current rules that confine trawling on Lake Michigan to an area of the lake between Sheboygan and Algoma and instead open 7 defined "port areas" on Lake Michigan and limit the annual trawl harvest of smelt to 100,000 pounds for each port area.
2. Reduce the total allowable annual commercial harvest of smelt from Lake Michigan and Green Bay. A combined harvest limit of 750,000 pounds instead of 2,358,000 pounds is established, of which no more than 150,000 pounds instead of 830,000 pounds may be taken from Green Bay.
3. Provide for closure of smelt trawling in Green Bay or in any of the 7 port areas when the total harvest of chubs or alewife by trawling reaches 10% by weight of the total allowable annual commercial harvest of smelt in Green Bay or in any port area, respectively.
4. Require the landing of all alewives, chubs and smelt caught in trawls.

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

Hearing Information

| | |
|---|--|
| April 14, 1998 Tuesday at 5:00 p.m. | Council Chambers Two Rivers City Hall 1717 E. Park Two Rivers |
| April 16, 1998 Thursday at 11:00 a.m. | Room 141 DNR Southeast Region Hdqrs. 2300 N. Dr. Martin Luther King Jr. Dr. Milwaukee |
| April 16, 1998 Thursday at 5:00 p.m. | Auditorium Public Ives Grove Complex 14200 Washington Ave. Sturtevant |
| April 20, 1998 Monday at 11:00 a.m. | Council Chambers Marinette City Hall 1805 Hall Avenue Marinette |
| April 20, 1998 Monday at 5:00 p.m. | Room 203 Green Bay City Hall 100 N. Jefferson Green Bay |

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call William Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rules may be submitted to Mr. William Horns, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than **April 30, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearing. Copies of the proposed rules [FH-14-98, FH-26-98] and fiscal estimate may be obtained from Mr. Horns.

Fiscal Estimate

These rule changes will have a fiscal impact on the Department in the estimated amount of \$9,000, but not on other state agencies or on local units of government. The following assumptions were used in arriving at the fiscal estimate for these rule changes:

1. The proposed rules do not affect relations with local units of government or other state agencies.
2. No additional liability or revenue fluctuations are envisioned.
3. Additional staff effort will be needed for dockside and on-board monitoring of commercial trawling by Department biologists. This will require approximately 500 hours of LTE time for a Fisheries Technician at salary and fringe costs of \$4,900, plus supplies and services costs of \$500 for a total of \$5,400.
4. Department law enforcement officers will enforce the rules in their normal course of duty. However, this will require a shifting of effort by existing law enforcement staff. This effort will require approximately 130 hours of law enforcement time, at estimated salary and fringe costs of \$3,100 plus supplies and services costs of \$500 for a total of \$3,600.
5. No fee collection is involved in these rule changes.

Notice of Hearing *(Environmental Protection— General, Chs. NR 100—)*

Notice is hereby given that pursuant to ss. 227.11(2)(a) and 281.48, Stats., interpreting s. 281.48, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 113, Wis. Adm. Code, relating to septage management. When the Natural Resources Board adopted revisions to ch. NR 113, a provision was added by the Board concerning restrictions on land applying septage on frozen or snow covered

ground. The provision required the Department to appear before the Board prior to February 1998 to request that the restrictions be either approved or disapproved. The Department has listened to the many concerns raised by haulers and others with respect to the lack of alternative disposal options which exist in various parts of the state during winter months. The revisions in the proposed rule will set conditions on the land application of septage on frozen or snow covered ground to allow such application while still providing adequate water quality protections. Other clarifying changes are proposed, including but not limited to, changes to the soil permeability and other site management restrictions, changes to the reporting and recordkeeping requirements, changes to the license revocation provisions and changes to the high use fields conditions.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses affected: Septage haulers
- b. Description of reporting and bookkeeping procedures required: No new procedures
- c. Description of professional skills required: No new skills

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

Hearing Information

April 23, 1998
Thursday
at 10:30 a.m.

Schmeekle Reserve
UW Stevens Point
Michigan Ave.
Stevens Point

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Greg Kester at (608) 267-7611 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to Mr. Greg Kester, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 no later than **May 1, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WT-19-98] and fiscal estimate may be obtained from Mr. Kester.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

*Natural Resources
(Environmental Protection - Investigation
and Remediation of Environmental
Contamination, Chs. NR 700--)*

Notice is hereby given that pursuant to ss. 227.11(2) and 292.11(7)(d)2., 292.13(3), 292.21(1)(c)1.d., 292.35(13) and 292.55, Stats., the Department of Natural Resources will hold public hearings on the creation of ch. NR 749, Wis. Adm. Code, relating to the assessment and collection of fees providing assistance on the remediation and redevelopment of contaminated lands. Chapter NR 749 is being created to establish a flat fee for persons requesting department assistance under ch. 292, Stats. The 1997-99 Biennial Budget contained a major initiative in the area of brownfields cleanup and redevelopment. The Budget authorized the Department to collect fees, by rule, to offset the cost of much of the assistance currently provided and for the new services created in the budget. The flat fee will be for services including issuing off-site letters, approving limited liability letters, issuing close-out letters, responding to requests for liability clarification, providing technical assistance and other related activities.

The Department of Natural Resources intends to implement ch. NR 549, Wis. Adm. Code, as an emergency rule

Initial Regulatory Flexibility Analysis

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

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

Hearing Information

April 13, 1998
Monday
at 11:00 a.m.

Rms. 185 & 158
DNR West Central Region Hdqrs.
1300 W. Clairmont Ave.
Eau Claire

April 14, 1998
Tuesday
at 10:00 a.m.

Room 203
Green Bay City Hall
100 N. Jefferson St.
Green Bay

April 15, 1998
Wednesday
at 1:00 p.m.

Room 120
State Office Bldg.
141 NW Barstow
Waukesha

April 16, 1998
Thursday
at 1:00 p.m.

Room 240BD
Madison Area Tech. College
211 N. Carroll St.
Madison

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Mark Gordon at (608) 266-7278 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to Mr. Mark Gordon, Bureau of Remediation and Redevelopment, P.O. Box 7921, Madison, WI 53707 no later than **April 24, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [RR-27-98] and fiscal estimate may be obtained from Mr. Gordon.

Fiscal Estimate

I. Fiscal Impact to State Government. The impact to state government is estimated as follows:

A. Revenues – Table A contains the Department’s estimate of the annual number of requests for assistance and the associated revenues beginning with FY ’99. The estimated revenue is \$1,080,750/year.

B. Expenditures – Based on the Biennial Budget there does not appear to be a cost to the Department of Natural Resources. There may be a cost to other state agencies, if they specifically request Department assistance.

II. Fiscal Impact to Local Government – The impact to local government is estimated as follows:

A. Revenue – None.

B. Expenditure – Based on past experience and existing information, applications form local units of government are estimated to account for approximately 10% of the applications received annually. This results in a total projected cost to local units of government of almost \$130,000/year.

Notice of Hearing

Public Instruction

Notice is hereby given that pursuant to s. 227.11 (2) (a), Stats., and interpreting ss. 15.375 (2) and 117.05 (2), Stats., the Department of Public Instruction will hold a public hearing as follows to consider proposed permanent rules affecting ch. Pl 2, relating to the school district boundary appeals board (SDBAB):

Hearing Information

The hearing will be held as follows:

May 12, 1998
Tuesday
5:00 p.m. –
7:00 p.m.

Room 041, GEF #3 Bldg.
125 South Webster St.
MADISON, WI

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access the meeting, please call Karen Kucharz, School Management Consultant, at (608) 266-2803 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Person

A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to slausll@mail.state.wi.usor by writing to:

Lori Slauson
Administrative Rules & Federal Grants Coordinator
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **May 18, 1998**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

Analysis by the Dept. of Public Instruction

Section 15.375 (2), Stats., requires the state superintendent to appoint 12 school board members to serve on the school district boundary appeal board (SDBAB). The statute also states that 4 members of the SDBAB shall be school board members from small school districts, 4 members shall be school board members from medium school districts and 4 members shall be school board members from large school districts.

Chapter PI 2, Wis. Adm. Code, establishes the criteria used in determining whether a school district is considered to be small, medium or large. The proposed rule amendment changes the criteria used in determining whether a school district is small, medium or large to more accurately reflect the representation of such school districts on the SDBAB.

Fiscal Estimate

School district boundary appeal board (SDBAB) members are appointed by the state superintendent. Four members of the SDBAB represent small school districts, four members represent medium school districts and four members represent large school districts.

The proposed rule amendment changes the criteria used in determining whether a school district is small, medium or large to more accurately reflect the representation of such school districts on the SDBAB. Because this rule does not change the number of members on the Board, the composition of the Board, the process or procedures used by the Board, or the fees collected by the Department to conduct school district boundary appeals, the proposed rules will not have a fiscal effect on local schools or the Department.

Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Notice of Hearing Public Instruction

Notice is hereby given that pursuant to ss. 115.28 (7) and 227.11 (2) (a), Stats., and interpreting s. 115.28 (7), Stats., the Department of Public Instruction will hold a public hearing as follows to consider proposed permanent rules affecting ch. PI 3, relating to environmental education requirements and an urban education license.

Hearing Information

The hearing will be held as follows:

April 13, 1998
Monday
3:00 p.m. -
5:00 p.m.
4th Floor
Milwaukee Teacher Ed. Ctr.
144 South 32nd St.
MILWAUKEE, WI

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access the meeting, please call Peter Burke, Director, Bureau for Teacher Education, Licensing and Placement, at (608) 266-1879 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Person

A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to slausl@mail.state.wi.us or by writing to:

Lori Slauson
Administrative Rules & Federal Grants Coordinator
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **April 20, 1998**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

Analysis by the Dept. of Public Instruction

Section 115.28 (7), Stats., requires the state Superintendent of Public Instruction to license all teachers for the public schools and to make rules establishing standards of attainment for licensure. The proposed rules:

1. Clarify that environmental education was not required prior to July 1, 1985, in order to receive a license to teach early childhood, elementary, and elementary/middle level education.
2. Create an urban education license. This license is not required but may be obtained by teachers in a city of the first class who complete specified program requirements. Successful completion of the urban education license program can be used in meeting license renewal requirements.

Fiscal Estimate

The proposed rules make a technical amendment relating to environmental education and create an urban teacher license. The urban teacher license is not required and may be obtained by teachers in a city of the first class who complete specified program requirements.

The proposed rules should have no fiscal effect on local school districts, since the license is permissive and not required.

The University of Wisconsin System could incur additional costs if it were to offer an urban teacher license program; however, offering such a program is not required.

Any increase in costs due to increased applications can be absorbed within the agency's existing budget. The increase in applications for urban teacher licenses will be insignificant compared to the volume of applications for all teaching licenses which the Department processes each year.

Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Notice of Hearing Transportation

Notice is hereby given that pursuant to ss. 85.16 (1) and 348.07 (4), Stats., interpreting s. 348.07 (4), Stats., the Department of Transportation will hold a public hearing at the following location to consider the amendment of ch. Trans 276, Wis. Adm. Code, relating to allowing the operation of "double bottoms" (and certain other vehicles) on certain specified highways.

Hearing Information

April 15, 1998
Wednesday
10:00 A.M.
Rooms 1H & 1L
Dodge Co. Adm. Bldg.
127 Oak St.
JUNEAU, WI

The hearing locations are accessible to people with disabilities.

Written Comments & Contact Person

The public record on this proposed rulemaking will be held open until close of business, **April 17, 1998**, 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:

Mark Morrison
Traffic & Safety Engineer, Room 601
P. O. Box 7916
Madison, WI 53707-7916

Analysis Prepared by the Wis. Dept. of Transportation

Statutory authority: ss. 85.16 (1) and 348.07(4)

Statute interpreted: s. 348.07 (4)

General Summary of Proposed Rule. This proposed rule amends s. Trans 276.07 (29), (31) and (32) Wis. Adm. Code, to add eight segments of highway to the designated highway system established under s. 348.07 (4), Stats. The actual highway segments that this proposed rule adds to the designated highway system are:

| <u>Hwy.</u> | <u>From</u> | <u>To</u> |
|--------------------|---------------------------|-----------------------------|
| Columbia | | |
| Co. "E" | STH 22 N. of Pardeeville | STH 73 in Randolph |
| Co. "EF" | STH 33 S. of Friesland | CTH "E" N. of Friesland |
| Co. "P" | STH 44 in Pardeeville | STH 73 N. of Randolph |
| Dodge | | |
| Co. "B" | STH 26 N. of Juneau | STH 33 N. of Beaver Dam |
| Co. "E" | STH 33 in Horicon | STH 33 in Beaver Dam |
| Co. "P" | STH 73 in Randolph | STH 33 in Fox Lake |
| Fond du Lac | | |
| Co. "AS" | STH 151 N.E. of Waupun | CTH "D" S.W. of Oakfield |
| Co. "D" | CTH "AS" S.W. of Oakfield | STH 151 S.W. of Fond du Lac |

The proposed rule text often achieves these objectives by consolidating individual segments into contiguous segments with new end points. In order to determine the actual highway segment added, it is necessary to compare the combined old designations with the combined new designation.

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, "double bottoms" and the vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit:

- A single vehicle with an overall length in excess of 40 feet (45-foot buses are allowed on the National Network and Interstate system by Federal law. Section 4006 (b) of the Intermodal Surface Transportation Efficiency Act of 1991);

- A combination of vehicles with an overall length in excess of 65 feet;
- A semitrailer longer than 48 feet;
- An automobile haulaway longer than 66 feet plus allowed overhangs; or
- A "double bottom".

Certain exceptions are provided under s. 348.07(2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

The effect of this proposed rule will be to extend the provisions of s. 348.07 (2) (f), (fm), (gm) and (gr), and s. 348.08 (1) (e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the federal National Network in Wisconsin will also be allowed to operate on the newly-designated highways. Specifically, this means there will be no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulaway on the affected highway segments. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulaway. Double bottoms will be allowed to operate on the affected highway segments provided neither trailer is longer than 28 feet, 6 inches. Semitrailers up to 53 feet long may also be operated on these highway segments provided the kingpin-to-rear axle distance does not exceed 43 feet. This distance is measured from the kingpin to the center of the rear axle or, if the semitrailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semitrailers, including semitrailers which are part of an automobile haulaway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 5 miles or less from the designated highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

Fiscal Estimate

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

Initial Regulatory Flexibility Analysis

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to the office of the State Traffic Engineer, P. O. Box 7916, Madison, Wisconsin, 53707, telephone (608) 266-1675. For questions about this rulemaking, please call Mark Morrison, Traffic & Safety Engineer at (608) 266-1675. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearing *Veterans Affairs*

Notice is hereby given that pursuant to ss. 45.35 (3), 45.357 (2), 45.397 (2) (a) and 45.73 (1), Stats., and interpreting ss. 45.351, 45.357 (2), 45.397, 45.76 and 45.79 (3) (a), Stats., the Dept. of Veterans Affairs will hold a public hearing at the time and place indicated below to consider revision to the VA Code, relating to several state veterans benefit programs.

Hearing Information

The hearing will be held as follows:

April 17, 1998 **Learning Resource Center**
Friday **Southern Wisconsin Center**
9:15 a.m. **UNION GROVE, WI**

Analysis and Summary Prepared by the Dept. Of Veterans Affairs

Upon enactment of 1997 Wis. Act 27, the legislature modified various state veterans benefit programs. Specifically, the economic assistance loan program was terminated; the health care aid grant program was reinstated; the primary mortgage housing loan program was amended to permit additional funding through the use of taxable bond proceeds; the retraining grant program was amended to provide grants to veterans who participate in on-the-job training programs; and the Department was authorized to charge fees for transitional housing and other assistance under the veterans assistance program. The proposed rules will permit the Department to fully implement these legislative initiatives.

In relation to the defunct economic assistance loan and consumer loan programs, the Department has repealed those portions of the administrative code no longer necessary. Provisions relating to the administration of the existing loan portfolio will be retained. Specifically, subordination and student loan deferral criteria are codified in ch. VA 1.

In relation to the health care aid grant program, the Department has identified the requirements relating to the term "certificate of entitlement" as required by the new statutory language. Additionally, references to prior authorization have been deleted. Finally, expenditure limitations regarding retroactivity and specific services have been defined so that expenditures will be limited to the expenditure authority provided in 1997 Wis. Act 27.

In relation to the primary mortgage housing loan program, the Department has codified requirements applicable to the portion of the program funded by tax exempt bond proceeds so that the requirements are also applicable to loans funded by the newly-authorized taxable bond proceeds. Additionally, code language defines the terms "dependent child" and "creditworthy guarantor," both of which are applicable as a result of the enactment of 1997 Wis. Act 27.

In relation to the retraining grant program, requirements for eligible on-the-job training are programs identified. This is explicitly required by the amended statutory language.

Finally, in relation to the veterans assistance program, 1997 Wis. Act 27 authorizes the Department to charge fees for services under a fee schedule established by rules. The proposed rules implement this directive. The fee schedule identifies the amounts and types of income which will be available for fee payments and the month during which the fee may first be assessed.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Fiscal Estimate

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

John Rosinski
Dept. of Veterans Affairs
P.O. Box 7843
Madison, WI 53707-7843

Contact Person

John Rosinski (608) 266-7916

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

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

Administration (CR 98-5):

SS. WGC 13.05 (3) (a) and 13.15 (4) (c) – Relating to license fees for kennel owners at greyhound racetracks.

Arts Board (CR 98-13):

Chs. AB 1 to 4 – Relating to the criteria and procedures under which the Wisconsin Arts Board administers the funds available for grants to individual artists and arts organizations and administers the program of arts in public buildings.

Commerce (CR 98-6):

Chs. Comm 122 and 128 – Relating to physician and health care provider loan assistance program.

Employe Trust Funds (CR 97-143):

S. ETF 41.02 – Relating to long-term care insurance.

Natural Resources (CR 97-140):

SS. NR 10.001 and 10.102 – Relating to bear hunting.

Natural Resources (CR 97-141):

Ch. NR 149 – Relating to laboratory certification and registration.

Natural Resources (CR 97-151):

SS. NR 10.01, 10.104, 10.27 and 10.28 – Relating to deer hunting and bonus antlerless deer permits.

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.

Commerce (CR 97-93):

An order affecting chs. Comm 18 and ILHR 51 and ss. Comm 82.33 and 82.36 and ILHR 50.12 and 55.20, relating to the design and construction of elevators and other mechanical lifting devices.

Effective 05-01-98.

Financial Institutions--Securities (CR 97-148):

An order repealing ss. DFI-Sec 7.01 (6), 27.01 (5) and 35.01 (4), relating to Division photocopying fee charges.

Effective 05-01-98.

Transportation (CR 97-107):

An order repealing and recreating s. Trans 201.15, relating to erecting outdoor advertising signs where messages may be changed by electronic process.

Effective 05-01-98.

Transportation (CR 97-116):

An order creating s. Trans 261.155, relating to multiple trip mobile home permits.

Effective 05-01-98.

Transportation (CR 97-144):

An order affecting ch. Trans 302, relating to vehicle marking.

Effective 05-01-98.

Veterans Affairs (CR 97-147):

An order repealing and recreating ch. VA 12, relating to the personal loan program.

Effective 05-01-98.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

The following administrative rule orders have been adopted and published in the **March 31, 1998 Wisconsin Administrative Register**. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.

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

Administration (CR 96-166):

An order creating ch. Adm 68, relating to length, expiration date and fee for licenses issued to manufactured and mobile home dealers and salespeople and for registration plates issued to dealers.

Effective 04-01-98.

Administration (CR 97-82):

An order affecting ch. Adm 1, relating to parking on state-controlled property.

Effective 04-01-98.

Administration (CR 97-102):

An order repealing and recreating ch. Adm 2, relating to the use, care and preservation of property under the Department's control.

Effective 04-01-98.

Agriculture, Trade & Consumer Protection (CR 97-43):

An order creating ss. ATCP 31.03 and 31.08, relating to standards for repealing site-specific prohibitions against the use of pesticides found in groundwater.

Effective 04-01-98. (corrected)

Chiropractic Examining Board (CR 97-65):

An order affecting ss. Chir 5.01, 5.02 and 5.03, relating to continuing education requirements and approval of continuing education programs for chiropractors.

Effective 04-01-98.

Commerce (CR 97-115):

An order affecting chs. Comm 5 and 17 and ss. ILHR 20.09, 20.10 and 41.16, relating to credentials.

Effective 04-01-98.

Employment Relations (CR 97-142):

An order affecting ss. ER 18.02, 18.03, 18.04 and 18.15, relating to annual leave, sick leave credits, the adjustment of sick leave balances for state employees, and catastrophic leave.

Effective 04-01-98.

Insurance (CR 96-192):

An order creating s. Ins 2.80, relating to valuation of reserve liabilities for life insurance.

Effective 04-01-98.

Insurance (CR 97-99):

An order affecting ss. Ins 2.14 and 2.16, relating to life insurance solicitations.

Effective 04-01-98.

Natural Resources (CR 97-20):

An order creating s. NR 10.02 (9), relating to adding the timber rattlesnake as a protected wild animal.

Effective 04-01-98.

Natural Resources (CR 97-121):

An order amending s. NR 24.09 (1) (a) and (2), as affected by [Clearinghouse Rule 96-189](#), relating to commercial clamming on the Wisconsin-Iowa boundary waters.

Effective 04-01-98.

Natural Resources (CR 97-122):

An order affecting s. NR 25.03 (2) (b), relating to relicensing Lake Michigan commercial fishers.

Effective 04-01-98.

Transportation (CR 97-139):

An order amending s. Trans 276.07 (15) and (31), relating to allowing the operation of "double bottoms" (and certain other vehicles) on certain specified highways.

Effective 04-01-98.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Administration (CR 96–166)

Ch. Adm 68 – Length, expiration date and fee for licenses issued to manufactured and mobile home dealers and salespersons and for registration plates issued to dealers.

Summary of Final Regulatory Flexibility Analysis:

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

There are currently 158 licensed mobile home dealers who employ less than 25 individuals. We are unable to determine the gross annual sales for each mobile home dealer.

2. Reason for failing to include in the rule any of the methods specified in s. 227.114 (2), Stats.:

The proposed rule increased the licensing fee by an average of \$40 per year in order to increase revenue to fully fund the program. In response to concerns raised, the department revised the fee increases to affect all dealers equally.

3. Summary of issues raised by small businesses during the hearing of the rule, any changes in proposed rule as a result of alternatives suggested by small businesses and the reasons for rejecting any alternatives suggested by small businesses.

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

None.

5. Nature and cost of other measures and investments that will be required for compliance with the rule:

None.

6. Additional cost, if any, to the agency of administering or enforcing a rule which includes any of the methods specified under s. 227.114 (2), Stats.:

None.

7. Impact on public health, safety and welfare, if any, caused by including in the rule any of the methods specified under s. 227.114 (2), Stats.:

None.

Summary of Comments:

No comments were reported.

2. Administration (CR 97–82)

Ch. Adm 1 – Parking.

Summary of Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Summary of Comments:

No comments were reported.

3. Administration (CR 97–102)

Ch. Adm. 2 – The use, care and preservation of property under the department’s control.

Summary of Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Summary of Comments:

No comments were reported.

4. Chiropractic Examining Board (CR 97–65)

Ch. Chir 5 – Continuing education requirements and approval of continuing education programs for chiropractors.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

5. Commerce (CR 97–115)

Ch. Comm 5 – Credentials.

Summary of Final Regulatory Flexibility Analysis:

The statutes authorize the Department to administer the issuance of numerous credentials as part of the Department’s responsibility of protecting the safety and health of frequenters and occupants in public buildings, places of employment and one- and 2-family dwellings. The proposed revisions in the credential rules are minimum requirements to meet the directives of the statutes, and any less stringent requirements would be contrary to the statutory objectives which are the basis for the rules. No issues were raised by small businesses during hearings.

Summary of Comments of legislative Standing Committees:

No comments were received.

6. Department of Employment Relations (CR 97–142)

Ch. ER 18 – Annual leave, sick leave credits, the adjustment of sick leave balances for state employees and catastrophic leave.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments reported.

7. Insurance (CR 97-99)

Ch. Ins 2 – Life insurance solicitations.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

8. Insurance (CR 96-192)

S. Ins 2.80 – Life insurance valuation of reserve liabilities.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

9. Natural Resources (CR 97-20)

S. NR 10.02 (9) – Timber rattlesnake.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will affect snake hunters. Currently there are no restrictions on the collecting and sale of timber rattlesnakes. The Department does not know how many people are harvesting these snakes for resale (for meat, hides for hats and boots, stuffed snakes, dried heads, rattles and jewelry or pets) but anticipates that the number of affected parties is quite low due to low timber rattlesnake numbers and the time commitment needed to collect them.

Summary of Comments by Legislative Review Committees:

The proposed rule were reviewed by the Assembly Committee on Natural Resources and the Senate Committee of Agriculture and Environmental Resources. On October 29, 1997, the Assembly Committee on Natural Resources held a public hearing. Following the public hearing, the Committee requested that the Department modify the rule. At the Committee's request, the Department added language to clarify the procedure to be used when a timber rattlesnake becomes a nuisance, but before it becomes a threat to humans or domestic animals. The word "domestic" was added before the word animals to clarify that this rule is intended to protect only domestic animals, not all animals.

10. Natural Resources (CR 97-121)

Ch. NR 24 – Commercial clamming on the Wisconsin-Iowa boundary waters.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will directly affect the licensed commercial clammer and indirectly affect the clam buyer and a number of businesses associated with commercial clamming. No additional compliance or reporting requirements will be imposed as a result of the rule change. No new skills will be needed to comply with the proposed rule.

Summary of Comments by Legislative Review Committee:

The proposed rule as submitted to the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. On January 28, 1998, the Senate Agriculture and Environmental Resources Committee held a public hearing. No comments or recommendations were received by the Department as a result of this hearing.

11. Natural Resources (CR 97-122)

S. NR 25.03 – Relicensing Lake Michigan commercial fishers.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule changes will directly affect licensed commercial fishers on Lake Michigan. Indirect effects may be felt by other small businesses, including commercial fish wholesalers, restaurants and others connected with commercial fishing on Lake Michigan. No additional compliance or reporting requirements will be imposed as a result of these rule changes.

Summary of Comments:

The rules were reviewed by the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. There were no comments.

12. Transportation (CR 97-139)

Ch. Trans 276 – Allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Summary of Final Regulatory Flexibility Analysis:

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Summary of Comments:

No comments were reported.

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