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



State of Wisconsin Revisor of Statutes Bureau

Suite 800, 131 West Wilson Street, Madison, Wisconsin 53703-3233

(608) 266-2011 • Fax (608) 264-6978



Bruce Munson
Revisor of Statutes
bruce.munson@legis.state.wi.us

Gary L. Poulson
Deputy Revisor of Statutes
Assistant Revisor-Administrative Code
gary.poulson@legis.state.wi.us

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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 (4)

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
Hearing Date: April 28, 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
Hearing Date: April 27, 1998

3. Rules adopted amending s. ATCP 75.015 (7)(c), relating to the retail food establishment license exemption for restaurant permit holders.

Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection (DATCP) currently licenses and inspects retail food stores (grocery stores, convenience stores, bakeries, delicatessens, etc.) under s. 97.30, Stats., and ch. ATCP 75, Wis. Adm. Code.

The state of Wisconsin department of health and family services (DHFS) currently licenses (permits) and inspects restaurants under subch. VII of ch. 254, Stats., and ch. HFS 196, Wis. Adm. Code.

Recently, many retail food stores have added restaurant operations, and vice versa.

Under current rules, a person who operates a food store and restaurant at the same location may be subject to duplicate regulation by DATCP and DHFS. The operator may be subject to duplicate licensing, duplicate license fee payments, and duplicate inspection based on different (and sometimes inconsistent) rules.

The current duplication is unnecessary, confusing, and wasteful of public and private resources. This temporary emergency rule is needed to eliminate duplication, and protect public welfare, during the food store license year that begins on July 1, 1998. DATCP also plans to adopt a permanent rule according to normal rulemaking procedures under ch. 227, Stats.

This emergency rule applies to food store licenses issued by DATCP, but does not apply to food store licenses issued by agent cities and counties under s. 97.41, Stats. DATCP plans to adopt permanent rules for all food store licenses, whether issued by DATCP or by agent cities or counties, effective July 1, 1999.

Publication Date: July 1, 1998
Effective Date: July 1, 1998
Expiration Date: November 28, 1998

4. Rules adopted amending ss. ATCP 81.50 (2), 81.51 (2), and 81.52 (2), relating to grade standards for colby and monterey (jack) cheese.

Finding of Emergency

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

(1) DATCP has adopted standards for grades of cheese manufactured and sold in Wisconsin under s. 97.177, Stats., and ch. ATCP 81, Wis. Adm. Code. Any cheese which carries a state grade mark must conform to the standards and characteristics of the labeled grade.

(2) Under current rules, colby and monterey (jack) cheese must contain numerous mechanical openings in order to be labeled or sold as Wisconsin certified premium grade AA or Wisconsin grade A (Wisconsin state brand).

(3) Changes in cheese manufacturing technology, packaging and equipment have made it extremely difficult for many processors and packagers to achieve the numerous mechanical openings or open body character required by these top two grade categories. A majority of today's wholesale buyers and packagers prefer a closed body cheese for a variety of reasons, including ease of shredding and the ability to package "exact-weight" pieces with minimal variation and waste.

(4) Currently, a closed body cheese may be labeled or sold as Wisconsin grade B or "not graded." It cannot be labeled or sold as Wisconsin certified premium grade AA or Wisconsin grade A (Wisconsin state brand), nor can it command the premium price associated with these top two grade categories.

(5) Wisconsin is the only state with its own grade standards for colby and monterey (jack) cheese. The United States Department of Agriculture modified its grade standards for colby and monterey jack cheese in 1995 and 1996, respectively, in response to industry requests to allow an open or closed body. Buyers who cannot obtain the desired graded product in Wisconsin will likely switch to suppliers from other states. Once customers are lost they are difficult to regain.

(6) Wisconsin's dairy industry plays a major role in our state's economy. Approximately \$3 billion or 90% of Wisconsin's milk production goes into the manufacture of cheese. Lost business revenues harm the dairy industry, cause increased unemployment, and have a negative impact on the state's economy.

(7) Pending the adoption of rules according to the normal administrative rulemaking procedures, it is necessary to adopt emergency rules under s. 227.24, Stats. to protect the public welfare based on an economic emergency for the state's dairy industry and the subsequent impact on the general economy and citizens of this state.

Publication Date: August 8, 1998
Effective Date: August 8, 1998
Expiration Date: January 4, 1999
Hearing Date: September 14, 1998

EMERGENCY RULES NOW IN EFFECT

Commerce

(Petroleum Environmental Cleanup Fund, Ch. ILHR 47)

Rules adopted revising **ch. ILHR 47**, relating to the petroleum environmental cleanup fund.

Finding of Emergency and Rule Analysis

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

The facts constituting the emergency are as follows. Under ss. 101.143 and 101.144, Stats., the Department protects public health, safety, and welfare by promulgating rules for and administering the Petroleum Environmental Cleanup Fund (PECFA fund). The purpose of the fund is to reimburse property owners for eligible costs incurred because of a petroleum product discharge from a storage system or home oil tank system. Claims made against the PECFA fund are currently averaging over \$15,000,000 per month. Approximately \$7,500,000 per month is allotted to the fund for the payment of claims. The fund currently has a backlog of \$250,000,000 representing almost a 30-month backlog of payments to be made to claimants. Immediate cost saving measures must be implemented to mitigate this problem.

The rules make the following changes to manage and reduce remediation costs:

Administrative Elements.

These changes include updating the scope and coverage of the rules to match current statutes, clarifying decision making for remedial action approvals and providing new direction to owners, operators and consulting firms.

Progress Payments.

Progress payments are proposed to be reduced for some owners and sites. The criteria that trigger payments will now also be based

on outcomes. The timing of payments from the fund is designed to benefit those that get sites successfully remediated and to create incentives for the use of the flexible closure tools and natural attenuation tools that were created by the Department of Natural Resources. Applications submitted before the effective date of the new rules would still be subject to the current rules.

Remedial Alternative Selection.

These provisions would create two different paths for funding for sites. Through the use of a group of environmental factors, the risk of a site will be determined. Active treatment systems that use mechanical, engineered or chemical approaches would not be approved for a site without one or more environmental factor present. Approved treatments for sites without environmental factors would be limited to non-active approaches, excavation, remediation by natural attenuation and monitoring of the contamination. The five environmental factors are:

- A documented expansion of plume margin;
- A verified contaminant concentration in a private or public potable well that exceeds the preventive action limit established under ch. 160;
- Soil contamination within bedrock or within 1 meter of bedrock;
- Petroleum product, that is not in the dissolved phase, present with a thickness of .01 feet or more, and verified by more than one sampling event; and
- Documented contamination discharges to a surface water or wetland.

Reimbursement Provisions.

Several incentives are added to encourage owners and consultants to reduce costs whenever possible. Provisions are added for the bundling of services at multiple sites to achieve economy of scale and for using a public bidding process to reduce costs. In addition, owners are encouraged to conduct focused remediations that utilize all possible closure tools. To encourage this approach, if a site can be investigated and remedied to the point of closure for \$80,000 or less, the consultant can complete the action without remedial alternative approvals or the risk of the site being bundled or put out for bidding. The consultant is provided additional freedom under the structure of the fund in order to facilitate remediation success. Special priority processing of these cost-effective remediations would also be provided.

Review of Existing Sites.

These changes give the Department more ability to redirect actions and impose cost saving measures for sites that are already undergoing remedial actions. Reevaluations including, the setting of cost caps would be done on sites chosen by the Department.

Pursuant to section 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: April 21, 1998
Effective Date: April 21, 1998
Expiration Date: September 18, 1998
Hearing Date: May 29, 1998

EMERGENCY RULES NOW IN EFFECT (2)

Department of Commerce

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

(Uniform Multifamily Dwellings, Ch. ILHR 66)

1. 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
Extension Through: October 24, 1998

- Rule adopted revising **ch. ILHR 57**, relating to an exemption of multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators from the accessibility laws.

Finding of Emergency and Rule Analysis

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

Chapter ILHR 57, subchapter II, Wis. Adm. Code, establishes design and construction requirements for accessibility in covered multifamily housing as defined in s. 101.132 (1), Stats., formerly s. 106.04 (2r) (a) 4., Stats. The design and construction requirements in ch. ILHR 57, subchapter II, are based on the multifamily accessibility law in s. 101.132, Stats. The state law on accessibility in covered multifamily housing is substantially equivalent to the federal Fair Housing law of 1988. The proposed changes in ch. ILHR 57, subchapter II, are in response to 1997 Wis. Act 237 that exempts multilevel multifamily dwelling units without elevators from the multifamily accessibility law. This state law change does not conflict with the federal Fair Housing law since the federal Fair Housing law does not cover multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators.

The proposed rule eliminates only those sections requiring access to and accessible features within multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators. If the rules are not revised an inconsistency between the statutes and the administrative rules would result. This inconsistency may cause confusion in application and enforcement

within the construction industry and may result in construction delays, which may be costly.

Publication Date: June 17, 1998
Effective Date: June 17, 1998
Expiration Date: November 14, 1998

EMERGENCY RULES NOW IN EFFECT

Commerce

(Rental Unit Energy Efficiency, Ch. Comm 67)

Rules were adopted revising **ch. Comm 67**, relating to rental unit energy efficiency.

Finding of Emergency

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

The facts constituting the emergency are as follows. Under s. 101.122, Stats., Department protects public health, safety, and welfare by promulgating energy efficiency requirements for rental units. 1997 Wis. Act 288 amends s. 101.122, Stats., to change the scope of the rules that the Department develops under that law. Those portions of the Act were effective the day after publication, and the rules adopted by the Department under the authority of that law are hereby amended to be consistent with 1997 Wis. Act 288.

This emergency rule excludes the following buildings from the rental unit energy efficiency

- Buildings of one or two rental units that were constructed after December 1, 1978.
- Buildings of three or more rental units that were constructed after April 15, 1976.
- Condominium buildings of three or more dwelling units.

This rule also limits the application of rental unit energy efficiency requirements to the following items:

- Attics
- Furnaces and boilers
- Storm windows and doors, with an option to meet an air infiltration performance standard for the thermal envelope of the building
- Sill boxes
- Heating and plumbing supply in unheated crawlspaces
- Shower heads

This rule also eliminates the expiration of the certificate of code compliance after 5 years.

Publication Date: June 30, 1998
Effective Date: June 30, 1998
Expiration Date: November 27, 1998
Hearing Date: August 14, 1998

EMERGENCY RULES NOW IN EFFECT

Commerce

(Barrier-Free Design, Ch. Comm 69)

Rule adopted creating **s. Comm 69.18 (2) (a) 2. c.**, relating to vertical access to press box facilities.

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that the adoption of a rule is necessary for the immediate

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

Chapter Comm 69, establishes design and construction requirements for accessibility in all buildings and facilities. Chapter Comm 69 is based on the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Titles II and III of the federal Americans with Disabilities Act. A number of public school districts are in the process of constructing press boxes at athletic fields. In accordance with both the federal and state rules, an elevator must be used to provide access to a press box. This requirement causes a serious financial hardship on the school districts, since the press boxes involved will be very small and will accommodate only a few people. The federal ADAAG standards are in the process of being revised to exempt state and local government buildings that are not open to the general public from providing elevator access to floor levels that are less than 500 square feet and accommodate less than 5 persons.

The Joint Committee for Review of Administrative Rules (JCRAR) held a hearing on March 31, 1998 to receive public comments on the rules in chapter Comm 69 that requires vertical access to press box facilities. On May 6, 1998, the JCRAR held an executive session to consider this issue and has requested the agency to promulgate an emergency rule adopting the federal exemption for certain publicly controlled facilities, such as press boxes, from vertical access for people with disabilities. The emergency rule is to be promulgated no later than May 15, 1998.

The proposed rule eliminates the requirement that in government owned or operated buildings an elevator must be used to provide access to certain small areas with low capacity. The emergency rule benefits not only school districts, but other small state and local government buildings as well.

Publication Date: May 15, 1998
Effective Date: May 15, 1998
Expiration Date: October 12, 1998
Hearing Date: August 31, 1998

EMERGENCY RULES NOW IN EFFECT

Commerce

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

Rules adopted creating **ch. Comm 118**, relating to the Wisconsin Promise Challenge Grant Program.

Finding of Emergency

On July 16, 1998, 1997 Wis. Act 237, took effect. The act created Section 1901(lz) which appropriated \$424,000 for fiscal year 1998-99 that may be awarded in the form of grants by the National and Community Service Board attached to the Department of Commerce to any countywide consortium. Countywide consortiums who agree to provide five fundamental resources intended to mentor, nurture, protect, teach and serve persons under the age of 26 years are eligible to receive Wisconsin Promise Challenge Grants. The amount of the grant ranges from \$3,000 to \$15,000, depending on the number of underserved youth who are to receive the five fundamental resources. In order to be eligible, the grant recipient is required to match the grant, in cash, in an amount that is not less than twice the amount of the grant money received. In addition the law, specifies conditions on the use of the grant monies and requires documentation on the number of underserved youths who received the five fundamental resources and the positive outcomes and result of those efforts. Since funds are only available for this fiscal year and the law sunsets on January 1, 2000, the Department is promulgating an emergency rule in order to make these funds and the grant program available as quickly as possible

so counties may provide the five fundamental resources to underserved youth.

This emergency rule was developed in consultation with the National and Community Service Board, the Department of Health and Family Services and the Department of Administration.

Publication Date: September 12, 1998
Effective Date: September 12, 1998
Expiration Date: February 9, 1999

EMERGENCY RULES NOW IN EFFECT

Department of Corrections

Rule adopted amending **s. DOC 328.22 (5)**, relating to custody and detention of felony probationers and parolees.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety. A statement of the facts constituting the emergency is: the Milwaukee County Jail has experienced severe overcrowding. The Department of Corrections and the Milwaukee County Sheriff have worked cooperatively to alleviate the crowded conditions that continue to prevail. This rule amendment will serve the purpose of further alleviating overcrowding by allowing any felony probationer to be detained in a Department of Corrections institution. Presently, only felony probationers with imposed and stayed sentences may be detained in a Department facility.

The Wisconsin Supreme Court rule in Sullivan v. Kliesmet, that the Sheriff of Milwaukee may refuse to accept Department of Corrections detainees when severe overcrowding results in dangerous conditions. The Supreme Court delayed the effective date of the Kliesmet decision one year or until June 25, 1998.

Under the authority vested in the Department of Corrections by ss. 227.11 (2), and 973.10, Stats., the Department of Corrections hereby amends s. DOC 328.22 (5), relating to the custody and detention of felony probationers and parolees.

Publication Date: March 23, 1998
Effective Date: March 23, 1998
Expiration Date: August 20, 1998
Hearing Date: June 26, 1998
Extension Through: October 18, 1998

EMERGENCY RULES NOW IN EFFECT

Financial Institutions

(Division of Securities)

Rules adopted revising **chs. DFI-Sec 1 to 9**, relating to federal covered securities, federal covered advisers and investment adviser representatives.

Finding of Emergency

The Department of Financial Institutions, Division of Securities, finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows.

Recently enacted legislation in 1997 Wis. Act 316 that is scheduled for publication on July 8, 1998 to become effective the following day on July 9, 1998 made a number of changes to the

Wisconsin Uniform Securities Law, principally to conform to changes required under federal legislation in the National Securities Markets Improvement Act of 1996 ("NSMIA").

NSMIA preempted state securities law regulation in two principal areas: (1) prohibiting state securities registration and exemption requirements from being applicable to categories of so-called "federal covered securities," but permitting states to establish certain notice filing requirements (including fees) for such "federal covered securities;" and (2) prohibiting state securities licensing requirements from being applicable to certain investment advisers meeting criteria to qualify as a "federal covered adviser," but permitting states to establish certain notice filing requirements (including fees) for those federal covered advisers that have a place of business in Wisconsin and more than 5 Wisconsin clients.

The legislation in 1997 Wis. Act 316 established notice filing requirements for "federal covered securities" and "federal covered advisers," and in addition, established statutory requirements for the licensing of "investment adviser representatives" (who previously were subject only to a qualification" process in Wisconsin). Comprehensive administrative rules are needed immediately to implement the statutory changes contained in 1997 Wisconsin Act 316, particularly relating to the filing requirements for federal covered securities, federal covered advisers and investment adviser representatives. In order to have such rules in place contemporaneously with the effectiveness of 1997 Wis. Act 316, these emergency rules are adopted on an interim basis until identical permanent rules can be promulgated using the standard rule-making procedures.

Publication Date: July 7, 1998
Effective Date: July 9, 1998
Expiration Date: December 6, 1998
Hearing Date: September 24, 1998

EMERGENCY RULES NOW IN EFFECT

Health and Family Services **(Community Services, Chs. 30--)**

Rule was adopted amending s. HFS 94.24 (2)(e), relating to searches of rooms and personal belongings of patients at the Wisconsin Resources Center.

Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules included in this order is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The Department operates the Wisconsin Resource Center near Oshkosh, a mental health treatment facility for two groups of people: (1) inmates of correctional institutions whose behavior presents a serious problem to themselves or others in state correctional facilities and whose mental health treatment needs can be met at the Center, and (2) persons who have been found by a court or jury under s. 980.05, Stats., to be sexually violent persons and who have therefore been committed to the custody of the Department under s. 980.06, Stats., for control, care and treatment, whose commitment order specifies institutional care and who have been placed by the Department at the Center under s. 980.065, Stats. About 60% of the 370 patients at the Center are inmates of correctional institutions and about 40% are persons committed to the Department under ch. 980, Stats.

The security, discipline, care and treatment of inmates of correctional institutions at the Wisconsin Resource Center are governed by administrative rules of the Wisconsin Department of

Corrections. Chapter HFS 94, the Department's rules relating to the rights of patients receiving treatment for a mental illness, a developmental disability, alcohol abuse or other drug abuse, applies to the inmates of correctional institutions at the Center only in relation to patient rights specified in s. 51.61 (1) (a), (d), (f), (g), (h), (j) and (k), Stats. However, the entire ch. HFS 94 applies to patients at the Center who are there under a ch. 980, Stats., commitment.

At the Wisconsin Resource Center staff until recently have been making random searches of the rooms and personal belongings of patients who have been committed to the Department under ch. 980, Stats. A patient has challenged the practice in a lawsuit, claiming that it violates s. HFS 94.24 (2) (e) which permits a search only when there is documented reason to believe that security rules have been violated, unless the search is of rooms and belongings in a forensic unit. Patients at the Center who are there under ch. 980, Stats., commitments are not residents of a forensic unit; a commitment under ch. 980, Stats., is considered a civil commitment. The court handling the case is expected to rule in favor of the patient. Therefore, the Center has temporarily suspended random searches, pending amendment of the rule.

This order amends s. HFS 94.24 (2) (e) to permit searches of the rooms and personal belongings of not only inpatients of forensic units but also inpatients of a secure mental health unit or facility under s. 980.065, Stats., and similar inpatients of the maximum security facility at the Mendota mental health institute, and not only when there is documented reason to believe that security rules have been violated but under other circumstances as well as specified in written facility policies. This change will permit the Wisconsin Resource Center to resume random searches of the rooms and personal belongings of patients who have been committed to the Department under ch. 980, Stats.

This rule change is being promulgated on the advice of counsel by emergency order because of the length of the permanent rulemaking process and because random searches of the rooms and belongings of ch. 980, Stats., patients at the Wisconsin Resource Center need to be resumed without delay to protect other patients and staff and, in the long run, the general public.

These patients have been committed or are being detained because there is probable cause to believe they are dangerous individuals who are disposed to commit future acts of sexual violence. Many have documented histories of other types of criminal activity, including fraud, theft and physical assault. Many also have a history of drug/alcohol dependence and gang activity. The intent of ch. 980, Stats., is to protect the public and provide treatment to this patient population. The major difference between this population and other patient populations is this population has a significantly higher percentage of individuals diagnosed with anti-social personality disorders and, as such, they have consistently shown deliberate disregard for the rights of others and a willingness to break the law.

The Wisconsin Resource Center is responsible for maintaining a therapeutic and safe environment for its patients. Yet the ch. 980 patients in general have consistently found 'creative' ways to break facility rules. Therefore, unless there are effective mechanisms, such as random searches, in place to monitor their activity, these patients will use their rights to continue their criminal activity and to violate the rights of others.

Random searches help the Center identify and prevent numerous violations of facility rules that are safety and security related or countertherapeutic to the patients. These searches can also deter patients from harboring dangerous items in their rooms. These could go undetected and be at some point used in harming another person or hinder or block the individual's treatment. They include weapons, drugs, indications of planning underway to rape or assault another patient or a staff member, sexually explicit material which may interfere with treatment progress, and stolen property including credit cards.

A facility cannot effectively treat these patients without the ability to effectively monitor and confront crimogenic behaviors and patterns. Random searches are a very effective treatment tool in this respect. They also reduce the likelihood of false positives for

releasing or discharging a patient when evaluating for continued pertinence of the commitment criteria.

Publication Date: August 15, 1998
Effective Date: August 15, 1998
Expiration Date: January 11, 1999

EMERGENCY RULES NOW IN EFFECT (4)

Health and Family Services (Health, Chs. HSS/HFS 110--)

1. Rules adopted revising s. HFS 196.03 (22), relating to an exemption from regulation as a restaurant.

Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The current Budget Act, 1997 Wisconsin Act 27, effective October 14, 1997, created s. 254.61 (5) (g), Stats., to exempt a concession stand at a "locally sponsored sporting event" from being regulated under ch. HFS 196 as a restaurant. Following enactment of the State Budget, the Department received several inquiries from its own region-based inspectors and local health departments serving as the Department's agents for enforcement of the Department's environmental sanitation rules, including rules for restaurants, about the meaning of "locally sponsored sporting event." What did the term cover? Did it cover food stands at facilities of locally-owned sports franchises? Were these now to be exempt from regulation under the restaurant rules?

This rulemaking order adds the new exemption to the Department's rules for restaurants and, in this connection, defines both "locally sponsored sporting event" and "concession stand." The order makes clear that the exemption refers only to concession stands at sporting events for youth, that is, for persons under 18 years of age. That interpretation is supported by the statutory phrase, "such as a little league game," that follows the term, "locally sponsored sporting event," in s. 254.61 (5) (g), Stats. The order further narrows the applicability of the exemption by building into the definitions the Department's understanding of who organizes or sponsors an exempt sporting event and on whose behalf a concession stand at the event is operated.

Although the Department's understanding of what "locally sponsored sporting event" should be taken to mean has been communicated to its field-based inspectors and agent local health departments, this is no more than an interpretive guideline, lacking the force of law, until the Department has set out that understanding in its rules for restaurants. Because the process for making the permanent rule change will take several months, the Department is publishing the rule change now by emergency order in the interests of protecting the public's health. The emergency rule order will ensure that, pending promulgation of the permanent rule change, there will be uniform statewide enforcement of the statute change that will prevent any local inspector from exempting from regulation food stands at locally sponsored sporting events for adults.

Publication Date: March 14, 1998
Effective Date: March 14, 1998
Expiration Date: August, 11, 1998
Hearing Date: May 11, 1998
Extension Through: October 9, 1998

2. Rules adopted revising ch. HFS 119, relating to the Health Insurance Risk-Sharing Plan.

Finding of Emergency

The Legislature in s. 9123 (4) of 1997 Wis. Act 27 permitted the Department to promulgate any rules that the Department is authorized or required to promulgate under ch. 149, Stats., as affected by Act 27, by using emergency rulemaking procedures except that the Department was specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state.

HIRSP provides a major medical type of coverage for persons not eligible for Medicare (Plan 1) and a Medicare supplemental type of coverage for persons eligible for Medicare (Plan 2). Plan 1 has a \$1,000 deductible. Plan 2 has a \$500 deductible. On December 31, 1997 there were 7,318 HIRSP policies in effect, 83 % of them Plan 1 policies and 17% Plan 2 policies. HIRSP provides for a 20% coinsurance contribution by plan participants up to an annual out-of-pocket maximum of \$2,000 (which includes the \$1,000 deductible) per individual and \$4,000 per family for major medical and \$500 per individual for Medicare supplement. There is a lifetime limit of \$1,000,000 per covered individual that HIRSP will pay for all illnesses.

There is provision under HIRSP for graduated premiums and reduced deductibles. Plan participants may be eligible for graduated premiums and reduced deductibles if their household income for the prior calendar year, based on standards for computation of the Wisconsin Homestead Credit, was less than \$20,000.

The current Budget Act, 1997 Wis. Act 27, transferred responsibility for the Health Insurance Risk-Sharing Plan (HIRSP) from the Office of Commissioner of Insurance to the Department of Health and Family Services effective January 1, 1998. The transfer included the administrative rules that the Office of Commissioner of Insurance had promulgated for the administration of HIRSP. These were numbered ch. Ins 18, Wis. Adm. Code. The Department arranged for the rules to be renumbered ch. HFS 119, Wis. Adm. Code, effective April 1, 1998, and, at the same time, because the program statutes had been renumbered by Act 27, for statutory references in ch. HFS 119 to be changed from subch. II of ch. 619, Stats., to ch. 149, Stats.

Act 27 made several other changes in the operation of the Health Insurance RiskSharing Plan. The Department through this rulemaking order is amending ch. HFS 119 by repeal and re-creation mainly to make the related changes to the rules, but also to update annual premiums for HIRSP participants in accordance with authority set out in s. 149.143 (3)(a), Stats., under which the Department may increase premium rates during a plan year for the remainder of the plan year.

Major changes made in the rules to reflect changes made by Act 27 in the HIRSP program statute are the following:

- Transfer of plan administration responsibility from an "administering carrier" selected by the Board of Governors through a competitive negotiation process to Electronic Data Systems (EDS), the Department's fiscal agent for the Medical Assistance Program, called in the revised statute the "plan administrator";

- Deletion of a physician certification requirement in connection with applications of some persons for coverage;

- Addition of alternatives to when eligibility may begin, namely, 60 days after a complete application is received, if requested by the applicant, or on the date of termination of Medical Assistance coverage;

- Addition of a reference to how creditable coverage is aggregated, in relation to eligibility determination;

- Modification of the respective roles of the state agency, now the Department, and the Board of Governors;

- Clarification that the alternative plan for Medicare recipients reduces the benefits payable by the amounts paid by Medicare;

–Modification of cost containment provisions to add that for coverage services must be medically necessary, appropriate and cost-effective as determined by the plan administrator, and that HIRSP is permitted to use common and current methods employed by managed care programs and the Medical Assistance program to contain costs, such as prior authorization;

–Continuation of an alternative plan of health insurance that has a \$2500 deductible (this was added by emergency order effective January 1, 1998);

–Addition of timelines to the grievance procedure for plan applicants and participants, and a provision to permit the Department Secretary to change a decision of the Board's Grievance Committee if in the best interests of the State; and

–Establishment of total insurer assessments and the total provider payment rate for the period July 1, 1998 to December 31, 1998.

Publication Date: July 1, 1998
Effective Date: July 1, 1998
Expiration Date: November 28, 1998
Hearing Date: September 29, 1998

3. Rules adopted revising **ch. HFS 163**, relating to certification for the identification, removal and reduction of lead-based paint hazards.

Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Exposure to lead in paint, dust or soil is known to have both short term and long term deleterious effects on the health of children, causing learning disabilities, decreased growth, hyperactivity, impaired hearing, brain damage and even death. Occupational exposure in adults may result in damage to the kidneys, the central nervous system in general, the brain in particular and to the reproductive system. Children born of a parent who has been exposed to excessive levels of lead are more likely to die during the first year of childhood. About one child in six has a level of lead in the blood that exceeds the threshold for risk.

A residential dwelling or other building built before 1978 may contain lead-based paint. When lead-based paint on surfaces like walls, ceilings, windows, woodwork and floors is broken, sanded or scraped down to dust and chips, the living environment can become a source of poisoning for occupants. When it becomes necessary or desirable to identify lead hazards or reduce them, it is imperative that persons who provide these services be properly trained to safely and accurately perform lead-based paint activities.

The Department is authorized under s. 254.176, Stats., to establish by rule certification requirements for persons who perform or supervise lead-based paint activities, including lead hazard reduction or lead management activities. Under s. 254.178, Stats., any training course that is represented as qualifying persons for certification must be accredited by the Department and the instructors approved by the Department. Subject to review by a technical advisory committee under s. 254.174, Stats., the Department is authorized under s. 254.167, Stats., to establish procedures for conducting lead inspections and, under s. 254.172, Stats., to promulgate rules governing lead hazard reduction.

The Department's rules for certification to perform lead-based paint activities and for accreditation of training courses are in ch. HFS 163, Wis. Adm. Code. Chapter HFS 163 was promulgated by emergency order in July 1993 to establish certification requirements, including training, for lead abatement workers and lead supervisors, accreditation requirements for the corresponding training courses and criteria for approval of instructors.

The Department amended ch. HFS 163 effective February 18, 1997, by an emergency order. The emergency order added the certification disciplines of lead inspector, lead project designer and

lead risk assessor for persons engaged in lead management activities and added accreditation requirements for the corresponding training courses. In addition, the order added certification fees for the new disciplines and course accreditation application fees.

Several years ago, Congress authorized the U.S. Environmental Protection Agency (EPA) to promulgate regulations that establish minimum certification and work practice standards for lead-based paint professionals, minimum accreditation standards for the courses that prepare persons for certification and minimum standards for approving state and tribal lead certification and accreditation programs. EPA published these regulations in the August 29, 1996, Federal Register as 40 CFR 745, Subparts L and Q.

If a state or Indian tribe fails to request and receive EPA approval for its program by August 30, 1998, EPA is charged with operating a lead training and certification program for that state or tribe. This means that individuals currently certified by, and training courses currently accredited by, the Department of Health and Family Services would also have to apply to EPA and comply with all EPA regulations.

Failure to obtain EPA authorization may negatively affect U.S. Department of Housing and Urban Development (HUD) or EPA grants to local public health agencies for lead hazard reduction and lead poisoning prevention activities and funding for home loans, weatherization loans and other housing assistance. Lack of federal funding may limit the ability of citizens to purchase homes, weatherize homes, or reduce lead-based paint hazards in homes.

In addition, the State lead training and certification program operates primarily on funding from EPA grants. EPA lead grant funding for FFY 99 is dependent on having an approvable program. Without adequate funding, the lead training and certification program be unable to maintain the current high level of responsiveness to complaints about lead hazards and requests for assistance.

Inspections or risk assessments conducted under the real estate disclosure regulations must be conducted by qualified lead professionals. Failure to achieve EPA authorization of the State's lead training and certification program may result in a lack of qualified lead professionals.

Under EPA authorization, states are able to diverge from EPA regulations as long as the alternative is as protective of human health and the environment as the EPA regulations. This flexibility would allow the State lead training and certification program to be more responsive to State needs, which may be different from the needs of the eastern states, the needs of which were reflected in the federal regulations.

Before the Department can receive EPA approval of its lead training and certification program, changes to the current State lead certification and accreditation program must be made. These necessary changes are the basis for this emergency order and include the following major revisions to the current rules:

Certification

- Adds certification requirements for lead companies in addition to individuals.
 - Changes the current optional certification examination to a mandatory certification examination for supervisors, inspectors and risk assessors.
 - Adds a limited term certification called "interim certification" for individuals waiting to take the certification exam.
 - Provides for a maximum 3-year certification period from the completion date of the most recent training course instead of a one-year or 2-year period from the date certification is issued.
 - Revises how worker-safety training is received by requiring that worker-safety training be completed as a prerequisite to lead training rather than be required as part of a lead training course.
 - Reduces the required frequency of refresher training from every 2 years to every 3 years.
 - Adds work practice standards for lead-based paint activities.
- #### Accreditation
- Adds a mandatory hands-on skills assessment for hands-on activities.

- Adds a requirement for work practice standards to be incorporated into training.
- Revises topics and reduces hours for worker and supervisor courses, designed as prerequisite worker–safety training, followed by a 16–hour worker course, with an additional 16–hour supervisor course to follow when supervisor certification is desired.
- Adds a requirement for renewal of accreditation, with accreditation issued for a maximum of 4 years, in place of the current no–expiration accreditation.

Enforcement and oversight

- Expands details on potential enforcement actions in response to EPA’s requirement for flexible and effective enforcement actions.
- Adds a requirement for reporting information about lead management activities to the Department to allow the Department to conduct targeted enforcement.

In addition to the changes specifically required by EPA before the State may apply to EPA for approval of its program, the revised rules establish a new discipline called worker–homeowner to meet the needs of homeowners who EPA requires be certified in order to conduct abatement in their own homes when a child has an elevated blood lead level. This special certification category allows the Department to establish minimum training and work practice requirements that will encourage more homeowners with lead poisoned children to permanently abate the lead hazards in their homes than is likely to occur when certified companies must be hired.

Public comment was sought in the development of the rule revisions. On September 5, 1997, the Department published notice in the Wisconsin State Journal of its intent to seek EPA authorization. The notice outlined the major changes needed to bring the state program into compliance with EPA approval criteria. In addition the public was invited to submit comments or request a hearing. No comments were received in response to this notice.

The work practice standards under s. HFS 163.14 were reviewed and approved by a technical advisory committee appointed by the Department in accordance with ss. 254.167, 254.172 and 254.174, Stats.

Publication Date: August 29, 1998
Effective Date: August 29, 1998
Expiration Date: January 25, 1999

4. Rules adopted revising **ch. HFS 124**, relating to designation of critical access hospitals.

Finding of Emergency

The Department of Health and Family Services finds that an emergency exists and that the adoption of the rules is necessary for the immediate preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

Competitive market forces and the spread of managed care networks and plans during the last few years have adversely affected health care services availability in some rural areas of Wisconsin. In particular, greatly reduced inpatient care at hospitals in rural areas is making it increasingly more difficult for the hospitals to survive. Most of the rural hospitals in a precarious financial condition are located in the western and northern parts of the state. Many serve areas with health care professional shortages. Some of the locations are popular tourist destinations.

These changes to the Department’s rules for hospitals will enable eligible hospitals in rural Wisconsin to become limited service medical facilities called “critical access” hospitals and thereby reduce their costs but still be certified to receive Medicare and Medicaid funding for care provided to Medicare and Medicaid recipients.

The critical access hospital is defined under changes made to the federal Social Security Act by P.L. 105–33, the Balanced Budget Act of 1997, and conforming changes to ch. 50, Wis. Stats., made by the 1997 Wisconsin Act 237. A critical access hospital must be a

nonprofit or public facility that is located in a rural area, usually more than a 35–mile drive from another hospital or is certified by the State as being a necessary provider of health care services to residents in the area. This type of hospital must make available 24–hour emergency care services; provide inpatient care for a patient for a period not to exceed 96 hours; and can have inpatient services provided by registered nurses with advanced qualifications, with physician oversight but without the physician being present in the facility. A critical access hospital must have nursing services available on a 24–hour basis, but need not otherwise staff the facility when no patients are present, and it may have auxiliary services, such as laboratory work, provided on a part–time, off–site basis.

Many of the features of a critical access hospital represent departures from what has been understood as a hospital under both federal law (for purposes of Medicare and Medicaid hospital provider certification) and state law (for purposes of hospital approval). The recent federal statute and state statute changes have re–defined “hospital” to accommodate critical access hospitals. Under the new federal Medicare Rural Hospital Flexibility Program, 42 USC 1395i – 4, criteria are specified by which a state designates a hospital as a critical access hospital and by which the Secretary of the federal Department of Health and Human Services approves a facility as a critical access hospital.

This rulemaking order amends ch. HFS 124, relating to hospitals, to accommodate critical access hospitals. The order amends the definition of “hospital” to make it like the amended statutory definition; specifies eligibility criteria for the Department’s designation of a facility as a critical access hospital, and a process for applying for designation; and requires a critical access hospital to be operated in compliance with all provisions of ch. HFS 124, but with exceptions that relate to limits on the number of acute care and swing beds, limits and exceptions on acute inpatient stays, staffing in the absence of inpatients, health care professional staff who provide inpatient care, permission to obtain specified auxiliary services on a part–time and off–site basis and a requirement for a written agreement with one or more full–time general hospitals covering referrals of patients from the critical access hospital and other matters.

Thirty–three rural hospitals in the state with low annual inpatient days have been identified as potential applicants for critical access hospital status. From 3 to 8 of these are now actively considering closing altogether or changing their health care delivery focus. They must decide soon about maintaining their levels of operation. The need to preserve some type of hospital service is critical for people in these small towns and their surrounding areas.

Once a rural hospital closes it can no longer acquire federal critical access hospital status. Changes to ch. HFS 124 are necessary so that the Department can designate a rural hospital as a critical access hospital. The rule changes are being made by emergency order to prevent the imminent closing of several rural hospitals and the consequent loss of readily accessible hospital services for people in the rural areas served by those hospitals.

Publication Date: September 12, 1998
Effective Date: September 12, 1998
Expiration Date: February 9, 1999
Hearing Date: October 13, 1998
[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT (6)

Natural Resources

(Fish, Game, etc., Chs. NR 1–—)

1. 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:

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

Publication Date: December 15, 1997

Effective Date: April 1, 1998

Expiration Date: April 1, 1999

Hearing Date: January 12, 1998

2. Rule was adopted amending s. **NR 20.037 (2)**, relating to readjustment of daily bag limits for walleye in response to tribal harvest.

Finding of Emergency

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

The Chippewa bands set harvest goals for walleye on several waters each year prior to the spring spearing season. The Department then reduces daily bag limits on individual waters for anglers in response to these harvest goals. Frequently, the Chippewa harvest goals are not met on many waters and notification that harvesting is complete is not given to the Department. The unused tribal harvest results in unnecessarily low walleye bag limits for anglers. On waters where Chippewa harvest goals are established but not met, the resulting reduced bag limits are not needed to protect walleye populations. Walleye bag limits lower than 3 per day result in reduced fishing opportunities and have led to tensions between anglers and the Chippewa tribes. The reduced daily bag limits also result in hardships on businesses dependent upon tourism and sportfishing in the ceded territory. The foregoing rule will allow the Department of Natural Resources to increase the walleye daily bag limits for anglers on waters where the Chippewa harvest goals are not met.

Publication Date: May 30, 1998

Effective Date: May 30, 1998

Expiration Date: October 27, 1998

Hearing Date: July 16, 1998

3. Rules adopted revising **chs. NR 10 and 11**, relating to deer hunting in Deer Management Unit 67A.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. Deer are causing significant crop damage concerns in this Unit. It is highly unlikely that the regular 1998 gun deer seasons will achieve the prescribed harvest of antlerless deer.

Publication Date: June 24, 1998

Effective Date: October 1, 1998

Expiration Date: February 28, 1999

4. Rules were adopted revising **ch. NR 19**, relating to wildlife damage abatement and claims program.

Exemption From Finding of Emergency

Pursuant to s. 9137(11s)(b), 1997, Wis. Act 27 the department is not required to make a finding of emergency for this rule promulgated under s. 227.24, Stats.

Publication Date: July 1, 1998

Effective Date: July 1, 1998

Expiration Date: November 28, 1998

5. Rules adopted revising s. **NR 20.03 (1)(k)**, relating to sport fishing for yellow perch in Sauk Creek, Ozaukee County.

Finding of Emergency

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

The yellow perch population in Lake Michigan is in a state of decline. Harvests of yellow perch must be limited immediately in order to maximize the probability of good reproduction in the future. Lake Michigan yellow perch are attracted by the electric power plant thermal discharge into Sauk creek, an Ozaukee county tributary of Lake Michigan. The sport fishing harvest limits proposed here remove an opportunity for high sport harvests of yellow perch at one location where current regulations do not afford adequate protection for yellow perch. Accordingly, it is necessary to restrict the harvest of yellow perch from Sauk creek by establishing an open season and daily bag limit that coincide with Lake Michigan's.

Publication Date: June 27, 1998

Effective Date: June 27, 1998

Expiration Date: November 24, 1998

Hearing Date: July 24, 1998

6. Rules adopted revising s. **NR 10.01 (1)**, relating to the 1998 migratory game bird season.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rulemaking procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: September 15, 1998

Effective Date: September 15, 1998

Expiration Date: February 12, 1999

Hearing Date: October 15, 1998

[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Natural Resources

(Environmental Protection—Water Regulation,
Chs. NR 300—)

Rules adopted revising **ch. NR 300**, relating to fees for waterway and wetland permit decisions.

Finding of Emergency

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

Land development and public infrastructure projects that affect water resources are being delayed as a result of extreme workload and high staff vacancy rate in southeastern Wisconsin and elsewhere. Fee revenue must be generated immediately in order to support positions authorized in the recent budget to address the delays.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 25, 1998.

The rules contained herein shall take effect on April 1, 1998, following publication in the official state newspaper pursuant to authority granted by s. 227.24(1)(c), Stats.

Publication Date: April 1, 1998
Effective Date: April 1, 1998
Expiration Date: August 29, 1998
Hearing Dates: May 27 and 28, 1998
Extension Through: October 27, 1998

EMERGENCY RULES NOW IN EFFECT

Natural Resources

(Environmental Protection–Remediation, Chs. NR 700–)

Rules adopted creating **ch. NR 749**, relating to the assessment and collection of fees for providing assistance regarding the remediation and redevelopment of contaminated lands.

The Department of Natural Resources finds that an emergency exists and rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of facts constituting the emergency is that in order for the Department to facilitate the cleanup and redevelopment of many contaminated sites that could adversely affect public health, safety or welfare, fee revenue must be generated immediately in order to timely fill the program revenue positions which were authorized in the recent budget bill.

Finding of Emergency

Publication Date: September 19, 1998
Effective Date: September 19, 1998
Expiration Date: February 16, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Public Instruction

1. Rules adopted revising **ch. PI 35**, relating to the Milwaukee parental school choice 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:

On June 10, 1998, the Wisconsin Supreme Court found constitutional the revisions made to the Milwaukee parental choice program under 1995 Wis. Act 27.

Since the provisions under the Act (including allowing the participation of religious schools) are to be implemented during the 1998–99 school year, rules must be in place as soon as possible in order to establish uniform financial accounting standards and financial audit requirements required of the participating private schools as providing for under the Act. The requirements established under this rule were discussed with the private schools participating under the program during the 1996–97 school year. The schools indicated an acceptance of these provisions.

These emergency rules will be promulgated as proposed permanent rules.

Publication Date: August 5, 1998
Effective Date: August 5, 1998
Expiration Date: January 1, 1999
Hearing Date: October 13, 1998
 [See Notice this Register]

2. Rules adopted creating **ch. PI 38**, relating to grants for peer review and mentoring.

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:

Under s. 115.405 (2), Stats., the state superintendent shall allocate \$500,000 annually, for one-year grants that allow a participant CESA, consortium of school districts, or a combination thereof to provide assistance and training for teachers who are licensed or have been issued a permit under ss. 115.28 (7) and 115.192, Stats., to implement peer review and mentoring programs.

The grant award period begins the 1998–99 school year. since the timelines would be too stringent to implement this grant program by September 1, 1998, the department is requiring applications to be submitted by November 1, 1998. The grant award period will be from December 1, 1998 to June 30, 1999. In order for applicants to develop proposals and for the state superintendent to review the proposals and make grant awards in time for the upcoming school year, rules must be in place as soon as possible.

Publication Date: August 15, 1998
Effective Date: August 15, 1998
Expiration Date: January 11, 1999
Hearing Date: October 20, 1998
 [See Notice this Register]

EMERGENCY RULES NOW IN EFFECT (2)

Public Service Commission

1. 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

Hearing Date: May 5, 1998

Extension Through: September 23, 1998

- Rules were adopted amending s. PSC 4.30 (4) (a) and (5) (a) and (b), relating to the preparation of draft environmental impact statements for electric generating plant projects that must be reviewed in 90 days.

Finding of Emergency

The Commission’s review of CPCN applications from the winning bidders under 1997 Wis. Act 204, Section 96 (1), will commence when completed applications are filed. This is likely to occur on or before August 31, 1998, at which point state law grants the Commission only 90 days to finish its review of the project applications. Permanent rules cannot be adopted in time to affect the Commission’s review period. Preservation of the public peace, health, safety or welfare necessitate putting this rule into effect immediately, so that the Commission can complete its review process in a timely manner.

Publication Date: July 17, 1998

Effective Date: July 17, 1998

Expiration Date: December 14, 1998

EMERGENCY RULES NOW IN EFFECT

Technical College System Board

Rules adopted creating ch. TCS 15, relating to Faculty Development Grants.

Finding of Emergency

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

1997 Wis. Act 27 (the 1997–99 biennial budget bill) took effect on October 14, 1997, which was three and a half months into fiscal year 1997–98. That act created ss. 20.292(1)(eg) and 38.33, Stats. An annual appropriation of \$832,000 in each of the state fiscal years of the 1997–99 biennium was established. These funds are to be awarded by the technical college system board as grants to technical college district boards to establish faculty development programs.

The Act requires the technical college system board to promulgate rules establishing specific criteria for awarding these grants. The technical college system board has just begun the permanent rule making process for establishing administrative rules for the faculty development grants program. However, there is insufficient time to have the permanent rules in place before the local technical college districts must submit their proposals for faculty development grants under s. 38.33, Stats. It is imperative that the program be implemented and the funds be distributed before the end of the fiscal year or else the appropriated funds will lapse to the

general fund. The loss of funds, including local matching funds, will have a detrimental effect on the ability of district boards to establish faculty development programs.

Publication Date: April 1, 1998
Effective Date: April 1, 1998
Expiration Date: August 29, 1998
Hearing Date: June 30, 1998
Extension Through: October 27, 1998

EMERGENCY RULES NOW IN EFFECT

Transportation

Rules adopted revising **ch. Trans 328**, relating to motor carrier safety requirements for intrastate transportation of hazardous materials.

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, health, safety or welfare. A statement of the facts constituting the emergency is that new federal hazardous material rules include intrastate transportation. Within the revised rules are exceptions allowed for farm operations, the use of certain nonspecification packages and permanently mounted nonspecification nonbulk metal tanks used to transport flammable liquids in intrastate commerce. The exceptions will only apply if state statutes or regulations are in effect prior to October 1, 1998 allowing those exceptions. Failure to implement the allowed exceptions would have a negative impact on the state agricultural community as well as other businesses who would benefit from them.

Publication Date: September 15, 1998
Effective Date: September 15, 1998
Expiration Date: February 12, 1999
Hearing Date: October 5, 1998
[See Notice this Register]

STATEMENTS OF SCOPE OF PROPOSED RULES

Law Enforcement Standards Board

Subject:

Ch. LES 3 – Relating to vehicle pursuit training standards for law enforcement officers.

Description of policy issues:

Description of objective(s):

The objective of intended rulemaking is to respond to requirements of s. 165.85 (4) (cm), Stats., whereby the Law Enforcement Standards Board shall promulgate rules to “Establish model standards that could be used by any law enforcement agency to determine whether to initiate or continue police pursuit, to establish police pursuit driving techniques employed by that agency and to inform its officers of its written guidelines provided under s. 346.03 (6).”

In addition, the Board shall promulgate rules to “establish the preparatory program and annual recertification training curricula . . . relating to police pursuit standards, guidelines and driving techniques.”

Policy analysis:

Proposed rules will create a comprehensive, statewide, training response by the Law Enforcement Standards Board for the law enforcement task of conducting police pursuits. Such pursuits are defined by s. 85.07 (8), Stats., as “an active attempt by a traffic officer in a police vehicle to apprehend one or more occupants of a moving motor vehicle, the operator of which is resisting apprehension by disregarding the officer’s visual or audible signal to stop his or her vehicle, increasing the speed of the vehicle or extinguishing the lights of the vehicle.”

The Board, in cooperation with a 7-member law enforcement pursuit standards council appointed by the Attorney General, will:

- 1) Establish advisory decision guidelines for initiating and continuing pursuits;
- 2) Establish pursuit driving techniques; and,
- 3) Establish model standards for informing law enforcement officers of guidelines provided under s. 346.03 (6), Stats.

In addition, the Board (in cooperation with its advisory curriculum committee) will establish curricula relating to police pursuit standards, guidelines and driving techniques for preparatory and for annual recertification training of law enforcement officers.

Statutory authority:

Sections 165.85 (4) (cm), Stats.

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

200 hours.

Natural Resources

Subject:

NR Code – Relating to administrative changes needed to the signing of snowmobile trails, trail funding, trail use stickers, standards for automated license issuance and law enforcement costs.

Description of policy issues:

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

ATV and snowmobile clubs and patrols, issuing license agents.

This action does not represent a change from past policy.

Explain the facts that necessitate the proposed change:

The Department is seeking changes to snowmobile and ATV trail and enforcement administrative codes and is requesting to take these proposed changes to public hearings. These proposed changes have come about at the suggestion of the Governor’s Snowmobile Council, The Association of Wisconsin Snowmobile Clubs, The Off Road Vehicle Council, and after input and suggestions from the County Sheriff Patrols. The proposal also makes changes necessary in the standards and procedures for the automated license issuance system.

With the broad user input that has already occurred, the DNR would expect to hold two public hearings, make modifications based on public input, and come back to the Board for final adoption.

These changes clarify trail signing requirements in the code, give flexibility on trail reimbursement for both the snowmobile clubs and the Department, and clarify standards for the reimbursement of Sheriff Patrols to help achieve uniformity, accountability, and cost controls.

Statutory authority:

Snowmobile trail signs and standards – s. 350.125, Stats.

ATV routes and trails – s. 23.33 (8), Stats.

Automated licensing implementation – general authorization

Anticipated time commitment:

The anticipated time commitment is 11 hours. Two public hearings are proposed to be held in October, 1998 at Madison and Rhinelander.

Natural Resources

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

Subject:

NR Code – Relating to fishing, hunting and trapping regulations.

Description of policy issues:

This action represents a change from past policy.

Explains the facts that necessitate the proposed change:

The Department is initiating the annual rule development cycle for the 1999 spring fish and wildlife hearings. The DNR anticipates proposing changes to the existing Wisconsin Administrative Code. These proposals will come before the Natural Resources Board in January, 1998 for approval to hold public hearings, to be held in conjunction with the Conservation Congress spring meetings in April, 1999. The effective dates of these rules, if promulgated, will vary, depending on the urgency and program time lines.

Statutory authority:

S. 29.174, Stats.

Anticipated time commitment:

The anticipated time commitment is 256 hours. Seventy-two public hearings are proposed to be held in April, 1999 in every county.

Natural Resources

(Environmental Protection--Solid Waste Management, Chs. NR 500--)

Subject:

Chs. NR 500 series – Relating to minor technical revisions and incorporation of new statutory requirements related to recycling.

Description of policy issues:

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

► Incorporation of s. 287.27, Stats., requiring materials recovery facilities to report the amounts of specified recyclable materials received and recovered from waste;

- ▶ Incorporation of changes to s. 287.31, Stats., relating to the newspaper recycling fee;
- ▶ Incorporation of changes to s. 289.09 (1) and (2), Stats., regarding confidentiality;
- ▶ Repeal of ch. NR 540;
- ▶ Implementing changes regarding out-of-state waste, including repeal of ch. NR 545;
- ▶ Amending chs. NR 520 and NR 544; and
- ▶ Technical revisions to ch. NR 544, including recyclable collection requirements in Table 1.

These rules are not intended to affect out-of-state waste issues which are the subject of pending litigation.

Impacted parties: Operators of material recovery facilities; Wisconsin municipalities that are responsible units; out-of-state municipalities and businesses; waste haulers and landfill operators; newspaper publishers.

This action represents a change from past policy.

Explains the facts that necessitate the proposed change:

- 1) 1997 Wis. Act 60 directs DNR to maintain current estimates of the materials recovered from solid waste for reuse and recycling. To accomplish this, materials recovery facilities are required to report to DNR the materials received.
- 2) 1997 Wis. Act 27 repealed provisions relating to out-of-state wastes, reflecting earlier federal court decisions. Accordingly, the relevant sections of chs. NR 520 and 544 need to be amended, and ch. NR 545 repealed.
- 3) Revisions to ch. NR 544 are needed to reflect new data and the evolution of recycling in Wisconsin.
- 4) 1997 Wis. Act 274 modifies the amounts and schedule of usage of recycled newsprint that publishers are expected to use.

Statutory authority:

Sections 287.03 (1) (a), 287.27 and 289.09, Stats.; 1997 Wis. Act 27; 1997 Wis. Act 60; and 1997 Wis. Act 274.

Anticipated time commitment:

The anticipated time commitment is 636 hours. Two public hearings are proposed to be held in March, 1999 at Wausau and Madison.

Transportation

Subject:

Ch. Trans 206 – Relating to interpreting and administering procedures for assisting in the improvement of deteriorating local highways, streets, and roads under s. 86.31 (6), Stats.

Description of policy issues:

Description of the objective of the rule:

This rule-making will amend ch. Trans 206, which interprets and administers procedures for assisting in the improvement of deteriorating local highways, streets, and roads under s. 86.31 (6), Stats. The rule will interpret section 2486hg enacted by 1997 Wis. Act 27.

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:

Section 86.31 (3g), Stats., as created by 1997 Wis. Act 27, provides for an annual \$5,000,000 discretionary allocation from the local roads improvement program (LRIP) to fund a discretionary county highway improvement program, similar to the existing discretionary program for high-cost town roads. It specified that eligible projects must have a total estimated cost of over \$250,000. The current LRIP matching requirements will apply to this component.

Statutory authority for the rule:

Section 86.31, Stats.

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

3 months to draft, total of 6 months to completion.

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.

Chiropractic Examining Board

Rule Submittal Date

On September 16, 1998, the Chiropractic Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 15.08 (5) (b) and 227.11 (2), Stats.

The proposed rule-making order relates to techniques, ancillary procedures or instruments prohibited in the practice of chiropractic.

Agency Procedure for Promulgation

A public hearing is required and will be held on November 19, 1998 at the Department offices located at 1400 East Washington Avenue, Madison, Wisconsin.

Contact Person

Pamela Haack
Administrative Rules Coordinator
Telephone (608) 266-0495

Health & Family Services

(Community Services, Chs. HFS/HSS 30--)

Rule Submittal Date

On September 8, 1998, the Wisconsin Department of Health & Family Services referred a proposed rule affecting ss. HSS 51.01 to 51.03 and 51.09, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority:

Sections 48.01 (1) (f), 48.48 (8) and 227.11 (2), Stats.

Summary:

The proposed rule affects ss. HSS 51.01 to 51.03 and 51.09, Wis. Adm. Code, relating to applicability of rules for placement of special needs children in adoptive homes.

Reason for rules, intended effects, requirements:

This order amends rules of the Department that consist of criteria and procedures for placement of special needs children in adoptive homes. The amendments make clear that the rules apply not only to the Department and to private child-placing agencies that place special needs children for adoption under contract with the Department but also to counties that place special needs children for adoption under contract with the Department.

Special needs children are children who are legally free for adoption and waiting for an adoptive placement but for whom it is difficult, for one reason or another, to find an adoptive home.

Currently only Milwaukee County places special needs children for adoption under contract with the Department. The Department's

contract with Milwaukee County requires compliance with ch. HSS 51; however, ch. HSS 51 does not now explicitly apply to counties, which raises questions about whether it needs to apply. The rule changes will make it clear that it does.

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 questions regarding this rule, you may contact:

Karen Oghalai
Division of Children and Family Services
Telephone (608) 266-0690

Health & Family Services

(Health, Chs. HFS/HSS 110--)

Rule Submittal Date

On September 3, 1998, the Wisconsin Department of Health & Family Services referred a proposed rule affecting ss. HFS 124.02 and 124.02 to 124.41, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority:

Section 50.36 (1), Stats.

Summary:

The proposed rule affects ss. HSS 124.02 and 124.37 to 124.41, Wis. Adm. Code, relating to critical access hospitals.

Reason for rules, intended effects, requirements:

This order amends the Department's rules for hospitals to recognize a "critical access hospital" as a type of special hospital and to provide for a process by which the Department will designate a hospital as a critical access hospital.

"Critical access hospital" is a federal Medicare term for a nonprofit or public limited service medical facility located in a rural area, limited to 15 inpatient beds, providing inpatient care for up to 96 hours, providing 24-hour emergency services and making available 24-hour nursing services but otherwise not needing to staff the facility if there are no patients, and being permitted to have certain auxiliary services, such as laboratory services, provided on a part-time, off-site basis.

The rule changes will enable as many as 33 hospitals in rural areas of the state to be designated as critical access hospitals, which means that they can reduce their costs but continue to be approved by the Department as hospitals and certified by the federal Health Care

Financing Administration to receive Medicare funding for care provided to Medicare recipients.

By becoming critical access hospitals, several current rural hospitals in the state should be able to survive. Otherwise, mainly because of sharply reduced inpatient stays and the resultant loss of revenues, they are likely to close.

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

Lillian Redding
Division of Supportive Living
Telephone (608) 266-8482

Natural Resources

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

Rule Submittal Date

On September 10, 1998, the Wisconsin Department of Natural Resources referred a proposed rule affecting ch. NR 5, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse, relating to boating enforcement and education [Board Order No. LE-47-98].

Analysis

Statutory authority:

Sections 30.61 (9), 30.62 (2) (d) 2. and 3., 30.74 (1) (b), 227.11 (2) (a), Stats., interpreting ss. 30.52 (3) (im) and (5) (a) 3., 30.523 (2) (c) and (3), 30.62 (2) (d) 2. and 3., 30.61 (9) and 30.74 (1) (b), Stats.

Summary of rule effect – reason for rule:

The Department has developed a series of changes in ch. NR 5 to address changes in federal and state laws and regulations. These changes would include setting standard procedures to measure boat motor noise. This will allow for consistent enforcement by state and local units of government.

The rules would also set up course fees for the boating safety course to be reflective of actual costs which would allow the volunteer instructors to recover actual costs and for the Department to recover its cost associated with these courses. Other changes would bring Wisconsin's boat lighting laws into compliance with U.S. Coast Guard lighting requirements, which is required under state law. This rule will also clarify the use of boat dealer registration as it relates to recent statute changes.

Agency Procedure for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review. Public hearings will be held on October 12 and 13, 1998.

Contact People

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

Bill Engfer
Bureau of Law Enforcement
Telephone (608) 266-0859

Michael Lutz
Bureau of Legal Services
Telephone (608) 267-7456

Carol Turner
Bureau of Legal Services
Telephone (608) 266-1959

Natural Resources

(Environmental Protection--General, Chs. NR 100--)

Rule Submittal Date

On September 10, 1998, the Wisconsin Department of Natural Resources referred a proposed rule affecting chs. NR 102, 104 and 106, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse, relating to stream classifications and thermal discharge standards for surface waters [Board Order No. WT-35-98].

Analysis

Statutory authority:

Sections 227.11 (2), 281.15 and 283.13, Stats., interpreting ss. 281.15 and 283.13, Stats.

Summary of rule effect--reason for rule:

Stream classification:

The Department last promulgated a list of specific stream classifications in the late 1970's. Under the Clean Water Act, the state is required to periodically review and revise its water quality standards. The revisions being recommended to chs. NR 102, 104 and 106 will update the stream classifications list and repackage the rules in a more logical format. Since the creation of the classification list, many additional streams have been evaluated and classifications recommended. Furthermore, many of the classifications that were established in the late 1970's have been reviewed and, in some cases, it has been determined that the streams should be reclassified. The proposed changes to Wisconsin's stream classifications will provide a necessary update and clarification to the rules and are consistent with the requirements of the Clean Water Act and federal regulations. The proposed changes are minimal in scope and context.

Thermal standards:

In 1975, the Department was sued by several steam-electric power companies on the grounds that the temperature standards in ch. NR 102 were more stringent than federal requirements. Section 283.11 (2), Stats., prohibits the Department from establishing requirements more stringent than federal regulations unless the requirements are needed to meet water quality standards. The Wisconsin Supreme Court ruled that the provisions of ch. NR 102 were equivalent to categorical-based effluent limitations for the steam-electric power discharge category and overturned the thermal requirements of ch. NR 102 for the steam-electric discharge category. The effect of the rule was to limit the Department's ability to regulate the amount of heat discharged from power plants. In recent years, U.S. EPA has requested that the Department issue WPDES permits which implement the standards contained in ch. NR 102. The proposed changes are necessary in order to meet U.S. EPA's request, as they will establish water quality criteria and procedures to calculate limitations to regulate the discharge of heated wastewater, to prevent adverse impacts to fish and other aquatic life.

Agency Procedure for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review. Public hearings will be held on October 14, 15, 22 and 26, 1998.

Contact People

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

Greg Searle
Bureau of Watershed Management
Telephone (608) 267-7644

Bob Masnado
Bureau of Watershed Management
Telephone (608) 267-7662

Charles Hammer
Bureau of Watershed Management
Telephone (608) 266-0911

Carol Turner
Bureau of Legal Services
Telephone (608) 266-1959

Natural Resources

*(Environmental Protection--Water Regulation,
Chs. NR 300--)*

Rule Submittal Date

On September 10, 1998, the Wisconsin Department of Natural Resources referred a proposed rule affecting ch. NR 328, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse, relating to the regulation of water ski platforms and water ski jumps [Board Order No. FH-55-98].

Analysis

Statutory authority:

Sections 30.135 and 227.11(2) (a), Stats., interpreting s. 30.02, Stats.

Summary of rule effect -- reason for rule:

Section 30.135, Stats., requires that the Department prepare rules for water ski jumps and platforms. Water skiing, including recreational and exhibition skiing, is clearly an incident of navigation and can provide public benefit. Navigational structures, including ski jumps and platforms, and associated uses have impacts on fish and wildlife habitat, can resuspend sediments causing water quality impacts, affect natural scenic beauty and can affect navigation or other riparians. Statute and common law indicate intent to balance these rights. Water ski clubs, riparian property owners and the general public who hold recreational interests in waterway use will be affected by this rule.

Chapter NR 328 identifies the factors which constitute a substantive written objection to placement and use of a water ski jump or platform. The rule also specifies the contents of a public notice and the process for making a substantive written objection and requesting a contested case hearing.

Agency Procedure for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review. Public hearings will be held on October 19, 20 and 22, 1998.

Contact People

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

Paul Cunningham
Bureau of Fisheries Management & Habitat Protection
Telephone (608) 267-7502

Michael Scott
Bureau of Legal Services
Telephone (608) 267-7527

Carol Turner
Bureau of Legal Services
Telephone (608) 266-1959

Natural Resources

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

Rule Submittal Date

On September 10, 1998, the Wisconsin Department of Natural Resources referred a proposed rule affecting ch. NR 410, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse, relating to an increase in air pollution construction permit fees [Board Order No. AM-37-98].

Analysis

Statutory authority:

Wisconsin statutory authority:

Sections 227.11 (2) (a), 285.11 (1) and 285.69 (1), Stats., interpreting s. 285.11 (1) and (6), Stats., and the State Implementation Plan developed under that provision.

Federal authority:

Section 110 (a) (2) (L) of the Clean Air Act (42 USC 7401 to 7671q)

Summary of rule effect--reason for rule:

Section 285.69 (1), Stats., authorizes the collection of a reasonable fee for reviewing and acting upon any application for a construction permit or permit exemption. Section 100 (a) (2) (L) of the federal Clean Air Act mandates collection of a fee sufficient to cover the reasonable cost of reviewing and acting upon any application for a permit for a major source and the reasonable costs of implementing and enforcing the terms and conditions of the permit.

The current fee structure for construction permits under ch. NR 410 went into effect July 1, 1995. The application fee does not now generate the amount of revenue needed to cover the cost of reviewing and acting upon construction permit applications. Based upon our analysis of staff time requirements for processing construction permits, these activities now require the full-time efforts of 15 air management engineers, 2 air management specialists (modelers), one program assistant and one supervisor. In FY 96 through 98 (Fiscal Year 1996 through 1998), the fees generated for an average permit review were \$7,053. The associated costs, which include salary, benefits, indirect costs and related supplies and service costs, would now exceed that figure by 35%.

Agency Procedure for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review. Public hearings will be held on November 3, 4 and 5, 1998.

Contact People

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

Kyle Kreigh
Bureau of Air Management
Telephone (608) 267-7689

Marcia Penner
Bureau of Legal Services
Telephone (608) 266-2132

Carol Turner
Bureau of Legal Services
Telephone (608) 266-1959

Public Instruction

Rule Submittal Date

On September 11, 1998, the Wisconsin Department of Public Instruction submitted proposed rules affecting ch. PI 11, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rules amend ch. PI 11, relating to surrogate parents, transfer pupils and eligibility criteria for children with disabilities.

Agency Procedure for Promulgation

Public hearings will be scheduled. The Division for Learning Support: Equity and Advocacy is primarily responsible for promulgation of this rule.

Contact Person

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

Paul Halverson, Director
Special Education
Telephone (608) 266-1781

Regulation & Licensing**Rule Submittal Date**

On September 4, 1998, the Wisconsin Department of Regulation and Licensing submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis**Statutory authority:**

Sections 227.11(2) and 480.06, Stats.

Summary:

The proposed rule-making order relates to the registration and regulation of auctioneers and auction companies.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 26, 1998, at 10:00 a.m. at the Department offices located at 1400 East Washington Avenue, Room 180, Madison, Wisconsin.

Contact Person

Pamela Haack
Administrative Rules Coordinator
Telephone (608) 266-0495

Transportation**Rule Submittal Date**

On September 14, 1998, the Wisconsin Department of Transportation referred a proposed rule affecting ch. Trans 309, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. Trans 309, relating to ambulance inspection.

Agency Procedure for Promulgation

A hearing is required, and is scheduled for October 15, 1998. The organizational unit responsible for promulgation of the proposed rule is the Division of State Patrol.

Contact Person

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

NOTICE SECTION

Notice of Hearings

Agriculture, Trade & Consumer Protection

► (Reprinted from Mid-September, 1998 *Wis. Adm. Register*.)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed department rule related to fish farms and live fish and fish egg imports (proposed chapters ATCP 10 and 11, Wis. Adm. Code). The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **October 30, 1998**, for additional written comments. An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **October 5, 1998**, either by writing to Lynn Jarzombek, P. O. Box 8911, Madison, WI 53708-8911, or by calling 608-224-4883. TTY users call 608-224-5058.

Hearing Information

<p>October 13, 1998 Tuesday commencing at 5:30 p.m.</p> <p>Handicapped accessible</p>	<p>Dept. of Agriculture, Trade & Consumer Protection Board Room 2811 Agriculture Drive Madison, WI</p>
<p>October 14, 1998 Wednesday commencing at 5:30 p.m. Handicapped accessible</p>	<p>Dept. of Natural Resources 1125 N. Military Ave. Green Bay, WI</p>
<p>October 15, 1998 Thursday commencing at 5:30 p.m. Handicapped accessible</p>	<p>Dept. of Agriculture, Trade & Consumer Protection 3610 Oakwood Hills Parkway Eau Claire, WI</p>

Written Comments

Written comments will be accepted until **October 30, 1998**.

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: ss. 93.07(10) and 95.60

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

- Establishing fish farm registration requirements.
- Regulating imports of live fish and fish eggs.
- Regulating the introduction of fish into the waters of the state.
- Requiring persons to report certain fish disease findings to the department.

Fish Farms

Annual Registration

Under s. 95.60, Stats., the department of agriculture, trade and consumer protection (DATCP) must annually register fish farms in Wisconsin. This new registration program replaces an annual licensing program previously administered by the department of natural resources (DNR).

Who Must Register

Under this rule, a person must hold an annual fish farm registration certificate from DATCP to do any of the following:

- Hatch fish eggs or hold live fish for any of the following purposes:
 - *Sale or distribution.
 - *Introduction into the waters of the state.
 - *Fishing.
 - *Use as bait or fertilizer.
 - *Use as human food or animal feed.
 - *Education, demonstration or research.
- Hold live fish or fish eggs owned by another person.

Exemptions

There are some exemptions to the fish farm registration requirement. Under this rule, a person may do any of the following without a fish farm registration certificate:

- Hatch or hold "ornamental" fish, including tropical fish, goldfish and koi.
- Hold bait fish under a bait dealer license issued by the Wisconsin department of natural resources (DNR).
- Hatch or hold fish in a fully enclosed building solely for purposes of demonstration, education or research within that building.
- Exhibit fish in a public forum for not more than 15 days in a calendar year, or for a longer period of time which the department authorizes in writing.
- Hold fish for not more than 30 days at a food processing plant, retail food establishment or restaurant pending slaughter or sale to consumers at that facility.

- Transport live fish or fish eggs to or from a fish farm.

Type 1 or Type 2 Registration

This rule establishes 2 types of fish farm registration:

- Type 1: The holder of a type 1 registration certificate may operate a fish farm. The operator may not sell or distribute live fish, except to a food processing plant, retail food establishment or restaurant. However, the operator may allow public fishing for a fee.
- Type 2: The holder of a type 2 registration certificate may operate a fish farm, and may engage in any of the activities authorized under a type 1 certificate. In addition, the operator may sell or distribute live fish from the fish farm.

Annual Expiration Date

A fish farm registration certificate expires on December 31 of the calendar year for which it is issued.

Persons Operating 2 or More Fish Farms

A person who operates 2 or more fish farms must obtain a separate registration certificate for each fish farm. A person may register 2 or more fish farms by filing a single annual application and paying a single annual fee. There is no additional fee for additional fish farms.

Applying for a Registration Certificate

To obtain or renew a registration certificate, a fish farm operator must file an application with DATCP. The application must include:

- The name, address and telephone number of the fish farm operator.
- The fish farm location.
- The required fee (see below).
- The name, address and telephone number of the individual responsible for administering the fish farm on behalf of the operator, if other than the operator.

- Each species of fish hatched or kept at the fish farm.
- A description of the fish farm, including fish farm facilities and activities.
- A statement indicating whether the operator seeks a type 1 or type 2 registration certificate. To obtain a type 2 registration certificate, the applicant must pay a higher fee and provide a fish farm health certificate (see below).

DATCP must grant or deny an application for a fish farm registration certificate within 30 days after the department receives a complete application.

Registration Fees

An operator must pay the following fee to register one or more fish farms:

- A total fee of \$25 if the operator registers all of the fish farms as type 1 fish farms.
- A total fee of \$50.00 if the operator registers any of the fish farms as a type 2 fish farm.

The following persons are exempt from fish farm registration fees:

- A bona fide scientific research organization that is operating a fish farm solely for the purpose of scientific research.
- A primary or secondary school.

A person applying for a fish farm registration certificate must pay, in addition to the normal annual registration fee, a surcharge equal to the amount of that fee if DATCP determines that, within 365 days prior to submitting that application, the applicant operated a fish farm without a required registration certificate.

Type 2 Fish Farm: Annual Health Certificate

Under this rule, no person may obtain a type 2 fish farm registration certificate for any calendar year beginning after December 31, 2001 unless a fish inspector or accredited veterinarian issues a health certificate for that fish farm not earlier than January 1 of the preceding calendar year.

The fish inspector or accredited veterinarian must issue the annual health certificate on a form provided by the department, based on a personal inspection of the fish farm. The fish inspector or accredited veterinarian must use inspection, sampling and diagnostic methods specified by the department on the certification form. An annual health certificate must certify that the fish farm is free of all of the following:

- Visible signs of disease.
- Whirling disease (*Myxobolus cerebralis*, or WD) if trout, salmon or other salmonidae are hatched or kept at the fish farm.
- Other diseases, if any, which the department specifies on the certification form.

The fish inspector or accredited veterinarian who issues an annual health certificate must file the original certificate with the department, and must provide at least 2 copies to the fish farm operator. The fish farm operator must include a copy with the operator's application for a type 2 fish farm registration certificate.

Denying, Suspending or Revoking a Registration Certificate

DATCP may deny, suspend or revoke a fish farm registration certificate for cause. Grounds include:

- Filing an incomplete or fraudulent application, or misrepresenting any information on an application.
- Violating ch. 95, Stats., or department rules.
- Violating the terms of the registration certificate.
- Interfering with inspection.
- Failing to keep or provide required records.

Recordkeeping

A fish farm operator must keep the following records related to fish or fish eggs which the operator ships from or receives at the fish farm:

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

An operator must retain these records for at least 5 years, and must make them available to the department, upon request, for inspection and copying.

Misrepresenting Fish Source or Disposition

Under this rule, no person selling or distributing fish or fish eggs may misrepresent, directly or by implication, the source or disposition of those fish or fish eggs.

Live Fish Imports

Annual Import Permit Required

Under this rule, a person importing live fish or fish eggs into this state for any of the following purposes must have an annual import permit from DATCP:

- Introducing the live fish or fish eggs into waters of the state.
- Using the live fish or fish eggs as bait.
- Holding the live fish or hatching the fish eggs at a fish farm for which a registration certificate is required under this rule.
- Selling or distributing the live fish or fish eggs for any of the above purposes.

Import Permit: Exemptions

There are some exemptions to this import permit requirement. No permit is required to import any of the following:

- Live ornamental fish, or the eggs of ornamental fish.
- Live fish or fish eggs that will be held, for the remainder of their lives, in fully enclosed buildings solely for purposes of display or research.
- Live fish imported directly to a food processing plant, retail food establishment or restaurant where they will be held for not more than 30 days pending slaughter or sale to consumers at that facility.

Issuing an Import Permit

The department may issue an import permit for all or part of a calendar year, based on a permit application from the importer. An importer may, at any time, apply for an amendment to an annual import permit.

Import Shipments

A single annual permit authorizes multiple import shipments, as long as the importer complies with the terms of the permit. A copy of the annual permit must accompany each import permit.

Import Recipients

A person holding an import permit may import live fish or fish eggs to the following persons, and no others:

- A person holding a current DATCP fish farm registration certificate.
- A person holding a current DNR fish stocking permit.
- A person holding a current DNR bait dealer license.
- Other persons identified by DATCP in the import permit.

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 for which it is issued, unless DATCP specifies an earlier expiration date.
- The name, address and telephone number of the permit holder.
- Each species of fish or fish eggs that the permit holder may import under the permit.
- The size of fish of each species, and quantity of fish or fish eggs of each species, that the permit holder may import under the permit.
- The sources from which the permit holder may import fish or fish eggs under the permit. The permit may incorporate, by reference, sources identified in the permit application.

Applying for an Annual Import Permit

A person must apply for an annual import permit on a form provided by DATCP. There is no fee. A permit application must include all of the following:

- The applicant's name, address and telephone number.
- Each species of fish or fish eggs that the applicant proposes to import.
- The size of fish of each species, and the quantity of fish or fish eggs of each species, that the applicant proposes to import.
- Every wild source from which the applicant proposes to capture and import fish or fish eggs.
- The name, address and telephone number of every fish farm from which the applicant proposes to import fish or fish eggs, and a copy of any annual health certificate issued for that out-of-state fish farm under this rule (see below).

Action on Permit Application

DATCP must grant or deny an import permit application within 30 days after it receives a complete application.

Denying, Suspending or Revoking an Import Permit

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

- Filing an incomplete or fraudulent permit application, or misrepresenting any information on a permit application.
- Violating ch. 95, Stats., or DATCP rules.
- Violating the terms of the import permit.
- Interfering with inspection.
- Failing to keep or provide required records.

Import Records

A person importing fish or fish eggs under a DATCP permit must keep all of the following records related to each import shipment:

- The date of the import shipment.
- The wild source, if any, from which the importer obtained the imported fish or fish eggs.
- The name, address and telephone number of the fish farm, if any, from which the importer obtained the imported fish or fish eggs.
- The name, address and telephone number of the person receiving the import shipment if that person is not the importer. The importer must also record the recipient's fish farm registration number, stocking permit number and bait dealer license number, if any.
- 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.

An importer must retain these records for at least 5 years, and must provide them to DATCP upon request. DATCP may suspend or revoke an import permit if the importer fails to provide the required records.

Health Certificate Required

Under this rule, no person may import any shipment of live fish or fish eggs into this state unless one of the following applies:

- The import shipment is accompanied by a health certificate issued for that particular shipment (see below).
- The import shipment originates from a fish farm and all of the following apply:

*The shipment is labeled with the name and address of that fish farm.

*No fish or fish eggs in the import shipment were ever collected from a wild source.

*A fish inspector or accredited veterinarian has issued an annual health certificate for that fish farm (see below), and has filed a copy with DATCP.

*The importer has included a copy of the annual fish farm health certificate with the importer's application for an annual import permit.

Health Certificate for Individual Import Shipment

A health certificate issued for an individual import shipment must comply with all of the following:

- A fish inspector or accredited veterinarian must issue the health certificate in the state of origin, on a form provided by the department, based on a personal inspection of the import shipment. The fish inspector or accredited veterinarian must use inspection, sampling and diagnostic methods specified by the department on the certification form.

• The health certificate must certify that the import shipment is free of all the following:

*Visible signs of disease.

*Infectious hematopoietic necrosis (IHN), viral hemorrhagic septicemia (VHS) and whirling disease (*Myxobolus cerebralis*, or *WD*), if the import shipment includes salmonidae.

*Iridovirus (white sturgeon disease) if the import shipment includes sturgeon.

*Other diseases, if any, which the department specifies on the certification form.

- The fish inspector or accredited veterinarian who issues the health certificate must file the original certificate with the department, and must provide at least 2 copies to the importer. The importer must include a copy with the import shipment.

Fish Imported from Fish Farm; Annual Health Certificate

An annual health certificate issued for an out-of-state fish farm, to justify import shipments from that fish farm, must comply with all the following:

- A fish inspector or accredited veterinarian must issue the annual health certificate in the state of origin, on a form provided by the department, based on a personal inspection of the fish farm. The fish inspector or accredited veterinarian must use inspection, sampling and diagnostic methods specified by the department on the certification form.

• The annual health certificate must certify that the fish farm is free of all the following:

*Visible signs of disease.

*Infectious hematopoietic necrosis (IHN), viral hemorrhagic septicemia (VHS) and whirling disease (*Myxobolus cerebralis*, or *WD*), if the health certificate is used for imports of salmonidae.

*Iridovirus (white sturgeon disease) if the health certificate is used for imports of sturgeon.

*Other diseases, if any, which the department specifies on the certification form.

- The fish inspector or accredited veterinarian who issues the annual health certificate must file the original certificate with the department, and must provide at least 2 copies to the fish farm operator. The importer must include a copy with the importer's application for an annual import permit.

Fish Introduced Into Waters of the State

This rule prohibits any person from introducing live fish or fish eggs into waters of the state unless one of the following applies:

- The fish or fish eggs originate from a fish farm registered as a type 2 fish farm under this rule.
- The fish or fish eggs are imported in compliance with this rule.

This rule prohibits any person from introducing live fish or fish eggs into waters of the state if that person knows, or has reason to know, that those fish or fish eggs are infected with or have been exposed to any reportable disease (see below).

Reportable Diseases

Under this rule, a person who diagnoses or finds evidence of any of the following diseases must report that diagnosis or finding to DATCP, in writing or by telefax, within 10 days:

- Any aquatic animal disease that is foreign or exotic to Wisconsin.

• Channel catfish virus (CCV).

• Enteric septicemia of catfish (ESC).

• Infectious hematopoietic necrosis virus (IHN).

- Iridovirus (white sturgeon disease).
- Myctobacteriosis infection.
- Proliferative kidney disease.
- Streptococcus iniae.
- Viral hemorrhagic septicemia (VHS).
- Whirling disease (*Myxobolus cerebralis*, or *WD*).

Fiscal Estimate

See page 28 of the Mid-September, 1998 Wis. Adm. Register.

Initial Regulatory Flexibility Analysis

See page 28 of the Mid-September, 1998 Wis. Adm. Register.

Copies of Rule

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

Animal Health Division
Wis. Dept. of Agriculture, Trade & Consumer Protection
P. O. Box 8911
Madison, WI 53708-8911

Notice of Hearings

Agriculture, Trade & Consumer Protection

► (Reprinted from Mid-September, 1998 Wis. Adm. Register.)

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed amendments to ch. ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and comment on the proposed rule. The department also invites comments on the draft environmental impact statement which accompanies the rule. Following the public hearings, the hearing record will remain open until **October 9, 1998** for additional written comments.

A copy of this rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Agricultural Resource Management Division, 2811 Agriculture Drive, Box 8911, Madison, WI 53708-8911, or by calling (608) 224-4505. Copies will also be available at the public hearings.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **September 23, 1998** either by writing to Paula Noel, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, (608/224-4505) or by contacting the message relay system (TTY) at 608/224-5058. Handicap access is available at the hearings.

Hearing Information

Each hearing will be held at the following times:

afternoon session: 1:00 – 4:00 p.m.
evening session: 6:00 – 8:00 p.m.

October 5, 1998
Monday

Holiday Inn
Hwy 51 & Northpoint Dr.
Stevens Point, WI 54481

October 6, 1998
Tuesday

Marquette Co. Courthouse
77 West Park St.
Montello, WI 53949

October 7, 1998
Wednesday

Best Western
815 Park Ave.
Beaver Dam, WI 53916

October 8, 1998
Thursday

Governor Dodge Motor Inn
& Convention Center
Hwy 151
Platteville, WI 53818

Written Comments

Written comments will be accepted until **October 9, 1998**.

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

Statutory authority: ss. 93.07(1), 94.69(9), 160.19(2), and 160.21(1)

Statutes interpreted: ss. 94.69, 160.19(2) and 160.21(1)

In order to protect Wisconsin groundwater, current rules under ch. ATCP 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards.

Based on new groundwater test data, this rule expands the number of areas in which atrazine use is prohibited.

Atrazine Prohibition Areas

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 98 designated areas, including major prohibition areas in the lower Wisconsin river valley and much of Dane and Columbia counties.

This rule repeals and recreates 3 current prohibition areas to expand those areas, and creates 3 new prohibition areas, resulting in a new total of 101 prohibition areas throughout the state. The rule includes maps describing each of the new and expanded prohibition areas.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface which complies with ss. ATCP 29.151(2) to (4), Wis. Adm. Code.

Fiscal Estimate

See page 29 of the Mid-September, 1998 Wis. Adm. Register.

Initial Regulatory Flexibility Analysis

See page 30 of the Mid-September, 1998 Wis. Adm. Register.

Draft Environmental Impact Statement

The Department has prepared a draft environmental impact statement (EIS) for proposed 1999 amendments to rules on the use of pesticides containing atrazine. Copies are available from the Department on request and will be available at the public hearings. Comments on the EIS should be directed to the Agricultural Resource Management Division, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI, 53708 in care of Jeff Postle. Phone 608/224-4503. Written comments on the EIS will be accepted until October 9, 1998.

Notice of Hearings

Agriculture, Trade & Consumer Protection

► (Reprinted from Mid-September, 1998 Wis. Adm. Register.)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on

a proposal to repeal and recreate Ch. ATCP 127, Wis. Adm. Code, relating to home solicitation selling. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **November 6, 1998** for additional written comments.

A copy of this rule may be obtained, free of charge, from the Bureau of Consumer Protection, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911, or by calling 608/224-4965. Copies will also be available at the hearings.

If an INTERPRETER for the deaf and hard of hearing people is required, please notify this office by **September 25, 1998** either by writing to James Rabbitt, P.O. Box 8911, Madison, WI 53708-8911, or by contacting the message relay system (TTY) at 608/246-5058.

Hearing Information

October 5, 1998 Monday commencing at 1:00 p.m.	Dept. of Agriculture, Trade & Consumer Protection Board Room 2811 Agriculture Drive Madison, WI
Handicapped accessible	
October 6, 1998 Tuesday commencing at 1:00 p.m.	Dept. of Agriculture, Trade & Consumer Protection Suite C 10930 W. Potter Road Milwaukee, WI
Handicapped accessible	
October 7, 1998 Wednesday commencing at 1:00 p.m.	State Office Bldg. 200 N. Jefferson Street Green Bay, WI
Handicapped accessible	
October 8, 1998 Thursday commencing at 1:00 p.m.	North Central Tech. College 1000 Schofield Road Wausau, WI
Handicapped accessible	
October 9, 1998 Friday commencing at 1:00 p.m.	Dept. of Agriculture, Trade & Consumer Protection 3610 Oakwood Hills Parkway Eau Claire, WI
Handicapped accessible	

Written comments will be accepted until **November 6, 1998**.

Analysis by the Department of Agriculture, Trade and Consumer Protection

Statutory authority: s. 100.20(2)

Statute interpreted: s. 100.20

This rule protects Wisconsin consumers against unfair and deceptive home solicitation selling practices. Home solicitation selling includes telemarketing, direct mail and door-to-door selling.

This rule updates and strengthens the department's current home solicitation selling rules under ch. ATCP 127, Wis. Adm. Code, to address new telemarketing and home solicitation selling practices. This rule also expands current rules to address new selling methods, such as electronic mail.

This rule is based, in part, on Federal Trade Commission telemarketing rules under 16 CFR 310, which took effect on December 31, 1995. However, this rule also protects consumers in other transactions, including direct mail and door-to-door transactions. It also goes beyond FTC telemarketing rules to cover intrastate transactions and new electronic sales methods such as e-mail.

This rule is consistent with federal rules, but incorporates other state law requirements related to home solicitation selling. By adopting this rule under Wisconsin's "Little FTC Act," s. 100.20,

the department will provide more effective redress to Wisconsin consumers. Violations of this rule may be prosecuted under state law in Wisconsin courts. Consumers who suffer a monetary loss because of a violation of this rule may also sue the violator directly, and may recover double damages, costs and reasonable attorney fees.

Coverage

This rule applies to the sale of consumer goods or services by means of "home solicitations" including:

- Telephone and other electronic solicitations (e.g., electronic mail) to a consumer's residence.
- Mail solicitations (other than catalog sales).
- Door-to-door and other "transient" solicitations. A "transient" solicitation means a face-to-face solicitation at any of the following places:

*A consumer's residence

*A location, other than the seller's home or regular place of business, to which the seller invites the consumer by means of a home solicitation.

*A location, other than the seller's home or regular place of business, at which the seller offers consumer goods or services for delivery at a later date.

This rule does not apply to any of the following:

• Mass advertisements (e.g., in a newspaper, television, radio or internet home page) which are not addressed to individual consumers or consumer residences.

- Transactions at a seller's home or regular place of business.
- Transactions at places like a farmer's market, where goods are delivered at the point of sale.
- Catalog sales.
- Transactions initiated by a consumer (except in response to a home solicitation).
- Business-to-business sales.
- Banks, savings and loan associations, insurance companies, public utilities or telecommunications carriers whose activities are exempt under s. 93.01(1m), Stats.
- Real estate sales, other than sales of cemetery lots and "time shares" as defined in s. 707.02(24), Stats.
- Securities sold in compliance with ch. 551, Stats., or franchise investments sold in compliance with ch. 553, Stats.

- Pay-per-call services sold in compliance with s. 196.208, Stats.
- Charity raffles, unless the raffle is part of a seller's plan or scheme to sell consumer goods or services.

Opening Disclosures

Under this rule, a seller making a "home solicitation" must clearly disclose all of the following as part of that solicitation:

• The seller's correct name. If a seller (e.g., a contract telemarketing firm) makes a home solicitation for another seller, it must also disclose the name of the other seller.

• The name of the individual making the home solicitation, if the solicitation is a telephone or transient solicitation. For example, if Mary Smith makes telephone or transient solicitations for the ABC firm, she must disclose her name to the consumer. Smith may disclose a fictitious name which uniquely identifies her if the ABC firm keeps a record of that uniquely identifying fictitious name.

- That the seller is offering or promoting the sale of consumer goods or services.
- The kind of goods or services which the seller is offering or promoting.

A seller must make these opening disclosures in the following ways:

• Orally, if the home solicitation involves an oral or face-to-face communication. The seller must make the oral disclosures before asking any questions or making any statements to the consumer (other than an initial greeting).

• In writing, if the home solicitation involves a written or face-to-face solicitation.

Disclosures Prior to Sale

In a home solicitation transaction, a seller must disclose all of the following before the consumer agrees to buy or receive any consumer goods or services, and before the seller accepts any payment from the consumer:

- The nature and quantity of the consumer goods or services.
- The cost of the consumer goods or services, including material delivery and handling costs. If the cost may vary, the seller must disclose the maximum cost or the formula by which the total cost will be computed.
- All material terms and conditions affecting the sale, receipt or use of the consumer goods or services, including credit terms if any. (Cost disclosures in consumer credit transactions must comply with applicable requirements under ch. 422, Stats., and federal law.)
- The seller's policy related to refunds, cancellations and exchanges.
- The seller's correct name, mailing address, and telephone number if any.

A seller must make these disclosures in writing. However, a seller may make the disclosures by telephone if the seller confirms them in writing. The seller must give the written confirmation at or before the time that the seller first delivers consumer goods or services to the consumer, or accepts payment from the consumer.

Prize Promotions

This rule regulates sweepstakes and other prize promotions that involve an element of chance. Home solicitation sellers who use these promotions may not require consumers to make any purchase or payment as a condition to entry. A seller must also disclose all of the following in writing, before the consumer agrees to buy anything or makes any payment to the seller:

- The verifiable retail value of each offered prize.
- The odds of receiving each offered prize or, if the odds cannot be calculated in advance, the factors used in calculating the odds.
- That the consumer is not required to make any purchase or payment in order to participate in the prize promotion.
- Instructions on how the consumer may participate in the prize promotion without making a purchase or payment.
- All actions which the consumer must take, and all conditions which the consumer must meet, in order to receive or be eligible for a prize.

Prize Promotions; Misrepresentations

- The approximate length of any sales presentation which the consumer is invited to hear, view or attend, and the nature of the consumer goods or services that will be offered or promoted.
- All shipping, handling or other fees which the consumer must pay in order to receive or use a prize.

Prize Promotions; Misrepresentations

This rule prohibits any seller from misrepresenting the material terms of a prize promotion, including any of the following:

- The odds of winning a prize.
- The nature or value of a prize.
- The nature or existence of any conditions which a consumer must meet in order to obtain a prize or participate in a prize promotion.

Unauthorized Payment

Under this rule, no home solicitation seller may obtain or submit for payment any check, draft or other negotiable instrument drawn on a consumer's account without that consumer's express, verifiable authorization. The following authorizations are considered verifiable:

- An express written authorization. Express written authorization may include the consumer's signature on the check, draft or negotiable instrument.
- An express oral authorization if all of the following apply:

*The oral authorization is tape recorded and made available upon request to the consumer's bank.

*The oral authorization clearly authorizes payment for the goods and services offered to the consumer.

*The oral authorization clearly indicates that the consumer received information specifying all of the following:

- The date and amount of the check, draft or instrument.
- The payor's name.
- The number of payments, if more than one.
- A telephone number for consumer inquiries that is answered during normal business hours.
- The date of the consumer's oral authorization.
- An authorization which the seller confirms in writing, provided that all of the following apply:

*The seller sends the written confirmation to the consumer before the seller submits the check, draft or other negotiable instrument for payment.

*The written confirmation includes all of the following information:

- The date and amount of the check, draft or instrument.
- The payor's name.
- The number of payments, if more than one.
- A telephone number for consumer inquiries that is answered during normal business hours.
- The date of the consumer's authorization.
- A procedure by which the consumer can obtain a refund from the seller if the written confirmation is inaccurate.

Credit Card Laundering

This rule prohibits "credit card laundering" related to home solicitation transactions. In "credit card laundering" schemes, unscrupulous sellers gain access to the credit card system — from which they might otherwise be excluded — by processing credit card transactions under the name of another merchant.

This rule prohibits a merchant from presenting for payment, to a credit card system, any credit card sales draft generated by a home solicitation transaction that is not a sale by that merchant to that credit card holder. No home solicitation seller may obtain access to a credit card system under the name of another merchant unless that access is authorized by that merchant's written agreement with the credit card system operator, or with an acquirer licensed by the credit card system operator.

Misrepresentations

This rule prohibits a seller from doing any of the following in a home solicitation transaction:

- Misrepresenting seller's identity, affiliation, location or characteristics.
- Misrepresenting the nature, purpose or intended length of a home solicitation.
- Misrepresenting the nature or terms of a home solicitation transaction, or any document related to that transaction.
- Misrepresenting the cost of goods or services offered or promoted by the seller, or failing to disclose material costs payable by the consumer.
- Misrepresenting the nature, quantity, material characteristics, performance or efficacy of the goods or services offered or promoted by the seller.
- Misrepresenting or failing to disclose material restrictions, limitations or conditions on the purchase, receipt, use or return of goods or services offered or promoted by the seller.
- Misrepresenting the material terms of a seller's refund, cancellation, exchange, repurchase or warranty policies.
- Misrepresenting that a seller is offering consumer goods or services free of charge or at a reduced price.
- Misrepresenting that a seller is affiliated with, or endorsed by, any government or 3rd-party organization.
- Misrepresenting that a seller has specially selected the consumer, or misrepresenting the basis on which a consumer has been selected.

- Misrepresenting any material aspect of an investment opportunity, including risk, liquidity, earnings potential or profitability.

- Failing to disclose, in connection with every purported offer of free goods or services in a home solicitation transaction, any costs which the consumer must incur and any conditions which the consumer must meet in order to receive those free goods or services.

- Making any other false, deceptive or misleading representation to a consumer.

Prohibited Practices: General

This rule prohibits a seller from doing any of the following in a home solicitation transaction:

- Threatening, intimidating or harassing a consumer.
- Failing to leave a consumer's premises upon request.
- Requesting or receiving payment for "credit repair" services until the seller provides the consumer with all of the following:

*All of the "credit repair services" for which the seller is requesting or receiving payment.

*A consumer report, from a bona fide consumer reporting agency, which demonstrates that the "credit repair services" have achieved all of the results promised to the consumer.

- Requesting or receiving payment for helping a consumer recover money lost in a prior home solicitation transaction until at least 7 days after that consumer recovers that money. (This provision addresses so-called "recovery room" schemes, which prey on previously victimized consumers.)

- Requesting or receiving payment for "loan finder" services until the consumer actually receives the promised loan.

Fiscal Estimate

See page 33 of the Mid-September, 1998 *Wis. Adm. Register*.

Initial Regulatory Flexibility Analysis

See page 33 of the Mid-September, 1998 *Wis. Adm. Register*.

Notice of Hearing

Health & Family Services (Community Services, Chs. HFS/HSS 30--)

Notice is hereby given that pursuant to ss. 51.37 (9), 51.375 (3), 971.17 (3) (e), 980.06 (2) (d) and 980.08 (6), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of ss. HSS 98.01, 98.03 and 98.04 and the creation of ss. HSS 98.28 to 98.32, relating to lie detector testing of sex offenders who have been committed to the Department for treatment and who are in community placements.

Hearing Information

October 15, 1998
Thursday
11:00 a.m. to 1:00 p.m.

Room B139
State Office Building
1 West Wilson Street
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, in the Monona Terrace Convention Center Parking Ramp 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 and take a central elevator to Level 1B.

Analysis Prepared by the Department of Health and Family Services

Section 51.375 (3), Stats., directs the Department of Health and Family Services to establish a lie detector testing program for sex offenders who are in community placements. Lie detector testing of clients who are sex offenders and are on conditional or supervised release 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 client denial and by detecting behaviors that lead to re-offending.

This order does all of the following:

1. Creates a definition for lie detector examination process.
2. Adopts the statutory definitions for lie detector, polygraph and sex offender.
3. Establishes the authority, purpose and applicability of the lie detector examination process.
4. Requires a client who is a sex offender to submit to a lie detector test if required by the Department.
5. Establishes criteria for the selection of clients who are required to participate in the lie detector examination process.
6. Requires that the Department provide notice to a client who is required to participate in the lie detector examination process of the lie detector program requirements, instructions to complete any necessary questionnaires and the date, time and location of the scheduled test.
7. Provides that an agent and an examiner will determine the questions the client may be asked during the lie detector examination process.
8. Allows an agent to consult with a treatment provider regarding the questions the client 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 or the Department of Corrections to administer the tests.
10. Provides for sanctions if a sex offender refuses to participate in the lie detector examination process.
11. Provides that a client's conditional release or supervised release 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 a client shall pay the costs of the lie detector test and include 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 a client's failure to pay the lie detector fees.
17. Provides criteria for lie detector fee deferrals.
18. Provides for the reporting and notice to the client when payment of lie detector fees is not received.

The order inserts the rules for the lie detector testing program in ch. HFS 98, the Department's rules for field supervision of persons committed to the Department for treatment.

Contact Person

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

Linda Harris
Division of Care and Treatment Facilities
P. O. Box 7851
Madison, Wisconsin 53707-7851
(608) 267-7909 or,
if you are hearing impaired,
266-7376 (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 rule changes received at the above address no later than **October 22, 1998** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

This rulemaking order will not affect the expenditures or revenues of state government or local governments.

Section 51.375 (3), Stats., directs the Department to promulgate rules establishing a lie detector testing program for sex offenders committed to the Department for treatment who are in community placements. Section 51.375 (2), Stats., permits the Department to require, as a condition for community placement, that a sex offender submit to a lie detector test when directed by the Department to do so.

The rules are modeled on Department of Corrections rules which are part of ch. DOC 332. Agents of the Department of Corrections now supervise Department of Health and Family Services' clients in community placements under contract with the Department but in accordance with provisions of ch. HSS 98.

The Department currently has about 37 clients in community placements. No more than 2 lie detector tests would be administered to a client during a year. The cost of administering a test will be about \$400. For 30 clients tested twice a year, the total annual cost would be \$24,000. Under the rules a client is expected to pay for test administration in accordance with the client's ability to pay. These clients, however, will not have much ability to pay.

All costs of the Department's lie detector testing program for sex offenders in community placements were taken into consideration during legislative deliberations leading to the enactment of 1995 Wisconsin Act 440 that created s. 51.375, Stats.

Local governments are not involved with the supervision of these Department clients or with administration of the lie detector testing program

Initial Regulatory Flexibility Analysis

These rules apply to the Department and to persons who are sex offenders who have been committed to the Department for treatment and who are in community placements under supervision of agents of the Department. The rules do not apply directly to small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

Notice of Hearing

Health & Family Services

(Health, Chs. HFS/HSS 110--)

Notice is hereby given that pursuant to s. 50.36 (1), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of s. HFS 124.02 (6), (12) and (19), Wis. Adm. Code, the repeal and recreation of s. HFS 124.02 (21), Wis. Adm. Code, and the creation of s. HFS 124.02 (1m) and (10m) and subch. VI of ch. HFS 124, Wis. Adm. Code, relating to critical access hospitals, and the emergency rules now in effect on the same subject.

Hearing Information

The public hearing will be held:

Date and Time

October 13, 1998
Tuesday
1:00 p.m.

Location

Room 141
State Office Bldg.
One West Wilson St.
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, in the Monona Terrace Convention Center Parking Ramp 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 Dept. of Health and Family Services

Competitive market forces and the spread of managed care networks and plans during the last few years have adversely affected health care services availability in some rural areas of Wisconsin. In particular, greatly reduced inpatient care at hospitals in rural areas is making it increasingly more difficult for the hospitals to survive. Most of the rural hospitals in a precarious financial condition are located in the western and northern parts of the state. Many serve areas with health care professional shortages. Some of the locations are popular tourist destinations.

These changes to the Department's rules for hospitals will enable eligible hospitals in rural Wisconsin to become limited service medical facilities called "critical access" hospitals and thereby reduce their costs but still be certified to receive Medicare and Medicaid funding for care provided to Medicare and Medicaid recipients.

The critical access hospital is defined under changes made to the federal Social Security Act by P.L. 105-33, the Balanced Budget Act of 1997, and conforming changes to ch. 50, Stats., made by the 1997 Wis. Act 237. A critical access hospital must be a nonprofit or public facility that is located in a rural area, usually more than a 35-mile drive from another hospital or is certified by the State as being a necessary provider of health care services to residents in the area.

This type of hospital:

- Must make available 24-hour emergency care services;
- Is limited to providing not more than 15 acute care inpatient beds;
- May not provide inpatient care for a patient for a period exceeding 96 hours; and
- Can have inpatient services provided by registered nurses with advanced qualifications, with physician oversight but without the physician being present in the facility.

A critical access hospital must have nursing services available on a 24-hour basis, but need not otherwise staff the facility when no patients are present, and it may have auxiliary services, such as laboratory work, provided on a part-time, off-site basis.

Many of the features of a critical access hospital represent departures from what has been understood as a hospital under both federal law (for purposes of Medicare and Medicaid hospital provider certification) and state law (for purposes of hospital approval). The recent federal statute and state statute changes have re-defined "hospital" to accommodate critical access hospitals. Under the new federal Medicare Rural Hospital Flexibility Program, 42 USC 1395i-4, criteria are specified by which a state designates a hospital as a critical access hospital and by which the Secretary of the federal Department of Health and Human Services approves a facility as a critical access hospital.

This rulemaking order amends ch. HFS 124, relating to hospitals, to accommodate critical access hospitals. The order amends the definition of "hospital" to make it like the amended statutory definition; specifies eligibility criteria for the Department's designation of a facility as a critical access hospital, and a process for applying for designation; and requires a critical access hospital to be

operated in compliance with all provisions of ch. HFS 124, but with exceptions that relate to limits on the number of acute care and swing beds, limits and exceptions on acute inpatient stays, staffing in the absence of inpatients, health care professional staff who provide inpatient care, permission to obtain specified auxiliary services on a part-time and off-site basis and a requirement for a written agreement with one or more full-time general hospitals covering referrals of patients from the critical access hospital and other matters.

Thirty-three rural hospitals in the state with low annual inpatient days have been identified as potential applicants for critical access hospital status. From 3 to 8 of these are now actively considering closing altogether or changing their health care delivery focus. They must decide soon about maintaining their levels of operation. The need to preserve some type of hospital service is critical for people in these small towns and their surrounding areas. Once a rural hospital closes it can no longer acquire federal critical access hospital status. Changes to ch. HFS 124 are necessary so that the Department can designate a rural hospital as a critical access hospital.

Identical emergency rules were published on **September 12, 1998**, and are in effect.

Contact Person

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

Lillian Redding
Bureau of Quality Assurance
P.O. Box 309
Madison, WI 53701-0309

Telephone (608) 266-8482 or,
if you are hearing-impaired, (608) 266-7376 (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 on the proposed rule changes received at the above address no later than **October 20, 1998** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

This order amends the Department's rules for hospitals to enable eligible hospitals in rural Wisconsin to become limited service medical facilities called "critical access hospitals," which will permit them to reduce their costs, but still continue to be approved by the Department as hospitals and certified by the federal Health Care Financing Administration to receive Medicare funding for care provided to Medicare recipients.

The changes made by this order to ch. HFS 124 will not affect the expenditures or revenues of state government or local governments.

Several hospitals in rural Wisconsin are in jeopardy of having to close because of changes in the health care industry which have resulted in greatly reduced inpatient care in recent years with consequent loss of revenues on which the hospitals have depended. The federal government has developed a Medicare Rural Hospital Flexibility Program to enable a rural hospital that meets specified criteria to convert from a full service hospital to a limited service critical access hospital and continue to receive Medicare funding. In Wisconsin, for rural hospitals to take advantage of this change in federal law, the hospital approval program statutes had to be amended to accommodate "critical access hospitals," and in particular to permit the Department to designate a hospital as meeting the federal requirements for a critical access hospital. A recent session law, 1997 Wis. Act 237, modified the statutory definition of "hospital" and

added a definition for "critical access hospital." The Department is implementing those changes through this order.

Any costs to the Department for necessary surveying to enable it to determine if an applicant hospital meets the federal requirements were taken into consideration during legislative deliberations on the bill that became 1997 Wis. Act 237.

Two of the 33 rural hospitals in the state that could be eligible for designation as critical access hospitals are operated by local governments. There is no requirement that a rural hospital apply for designation, but if it does its financial situation will likely improve.

Initial Regulatory Flexibility Analysis

These rules apply to the Department and to nonprofit or public hospitals in rural areas of the state that wish to apply to the Department for designation as critical access hospitals and to operate as critical access hospitals. The rules do not directly apply to small businesses as "small business" is defined in s. 227.114 (1) (a), Stats.

Notice of Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 30.61(9), 30.62(2)(d)2. and 3., 30.74(1)(b) and 227.11(2)(a), Stats., interpreting ss. 30.52(3)(im) and (5)(a)3., 30.523(2)(c) and (3), 30.62(2)(d)2. and 3., 30.61(9) and 30.74(1)(b), Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 5, Wis. Adm. Code, relating to boating enforcement and education. The proposed revisions to ch. NR 5 address changes in federal and state laws and regulations. These changes include setting standard procedures to measure boat motor noise. This will allow for consistent enforcement by state and local units of government. The rules would also set up fees for the boating safety course to be reflective of actual costs. Other changes would bring Wisconsin's boat lighting laws into compliance with U.S. Coast Guard lighting requirements. This rule will also clarify the use of boat dealer registration as it relates to recent statute changes.

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

October 12, 1998
Monday
at 11:00 a.m.

Basement Auditorium
La Crosse County Health
& Human Services Bldg.
300 North 4th St.
La Crosse

October 13, 1998
Tuesday
at 11:00 a.m.

Room 717, GEF #2 Bldg.
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 William Engfer at (608) 266-0859 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the proposed rule may be submitted to Mr. William Engfer, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707 no later than **October 16, 1998**. Written comments will have the same weight and effect as oral statements presented at the public hearings. A copy of the proposed rule [LE-47-98] and fiscal estimate may be obtained from Mr. Engfer.

Fiscal Estimate

The proposed administrative rule changes accomplish several things. Creates definition for demonstrate, Lake and test; brings several sections into compliance with federal regulations; creates standards for noise testing; sets fees for taking the boating safety education course as required by new legislation that passed.

The combined effect of these provisions should not have any appreciable affect on local units of government.

The setting of student course fees at \$10.00 will increase revenue to the State by \$62,560.00 (7,820 students x \$10 = \$7,820 - \$15,640 currently being collected @ \$2.00 per student). State rate requirement allow these fees to pay for Department costs in running the education program. These fees will offset current expenditures.

Notice of Hearing

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.085, 29.155, 29.174(3), 227.24 and 227.11(2)(a), Stats., interpreting ss. 29.085, 29.155, 29.174(1) and (2), Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM-2-98 pertaining to the 1998 migratory game bird season. This emergency order took effect on September 11, 1998. The emergency rule establishes the regulations for the 1998 migratory game bird season. The season in the southern and northern duck zones begins at noon October 3 and continues through December 1. The season for Canada geese is 68 days in the Collins Zone; 86 days in the Horicon Zone; 21 days in the Exterior Zone; 23 days in the Rock Prairie Subzone; 21 days in the Brown County Subzone; and 70 days in the Mississippi River Subzone. A special youth waterfowl hunt is established that will occur on the 14th day before the opening day of the regular duck season.

Hearing Information

October 15, 1998
Thursday
at 1:00 p.m.

Room 511, GEF #2
101 S. Webster Street
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 Jon Bergquist at (608) 266-8841 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments

Written comments on the emergency rule may be submitted to Mr. Jon Bergquist, Bureau of Wildlife Management, P.O. Box 7921,

Madison, WI 53707 no later than **October 16, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [WM-29-98(E)] may be obtained from Mr. Bergquist.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

Natural Resources

(Environmental Protection-- General, Chs. NR 100--)

Notice is hereby given that pursuant to ss. 227.11(2), 281.15 and 283.13, Stats., interpreting ss. 281.15 and 283.13, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 102, 104 and 106, Wis. Adm. Code, relating to streams classifications and thermal discharge standards. Chapter NR 102 contains water quality standards for Wisconsin surface waters. The first major change to ch. NR 102 includes relocation of standards and associated rule language from ch. NR 104 to ch. NR 102 since it is the more appropriate rule for language associated with specific designated use categories and water quality criteria necessary to support those uses for the surface waters of Wisconsin. The second major change is the listing of numeric water quality criteria for heat (as known as thermal standards) and the inclusion of background water temperatures used to apply those criteria to waters statewide.

Chapter NR 104 contains the uses and designated standards for surface waters. The purpose of the revisions to this chapter is to update the lists of uses and designated standards to reflect current state of knowledge for those waters.

Chapter NR 106 contains procedures for the calculation of water quality-based effluent limitations for toxic and organoleptic (taste and odor) substances. Two additional subchapters have been added to this rule which contains procedures for calculating water quality-based effluent limitations for the discharge of heat (i.e., temperature limitations) have been created; and effluent limitations for water designated as limited aquatic life waters in ch. NR 104 have been transferred from ch. NR 104 to ch. NR 106 which is a more logical location.

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: Any business that releases effluent to a surface water.

b. Description of reporting and bookkeeping procedures required: No new procedures required.

c. Description of professional skills required: No new skills required.

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

October 14, 1998 Wednesday at 10:00 a.m.	Command Computer Center 4420 Hwy. 18 Fennimore
October 14, 1998 Wednesday at 3:00 p.m.	Room 041, GEF #3 125 S. Webster St. Madison
October 15, 1998 Thursday at 10:00 a.m.	Woodland Room Bay Beach Wildlife Sanctuary Sanctuary Road Green Bay
October 15, 1998 Thursday at 3:00 p.m.	Room 123 Southview Hall UW-Waukesha Waukesha
October 22, 1998 Thursday at 1:00 p.m.	Gov. Tommy G. Thompson Fish Hatchery 951 W. Maple Spooner
October 22, 1998 Thursday at 6:00 p.m.	Northwoods Center Dining Room Nicolet College Rhineland
October 26, 1998 Monday at 1:00 p.m.	Room 317A Wood County Courthouse 400 Market Street Wis. Rapids

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 Bob Masnado at (608) 267-7662 or Greg Searle at (608) 267-7644 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 Searle, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707, no later than **November 2, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WT-35-98] and fiscal estimate may be obtained from Jamie McCarville, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707.

Fiscal Estimate

The department does not expect these rule changes to have a fiscal effect at the state or local level.

Notice of Hearings

Natural Resources Environmental Protection— Water Regulation, Chs. NR 300—)

Notice is hereby given that pursuant to ss. 30.135 and 227.11(2)(a), Stats., interpreting s. 30.02, Stats., the Department of Natural Resources will hold public hearings on the creation of ch. NR 328, Wis. Adm. Code, relating to the construction, maintenance and location of water ski platforms and water ski jumps for the purposes of water ski exhibition or competition events. Chapter NR 328 identifies the factors which constitute a substantive written objection to placement and use of a water ski jump or platform. The rule also

specifies the contents of a public notice and the process for making a substantive written objection and requesting a contested case hearing.

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

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

October 19, 1998 Monday at 3:00 p.m.	Room 027, GEF #2 101 S. Webster St. Madison
October 20, 1998 Tuesday at 1:00 p.m.	Council Chambers Wausau City Hall 407 Grant Street Wausau
October 22, 1998 Thursday at 1:00 p.m.	Room 310 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 Paul Cunningham at (608) 267-7502 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. Paul Cunningham, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than **October 30, 1998**. Written comments will have the same weight and effect as oral statements presented at the public hearings. A copy of the proposed rule [FH-55-98] and fiscal estimate may be obtained from Mr. Cunningham.

Fiscal Estimate

The department does not expect these rule changes to have a fiscal effect at the state or local level.

Notice of Hearings

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

Notice is hereby given that pursuant to ss. 227.11(2)(a), 285.11(1) and 285.69(1), Stats., interpreting s. 285.11(1) and (6), Stats., the Department of Natural Resources will hold public hearing on amendments to s. NR 410.03(1) and (2), Wis. Adm. Code, relating to an increase in air pollution construction permit fees. The current fee structure for construction permits went into effect July 1, 1995. The application fee does not now generate the amount of revenue needed to cover the cost of reviewing and acting upon construction permit applications. Essentially, the proposed rule includes an across-the-board fee increase of 35%.

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: Those small businesses that are constructing new facilities or modifying existing facilities with air contaminant emissions above the exemption levels of ch. NR 406 are subject to the increased construction permit application fees.

b. Description of reporting and bookkeeping procedures required: None required.

c. Description of professional skills required: None required.

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

November 3, 1998
Tuesday
at 11:00 a.m.

Room 140
DNR S.E. Region Hdqrs.
12300 N. Dr. Martin Luther
King, Jr. Drive
Milwaukee

November 4, 1998
Wednesday
at 10:30 a.m.

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

November 5, 1998
Thursday
at 11:00 a.m.

Council Chambers
Wausau City Hall
407 Grant Street
Wausau

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 Kyle Kreigh at (608) 267-7689 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 Kyle Kreigh, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **November 6, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearing.

A copy of proposed rule AM-37-98 and its fiscal estimate may be obtained from:

Kyle Kreigh
 Bureau of Air Management
 P.O. Box 7921
 Madison, WI 53707
 Phone: (608) 267-7689
 FAX: (608) 267-0560

Fiscal Estimate

The actual increase in costs from permit fees to local governments cannot be reliably quantified because it is not known how many—if any—governmental units will apply for a permit.

The current fee structure, in effect since July 1995, no longer covers the costs of the new source review/construction permit program. Based on the Department's analysis of the staff time required to process new source review/construction permits, these

activities now require 19 FTEs worth of effort: 15 Air Management Engineer positions, 2 Air Management Specialist positions (Modelers), 1 Program Assistant position, and 1 Supervisor position.

Assumptions:

1. The Departmental costs associated with an average construction permit review are \$9500.

2. The average fee revenue generated from a construction permit review in FY 96-98 is \$7000.

3. Based on FY 96-98 data, the Department expects to review 173 permits each fiscal year.

4. Based on the above assumptions, for the new source review/construction permit program to support itself, the Department will need to increase fees by 35%.

5. The proposed fee increase will generate additional annual revenue of approximately \$427,000.

Notice of Hearing

Natural Resources

(Environmental Protection— Investigation & Remediation of Environmental Contamination, Chs. NR 700—)

Notice is hereby given that pursuant to ss. 227.11(2) and ch. 292, Stats., interpreting ch. 292, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. RR-43-98(E) pertaining to the assessment and collection of fees for providing assistance regarding the remediation and redevelopment of contaminated lands. This emergency order took effect on September 8, 1998. The emergency rule establishes a flat fee for persons requesting Department assistance under ch. 292, Stats. The 1997-99 biennial budget authorized the Department to collect fees, by rule, to offset the cost for much of the assistance currently provided and the new services created in the budget. The flat fee will include services for items such as 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.

Hearing Information

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

October 13, 1998
Tuesday
at 1:00 p.m.

Room 717, GEF #2
101 S. Webster Street
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 emergency rule may be submitted to Mr. Mark Gordon, Bureau of Remediation and Redevelopment, P.O. Box 7921, Madison, WI 53707 no later than **October 23, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule 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 annual revenues. Based on the projected number of requests and the associated fees, the annual revenue is estimated at \$993,250/year.

B. Expenditures – There are no increased Departmental expenditures associated with this proposal. The associated position and expenditure authority were requested in 1997 Wisconsin Act 27. 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. Revenues – None.

B. Expenditures – Based on experience and existing information, applications from 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 \$99,325/year.

Notice of Hearing

Public Instruction

Notice is hereby given that pursuant to s. 227.11(2)(a), Stats., and interpreting s. 119.23, Stats., the department of public instruction will hold a public hearing as follows to consider the amending of ch. PI 35, relating to the Milwaukee parental choice program.

Hearing Information

October 13, 1998
Tuesday
5:30 – 7:30 p.m.

Milwaukee
Woodlands School
1669 South 5th St.
Auditorium

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Charlie Toulmin, Milwaukee Parental School Choice Consultant, at (608) 266-2853 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 writing to:

Lori Slauson, Administrative Rules
and 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 **October 16, 1998**, will be given the same consideration as testimony presented at the hearing.

Analysis by the Department of Public Instruction

1995 Wisconsin Act 27 made several modifications to the Milwaukee parental school choice program, including

- Allowing private religious schools to participate in the program.
- Expanding participation to 15% of the Milwaukee school district's membership.
- Allowing siblings of pupils accepted on a random basis to be given preference in accepting applications.
- Requiring quarterly payments to be made by check to parents rather than made to the private schools.
- Requiring the participating private schools to be subject to uniform financial accounting standards established by the department and to annually submit to the department an independent financial audit of the private school.

- Forbidding a private school from requiring that a pupil participate in any religious activity if the pupil's parent or guardian submits a written request that the pupil be exempt from such activities.

- Eliminating the requirement that no more than 65% of the private school's enrollment consist of pupils attending under the private school choice program.

- Eliminating the reporting of comparable data by the school district and the participating private schools.

- Eliminating the financial or performance evaluation audits, as required by the state superintendent.

On June 10, 1998, the Wisconsin Supreme Court found constitutional the revisions made under 1995 Wisconsin Act 27. Therefore, the department is promulgating rules to implement the provisions under the Act. These rules were promulgated as emergency rules effective August 5, 1998.

The proposed permanent rules make several modifications to the Milwaukee private school choice program, including:

- Allowing private religious schools to participate in the program.
- Requiring the pupil assignment council to meet annually by April 15 to designate a date by which random selection of pupils will be determined for those private schools that receive more applications than spaces available for enrollment.

- Developing private school financial reporting requirements.

- Determining costs allowed to be claimed by private schools and reimbursed by the department.

- Developing private school financial audit requirements.

- Developing payment adjustments to be made at the end of the school year by the private schools or the department.

- Eliminating the reporting of comparable data by the school district and the participating private schools relating to pupils' daily attendance, drop out rates, suspensions and expulsions.

- Eliminating specific parental involvement activities to be included in a private school's parental involvement plan.

- Eliminating specific parental involvement activities to be reported by the school district.

- Eliminating the requirement that private schools administer specific achievement tests to pupils and report the results of those achievement tests to the department.

Finally, several pre-existing requirements have been repealed and recreated in different sections reorganizing the rule to align it with the new provisions under the Act.

Fiscal Estimate

The proposed rules make several modifications to the Milwaukee private school choice program. These revisions were made due to program revisions included under 1995 Wisconsin Act 27. The rule modifications which may have a fiscal effect include:

- Allowing private religious schools to participate in the program.
- Developing private school financial reporting requirements.

- Determining costs allowed to be claimed by private schools and reimbursed by the department.

- Developing private school financial audit requirements.

- Developing payment adjustments to be made at the end of the school year by the private schools or the department.

- Eliminating the reporting of comparable data by the school district and the participating private schools relating to daily attendance rates, drop out rates, suspensions and expulsions of pupils.

- Eliminating specific parental involvement activities to be included in a private school's parental involvement plan.

- Eliminating specific parental involvement activities to be reported by the school district.

- Eliminating the requirement that private schools administer specific achievement tests to pupils and report the results of those achievement tests to the department.

State Costs:

In the 1997–98 school year, 23 private schools participated in the program. In the 1998–99 school year 110 private schools have sent letters of intent to participate in the program serving potentially 15,000 pupils.

Major activities related to administration at more sites include answering questions related to the program, verification of membership on the count days, making payment adjustments at the end of the school year and collecting information to determine if each school has met one of the four criteria for continuing eligibility in the program.

1995 Wisconsin Act 27 requires that the check paying private school tuition must be made out to the parent. Currently, checks are made out to the private schools and checks are sent four times annually. In the 1997–98 school year, a total of 92 checks were made to 23 private schools. When the checks are made out to parents beginning in the 1998–99 school year, as many as 75,000 checks may be processed annually.

To administer the program effectively, the department will be requesting 2 FTE positions in its 1999–2001 biennial budget.

Public School Costs:

The proposed rules are not expected to have a fiscal effect on the Milwaukee public schools.

Private School Costs:

It is anticipated that the private school financial audit requirements will have a fiscal effect since many of the schools participating in the 1998–99 school year currently have no audit procedures in place. Auditing costs for small public school districts range from \$2,000 – \$5,000, annually. It is assumed that auditing costs to participating private schools will fall within the lower end of the \$2,000 – \$5,000 range due to private schools' processing of fewer transactions than public schools. The actual costs will vary depending on the number of financial transactions and expertise of the private school's accounting staff. The status of the financial records maintained by the private school staff will directly affect the time involved in auditing those records.

Initial Regulatory Flexibility Analysis

The proposed rules may have a fiscal effect on small businesses participating as private schools under this program.

Notice of Hearing

Public Instruction

Notice is hereby given that pursuant to ss. 115.405 (3) and 227.11 (2) (a), Stats., and interpreting s. 115.405, Stats., the Department of Public Instruction will hold a public hearing as follows to consider the creation of ch. PI 38, relating to grants for peer review and mentoring.

Hearing Information

The hearing will be held as follows:

Date and Time	Location
October 20, 1998 Tuesday 5:00 – 6:00 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 any meeting, please call Peter Burke, Director, 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 writing to:

Lori Slauson
Administrative Rules and 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 **October 27, 1998**, will be given the same consideration as testimony presented at the hearing.

Analysis by the Dept. of Public Instruction

1997 Wis. Act 237 created s. 115.405, Stats., which establishes a grant for peer review and mentoring. Under s. 115.405 (2), Stats., the state superintendent shall allocate \$500,000 annually, for one-year grants that allow a participating CESA, consortium of school districts, or a combination thereof to provide assistance and training for teachers who are licensed or have been issued a permit under ss. 115.28 (7) and 115.192, Stats., to implement peer review and mentoring programs.

The proposed rules establish application requirements and criteria for awarding grants under the peer review and mentoring program.

A grant application under this program must be developed with significant input from teachers. A grant recipient may not use funds awarded to supplant or replace funds otherwise available for the program and must provide a match of 20 percent.

The grant award period begins the 1998–99 school year. Since the timelines would be too stringent to implement this grant program by September 1, 1998, the Department is requiring applications to be submitted by November 1, 1998. The grant award period will be from December 1, 1998 to June 30, 1999. Applications submitted in subsequent years will be due May 1 with grant periods of July 1 to June 30.

These rules were promulgated as emergency rules effective August 15, 1998.

Fiscal Estimate

1997 Wis. Act 237 created a grant for peer review and mentoring under s. 115.405, Stats. The Act requires the state superintendent to allocate \$500,000 annually for grants to eligible applicants.

The administrative rule and the Act require grant recipients to match at least 20 percent of the grant awarded (money or in-kind services may be used); therefore, there may be additional local costs if local money is used to meet the 20 percent matching requirement. Any such additional costs are optional since a district or CESA are not required to apply for a grant.

Finally, grant recipients may not use grants awarded to supplant or replace funds otherwise available for the program and must make program and related materials available to interested schools and other educational institutions at a reasonable cost.

Administration of the program will be carried out using existing staff and resources and should not result in any significant costs to the state.

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

Regulation & Licensing

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2) and 480.06, Stats., and interpreting ss. 480.08, 480.10, 480.14, 480.16, 480.18,

480.20 and 480.24, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to revise chs. RL 120 to 126, relating to the registration and regulation of auctioneers and auction companies.

Hearing Information

October 26, 1998 Room 180
Monday 1400 East Washington Ave.
10:00 a.m. MADISON, WI

Written Comments

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

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

Written comments must be received by **November 9, 1998** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 227.11 (2) and 480.06

Statutes interpreted: ss. 480.08, 480.10, 480.14, 480.16, 480.18, 480.20 and 480.24

This proposed rule-making order of the Department of Regulation and Licensing primarily addresses three distinct areas respecting the registration and regulation of auctioneers and auction companies under ch. 480, Stats., and chs. RL 120 to 128. First, all current rules have been reviewed for the purpose of providing clarification and making technical modifications to increase their readability. Second, the advertising rules contained in ch. RL 123, are modified to remove unnecessarily burdensome and costly requirements existing in the current provisions. Third, ch. RL 125 has been revised to set forth a required bookkeeping system for auctioneers and auction companies, whether or not they must maintain an auction trust account, in order to assure their ability to account for all auction proceeds as required under ss. 480.14 (3) and 480.18, Stats.

SECTION 1 moves the definition of "trade name" from s. RL 121.07 (1) to ch. RL 120, the chapter that contains terms generally applicable throughout the rules. Registrants are permitted to use a trade name in their advertising or practice under current s. RL 121.07, as long as it is submitted in writing to the department. As the definition is proposed to be placed in ch. RL 120, SECTION 4 repeals the definition in current s. RL 121.07 (1), and SECTION 5 will renumber s. RL 121.07 (2) accordingly.

SECTION 2 creates a Note following s. RL 121.02, to provide the address at which applications for registration may be obtained. It also informs potential registrants that otherwise qualified applicants will be provided with reasonable accommodations, consistent with the requirements of the Americans With Disabilities Act.

SECTION 3 makes a correction to s. RL 121.04 (1) (c) 3. to provide that an auctioneer must take and pass the registration examination in order to renew a registration which expired 5 or more years prior to the renewal application, rather than "retake" a "licensing" examination.

SECTION 6 creates a Note following s. RL 122.02 to provide the address at which examination applications may be obtained. It also informs examination applicants that candidates otherwise qualified to take the examination will be provided with reasonable accommodations, consistent with the requirements of the Americans With Disabilities Act.

SECTION 7 expands current s. RL 122.04, which prohibits the receipt of unauthorized assistance on the auctioneer examination, to

additionally prohibit any form of cheating or dishonesty in taking the examination. SECTION 21 would create s. RL 126.02 (11) to make it unprofessional conduct for an individual granted registration to be subsequently found to have cheated on the examination, or to have disclosed the contents of the examination to others.

SECTION 8 repeals the current requirements in ch. RL 123, that the address, telephone number and state registration numbers of auctioneers and auction companies must be obtained in advertisements for a specific auction. It also would repeal the requirements that auction advertisements must set forth the terms and conditions for payment at the auction, as well as the amount of any buyer's premium or surcharge that may be charged at the auction. The proposal would also permit auctioneers to abbreviate the phrase "registered Wisconsin auctioneer" under the advertising requirement in s. 480.20 (2), Stats. As the alternative to using the precise phrase "registered Wisconsin auctioneer," the rule would permit an auctioneer to utilize the abbreviation "RWA" followed by the auctioneer's state registration number (e.g. "RWA #98765"). The department believes that the current advertising requirements in the rule are unduly burdensome and costly to registrants. It should be noted that SECTION 21 would require that the terms and conditions for payment and the amount of any buyer's premium or surcharge be posted in writing at the auction itself.

SECTION 9 would change the title of ch. RL 125 from "Trust Accounts" to "Maintenance of Records." The proposed modifications to the chapter relate to the bookkeeping system which must be maintained by all registrants, whether or not they are required to maintain an auction trust account.

SECTION 10 deletes the reference to "principal" in the definition of "trust funds" of s. RL 125.02, as it is unnecessary. A "principal" is already included in the phrase "any other person," but the current language may inappropriately suggest there is a distinction between the two for trust account purposes.

SECTION 11 describes the information to be provided on an "account summary sheet" which would be required of registrants who do not maintain an auction trust account specifying the general items to be included on an account summary sheet assures that registrants will be able to meet the statutory requirement in s. 480.14 (3), Stats., for providing an accounting to sellers of the auction proceeds, as well as the duty to keep "complete and accurate records of the auction" for a period of at least 2 years after the auction is conducted under s. 480.18, Stats.

SECTION 12 creates s. RL 125.035 to specifically state a registrant must maintain a trust account if the proceeds of an auction are not paid out within 24 hours after the auction. Although this requirement may be inferred from the definition of "trust funds" in s. RL 125.02, a specific statement to this effect will eliminate any confusion or inadvertent oversight of the requirement.

SECTIONS 13 through 16 amend current section titles to indicate that they are specifically applicable to auction trust accounts.

SECTION 17 would require that registrants notify the Department within 10 days after any change in an auction trust account name or number, depository institution name change, or that an auction trust account has been closed.

SECTIONS 18 and 19 would amend and create provisions relating to a trust account bookkeeping system to assure that adequate records are created and maintained to enable the registrant, Department and others to determine whether trust funds have been appropriately received, handled and disbursed by the registrant.

SECTION 20 expands the current authorization to use a computerized system to maintain trust account records to cover all records required under ch. RL 125.

SECTION 21 creates three additional causes for disciplinary action against a registrant, as discussed in this analysis under SECTIONS 7 and 8.

Text of Rule

SECTION 1. RL 120.02 (12) is created to read:

RL 120.02 (12) "Trade name" means a name other than the name appearing on an auctioneer's or auction company's registration certificate, under which an auctioneer or an auction company advertises or does business.

SECTION 2. A Note following RL 121.02 (2) is created to read:

Note: Applications may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708. An otherwise qualified applicant shall be provided with reasonable accommodations.

SECTION 3. RL 121.04 (1) (c) 3. is amended to read:

RL 121.04 (1) (c) 3. The applicant has ~~retaken~~ taken and passed the licensing registration examination within one year prior to the date of the application for renewal of registration.

SECTION 4. RL 121.07 (1) is repealed.

SECTION 5. RL 121.07 (2) is renumbered RL 121.07.

SECTION 6. The Note following s. RL 122.02 is amended to read:

Note: Applications may be obtained from the department located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708. An otherwise qualified applicant shall be provided with reasonable accommodations.

SECTION 7. RL 122.04 (title) and 122.04 are amended to read:

RL 122.04 Cheating on examination. An applicant may not give or receive unauthorized assistance during the examination, violate the rules of conduct of the examination, or otherwise act dishonestly. The action taken by the department ~~when unauthorized assistance occurs~~ shall be related to the seriousness of the offense. These actions may include withholding the score of the applicant, entering a failing grade for the applicant, and suspending the ability of the applicant to sit for the next scheduled examination after the examination in which the unauthorized assistance occurred.

SECTION 8. RL 123.03 is repealed and recreated to read:

RL 123.03 Contents of advertising. All advertisements that an auction will be conducted shall contain the following information:

(1) The name or trade name of an auctioneer responsible for the auction conducted pursuant to the contract required under s. 480.14 (1), Stats., and the name or trade name of any auction company that is managing the auction.

(2) A statement that the auctioneer is a 'registered Wisconsin auctioneer' or the abbreviation 'RWA' and the state registration number of the auctioneer.

SECTION 9. Chapter RL 125 (title) is amended to read:

Chapter RL 125

TRUST ACCOUNTS MAINTENANCE OF RECORDS

SECTION 10. RL 125.02 is amended to read:

RL 125.02 Definition. In this chapter, "trust funds" means cash, checks, share drafts, drafts or notes received by an auctioneer or an auction company on behalf of a ~~principal~~ or any other person while acting as an auctioneer or auction company for an auction of goods. "Trust funds" does not include proceeds received by an auctioneer or an auction company on behalf of a ~~principal~~ or any other person pursuant to an auction in which the written contract under s. 480.14, Stats., requires the registrant to pay the owner or consignor within 24 hours after the auction.

SECTION 11. RL 125.03 is repealed and recreated to read:

RL 125.03 Account summary sheet for registrants not maintaining a trust account. An auctioneer or auction company which is not required to maintain a trust account shall maintain a record, called an account summary sheet, which shows the receipts, deposits, expenses and disbursements as they affect each individual auction.

Note: This provision applies only to registrants not required to maintain a trust account. Registrants for whom a trust account is required must use the trust account bookkeeping system described in s. RL 125.11.

SECTION 12. RL 125.035 is created to read:

RL 125.035 Trust account required. An auctioneer or auction company is required to maintain a trust account when the registrant receives and holds auction funds which are not disbursed to the owner or consignor pursuant to a written contract under s. 480.14, Stats., within 24 hours after the auction.

SECTION 13. RL 125.05 (title) is amended to read:

RL 125.05 Time of trust account deposit.

SECTION 14. RL 125.06 (title) is amended to read:

RL 125.06 Opening and closing trust accounts.

SECTION 15. RL 125.07 (title) is amended to read:

RL 125.07 Trust account designation.

SECTION 16. RL 125.08 (title) is amended to read:

RL 125.08 Notification of the department regarding trust account.

SECTION 17. RL 125.08 (3) and (4) are created to read:

RL 125.08 (3) An auctioneer or auction company shall notify the department no later than 10 days after a change has been made to an auction trust account name, auction trust account number or depository institution name. The notification shall be provided on a form prepared by the department.

(4) An auctioneer or auction company shall notify the department no later than 10 days after an auction trust account has been closed. This notification shall be made in writing to the department.

SECTION 18. RL 125.11 is renumbered RL 125.12 (intro.) and RL 125.12 (title) and (intro.) are amended to read

RL 125.12 Trust account bookkeeping system. An auctioneer or an auction company required to maintain a trust account shall maintain a bookkeeping system that enables the auctioneer or auction company to adequately account for all trust funds in a trust account, to maintain an accurate and sufficient balance in the account and to account for all trust funds received from specified buyers and paid to specified sellers for specified purchases. The bookkeeping system shall consist of at least the following:

SECTION 19. RL 125.11 (1) to (4) are created to read:

RL 125.11 (1) CHECK REGISTER. An auctioneer or an auction company shall maintain a record regarding a trust account, called a check register, which shall show the date, the payee, the number of the check, share draft or draft and the amount.

(2) BANK RECONCILIATION. An auctioneer or an auction company shall reconcile the trust account in writing each month except in the case where there has been no activity during the month. The written reconciliation shall include all of the following:

- The ending bank statement balance.
- The date and amounts of the deposits in transit.
- The check number and amounts of outstanding checks.
- The resulting reconciled bank statement ending balance.

(3) VALIDATION. The auctioneer or auction company shall review the reconciled bank statement ending balance, the account summary sheets described in sub. (4), and the check register to ensure that all of the records are accurate and in agreement as of the date the trust account statement has been reconciled.

(4) ACCOUNT SUMMARY SHEET. An auctioneer or auction company shall maintain a record, called an account summary sheet, which shows the receipts, deposits, expenses and disbursements as they affect each individual auction.

SECTION 20. RL 125.12 is renumbered RL 125.025 and RL 125.025 (intro.) is amended to read:

RL 125.025 Use of computers. An auctioneer or an auction company may maintain ~~trust account~~ any records required by this chapter in a computerized system, provided that:

SECTION 21. RL 126.02 (11), (12) and (13) are created to read:

RL 126.02 (11) Cheating on the registration examination or soliciting or knowingly disclosing registration examination content.

(12) Failing to post written notice at and prior to the commencement of an auction of the terms and conditions under which the registrant will accept payment by buyers.

(13) If a buyer's premium or surcharge is a condition of sale, failing to post written notice at and prior to the commencement of an auction of the percentage or other amount of the buyer's premium or surcharge.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

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

Notice of Hearing

Transportation

Notice is hereby given that pursuant to s. 341.085, Stats., and interpreting s. 341.085, Stats., the Department of Transportation will hold a public hearing at the following location to consider the amendment of ch. Trans 309, Wis. Adm. Code, relating to ambulance inspection:

Hearing Information

October 15, 1998
Thursday
9:00 a.m.

State Patrol Hdqtrs. District 4
Downstairs Meeting Room
Hwys. NN & 51
Wausau, WI

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

The public record on this proposed rule making will be held open until close of business October 16, 1998, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Ted Waite, Department of Transportation, Division of State Patrol, Room 551, P. O. Box 7912, Madison, WI 53707-7912.

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

Analysis Prepared by the Wisconsin Department of Transportation

Statutory authority: s. 341.085

Statute interpreted: s. 341.085

General Summary of Proposed Rule. Chapter Trans 309 was created in November 1, 1986, replacing ch. Trans 157. The purpose of this chapter is to prescribe minimum vehicle and medical equipment specifications for ambulances and to establish administrative procedures for implementing the ambulance inspection program under s. 341.085, Stats.

The rule was last revised in 1993-94. This rule change came about after requests came from the Wisconsin EMS Physician's Board and the Wisconsin EMS Board. Their request was to bring the rule up to today's medical standard.

This proposed rule making:

- ◆ Addresses the problem of an increased number of ambulances that need to be inspected and the allotted person power to do those inspections. The inspections would go from annual to biennial, with the option of spot checks to verify compliance.

- ◆ Sets up an out of service criteria and a penalty section for noncompliance of the rule.

- ◆ Establishes requirements for required paper work the service provider is to keep and provide to the inspector upon inspection of the ambulance. This requirement will help ensure that the ambulance and equipment used has been properly maintained for the safe transportation of the sick and injured.

- ◆ Provides that all "In-Service" ambulances carry defibrillators which will bring the rule into compliance with DHFS requirements. With the advent of public defibrillation, the ambulance service provider must be able to maintain or increase the level of care given to the patient.

- ◆ Provides that the medical and surgical equipment carried on an ambulance meets the requirements of the medical field.

- ◆ Provides for the protection of a latex sensitive patient or EMT by requiring that the ambulance carries a latex free kit containing items most used in care for a patient.

Fiscal Estimate

This proposed rule will have an adverse effect on a limited number of public entities providing ambulance service. For those services that keep their ambulances stocked with the bare minimum of medical and surgical equipment, the Department estimates that their cost per ambulance would be less than \$1,000. Most service providers will have very little monetary hardship because they already carry most of the equipment that this rule would require. The Department estimates that there would be a \$200 cost per ambulance. This proposed rule will increase revenues for noncompliance of certain parts of this rule by assessing monetary penalties by about \$1,000.00 per year.

Initial Regulatory Flexibility Analysis

This proposed rule will have an adverse effect on a limited number of small businesses providing ambulance service. For those services that keep their ambulances stocked with the bare minimum of medical and surgical equipment, the Department estimates that their cost per ambulance would be less than \$1,000. Most service providers will have very little monetary hardship because they already carry most of the equipment that this rule would require. The Department estimates that there would be a \$200 cost per ambulance.

Copies of Proposed Rule

Copies of the rule may be obtained upon request, without cost, by writing to Frieda Andreas, Division of State Patrol, P. O. Box 7912, Madison, WI 53707-7912, or by calling (608) 266-6936. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearing

Transportation

Notice is hereby given that pursuant to ss. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats., interpreting ss. 110.07, 110.075, 194.38 and 194.43, Stats., the Department of Transportation will hold a public hearing on the **5th day of October, 1998, at the Hill Farms State Transportation Building, Room 551, 4802 Sheboygan Avenue, Madison, WI, at 1:30 PM**, to consider the emergency rule amendment of chapter Trans 328, Wis. Adm. Code, relating to motor carrier safety requirements for intrastate transportation of hazardous materials.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

Parking for persons with disabilities and an accessible entrance are available.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory authority: ss. 110.075(6), 194.38(2), 194.43 and 346.45(4)

Statutes interpreted: ss. 110.07, 110.075, 194.38 and 194.43

General Summary of Emergency Rule. The Department, by this rule making, is adopting changes to federal hazardous material regulations that have been expanded to include intrastate transportation and provides for some agricultural exceptions for farmers, allows for the use of some non-specification packages for intrastate transportation only, and provides exceptions for "materials or trades." These exceptions will only apply if state statutes or regulations are in effect prior to October 1, 1998, allowing these exceptions.

In addition, Ch. Trans 328 adopted motor carrier safety requirements for intrastate transportation of hazardous materials of the United States Department of Transportation in effect on November 1, 1996. This amendment changes the date from November 1, 1996 to August 1, 1998. This change allows Wisconsin to enforce the most recent version of the motor carrier safety requirements for intrastate transportation of hazardous materials and will include exceptions provided in revised federal rules.

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, sewerage district, or any federally-recognized American Indian tribes or bands.

Initial Regulatory Flexibility Analysis

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

Copies of Emergency Rule and Contact Person

Copies of the rule may be obtained upon request, free of charge, from the Division of State Patrol, P. O. Box 7912, Room 551, Madison, WI 53707-7912, or by calling (608) 266-6936. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the proposed rule will be provided to individuals at their request.

Text of Emergency Rule

Under the authority vested in the state of Wisconsin, department of transportation, by ss. 110.075(6), 194.38(2), 194.43 and 346.45(4), Stats., the department of transportation hereby amends ch. Trans 328, Wisconsin Administrative Code, interpreting ss. 110.07, 110.075, 194.38 and 194.43, Stats., relating to motor carrier safety requirements for intrastate transportation of hazardous materials.

SECTION 1. Trans 328.03(intro.) and (1) are amended to read:

Trans 328.03 FEDERAL RULES ADOPTED. The following federal motor carrier safety regulations adopted by the United States department of transportation and in effect on November August 1, 1996 1998, are adopted by the department and shall be enforced in relation to those carriers, drivers or vehicles to which these rules apply in the same manner as though the regulations were set out in full in this chapter:

(1) Title 49, Code of Federal Regulations, part 171, hazardous materials regulations, ~~except 171.1(a)(1), 171.4, 171.5, 171.10, 171.12 and 171.12a; and 171.2(a) and (b) for cargo and portable tanks used in intrastate commerce and placed in operation prior to November 1, 1991~~ general information, regulations and definitions.

SECTION 2. Trans 328.03(6) is created to read:

Trans 328.03(6) Every traffic officer and state patrol inspector, employed under the authority of s. 110.07, Stats., is authorized to declare vehicles and drivers out of service in accordance with the North American standard out-of-service criteria.

SECTION 3. Trans 328.04 is created to read:

Trans 328.04 EXCLUSIONS AND EXCEPTIONS. (1) The provisions of s. Trans 328.03(3), (4) and (5) do not apply to a nonspecification, nonbulk metal tank permanently secured to a transport vehicle and protected against leakage or damage in the event of a turnover, having a capacity of less than 119 gallons used by intrastate carriers in intrastate commerce only to transport flammable liquid petroleum products.

(2)(a) The provisions of s. Trans 328.03(2), (3), (5) and (6) do not apply to the transportation of agricultural products other than class 2 materials, or compressed gases over local roads other than the national interstate and defense highway system between fields of the same farm by a farmer who operates as an intrastate private carrier.

(b) The transportation of an agricultural product to or from a farm within 150 miles of the farm is excepted from the requirements s. Trans 328.03(2), 49 CFR part 172 subpart G, emergency response information, subpart H, training requirements, and from the specific packaging requirements when it is transported by a farmer who is an intrastate private motor carrier and the total amount of agricultural products being transported in a single vehicle does not exceed any of the following:

1. 16,094 pounds of ammonium nitrate fertilizer properly classed as division 5.1 PG III in a bulk packaging.
2. 502 gallons for liquid or gases.
3. 5,070 pounds for solids of any other agricultural product.

Notice of Hearings

Workforce Development

(Economic Support, Chs. DWD 11 to 59)

Notice is given that pursuant to ss. 49.22(2m)(d), 49.853(1)(dm), 49.854(17), 49.858(2) and 767.027(2), Stats., the Department of Workforce Development proposes to hold public hearings to consider the renumbering and creation of rules under chapters DWD 40 to 42 and 43, Wis. Adm. Code, relating to child support administrative enforcement.

Hearing Information

A previous announcement gave notice of the first public hearing on this rule.

Additional public hearings have now been scheduled as follows:

October 13, 1998 Tuesday 1:00 p.m. to 3:30 p.m.	Fox Valley Tech. College Room G1-10 1825 N. Bluemound Dr. Appleton
October 20, 1998 Tuesday 1:00 p.m. to 3:30 p.m.	Milwaukee State Office Bldg. Room 45 819 N. 6th Street Milwaukee
October 27, 1998 Tuesday 1:00 p.m. to 3:30 p.m.	Chippewa Valley Tech. College Room 113-115 403 Technical Drive East Menomonee

A copy of the rules to be considered may be obtained from Amber Erickson at the State Department of Workforce Development, Bureau of Child Support, Madison, Wisconsin, 53707, by calling (608) 266-6994, or at the appointed times and places the hearings are held.

Interested persons are invited to appear at the hearings and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearings may be submitted no later than **November 6, 1998**, for inclusion in the summary of public comments submitted to the Legislature.

Any such comments should be submitted to Amber Erickson at the address noted above. Written comments will be given the same

consideration as testimony presented at the hearings. Persons submitting comments will not receive individual responses.

These hearings are held in accessible facilities. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 261-8860. Accommodations such as interpreters, English translators or materials in audio tape format will, to the fullest extent possible, be made available on request by a person with a disability.

Analysis

Authority for rule: ss. 49.22 (2m)(d), 49.853 (1)(dm) and (2), 49.854 (17), 49.858 (2), and 767.027 (2)

Statutes interpreted: ss. 49.22, 49.853, 49.854, 49.858 and 767.027

Summary. In compliance with the child support enforcement requirements in the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193), 1997 Wisconsin Act 191 became effective May 1, 1998. The Act expands the authority of the Department of Workforce Development and county child support agencies to establish and acknowledge paternity, and to enforce child support orders. The Act requires the promulgation of administrative rules before the Department may begin implementing several provisions in the Act. These are the proposed rules for the implementation of 1997 Wis. Act 191.

According to the Act, past-due support constitutes a lien against all of a child support payer's real and personal property. Child support liens will be placed on the child support lien docket and electronically delivered to the county registers of deeds. The rule describes the threshold that arrears in a court case must equal or exceed before a payer is placed on the child support lien docket, the calculation of the lien amount, the filing date of the lien, and lien payments.

To enforce a lien, the Department or child support agency may use administrative enforcement actions authorized in Act 191. These administrative remedies include suspending and denying professional, occupational, recreational, and driver licenses; seizing real and personal property, including financial accounts; and intercepting judgments, settlements, and lump-sum pension payments. The Department or child support agency may initiate these administrative remedies if arrears owed by a payer in a court case equal or exceed a threshold. For each administrative enforcement action, the rule defines the threshold that arrears in a court case must equal or exceed before the Department or child support agency may initiate that action. Generally, that threshold for license suspension and account seizure is 300% of the monthly amount due, and the threshold for real and personal property seizure is 600% of the monthly amount due.

In addition to considering the arrears in a court case, when considering property seizure as an administrative remedy, the Department or child support agency must determine whether property identified for seizure has sufficient value before initiating any seizure process. The rule specifies the factors that must be considered when determining the value of the property, and the amount that the property value must exceed before seizure may be initiated. In general, the funds in a financial account must exceed \$500, the payer's equity in personal property must exceed \$500, and the payer's equity in real property must exceed 20 percent of the payer's proportionate share of the property's fair market value, before the Department or child support agency may seize the property.

Child support payers have an opportunity to negotiate alternative payment plans to suspend the execution of administrative enforcement actions. The rule outlines the process for negotiating payment plans, the factors that must be considered when establishing payment plans, and the possible terms and conditions of payment plans. The rule also defines noncompliance with a payment plan, and provides payers with an opportunity to renegotiate payment plans.

Notice of lien and administrative enforcement actions may be provided by regular mail to the last-known address of a child support payer. According to Act 191, notice requirements are met if notice of lien or administrative enforcement action has been sent to the last-known address provided by the payer, and a diligent effort has

been made to ascertain the location of the payer. The rule outlines the process the department and child support agency will use to verify and obtain an address from a postmaster, and the diligent efforts that will be taken to obtain the current address of a payer.

The rule describes the circumstances in which a payee will be notified that an administrative enforcement action has been initiated against the payer. In general, these are circumstances in which the Department or the child support agency is aware that the payer is subject to a protective order or there is otherwise reason to believe that a payee or child may be harmed physically or emotionally by the payer.

The Department and the child support agencies have the authority to request from any person information that they determine necessary for administering the child support program. Act 191 gives the Department and child support agencies additional authority to issue administrative subpoenas to obtain financial information and other documentation necessary for child support administration. Under the Act, the Department or child support agency may require individuals or entities to pay an administrative forfeiture for failure to comply with an administrative subpoena or a request for information. The rule specifies the administrative forfeiture that may be imposed for failure to comply with an administrative subpoena or a request for information, and when the administrative forfeiture may be imposed. Generally, an administrative forfeiture for a failure to comply will not exceed \$25, but if the failure to comply is the result of intentional conduct by the subpoena respondent to hide information, falsify information, or provide incomplete information, the administrative forfeiture will equal \$500.

Act 191 requires the Department and financial institutions operating in the state to enter into agreements to perform quarterly record matching, using automation to the extent feasible, to determine whether a delinquent child support payer has an ownership interest in a financial account. The rule outlines the procedures DWD will use to enter into agreements with financial institutions and requires DWD to reimburse financial institutions for participating in the data match program. In general, financial institutions will be reimbursed \$100 per quarter for performing an automated data match with the department.

The Department's goal is to begin implementation of these provisions in 1999.

Fiscal Estimate

This rule implements various provisions of 1997 Wis. Act 191, related to the child support enforcement program including forfeitures for failing to comply with a subpoena, the financial record matching program, liens, and notice and service of process requirements.

Counties may realize cost savings by switching to mailing of notices of administrative enforcement instead of using service of process. The amount of savings cannot be determined at this time. Although the \$25 forfeiture for noncompliance with administrative subpoenas and requests for information may be imposed in a few cases, the amount of revenue generated is expected to be minimal. Local postage costs for liens are expected to be offset by the new enforcement tool. Agency workload may increase due to requests for financial records and court order review, however, these costs can be absorbed.

Initial Regulatory Flexibility Analysis

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

The rule will not affect small businesses; it affects individuals only.

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

The rule will not affect small businesses; therefore, small businesses will not need additional reporting, bookkeeping, or other procedures as a result of the rule.

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

The rule will not affect small businesses.

*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.

Architects, Landscape Architects, Professional Geologists, Professional Engineers, Designers and Land Surveyors Examining Board (CR 98-30):

Chs. A-E 1 to 10 – Relating to the registration and regulation of architects, landscape architects, professional geologists, professional engineers, designers and land surveyors.

Commerce (CR 97-117):

Ch. Comm 1 – Relating to environmental analysis and review procedures for Department actions.

Health & Family Services (CR 98-87):

S. HFS 196.03 (11r) – Relating to the exemption of food service operations providing “incidental food service” from being regulated as restaurants.

Insurance (CR 98-78):

SS. Ins 6.58 and 6.59 and ch. Ins 28 – Relating to the requirements for continuing education for insurance intermediaries.

Insurance (CR 98-79):

SS. Ins 6.59 and 6.61 and ch. Ins 26 – Relating to the application process and requirements of prelicensing education for insurance agents.

Insurance (CR 98-80):

S. Ins 4.10 – Relating to changes in the requirements for the Wisconsin Insurance Plan.

Natural Resources (CR 98-55):

Subch. II of ch. NR 16 – Relating to the development of fees, criteria and procedures to use when permitting the use of natural waters as fish farms.

Natural Resources (CR 98-85):

S. NR 10.01 (1) (b), (g), (u) and (v) – Relating to the 1998 migratory game bird season.

Optometry Examining Board (CR 98-75):

Chs. Opt 3 and 4 and s. Opt 6.03 (2) Note – Relating to credential applications and examination requirements for individuals applying for a license to practice optometry.

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.

Corrections (CR 98-70):

An order amending s. DOC 328.22 (5), relating to the custody and detention of felony probationers and parolees.
Effective 11-01-98.

Public Defender (CR 98-89):

An order amending s. PD 3.02 (1), relating to the cost of retained counsel.
Effective 11-01-98.

Public Service Commission (CR 97-157):

An order amending s. PSC 112.05, relating to electric construction by public utilities requiring Public Service Commission review and approval.
Effective 11-01-98.

Public Service Commission (CR 98-49):

An order:
1) 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
2) Creating ch. PSC 161, relating to establishing the Educational Telecommunications Access Program (per TEACH WI).
Effective 11-01-98.

Social Workers, Marriage & Family Therapists and Professional Counselors Examining Board (CR 97-119):

An order affecting ss. SFC 1.05, 11.035, 14.01 and 14.02, relating to examination requirements and procedures, academic programs equivalent to master's and doctorate degrees in professional counseling, and temporary certificates for professional counselors.
Effective 11-01-98.

Wisconsin Technical College System Board (CR 98-59):

An order creating ch. TCS 15, relating to faculty development grants.
Effective 11-01-98.

Transportation (CR 98-82):

An order affecting ch. Trans 132, relating to temporary license plate and permits.
Effective 11-01-98.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **September 30, 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.

Agriculture, Trade & Consumer Protection (CR 98-14):

An order affecting chs. ATCP 32, 33 and 35, relating to fertilizer bulk storage, pesticide bulk storage and the agricultural chemical cleanup program.

Effective 10-01-98.

Commerce (CR 97-109):

An order affecting ch. ILHR 60, relating to the design and construction of public buildings and places of employment used as child day care facilities.

Effective 10-01-98.

Commerce (CR 98-17):

An order affecting chs. Comm 51 and ILHR 66 and ss. ILHR 53.63 and 57.01, relating to the design and construction of commercial buildings and uniform multifamily dwellings.

Effective 10-01-98.

Corrections (CR 97-79):

An order affecting ch. DOC 309, relating to inmate mail, property, telephone calls, and general provisions of ch. DOC 309.

Effective 10-01-98.

Employe Trust Funds (CR 98-50):

An order creating ch. ETF 52, relating to the administration of the duty disability benefit program under s. 40.65, Stats.

Effective 10-01-98.

Health and Family Services (CR 97-126):

An order repealing and recreating s. HSS 45.05 (11) and s. HFS 46.06 (11), relating to outdoor play space for children attending day care centers.

Effective 10-01-98.

Insurance, Commissioner of (CR 98-15):

An order creating s. Ins 3.70, relating to aggregating creditable coverage for the state Health Insurance Risk-Sharing Plan (HIRSP), pursuant to s. 149.10 (2t) (a), Stats.

Effective 10-01-98.

Natural Resources (CR 98-18):

An order affecting chs. NR 500, 502, 507, 512, 520 and 680 and ss. NR 504.09, 509.07, 514.04 and 620.15, relating to solid and hazardous waste management activities.

Effective 10-01-98.

Natural Resources (CR 98-21):

An order affecting ss. NR 487.03, 487.05, 487.07, 487.09 and 487.10, relating to the Clean Fuel Fleet Program to reduce volatile organic compound (VOC) and oxides of nitrogen emissions from fleet vehicles.

Effective 10-01-98.

Natural Resources (CR 98-22):

An order affecting ss. NR 10.02, 10.09, 10.25, 11.10, 15.02, 19.30 and 27.03, relating to wildlife management housekeeping changes to the hunting and trapping regulations.

Effective 10-01-98.

Natural Resources (CR 98-24):

An order affecting chs. NR 10 and 11 and s. NR 15.02, relating to the 1998 spring fish and game hearing on hunting and trapping regulations.

Part effective 10-01-98.

Part effective 03-01-99.

Public Instruction (CR 98-39):

An order amending s. PI 2.05 (2) (a), relating to the school district boundary appeals board.

Effective 10-01-98.

Public Instruction (CR 98-68):

An order affecting ch. PI 11, relating to children with disabilities.

Effective 10-01-98.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

The following administrative rule revisions and corrections have taken place in September, 1998, and will be effective October 1, 1998. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

REVISIONS

Agriculture, Trade & Consumer Protection:

Ch. ATCP 32

- S. ATCP 32.01 (2m), (3) to (9), (10), (11), (12), (13), (14), (15), (16), (17) and (18)
- S. ATCP 32.02 (1), (3) and (5) to (9)
- S. ATCP 32.03 (entire section)
- S. ATCP 32.04 (1), (2), (3), (4) (a), (c) and (d), (5), (6) (a) and (b), (7) and (9)
- S. ATCP 32.05 (entire section)
- S. ATCP 32.06 (entire section)
- S. ATCP 32.07 (entire section)
- S. ATCP 32.08 (entire section)
- S. ATCP 32.10 (entire section)
- S. ATCP 32.11 (entire section)

Ch. ATCP 33

- S. ATCP 33.01 (2m), (4), (5), (7) to (9), (10), (11) to (14), (15), (16), (17), (18) and (19)
- S. ATCP 33.02 (1), (5) (b) and (6) to (9)
- S. ATCP 33.03 (entire section)
- S. ATCP 33.04 (entire section)
- S. ATCP 33.06 (entire section)
- S. ATCP 33.07 (entire section)
- S. ATCP 33.09 (entire section)
- S. ATCP 33.10 (entire section)
- S. ATCP 33.11 (entire section)
- S. ATCP 33.12 (entire section)

Ch. ATCP 35

- S. ATCP 35.01 (1), (3), (6), (7m), (9), (10), (14), (15), (19), (20), (20m), (22m) and (22r)
- S. ATCP 35.02 (1) (e) and (2) (b) and (c)
- S. ATCP 35.03 (entire section)
- S. ATCP 35.04 (5), (6) and (7)
- S. ATCP 35.06 (1) and (4)
- S. ATCP 35.08 (1) and (5) (b)
- S. ATCP 35.10 (1) to (4) and (6)
- S. ATCP 35.12 (1) to (3), (6) (a) to (c), (8) and (10)
- S. ATCP 35.14 (3) (intro.) and (c), (4), (15), (16), (24), (27), (28), (30), (31) and (32)
- S. ATCP 35.16 (1), (2), (2m), (3), (4), (5), (6) (a), (7) and (8) (b)
- S. ATCP 35.18 (entire section)
- S. ATCP 35.20 (1)
- S. ATCP 35.22 (entire section)
- S. ATCP 35.24 (entire section)
- S. ATCP 35.25 (entire section)
- S. ATCP 35.26 (entire section)
- S. ATCP 35.28 (1), (2), (3) (a), (c) and (d), (4) and (5)

- S. ATCP 35.30 (2) and (3)
- S. ATCP 35.32 (1) and (3)
- S. ATCP 35.34 (entire section)

Commerce

(Building & Heating, etc., Chs. Comm 50 to 64)

Ch. Comm 51

- S. Comm 51.01 (2r), (41c), (52m), (81m) and (130d)
- S. Comm 51.03 (1) (a)
- S. Comm 51.047 (1) (a)
- S. Comm 51.048 (1) (a) and (b)
- S. Comm 51.049 (entire section)
- S. Comm 51.25 Table 51.25-10

Ch. Comm 53

- S. Comm 53.63 (1) (a), (c) and (d)

Ch. Comm 57

- S. Comm 57.01 (2) (a)

Ch. Comm 60

- S. Comm 60.01 (entire section)
- S. Comm 60.11 (entire section)
- S. Comm 60.30 (entire section)
- S. Comm 60.31 (6)
- S. Comm 60.34 (2)
- S. Comm 60.36 (entire section)
- S. Comm 60.38 (entire section)
- S. Comm 60.39 (entire section)
- S. Comm 60.40 (entire section)

(Uniform Multifamily Dwellings, Ch. Comm 66)

Ch. Comm 66

- S. Comm 66.32 (4) (b) and (5)
- S. Comm 66.33 (2) (a) and (b)

Corrections

Ch. DOC 309

- S. DOC 309.01 (entire section)
- S. DOC 309.02 (2), (2m), (3), (4), (5), (6), (7), (8), (8m), (9), (9m), (10), (11), (12), (13), (14), (15), (16), (18) to (24)
- S. DOC 309.03 (2) (intro.), (a), (b), (c) and (d) and (5)
- S. DOC 309.04 (entire section)
- S. DOC 309.05 (entire section)
- S. DOC 309.06 (entire section)
- S. DOC 309.20 (1), (3) (b), (c), (f), (4) (intro.), (a), (b), (c), (d), (6) (b) and (7)
- S. DOC 309.39 (entire section)
- S. DOC 309.405 (entire section)

- S. DOC 309.41 (entire section)
- S. DOC 309.42 (entire section)
- S. DOC 309.43 (entire section)

Employe Trust Funds

Ch. ETF 52 (entire chapter)

Health & Family Services

(Community Services, Chs. HFS/HSS 30--)

Ch. HFS 45

- S. HFS 45.05 (11)

Ch. HFS 46

- S. HFS 46.06 (11)

Insurance

Ch. Ins 3

- S. Ins 3.70 (entire section)

Natural Resources

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

Ch. NR 10

- S. NR 10.01 (3) (e) and (em) and (4) (a), (d) and (e)
- S. NR 10.02 (1)
- S. NR 10.06 (7) and (8) (b)
- S. NR 10.09 (1) (a) and (e)
- S. NR 10.13 (1) (b)
- S. NR 10.25 (3) (a) and (4) (e)

Ch. NR 11

- S. NR 11.02 (entire section)
- S. NR 11.04 (entire section)
- S. NR 11.041 (entire section)
- S. NR 11.042 (entire section)
- S. NR 11.043 (entire section)
- S. NR 11.10 (intro.)

Ch. NR 15

- S. NR 15.02 (3) and (9)
- S. NR 15.022 (11)

Ch. NR 19

- S. NR 19.30 (entire section)

Ch. NR 27

- S. NR 27.03 (2) (d), (e) and (i) and (3) (b), (e), (g) and (i)

(Air Pollution Control, Chs. NR 400--)

Ch. NR 487

- S. NR 487.03 (1) (a), (b) and (c)
- S. NR 487.05 (4) and (5)
- S. NR 487.07 (entire section)
- S. NR 487.09 (1) (d)
- S. NR 487.10 (1) (c)

(Solid Waste Management, Chs. NR 500--)

Ch. NR 500

- S. NR 500.03 (124m) and (209m)
- S. NR 500.06 (1) and (5)
- S. NR 500.065 (entire section)
- S. NR 500.08 (3) (a)

Ch. NR 502

- S. NR 502.07 (7) (j)
- S. NR 502.08 (2) (i)

Ch. NR 504

- S. NR 504.09 (1) (e)

Ch. NR 512

- S. NR 512.07 (entire section)
- S. NR 512.09 Table 1
- S. NR 512.19 (entire section)

Ch. NR 514

- S. NR 514.04 (3) to (6)

Ch. NR 520

- S. NR 520.04 (1) (d) and (e)
- S. NR 520.15 Table 2

(Hazardous Waste Management, Chs. NR 600--)

Ch. NR 620

- S. NR 620.15 (1) (d)

Ch. NR 680

- S. NR 680.06 (2m)
- S. NR 680.24 (1m)
- S. NR 680.31 (4)
- S. NR 680.45 (1) (a) and (4) (b)

Public Instruction

Ch. PI 2

- S. PI 2.05 (2) (a)

Ch. PI 11

- S. PI 11.01 (entire section)
- S. PI 11.02 (entire section)
- S. PI 11.03 (entire section)
- S. PI 11.04 (entire section)
- S. PI 11.05 (entire section)
- S. PI 11.06 (entire section)
- S. PI 11.08 (entire section)
- S. PI 11.09 (entire section)
- S. PI 11.10 (entire section)
- S. PI 11.12 (entire section)
- S. PI 11.13 (entire section)
- S. PI 11.15 (entire section)
- S. PI 11.16 (entire section)
- S. PI 11.17 (entire section)
- S. PI 11.18 (entire section)
- S. PI 11.19 (entire section)
- S. PI 11.20 (entire section)
- S. PI 11.21 (entire section)
- S. PI 11.22 (entire section)
- S. PI 11.23 (entire section)
- S. PI 11.24 (1) to (6), (7) (b) and (e), (9) (b) and (e) and (10) (b)

S. PI 11.25 (entire section)
 S. PI 11.26 (entire section)
 S. PI 11.27 (entire section)
 S. PI 11.28 (entire section)
 S. PI 11.29 (entire section)
 S. PI 11.30 (entire section)

S. PI 11.31 (entire section)
 S. PI 11.32 (entire section)
 S. PI 11.33 (entire section)
 S. PI 11.34 (entire section)
 S. PI 11.36 (entire section)
 S. PI 11.37 (entire section)

EDITORIAL CORRECTIONS

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing:

Agriculture, Trade & Consumer Protection

Ch. ATCP 34

S. ATCP 34.08 (1)
 S. ATCP 34.09 (entire section)

Ch. ATCP 35

S. ATCP 35.08 (4) (b)

Commerce

(Building & Heating, etc., Chs. Comm 50 to 64)

Ch. Comm 52 was renumbered from ch. ILHR 52 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 53 was renumbered from ch. ILHR 53 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 54

S. Comm 54.03 (1) (d)
 S. Comm 54.11 (1) (a)
 S. Comm 54.12 (3) (c)
 S. Comm 54.15 (1)
 S. Comm 54.21 (entire section)

Ch. Comm 57 was renumbered from ch. ILHR 57 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 57

S. Comm 57.19 (4)
 S. Comm 57.82 (2) (c)

Ch. Comm 58 was renumbered from ch. ILHR 58 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 59 was renumbered from ch. ILHR 59 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 60 was renumbered from ch. ILHR 60 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 61 was renumbered from ch. ILHR 61 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 62 was renumbered from ch. ILHR 62 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 63 was renumbered from ch. ILHR 63 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 64 was renumbered from ch. ILHR 64 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

(Uniform Multifamily Dwellings, Ch. Comm 66)

Ch. Comm 66 was renumbered from ch. ILHR 66 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 66

S. Comm 66.345 (3) (a)

Corrections

Ch. DOC 309

S. DOC 309.45 (4)
 S. DOC 309.52 (1) (a)

Health & Family Services

(Community Services, Chs. HFS/HSS 30--)

Ch. HFS 45 was renumbered from ch. HSS 45 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. HFS 46 had corrections made under s. 13.93 (2m) (b) 7., Stats.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection

(CR 98-14)

Chs. ATCP 32, 33 and 35, relating to the Agricultural Chemical Cleanup Program and the storage of bulk pesticides and fertilizers.

Summary of Final Regulatory Flexibility Analysis:

The changes to chs. ATCP 32 and 33, Wis. Adm. Code, will have impacts to small businesses that will cause them to have some increases in expenditures. The changes in ch. ATCP 35, Wis. Adm. Code, will allow greater reimbursement of business expenses when a business cleans up a spill of fertilizer or pesticide.

Expected Business Expense Increases

Business expenses for dry fertilizer distributors would increase due to an added requirement that all loading and unloading of dry bulk fertilizer be performed over a surface that allows for the recovery of all spilled material (s. 32.03). According to licensee records and tonnage reports, there are 151 different facilities from which dry bulk fertilizer is distributed in Wisconsin. Approximately 40% of those, or 60, would classify as small businesses. The department estimates that of those 60 sites, approximately 15%, or 9, currently do not utilize some method of spill containment at their dry fertilizer load-out area. Approximately 85%, or 51 of the 60 dry fertilizer sites, do not utilize some method of spill containment at their dry fertilizer load-in area. Virtually all the small businesses that distribute dry fertilizer would need to provide for a dry fertilizer spill containment surface for load-in, load-out or both. The impacts to these small businesses would be minimized because the use of tarpaulins, in addition to constructed load pads, would be permitted. Tarpaulins of sufficient size and strength to contain any spill and recover all spilled material are estimated to cost \$500 per year. Facilities which choose to construct or install a permanent dry fertilizer load in/out pad are estimated to expend approximately \$3,000 to \$3,500. The department estimates the construction of a permanent dry fertilizer rail-unload pad to be approximately \$1,000.

Business expenses for liquid fertilizer distributors would increase due to an added requirement that all soil liners within containment structures must be physically analyzed for permeability and mechanical properties and chemically analyzed for the nutrient stored within the containment structure over the previous 15 years. In addition, the soil liners must be reconstructed. The department estimates there are fewer than 10 facilities currently utilizing compacted clay liners in Wisconsin and 5 or fewer small businesses with clay liners. The department estimates the cost for performing this action on a small containment structure to be approximately \$3,000 to \$3,500.

Expected Business Income

The changes to ch. ATCP 35, Wis. Adm. Code, will decrease business costs for cleaning up spills. Most of these proposed changes are the result of changes to s. 94.73, Stats., which have been incorporated into the rules. These statutory changes are outlined below.

· The cost-share rate was modified from 75% to 80% of all eligible costs above the deductible and below \$100,000.

· The reimbursement cap was modified from \$300,000 for each discharge at a site to a life-time cap of \$400,000 per discharge site. Modifications have also been made to the \$100,000 cap. The changes to the reimbursement caps have two significant impacts:

1. A "deductible" is only paid once for each discharge site because the cap is based upon a discharge site and not every time a discharge occurs. As a result, costs for cleaning up subsequent discharges at a site will be reimbursed at a rate of 80%. Prior to this change, subsequent discharges could only be reimbursed at a rate of 50%.

2. In the past, the \$100,000 cap could only be exceeded if groundwater remediation was ordered for a specific discharge. The \$100,000 cap is still in effect for each discharge, but in the future, the \$100,000 cap can be exceeded if approved by the department prior to incurring costs.

· Additional reimbursement for transportation-related spills can be received. Transportation-related spills were each treated individually in the past and thus, each was required to pay a separate deductible. Because of this, many claims for these spills did not get submitted. The proposed language for transportation spills does not require small businesses to pay a separate deductible and thus allows more of these costs to be reimbursable in the future, subject to the \$400,000 limit for the site from which the product was distributed.

One change included in ch. ATCP 35 which is not the result of statutory changes is to reimburse responsible persons a reasonable rate for the use of their own equipment if it was used to cleanup contamination. This will allow small businesses to get reimbursed for using their own equipment rather than hiring another contractor or renting equipment to complete the job and should provide small businesses with additional cost savings at no added expense to the state.

Alternative Options Considered

The department considered several options for the requirement of a dry fertilizer loading pad. Not requiring dry fertilizer loading area-containment is not a viable option based on the cost of cleaning up fertilizer contamination from the chronic discharges. Alternate options could require that a permanent mix/load surface constructed of concrete or asphalt, or that a permanent structure constructed of steel or wood be installed or constructed to contain all dry fertilizer released during loading or unloading. The department feels that a permanent surface or structure is a more sound way of limiting fertilizer discharges to the environment, but the department also realizes that such a requirement could create a serious hardship for small businesses. Therefore, the proposal allows the use of a tarpaulin which would contain and allow for the recovery of all dry fertilizer spilled during dry fertilizer loading or unloading operations. The department also considered prohibiting the use of clay or soil liners for fertilizer secondary containment structures. This prohibition has been proposed for pesticide secondary containment structures because there are no known facilities in Wisconsin that use a soil liner for pesticide secondary containment purposes and because pesticide manufacturers do not view soil liners as acceptable for pesticide secondary containment purposes. However, for liquid bulk fertilizer, prohibiting the use of soil liners could cause serious hardships for some businesses that currently use them. For small businesses, prohibition of soil liners would require that a completely new secondary containment structure be constructed at an estimated minimum cost of \$10,000 to \$12,000. The estimated cost of the current proposal for testing

and recompaction is significantly less than the cost of building a completely new containment structure.

Most of the fiscal impacts for small businesses contained in revisions to ch. ATCP 35, Wis. Adm. Code, are costs savings and are a result of implementing statutory changes. No alternatives were considered.

Summary of Comments from Legislative Committees:

On June 3, 1998, the department referred the rule changes to the Senate Committee on Transportation, Agriculture and Rural Affairs. On June 10, 1998, the department referred the rule changes to the Assembly Committee on Agriculture. We received no comments from either committee.

2. Commerce (CR 98-17)

Chs. Comm 51 and ILHR 57, 66 – Uniform multifamily dwellings, and building and heating, ventilating and air conditioning.

Summary of Final Regulatory Flexibility Analysis:

The new requirement that tested and listed fire-stop systems be used for nearly all penetrations of every fire-protective wall, floor, or ceiling was opposed as being unnecessary and unjustified. Use of lab testing to support this requirement was opposed, and the Department was urged to rely instead on the fire safety history for newer multifamily dwellings, which was argued as showing these dwellings are fire safe without this requirement. Opposition was raised to the higher costs resulting from this requirement, which were argued as making new rental housing less affordable and not shown to be offset by benefits. The Department was urged to focus instead on improving the fire safety of older dwellings that lack the fire safety features of newer buildings, rather than add requirements to new, safe dwellings.

The department believes that the rules reflect an appropriate and reasonable response to address the life/safety risks involved. The new rule reflects national model codes and recognized standards for fire-resistive construction. The concern of establishing retroactive rules for existing buildings necessitates extensive research in indicating risks, possible solutions, and the impacts.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Housing and the Senate Committee on Business, Economic Development, and Urban Affairs. No comments were received.

3. Commerce (CR 97-109)

Ch. ILHR 60 – Child Day Care Facilities.

Summary of Final Regulatory Flexibility Analysis:

The rules establish minimum safety requirements when children under the age of 24 months are cared for on floors above or below the floor level of exit discharge. The requirements are more restrictive than for day care facilities where children can take self-preservation.

The child day care facility operators were concerned over the safe egress of children under the age of 24 months from floors other than the floor of exit discharge. When children under the age of 24 months are located on floors other than the level of exit discharge, the rules require the entire building to be sprinklered and that floor level must be divided into two smoke compartments. The rules are based on national building codes and address the additional safety considerations when children under the age of 24 months are cared for on floors other than the level of exit discharge.

Summary of Comments of Legislative Committees:

The rules were reviewed by the Assembly Committee on Children and Families and the Senate Committee on Economic Development, Housing and Government Operations. No comments were received.

4. Corrections (CR 97-79)

Ch. DOC 309 – Inmate mail, property, and telephones.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule is not expected to impact on small businesses as defined in s. 227.114 (1)(a), Stats.

Summary of Comments:

No comments reported.

5. Employe Trust Funds (CR 98-50)

Ch. ETF 52 – Duty disability benefit program.

Summary of Final Regulatory Flexibility Analysis:

This rule affects only a benefit program open exclusively to governmental employees classified as “protective occupation participants” under s. 40.02 (48), Stats., and the state, municipal or local units of government which employ them and which also participate in the Wisconsin Retirement System. The Department therefore anticipates that the provisions of this rule will have no direct adverse impact on small businesses.

Summary of Comments:

No comments reported.

6. Health & Family Services (CR 97-126)

SS. HSS 45.05 (11) and HFS 46.06 (11) – Outdoor play space for children attending day care centers.

Summary of Final Regulatory Flexibility Analysis:

These rules will not have a significant economic impact on a substantial number of small businesses. Although many of the day care centers in the state are small businesses as “small business” is defined in s. 227.114 (1) (a), Stats., the changes will affect only centers that do not have on-premises outdoor play space and even these will not be much affected because they are now permitted to use off-premises outdoor play space under exceptions granted by the Department on a case-by-case basis.

Summary of Comments:

No comments were reported.

7. Insurance (CR 98-15)

S. Ins 3.70 – Aggregating creditable coverage for the state health insurance risk-sharing plan.

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 legislature standing committee had no comments on this rule.

8. Natural Resources (CR 98-24)

Ch. NR 10 – Hunting and trapping.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules regulate individual hunters and trappers; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Assembly Natural Resources Committee and the Senate Committee on Environment and Energy. The Assembly Natural Resources Committee held a public hearing on the proposed rule on July 9, 1998. The Committee on Natural Resources did not make any recommendations regarding the proposed rule.

9. Natural Resources (CR 98-22)

Ch. NR 10 – Wildlife management housekeeping changes.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules regulate individual hunters and trappers; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Assembly Natural Resources Committee and the Senate Committee on Environment and Energy. The Assembly Natural Resources Committee held a public hearing on the proposed rule on July 9, 1998. The Committee on Natural Resources did not make any recommendations regarding the proposed rule.

10. Natural Resources (CR 98-21)

Ch. NR 487 – Clean fuel fleet program to reduce volatile organic compound and oxides of nitrogen emissions from fleet vehicles.

Summary of Final Regulatory Flexibility Analysis:

The parties likely to be impacted or interested in the delay of the Clean Fuel Fleet Program are clean fuel providers and covered fleet operators. The proposed rule delays the clean fuel fleet program by one year will not impose any new requirements on small businesses.

Summary of Comments by Legislative Review Committees:

The proposed rule was reviewed by the Assembly Environment Committee and the Senate Environment and Energy Committee. There were no comments or recommendations on the proposed rule.

11. Natural Resources (CR 98-18)

NR 500 and 600 series – Solid waste management technical corrections.

Summary of Final Regulatory Flexibility Analysis:

The Department does not believe that the proposed revisions to the NR 500 and 600 rule series will have a significant economic impact on a substantial number of small businesses. The proposed lowering of fees on small municipal solid waste combustors will have a beneficial effect on owners of these facilities.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Assembly Natural Resources Committee and the Senate Committee on Environment and Energy. The Assembly Natural Resources Committee held a public hearing on the proposed rule on July 9, 1998. The Committee on Natural Resources did not make any recommendations regarding the proposed rule.

12. Public Instruction (CR 98-39)

Ch. PI 2 – School district boundary appeals board.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule has no effect on small businesses as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

13. Public Instruction (CR 98-68)

Ch. PI 11 – Children with disabilities.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule has no effect on small businesses as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comment were reported.

EXECUTIVE ORDERS

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

Executive Order 349. Relating to the Governor's Fatherhood Initiatives.

Executive Order 350. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Honorable Lewis F. Powell, Jr., Late Associate Justice of the United States Supreme Court.

Executive Order 351. Relating to a Proclamation of a State of Emergency.

Executive Order 352. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as Mark of Respect for the Late Sheriff Deputy John M. Schmitt of the Washington County Sheriff's Office.

PUBLIC NOTICES

Public Notice

Health & Family Services (Medical Assistance Reimbursement of Hospitals)

The State of Wisconsin reimburses hospitals for medical services provided to low-income persons under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. The State's Department of Health and Family Services administers this program which is called Medicaid or Medical Assistance (MA). Federal statutes and regulations require a state plan that provides the methods and standards for paying for hospital inpatient services.

A state plan is now in effect for reimbursement for inpatient hospital services. The Department is proposing to make changes in this plan effective October 1, 1998 relating to disproportionate share hospital payments.

The federal Social Security Act requires state Medicaid programs to provide additional payments to hospitals that serve a disproportionate number of Medicaid patients. Currently, the Wisconsin Medicaid program provides increased payment for each inpatient hospital stay at hospitals that qualify for a disproportionate share adjustment. Federal statutes limit the amount of federal financial participation for such payments in Wisconsin to \$7 million annually. Because the disproportionate share adjustment for qualifying hospitals is calculated prospectively under the State's current methodology, actual disproportionate share expenditures may exceed this funding limit. Alternatively, disproportionate share payments to hospitals may be lower than this limit, which would not allow the State to capture the full amount of the federal allocation to Wisconsin. To ensure that the \$7.0 million of federal funding is acquired and not exceeded, the Department is proposing to modify its methodology for making disproportionate share payments to qualifying hospitals. The proposed modifications would not affect how hospitals qualify for a disproportionate share adjustment under the current State Plan.

Implementation of the above changes to the State Plan for inpatient hospital services is not expected to significantly change the annual expenditures of the Wisconsin Medicaid program for state fiscal year 1998-1999.

Copies of Proposed Changes and Proposed Payment Rates

Copies of the proposed changes will be sent to every county social services or human service department main office where they will be available for public review. For more information, interested persons may fax or write to:

Hospital Unit
FAX (608) 266-1096
Bureau of Health Care Financing
Division of Health
P. O. Box 309
Madison, WI 53701-0309

Written Comments

Written comments on the proposed changes are welcome and should be sent to the above address. The comments received on the changes will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily at:

Bureau of Health Care Financing
Room 250, State Office Building
One West Wilson Street
Madison, WI

Public Notice

Dept. of Workforce Development

Public Notice Concerning the Centralized Receipt and Disbursement of Child Support and Maintenance Payments

1997 Wis. Act 27 contains provisions which require the Department of Workforce Development to establish an automated statewide system for the centralized receipt and disbursement of child support and maintenance payments. As created by 1997 Wis. Act 27, s. 767.29 (1) (f), Stats., provides:

“If the department determines that the statewide automated support and maintenance receipt and disbursement system will be operational before October 1, 1999, the department shall publish a notice in the Wisconsin Administrative Register that states the date on which the system will begin operating. Before that date or October 1, 1999, whichever is earlier, the circuit courts, county child support agencies under s. 59.53 (5), clerks of court and employers shall cooperate with the department in any measures taken to ensure an efficient and orderly transition from the countywide system of support receipt and disbursement to the statewide system.”

In accordance with this authority, this notice is published in the *Wisconsin Administrative Register* to state that the statewide automated support and maintenance receipt and disbursement system will begin operating on January 4, 1999.

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