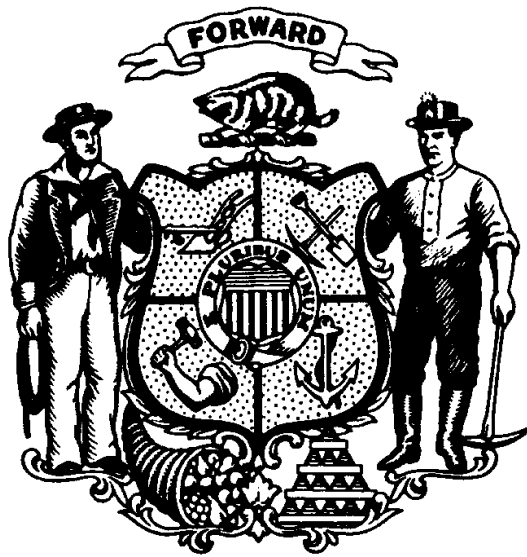


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EMERGENCY RULES NOW IN EFFECT

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 (2)

Agriculture, Trade & Consumer Protection

1. Rules were adopted amending s. ATPC 60.19 (3) and (4), relating to drug residues in raw milk.

Finding of Emergency

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

(1) Milk from Wisconsin dairy farms may not contain drug residues. Current rules under ch. ATPC 60, Wis. Adm. Code, require every dairy plant operator to perform a drug residue screening test on every bulk load of raw milk received by that operator. If the bulk load tests positive for any drug residue, the operator must test a milk sample from each producer milk shipment included in that bulk load. Current rules do not require a dairy plant operator to perform a confirmatory test if a producer sample tests positive on an initial test.

(2) If a producer sample tests positive for drug residue, the dairy plant operator may hold that producer financially responsible for contaminating the bulk load. In some cases, the cost of a contaminated tanker load of milk may be \$5,000 or more. The department may also take enforcement action against the milk producer. Enforcement may result in financial penalties or suspension of the milk producer's license.

(3) In several enforcement actions, producers have argued that dairy plant drug residue tests were inaccurate. Producers claimed that there was no confirmatory testing, and no opportunity to confirm the accuracy of the dairy plant operator's test findings. Inaccurate findings may unfairly penalize affected producers, and result in severe financial losses to those producers. The lack of a confirmatory test aggravates conflicts between dairy plant operators and milk producers.

(4) Confirmatory testing of test-positive producer samples would provide greater assurance of fairness for milk producers, and would help avoid conflicts between dairy plant operators and producers. Dairy plant operators can perform confirmatory tests at reasonable cost. An emergency rule requiring confirmatory testing of producer samples is necessary to protect milk producers, and to promote the efficient operation and economic well-being of Wisconsin's dairy industry.

(5) Confirmatory testing of test-positive producer samples will enhance, and not reduce, the safety of Wisconsin milk supplies. Dairy plant operators will still be required to test bulk tanker loads of milk, and dispose of tanker loads that test positive for drug residues.

(6) This emergency rule will strengthen public health protection by requiring dairy plant operators to dispose of contaminated loads, or denature contaminated loads before transferring them to the custody of another person. Denaturing ensures that persons receiving custody of contaminated loads will not redirect them to human food use.

(7) Pending the adoption of rules according to normal administrative rulemaking procedures, it is necessary to adopt this emergency rule to do both of the following:

(a) Protect the public milk supply against drug residue contamination by assuring proper disposal of contaminated milk.

(b) Provide additional assurance that milk producers will not be subjected to serious penalties or financial losses based on inaccurate drug residue tests.

Publication Date:	April 30, 1999
Effective Date:	April 30, 1999
Expiration Date:	September 27, 1999
Hearing Date:	June 18, 1999

2. Rules adopted revising s. ATPC 10.45, relating to security of dairy plant payments to milk producers.

Finding of Emergency

(1) Section 100.06, Stats., is designed to provide "reasonable assurance" that dairy farmers will be paid for the milk they produce. Under ss. 97.20(2)(d)2. and 100.06, Stats., a dairy plant must, as a condition to licensing, comply with applicable security requirements under s. 100.06, Stats., and department rules under ch. ATPC 100, Wis. Adm. Code. Since dairy plant licenses expire on April 30 annually, dairy plants must comply with applicable security requirements in order to qualify for license renewal on May 1 of each year.

(2) Under s. 100.06, Stats., and ch. ATPC 100, a dairy plant operator who purchases milk from producers must do one of the following:

(a) File with the department of agriculture, trade and consumer protection ("department") audited financial statements which show that the operator meets minimum financial standards established by s. 100.06, Stats.

(b) File security with the department in an amount equal to at least 75% of the operator's "maximum liability to producers," as calculated under s. ATPC 100.45(5).

(c) Enter into a dairy plant trusteeship under ch. ATPC 100, Subch. V.

(3) Under s. ATPC 100.45(5), a dairy plant operator's "maximum liability to producers" is based on the plant operator's largest monthly purchase of milk during the *preceding* license year. Milk prices hit all time record highs in 1998, dramatically increasing monthly dairy plant payrolls. Security requirements for the 1999

license year are currently based on these inflated 1998 monthly payrolls, even though 1999 monthly payrolls have dropped dramatically in response to price changes.

(4) Since December 1998, the average market price for raw milk has fallen by approximately 40%. Dairy economists expect BFP average prices to remain at least 12% to 16.2% below last year's average during 1999. Because of the dramatic decline in milk prices, dairy plants have smaller producer payroll obligations than they had in 1998.

(5) Prices received by Wisconsin dairy plants for processed dairy products have also fallen dramatically since December. This has created serious financial hardships for some dairy plants.

(6) Current security requirements, based on 1998 producer prices and payrolls, are excessive in relation to current payroll obligations and impose an added financial burden on dairy plants. Current security requirements under s. ATCP 100.45(5), based on last year's prices, are at least 31 to 48% higher than they would be if calculated at current prices.

(7) Because of the dramatic decline in dairy prices, some dairy plant operators are required to file large amounts of additional security, often amounting to millions of dollars. This is a major expense for affected operators. Operators may find it difficult, financially, to obtain and file the required security. If a dairy plant is unable to file the required security in connection with the May 1, 1999 license renewal, the department will be forced to take action against the dairy plant's license. This could result in the forced closing of some unsecured dairy plants. The forced closing of an unsecured plant may, in turn, result in serious financial losses to producer patrons.

(8) By requiring excessive security based on last year's prices, current rules are making it unnecessarily difficult and expensive for dairy plants to obtain and file security. This could contribute to the financial failure of some dairy plants, or to the forced closing of some unsecured plants. Dairy plant financial failures or closings, if they occur, may cause serious and widespread financial injury to milk producers in this state. This constitutes a serious and imminent threat to the public welfare.

(9) In order to reduce the risk of dairy plant financial failures or forced closings, rule amendments are urgently needed to adjust dairy plant security requirements to appropriate levels based on current milk prices. The rule amendments will relieve financially stressed dairy plants from unnecessary financial burdens and will make it easier for those dairy plants to file security with the department. That, in turn, will reduce the risk of dairy plant financial failures, or the forced closing of unsecured plants, which may adversely affect milk producers.

(10) Rule amendments, to be effective, must be promulgated prior to the dairy plant license year beginning May 1, 1999. That is not possible under normal rulemaking procedures. Therefore, the following emergency rule is needed to protect the public welfare.

(11) Should milk prices rise beyond the levels currently anticipated for the license year beginning May 1, 1999, so that security filed under this emergency rule is less than 75% of a dairy plant operator's current monthly producer payroll, the operator is required to notify the department of that fact under s. 100.06, Stats., and s. ATCP 100.20(3). The department may demand additional security at that time.

Publication Date: April 20, 1999
Effective Date: May 1, 1999
Expiration Date: September 28, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce

(Flammable & Combustible Liquids, Ch. Comm10)

Rules adopted revising **ch. Comm 10**, relating to regulation of flammable and combustible liquids.

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, welfare and the environment.

The facts constituting the emergency are as follows. Under ss. 101.09, 101.142 and 101.144, Stats., the Department protects public health, safety, welfare and the environment by promulgating rules for and administering the regulation of petroleum product storage tank systems and the storage and handling of flammable and combustible liquids. The purpose of the regulatory effort is to guarantee that storage tank systems and their contents are managed in a manner that is protective of life safety and the environment.

On December 22, 1998, a ten-year upgrade deadline comes to an end, and all tank systems falling under the United States Environmental Protection Agency's rules are required to have been upgraded to comply with new and environmentally protective construction standards. After the final compliance date, the Department and its contracted agents will conduct inspections to guarantee that tank systems which are not in compliance have been shut down in accordance with state and federal rules. In those instances where owners or operators have not complied with the upgrade or shutdown requirements, immediate action must be taken to either prevent the tank systems from continuing to be used or prevent the delivery of additional petroleum product to the systems.

The shut down of noncomplying tank systems is a core environmental and financial issue. The tank systems that are not in compliance pose a continuing high-risk threat to the environment, and delay in action will continue an unnecessary environmental hazard. Additionally, new releases from these non-upgraded tank systems will add to the financial burden of the PECFA program, which is significantly over-subscribed. The rule included with this order is in response to environmental issues associated with non-upgraded tank systems.

Publication Date: December 11, 1998
Effective Date: December 11, 1998
Expiration Date: May 10, 1999
Hearing Date: March 3, 1999
Extension Through: September 6, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce & Natural Resources

(Petroleum Environmental Cleanup Fund Interagency Responsibilities, Ch. Comm 46)

Rules adopted revising **ch. Comm 46**, relating to the Petroleum Environmental Cleanup Fund Interagency Responsibilities.

Finding of Emergency

The Wisconsin Natural Resources 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 the facts contributing to the emergency is: The Department of Commerce has adopted administrative rules under ss. 101.143 and 101.144, Stats., to implement the Petroleum Environmental Cleanup Fund Act (PECFA). The purpose of PECFA is to reimburse responsible persons for the eligible costs incurred to investigate and remediate petroleum product discharges from a petroleum product storage system or home oil tank system. The emergency rule is being proposed in response to resolutions adopted by the Joint Committee for Review of Administrative Rules (JCRAR) which directed the Department of Commerce and the Department of Natural Resources to promulgate a joint emergency rule, incorporating parts of a Memorandum of Understanding between the two agencies that relates to the classification of contaminated sites. JCRAR has made it clear that the committee was prepared to suspend the Department of Commerce's PECFA rules if the agencies failed to adopt the emergency rule that JCRAR was directing them to adopt.

Publication Dates: June 8, 1999

Effective Date: June 8, 1999

Expiration Date: November 5, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Commerce

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

1. Rules adopted revising **ch. Comm 113**, relating to the annual allocation of volume cap on tax-exempt private activity bonds.

Finding of Emergency & 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 health, safety and welfare.

Several areas in the State of Wisconsin have recently experienced severe economic distress due to large plant closings which have put hundreds of Wisconsin residents out of work. As a result of two large paper mills being shut down a year ago, 1997 Wisconsin Act 237 created s. 560.147, Stats., authorizing the Rapid Response Fund within the Wisconsin Development Fund. The fund is part of the Rapid Response Initiative, which assists areas affected by these and future closings. Commerce is now proposing as part of this initiative a Rapid Response Set Aside within the volume cap allocation process which will enable businesses in these distressed areas to obtain the financing they need to make the necessary capital investments to create and retain jobs. Several projects are pending in that need this change in order to move forward with their plans. Allocation of volume cap is in highest demand in the spring and summer due to the construction cycle. The Rapid Response set-aside must be in place as soon as possible in order for projects to receive allocation and begin construction as soon as possible. Jobs cannot be created or retained until projects go forward.

Publication Date: February 17, 1999

Effective Date: February 17, 1999

Expiration Date: July 17, 1999

Hearing Date: April 12, 1999

Extension Through: September 14, 1999

2. Rules adopted creating **ch. Comm 112**, relating to the Wisconsin Development Zone Program.

Finding of Emergency

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

Pursuant to ss. 560.70 to 560.797, Stats., the Department of Commerce is responsible for administering Wisconsin Development Zone Program. These rules are being adopted to incorporate in the administrative code the recent amendments contained in 1997 Wis. Act 27 that entirely changed the eligibility and the criteria for certified development zone businesses and the process for the verification and the claiming of tax credits. Section 560.785, Stats., directs the Department of Commerce to develop rules and exceptions to those rules concerning the eligibility for tax benefits. After a review and evaluation of all the certified businesses and their projects a number of exceptions have been identified in order to meet the needs of different areas of the state and to fulfill our commitments to businesses that were made prior to this legislation. In order to process claims for tax years beginning on or after January 1, 1998, these rules must be made available immediately.

Publication Date: February 25, 1999

Effective Date: February 25, 1999

Expiration Date: July 25, 1999

Hearing Date: May 12, 1999

Extension Through: September 22, 1999

EMERGENCY RULES NOW IN EFFECT

Department of Corrections

Rules adopted creating **ch. DOC 330**, relating to pharmacological treatment of serious child sex offenders.

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 peace, health, safety or welfare. A statement of the facts constituting the emergency is: A recent session law, 1997 Wis. Act 284, created s. 304.06(1q) Stats., which will become effective January 1, 1999, and authorizes the department to require pharmacological treatment (chemical castration) for certain child sex offenders as a condition of probation or parole to accomplish the objectives of protection of the public or treatment of serious child sex offenders. Pharmacological intervention cannot begin without administrative rules. Development and promulgation of permanent rules will take approximately six months to complete. Emergency rules are necessary to implement the program for the safety of the public while permanent rules are being developed.

Publication Date: January 1, 1999

Effective Date: January 1, 1999

Expiration Date: May 31, 1999

Hearing Dates: March 1, 2 and 3, 1999

Extension Through: July 29, 1999

EMERGENCY RULES NOW IN EFFECT

Employment Relations Commission

Rules adopted revising **ch. ERC 33, Appendix C**, relating to the calculation of a minimum qualified economic offer in collective bargaining with professional school district employees.

Finding of Emergency

We find that it is necessary to promulgate the amendment to ch. ERC 33, Appendix C as an emergency rule to preserve the public

peace, health, safety and welfare. Without the amendment, the timely and peaceful resolution of collective bargaining disputes in Wisconsin will be endangered.

Publication Date: June 12, 1999
Effective Date: June 12, 1999
Expiration Date: November 9, 1999

EMERGENCY RULES NOW IN EFFECT

Financial Institutions (Division of Securities)

Rules adopted creating **s. DFI-Sec 2.01(1)(c)6 and (d)6.**, relating to designating alternative accounting guidelines for the preparation of financial statements for certain governmental issuers of securities.

Finding of Emergency

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

These emergency rules are necessitated by a new accounting guideline relating to disclosures about Year 2000* issues applicable to the preparation of financial statements for governmental issuers of securities as required by Governmental Accounting Standards Board Technical Bulletin 98-1, *Disclosures about Year 2000 Issues* ("GASB TB 98-1", or "Guideline"). The existence of this issue and the need for emergency rule treatment to assist governmental issuers was brought to the attention of the Division by representatives of Wisconsin public accounting groups and Wisconsin bond attorneys who recently learned about a Report by the American Institute of Certified Public Accountants regarding GASB TB 98-1.

As a result of that Report (and as particularized below) many Wisconsin governmental issuers would have the audit opinions for their financial statements for years ending after October, 1998, qualified with respect to disclosures about Year 2000 issues. Thus beginning in approximately March and April of 1999 and continuing through the accounting period ending 12/31/99, that new accounting Guideline will adversely impact the ability of Wisconsin and other state and local governmental securities issuers to continue to use on an "automatic"/self-executing basis, the existing securities registration exemption in s. 551.22(1)(a) of the Wisconsin Securities Law to offer and sell their debt securities to public investors in Wisconsin.

Over the years and to date, Wisconsin and other state and local governmental securities issuers having "full-GAAP" financial statements (e.g. prepared in accordance with generally accepted accounting principles) have been able to sell their debt securities to Wisconsin public investors in reliance on automatic use of the registration exemption in s. 551.22(1)(a), Wis. Stats., without the need for any exemption or other filing with the Division.

GASB TB 98-1 requires footnote disclosure of Year 2000 information regarding a governmental issuer's preparedness in terms of making its systems and equipment Year 2000 compliant. GASB TB 98-1 applies to financial statements dated October 31, 1998, and terminates for financial statements issued for purposes of the accounting period ending December 31, 1999, unless systems and equipment are not Year 2000 compliant as of the balance sheet date. In response to GASB TB 98-1, members of the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) issued a Report under the title "AICPA Illustrative Reporting Guidance on Year 2000 Disclosures Made Under GASB TB 98-1, Issued October 22, 1998." That Report

raised the concern that in light of the unprecedented nature of the Year 2000 issue, the required disclosures will be neither ascertainable by management nor verifiable by auditors. As a result, the AICPA strongly recommended that auditors issue qualified opinions (scope limitations) with respect to such Year 2000 issue disclosures.

Consequently, all Wisconsin and other governmental securities issuers whose financial statements would contain such qualified opinions, would not meet (in the absence of the emergency rules) the "full-GAAP" financial statement requirement for automatic use of the registration exemption in 551.22(1)(a), Wis. Stats. Thus, such issuers would either have to go through a regulatory filing and review procedure with the Division prior to each offering, or would have to restrict the initial offering to securities law provisions that would preclude underwriters from reoffering those securities to investors in the primary and secondary markets.

In the absence of the emergency rules, governmental securities issuers would be adversely affected by the costs of making securities filings with their attendant delays. Also, even though Year 2000 issues equivalently affect private corporate issuers of securities, because there is no counterpart to GASB TB 98-1 within the standards promulgated by the Financial Accounting Standards Board applicable to private corporate securities issuers, the additional costs and filing delays would be singularly borne by governmental securities issuers (if the emergency rules were not adopted).

Finally, having a filing requirement under the Wisconsin Securities Law be triggered for Wisconsin and other state and local governmental securities offerings solely because of an auditor's qualification in an audit report on the Year 2000 issue, would result in added regulatory filing and review processes and procedures under the Wisconsin Securities Law that would not provide any "value added" investor protection benefits.

Therefore, in similar fashion to emergency rule-making action taken by the Division in 1994 and 1996 regarding specific accounting issues which occurred at those times, and for the purpose of alleviating the disruption that would occur in the borrowing/bonding plans of Wisconsin and other state and local governmental issuers that regularly claim exemption status under sec. 551.22(1)(a), Wis. Stats., for the offer and sale of their debt securities in Wisconsin, the Division, in consultation with representatives of Wisconsin accounting groups and Wisconsin bond attorneys, is adopting these emergency rules designating an alternative-to-full-GAAP financial statement requirement (when the governmental issuer's financial statements are full-GAAP) where the auditor's opinion is qualified in accordance with GASB TB 98-1 with respect to disclosures concerning Year 2000 issues. As a result of such emergency rules, those Wisconsin and other state and local governmental securities issuers affected by GASB TB 98-1 will be able to continue to rely on the "automatic" registration exemption under 551.22(1)(a), Wis. Stats., for their securities offerings.

[Because this issue which has been triggered by GASB TB 98-1 has a limited "shelf life" such that no permanent rules relating to it will be needed after December 31, 2000, when action is taken by the Division to promulgate identical permanent rules to become effective upon expiration of the emergency rules, the permanent rules will provide for a December 31, 2000 "sunset" date, after which the permanent rules on the issue will no longer be effective.]

*The Year 2000 problem is the result of shortcomings in electronic data-processing systems and equipment that may adversely affect operations in the year 2000 and beyond. The problem stems from the use within electronic systems and equipment of two-digit storage for calendar years. Affected and uncorrected systems and equipment may be unable to distinguish the year 2000 from the year 1900; as a result, such systems may process inaccurately or stop processing altogether.

Publication Date: February 25, 1999
Effective Date: March 1, 1999
Expiration Date: July 29, 1999

EMERGENCY RULES NOW IN EFFECT

Professional Geologists, Hydrologists and Soil Scientists

Rules adopted creating **chs. GHSS 1 to 5**, relating to the registration and regulation of professional geologists, hydrologists and soil scientists.

Exemption From Finding of Emergency

The Examining Board of Geologists, Hydrologists and Soil Scientists finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, safety or welfare. A statement of the facts constituting the emergency is:

Section 64 of 1997 Wis. Act 300 states that the board is not required to make a finding of emergency. However, the board offers the following information relating to the promulgation of these rules as emergency rules. The new regulation of professional geologists, hydrologists and soil scientists was created in 1997 Wis. Act 300. The Act was published on June 30, 1998; however the Act created an effective date for the new regulation as being the first day of the 6th month beginning after the effective date of this subsection.

Publication Date: May 15, 1999
Effective Date: May 15, 1999
Expiration Date: October 12, 1999
Hearing Date: June 23, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Health and Family Services

(Health, Chs. HSS/HFS 110—)

1. Rules adopted amending **ss. HFS 119.07 (6) (b) and 119.15**, relating to the Health Insurance Risk-Sharing Plan.

Exemption From Finding of Emergency

Section 149.143 (4), Stats., as affected by 1997 Wisconsin Act 27, permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats., as affected by Act 27, by using emergency rulemaking procedures except that the Department is specifically exempted from the requirement under s. 227.24(1) and (3), Stats., that it make a finding of emergency. These are the rules. Department staff consulted with the HIRSP Board of Governors on December 11, 1998 on the proposed rules, as required by s. 149.20, Stats.

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. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,123 HIRSP policies in effect on October 31, 1998 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates by just over 10% in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium

rates by rule and the rates must be calculated in accordance with generally accepted actuarial principles.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set Out in s. 149.143 (2)(a)3. and 4., Stats., as affected by Act 27.

Publication Date: December 31, 1998
Effective Date: January 1, 1999
Expiration Date: May 31, 1999
Hearing Date: March 11, 1999
Extension Through: July 29, 1999

2. Rules adopted creating **ch. HFS 114**, relating to neonatal intensive care unit training grants.

Exemption From Finding of Emergency

The Legislature in s. 9122 (3tz) of 1997 Wisconsin Act 237 directed the Department to promulgate rules required under s. 9122 (3ty) of 1997 Wisconsin Act 237 by using emergency rulemaking procedures but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency. These are the rules.

Analysis Prepared by the Department of Health and Family Services

Section 9122 (3ty) (b) of 1997 Wisconsin Act 237 directs the Department to distribute up to \$170,000 each year in state fiscal years 1999 and 2000 to provide up to 10 grants to public or private hospitals to pay for specialized training and on-site consultation and support of medical personnel of neonatal intensive care units in the principles and practice of developmentally supportive and family-centered care for high-risk infants and their families. Section 9122 (3ty) (c) of Act 237 directs the Department to promulgate rules that establish criteria and procedures for awarding grants. The rules are to define "specialized training and on-site consultation and support," which must include a minimum of 40 hours of formal training and 160 hours of practice work.

This order creates ch. HFS 114 relating to distribution of grants to applicant public or private hospitals' neonatal intensive care units to pay for training of staff in the principles and practice of developmentally supportive and family-centered care. The rules include a process by which hospitals may apply for training funds, requirements relating to the training and requirements relating to training center record-keeping and reporting.

Publication Date: January 21, 1999
Effective Date: January 21, 1999
Expiration Date: June 20, 1999
Hearing Date: April 7, 1999
Extension Through: July 31, 1999

EMERGENCY RULES NOW IN EFFECT

Insurance

- Rules adopted amending **ss. Ins 17.01 (3) (intro.) and 17.28 (6a)** repealing and recreating **s. Ins 17.28 (6)**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1999.

Finding of Emergency

The commissioner of insurance (commissioner) finds that an emergency exists and that promulgation of this emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The facts constituting the emergency are as follows:

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule No.

99-70, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1999.

The commissioner expects that the permanent rule will be filled with the secretary of state in time to take effect September 1, 1999. Because the fund fee provisions of this rule first apply on July 1, 1999, it is necessary to promulgate the fee portion of the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 17, 1999.

Publication Date: June 4, 1999
Effective Date: July 1, 1999
Expiration Date: November 28, 1999

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted creating **s. NR 20.33 (5)**, relating to special closure of the sturgeon spearing season if harvest reaches or exceeds 80% of the total allowable harvest.

Finding of Emergency

The department of natural resources finds that an emergency exists and rule is necessary for the immediate preservation of the public health, safety or welfare. The facts constituting this emergency are:

Winter water clarity in Lake Winnebago has been improving steadily over the last decade at a rate faster than anticipated, which has substantially increased the potential for overharvest of sturgeon by spearers. Even with the new harvest restrictions passed in 1996, exceptionally clear water during the 1998 spearing season resulted in a total harvest of 2,051 fish, which was in excess of our total allowable harvest goals. An emergency order is needed to prevent overharvest of sturgeon during the 1999 season while permanent rules are being developed for implementation in the year 2000.

Publication Date: February 5, 1999
Effective Date: February 5, 1999
Expiration Date: July 5, 1999
Hearing Date: March 16, 1999

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted creating **ch. NR 303**, relating to department determinations of navigability for farm drainage ditches.

Exemption From Finding of Emergency

The Department was directed by the JCRAR under s. 227.26 (2) (b), Stats., to promulgate emergency rules regarding navigability

Analysis prepared by the Department of Natural Resources

Statutory authority: s. 227.26 (2)(b)
 Statute interpreted: s. 30.10 (4)(c)

This order codifies present department program guidance for staff making navigability determinations for farm drainage ditches, identifying various methods and information to be relied on when making such determinations.

Publication Date: May 1, 1999
Effective Date: May 1, 1999
Expiration Date: September 28, 1999
Hearing Dates: June 16 and 17, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Public Service Commission

1. Rules adopted revising **ch. PSC 4**, relating to small generating plants.

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin ratepayers by ensuring a reliable energy supply in 2000 and beyond, the Commission's review process of proposed new generating plants that are less than 100 MW in size must be amended. A revision is needed so the review process for such projects can be completed in time to allow construction of necessary projects, if approved, by June 1, 2000. Permanent rules cannot be adopted in time to affect the Commission's review period. An emergency rule is necessary to change the Commission's review process immediately.

Publication Date: January 19, 1999
Effective Date: January 19, 1999
Expiration Date: June 18, 1999
Hearing Date: February 22, 1999
Extension Through: August 16, 1999

2. Rules adopted creating **ch. PSC 186**, relating to standards for water and sewer service in mobile home parks.

Exemption From Finding of Emergency

These rules are now being adopted as emergency rules effective May 1, 1999, as directed by section 22(2) of 1997 Wis. Act 229.

Publication Date: May 1, 1999
Effective Date: May 1, 1999
Expiration Date: September 28, 1999

EMERGENCY RULES NOW IN EFFECT

Revenue

A rule was adopted creating **s. Tax 11.20**, relating to the sales and use tax treatment of machinery and equipment used in waste reduction and recycling activities.

Exemption From Finding of Emergency

On February 25, 1999, the Joint Committee for Review of Administrative Rules, pursuant to s. 227.26, (2) (b), Stats., directed the Department of Revenue to use the emergency rule making process to promulgate as an emergency rule, within 30 days, its policies interpreting s. 77.54 (26m), Stats.

Analysis by the Department of Revenue

Statutory authority: ss. 227.11 (2) (a) & 227.26 (2) (b)
 Statute interpreted: s. 77.54 (26m)

Section Tax 11.20 is created to address the sales and use tax exemptions for waste reduction and recycling activities.

Publication Date: March 27, 1999
Effective Date: March 27, 1999
Expiration Date: August 24, 1999

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Economic Support, Chs. DWD 11-59)

Rules adopted renumbering **ch. HFS 55** and revising **DWD 55**, relating to criminal background checks in daycare.

Finding of Emergency

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

preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

This represents the most recent amended version of this emergency rule which was first adopted on October 1, 1998. Beginning on October 1, 1998, recently enacted provisions in ch. 48, Stats., require the completion of background reviews on caregivers and others who come into contact with clients in the programs operated by caregivers. Although most of those provisions are administered by the Department of Health and Family Services, they also include day care programs certified by the Department of Workforce Development. DWD is adopting this emergency rule so that county and tribal social services agencies and human services agencies and human services agencies will be able to implement the new background review requirements in relation to certified day care programs as they become effective.

Publication Date: March 26, 1999
Effective Date: March 26, 1999
Expiration Date: August 23, 1999

STATEMENTS OF SCOPE OF PROPOSED RULES

Controlled Substances Board

Subject:

CSB Code – Relating to classifying as controlled substances under state law certain drugs that have been classified as controlled substances under federal law, including the drugs, remifentanyl, as a schedule II controlled substance, and fenproporex, modafinil, sibutramine and zolpidem as schedule IV controlled substances.

Description of policy issues:

Description of the objective of the rule:

A review of the federal Controlled Substances Act (CSA) indicates that over the past few years at least 5 drugs have been scheduled as controlled substances by the federal Food and Drug Administration (FDA), that have been so scheduled under the Wisconsin Controlled Substances Act in Chapter 961, Wis. Stats. The objective of the rule is to bring the treatment of these drugs into conformity with that at the federal level.

Policy analysis:

Drugs that are classified as “controlled substances” under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use. Health care providers are also subject to greater recordkeeping requirements respecting their obtaining, prescribing and dispensing of such drugs. This is due to the fact that certain drugs have a greater likelihood of abuse, addiction and adverse consequences to patient health if utilized inappropriately, than do other drugs. The primary agency involved in investigating and evaluating drugs for their abuse and addictive potential is the FDA. In doing so, it utilizes several factors, including scientific testing and public input in determining whether a drug should be subjected to the higher recordkeeping and penalty provisions for controlled substances, and, if so, into which schedule the medication should be placed.

Statutory authority:

Sections 961.11, 961.16 and 961.19, Stats.

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

15 hours.

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

Subject:

Ch. HFS 83 – Relating to licensing of Community-Based Residential Facilities (CBRF's).

Description of policy issues:

Description of objective(s):

To update the current rules and to clarify requirements, make the rules easier to understand and follow and modify some provisions based on the Department's experience since January 1997 in administering the rules.

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

Community-based residential facilities (CBRF's) provide care for 5 or more adults who need care and services beyond board and room but less than nursing home care. To operate as a CBRF, an entity must be licensed by the Department. The Department issues a license if it finds that the applicant complies with the subch. I of ch. 50, Stats., and ch. HFS 83. The Department continues to enforce the rules through periodic inspections, training and communications and investigation of complaints. Currently, there are more than 1300 CBRF's in Wisconsin caring for over 20,000 persons, mainly persons who are elderly or have a disability.

The Department's original rules for regulation of CBRF's went into effect on October 1, 1978. The rules were fundamentally revised effective January 1, 1997, with much more detail added for guidance of operators and the protection of residents.

Based on the Department's experience in its administration of the revised rules and comments received from staff, CBRF operators and their representatives and resident advocates, the Department will be reviewing ch. HFS 83 with the object of revising it to do the following:

1. Eliminate unnecessary duplication.
2. Group together related rule parts. For example, all requirements relating to admissions are not now shown together.
3. Reduce prescriptiveness. For example, some provisions relating to employee personnel records could be replaced by outcome-oriented provisions.
4. Limit the applicability of some provisions. For example, since correctional CBRF's and CBRF's certified to provide alcohol and other drug abuse (AODA) treatment are regulated also under other standards, perhaps they could be exempt from at least some of the program requirements in ch. HFS 83.
5. Update procedures and other requirements, as necessary. For example, the recommended procedures of the Centers for Disease Control and Prevention to protect staff and residents against blood-borne pathogens have been revised, and so the revised procedures should be substituted in the rules for the former recommended procedures.
6. Improve overall readability.

While proposed changes to the rules may not result in major policy changes or add to the department or licensee costs, current and prospective operators are expected to benefit greatly from the changes because the Department intends to make the rules much easier to understand and follow.

Statutory authority:

Section 50.02 (2), Stats.

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

It should take about a year and 200 hours of staff time to develop the proposed revised rules. Department staff who will be involved will be mainly Bureau of Quality Assurance certification and licensing staff, their supervisors and attorneys from the Department's Office of Legal Counsel. The one year timeframe will permit the CBRF Forum to participate in this development work as an advisory body by reviewing and commenting on the current rules. The CBRF Forum meets every 2 months, bringing together industry association representatives, individual CBRF operators, technical college representatives, resident advocates, county agency representatives and Department staff.

Public Instruction

Subject:

S. PI 11.24 (9) (c) – Relating to deleting the requirement for a medical referral from a licensed physician when a child receives occupational therapy to benefit from special education.

Description of policy issues:

Rationale for proposed rule development:

Section PI 11.24 (9) (c) requires school occupational therapists to obtain a medical referral from a licensed physician before evaluating a child. This rule is based on ch. Med 19, which regulates the practice of occupational therapy in the state. A recent interpretation of ch. Med 19 by the Medical Examining Board to the Occupational Therapy Examining Council concluded that s. Med 19.08 does not apply to school occupational therapists. The proposed rule development is to bring s. PI 11.24 (9) (c) into conformity with ch. Med 19.

Description of the objective(s) of the proposed rule:

The objective of the proposed rule is to delete the requirement for a medical referral from a licensed physician when a child receives occupational therapy to benefit from special education.

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

None.

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

Local education agencies and school occupational therapists may discontinue the practice of obtaining a medical referral from a licensed physician for school occupational therapy.

Describe policy alternatives:

Maintain current rule language.

Statutory authority:

Section 227.11 (2) (a), Stats.

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

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

Revenue

Subject:

SS. Tax 14.01, 14.02, 14.03, 14.04, 14.05 and 14.06 – Relating to: homestead credit administrative provisions; qualification for credit; household income and income; property taxes accrued; gross rent and rent constituting property taxes accrued; and marriage, separation or divorce during a claim year.

Description of policy issues:

Description of the objective of the rule:

The objectives of the proposed rule are to:

- Conform style, format, language and punctuation to Legislative Council Rules Clearinghouse standards.
- Update language, terminology.
- Update procedures relating to filing claims, adjusting claims, charging interest, preparing rent certificates and verifying rent when a rent certificate cannot be obtained.
- Reflect proper filing deadlines.
- Remove obsolete procedures, language and notes.
- Move nonsubstantive material from the text of a rule to a note and move substantive material in an example to the text of a rule.

- Clarify various provisions relating to deceased persons, items includable in or excludable from income, ownership of a homestead by a spouse, allowable property taxes for a co-owned homestead, property tax payment for a homestead the claimant does not own, joint occupancy of a rental unit, medical assistance recipients, separate payments to a landlord and indirect rent payments.

- Pursuant to law changes, update provisions relating to gain from the sale of a personal residence, scholarship income, county relief, Wisconsin works payments and the 1/12th reduction of property taxes or rent when public assistance is received.

- Add additional items of includable income and exclusions from income, to reflect current Department policy.

- Replace quoted statutory language with references to the statutes or explanatory language.

- Include additional statutory references relating to rent paid for tax-exempt housing and food or services provided by a landlord.

Policy analysis:

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect law changes. If the rules are not changed, they will be incorrect in that they will not reflect current law or current Department policy or procedures, they will be incomplete, and they will not conform to Legislative Council Rules Clearinghouse standards.

Statutory authority:

Section 71.80 (1) (c), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 200 hours to develop this rule order.

Transportation

Subject:

Ch. Trans 276 – Relating to establishing a network of highways on which long combination vehicles may operate, by adding three highway segments to the network.

Description of policy issues:

Description of the objective of the rule:

This proposal will amend ch. Trans 276, which establishes a network of highways on which long combination vehicles may operate, by adding three highway segments to the network. The actual segments being proposed are State Trunk Highway 89 from STH 26 in Fort Atkinson to IH-94 in Lake Mills, USH 18 from USH 12 in Cambridge to STH 89 west of Jefferson and STH 59 from STH 26 in Milton to USH 12 in Whitewater.

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:

Federal law requires the Department of Transportation to react within 90 days to requests for changes to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to deal with changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. The Department has received a request from Mike Kowalski Trucking, Inc., of Whitewater to add three highway segments.

Statutory authority for the rule:

Section 348.07 (4), Stats.

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

It is estimated that state employees will spend 40 hours on the rule-making process, including research, drafting and conducting a public hearing.

Veterans Affairs

Subject:

Ch. VA 4 – Relating to the veteran's housing loan program.

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

The Department of Veterans Affairs has the statutory authority to exercise powers as may be necessary for the efficient administration of the veteran's housing loan program under subchapter II of Chapter 45 of the statutes. The proposed rules will enable the Department to operate the program more efficiently, minimize the differences between the program and conventional loan programs, and increase the number of creditworthy veterans to whom loans can be made.

Policy analysis:

It is essential that the Department modernize the veteran's housing loan program. This can be done by modifying underwriting criteria to conform to Freddie Mac and Fannie Mae processes, thereby enabling the veteran and Department to utilize electronic underwriting programs. Additionally, current requirements which have minimal impact upon the creditworthiness of an applicant, such as requiring redundant documentation of income, should be eliminated. In general, the Department will attempt to eliminate or minimize those requirements that have no impact upon creditworthiness but serve as impediments in the processing of loan applications.

Statutory authority for the rule:

Sections 45.35 (3) and 45.73 (1), Stats.

Estimates of the amount of time and other resources necessary to develop the rule:

Approximately 40 staff hours.

Workforce Development**Subject:**

S. DWD 140.16 – Relating to admissibility of evidence; administrative notice.

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

In order to comply with labor standard conditions as required by the federal government to determine an unemployment insurance claimant's eligibility for unemployment benefits, it is necessary to determine if the claimant is available for work and able to work, and it is necessary to compare conditions of similar work. The objective of the rule is to allow in the hearing record the admittance of a computer-generated report on labor market conditions provided by Wisconsin's Condition of Employment Database to meet this requirement, in the place of the testimony of a labor market analyst or a certified expert report completed by a labor market analyst. Currently, there is no statutory basis to allow the admittance of the report into the record.

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:

Currently, s. DWD 140.16 allows for administrative notice of Department records and "generally recognized fact or established technical or scientific fact having reasonable probative value". Section 108.09 (4m), Stats., permits the Department to prescribe "verified or certified reports" by qualified experts by a party or the Department as prima facie evidence as to the matter contained in the report in proceedings under the section which addresses hearings and appeals of unemployment benefit claims. The information contained in the database is currently obtained through direct testimony of labor market analysts or through written responses to questionnaires submitted by the Department.

Statutory authority for the rule:

Sections 227.11 (2), 103.005 (1) and 103.05 (3), Stats.

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

It is expected that 120 hours or less will be spent on the development of the rule.

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.

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board

Rule Submittal Date

On June 28, 1999, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors 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 the repeal of the Professional Geologist Section and all references to professional geology.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for August 4, 1999 at Madison.

Contact Information

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

Employment Relations Commission

Rule Submittal Date

Pursuant to s. 227.14 (4m), Stats., the Wisconsin Employment Relations Commission hereby provides notice that on July 2, 1999, it submitted a proposed administrative rule to the Joint Legislative Council Rules Staff for review.

Analysis

The proposed rule relates to school district professional employee collective bargaining agreements and the calculation of a qualified economic offer.

Agency Procedure for Promulgation

Pursuant to s. 227.16 (2) (b), Stats., a public hearing on this proposed rule is not required.

Contact Information

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

Peter G. Davis
General Counsel
Telephone (608) 266-1381

Public Instruction

Rule Submittal Date

On June 30, 1999, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates ch. PI 17, relating to summer school programs.

Agency Procedure for Promulgation

A public hearing is required and public hearings will be scheduled. The Division for Learning Support: Instructional Services is primarily responsible for promulgation of this rule.

Contact Information

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

Larry Allen, Director
Education Options Team
Telephone (608) 267-2402

Revenue

Rule Submittal Date

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on July 2, 1999, the Wisconsin Department of Revenue submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends s. Tax 11.67, relating to service enterprises.

Agency Procedure for Promulgation

The Department intends to promulgate the proposed rule order without a public hearing, pursuant to s. 227.16 (2) (e), Stats. The Office of the Secretary is primarily responsible for the promulgation of the rule order.

Contact Information

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

Mark Wipperfurth
Income, Sales and Excise Tax Division
Telephone (608) 266-8253

NOTICE SECTION

Notice of Hearing

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board [CR 99-102]

Notice is hereby given that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting ss. 443.01 (7e), 443.02 (3m), 443.037 (intro.), (2) (intro.), (3) and (4), 443.09 (4r), 443.10 (1) (e) and 443.14 (12), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to consider an order to repeal s. A-E 2.03 (2) (f) and ch. A-E 10; to amend s. A-E 1.02 (1) and (3), 1.03 (2) (a), 2.01, 2.02 (1), (2), (4) and (6), 2.03 (1) (a) and (b), 8.02, 8.03 (1), (2) (intro.) and (a), (3) (intro.) and (a) and (5) (d) and (e), 8.04 (intro.), 8.05 (1) (intro.), 8.06 (intro.), 8.07 (intro.), (1) and (2), 8.08 (intro.), 8.09 (intro.), (1) and (2), 8.10 (1) and (3) and 8.11 (3), relating to the repeal of ch. A-E 10, professional geologist registration, and removal of all references to "professional geologists," "professional geology" and "geological."

Hearing Information

August 4, 1999
Wednesday
10:00 a.m.

Room 291
1400 E. Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **August 18, 1999** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

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

Statutes interpreted: ss. 443.01 (7e), 443.02 (3m), 443.037 (intro.), (2) (intro.), (3) and (4), 443.09 (4r), 443.10 (1) (e) and 443.14 (12), Stats.

In this proposed rule-making order the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors repeal and amend rules that relate to the practice of professional geology. 1997 Wis. Act 300 created the Examining Board of Professional Geologists, Hydrologists and Soil Scientists. With the repeal of the provisions of Chapter 443, Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors repeal and amend rules that relate to the practice of professional geology.

In SECTIONS 1, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 the references to "professional geologists," "professional geologist section," "professional geological" and "professional geology" are repealed. The rules relating to professional geologists are now in the

newly-created Examining Board of Professional Geologists, Hydrologists and Soil Scientists.

In SECTION 2, the composition of the rules committee is changed from "6 sections of the board" to "5 sections of the board" because of the removal of the professional geology section. And in SECTION 17, Chapter A-E 10, which relates to professional geologist registration, is repealed in its entirety.

The specific sections repealed are: Section A-E 2.03 (2) (f) and chapter A-E 10. The specific sections amended are: Sections A-E 1.02 (1) and (3), 1.03 (2) (a), 2.01, 2.02 (1), (2), (4) and (6), 2.03 (1) (a) and (b), 8.02, 8.03 (1), (2) (intro.) and (a), (3) (intro.) and (a), (5) (d) and (e), 8.04 (intro.), 8.05 (1) (intro.), 8.06 (intro.), 8.07 (intro.), (1) and (2), 8.08 (intro.), 8.09 (intro.), (1) and (2), 8.10 (1) and (3) and 8.11 (3).

Text of Rule

SECTION 1. A-E 1.02 (1) and (3) are amended to read:

A-E 1.02 (1) "Board" or "joint board" means the examining board of architects, landscape architects, ~~professional geologists,~~ professional engineers, designers and land surveyors.

(3) "Section of the board" means either the architect section, the landscape architect section, ~~the professional geologist section,~~ the professional engineer section, the designer section or the land surveyor section.

SECTION 2. A-E 1.03 (2) (a) is amended to read:

A-E 1.03 (2) (a) *Composition.* The rules committee of the board is comprised of one member from each section and 3 public members. The board chair shall appoint the 3 public members from any of the 6 5 sections of the board.

SECTION 3. A-E 2.01 is amended to read:

A-E 2.01 Purpose. The purpose of rules in this chapter is to specify general requirements and procedures which apply to persons credentialed by any section of the board. Requirements specific to architects, landscape architects, ~~professional—geologists,~~ professional engineers, designers or land surveyors are specified in chs. A-E 3, 4, 5, 6, 7, ~~and~~ 9 40.

SECTION 4. A-E 2.02 (1), (2), (4) and (6) are amended to read:

A-E 2.02 (1) Each architect, landscape architect, ~~professional geologist,~~ professional engineer, designer and land surveyor shall obtain a seal that complies with board specifications for registration seals. The overall diameter may not be less than 1 5/8 inches nor more than 2 inches. Each seal shall include the registrant's name, registration or permit number and city.

(2) The following designs for registration seals have been approved:

(*designs not included*)

(4) Each sheet of plans, drawings, documents, specifications and reports for architectural, landscape architectural, ~~professional geologists,~~ professional engineering, design or land surveying practice shall be signed, sealed and dated by the registrant or permit holder who prepared, or directed and controlled preparation of, the written material, except as specified in sub. (5).

(6) Any addition, deletion or other revision to each sheet of plans, drawings, documents, specifications and reports for architectural, landscape architectural, ~~professional—geological,~~ professional engineering, design or land surveying practice which affects public health and safety or any state or local code requirements may not be made unless signed, sealed and dated by the registrant or permit holder who made or directed and controlled the making of the revision.

SECTION 5. A-E 2.03 (1) (a) and (b) are amended to read:

A-E 2.03 (1) (a) "Firm" means any sole proprietorship, partnership or corporation located in Wisconsin which provides or

offers to provide architectural, landscape architectural, ~~professional geological~~, professional engineering, design or land surveying services to the public.

(b) “Resident” means a currently-registered architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor who spends the majority of his or her working schedule in one firm location and who is in charge of and responsible for the type of services offered or provided from that location.

SECTION 6. A-E 2.03 (2) (f) is repealed.

SECTION 7. A-E 8.02 is amended to read:

A-E 8.02 Intent. The intent of the examining board in adopting this chapter is to establish rules of professional conduct for the professions of architecture, landscape architecture, ~~professional geology~~, professional engineering, designing and land surveying. A violation of any standard specified in this chapter may result in disciplinary action under ss. 443.11 to 443.13, Stats.

SECTION 8. A-E 8.03 (1), (2) (intro.) and (a), (3) (intro.) and (a) and (5) (d) and (e) are amended to read:

A-E 8.03 (1) “Gross negligence in the practice of architecture, landscape architecture, ~~professional geology~~, professional engineering, designing and land surveying” means the performance of professional services by an architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor which does not comply with an acceptable standard of practice that has a significant relationship to the protection of health, safety or public welfare and is performed in a manner indicating that the professional knew or should have known, but acted with indifference to or disregard of, the accepted standard of practice.

(2) “Incompetency in the practice of architecture, landscape architecture, ~~professional geology~~, professional engineering, designing or land surveying” means conduct which demonstrates any of the following:

(a) Lack of ability or fitness to discharge the duty owed by an architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor to a client or employer or to the public.

(3) “Misconduct in the practice of architecture, landscape architecture, ~~professional geology~~, professional engineering, designing or land surveying” means an act performed by an architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor in the course of the profession which jeopardizes the interest of the public, including any of the following:

(5) (d) Mere assumption by an architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor of responsibility for work without having control of the work.

(e) Assuming charge, control or direct supervision of work in which the architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor does not have technical proficiency.

SECTION 9. A-E 8.04 (intro.) is amended to read:

A-E 8.04 Offers to perform services shall be truthful. When offering to perform professional services, an architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor:

SECTION 10. A-E 8.05 (1) (intro.) is amended to read:

A-E 8.05 (1) An architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor:

SECTION 11. A-E 8.06 (intro.) is amended to read:

A-E 8.06 Professional obligations. An architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor:

SECTION 12. A-E 8.07 (intro.), (1) and (2) are amended to read:

A-E 8.07 Unauthorized practice. An architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor:

(1) Shall assist in enforcing laws which prohibit the unlicensed practice of architecture, landscape architecture, ~~professional geology~~, professional engineering, designing and land surveying by reporting violations to the board.

(2) May not delegate professional responsibility to unlicensed persons and may not otherwise aid or abet the unlicensed practice of architecture, landscape architecture, ~~professional geology~~, professional engineering, designing or land surveying.

SECTION 13. A-E 8.08 (intro.) is amended to read:

A-E 8.08 Maintenance of professional standards. An architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor:

SECTION 14. A-E 8.09 (intro.), (1) and (2) are amended to read:

A-E 8.09 Adherence to statutes and rules. An architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor:

(1) Shall comply with the requirements in ch. 443, Stats., rules in this chapter and all other federal, state and local codes which relate to the practice of architecture, landscape architecture, ~~professional geology~~, professional engineering, designing and land surveying.

(2) May not engage in conduct that may adversely affect his or her fitness to practice architecture, landscape architecture, ~~professional geology~~, professional engineering, designing or land surveying.

SECTION 15. A-E 8.10 (1) and (3) are amended to read:

A-E 8.10 (1) No architect, landscape architect, ~~professional geologist~~, professional engineer or designer may sign, seal or stamp any plans, drawings, documents, specifications or reports for architectural, landscape architectural, professional geological, engineering or design practice which are not prepared by the registrant or under his or her personal direction and control.

(3) No architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor shall allow work performed by him or her or under his or her personal direction and control to be signed, sealed or stamped by another except that an architect, landscape architect, ~~professional geologist~~, professional engineer, designer or land surveyor working under the personal direction and control of another registrant may allow that registrant to sign and seal or stamp the work.

SECTION 16. A-E 8.11 (3) is amended to read:

A-E 8.11 (3) Signing or sealing plans, specifications, reports, maps, plats, or charts prepared for the practice of architecture, landscape architecture, ~~professional geology~~, professional engineering, designing or land surveying.

SECTION 17. Chapter A-E 10 is repealed.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

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

Telephone (608) 266-0495

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

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

Agriculture, Trade and Consumer Protection**(CR 98–142):**

Chs. ATCP 77 and HSS 165 – Relating to certification of laboratories engaged in public health testing of milk, water and food.

Agriculture, Trade and Consumer Protection**(CR 99–18):**

Chs. ATCP 10 and 11 – Relating to paratuberculosis (Johne’s disease).

Employment Relations Commission (CR 95–179):

SS. ERC 1.06, 2.02 and 12.02 and chs. ERC 10 and 20 – Relating to fees for complaints, grievance arbitration, mediation, fact–finding, interest arbitration and transcripts.

Health and Family Services (CR 98–71):

Ch. HFS 90 – Relating to early intervention services for children with developmental needs in the age group from birth up to 3.

Revenue (CR 99–35):

S. Tax 1.12 – Relating to electronic funds transfer.

Revenue (CR 99–54):

Ch. Tax 11 – Relating to governmental units; meals, food, food products and beverages; and Wisconsin sales and taxable transportation charges.

Transportation (CR 99–63):

Ch. Trans 2 – Relating to the elderly and disabled transportation capital assistance program.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Agriculture, Trade and Consumer Protection
(CR 98-81):

An order affecting ch. ATCP 48, relating to drainage districts.
Effective 09-01-99.

Commerce (CR 99-10):

An order affecting ss. Comm 10.18 and 10.48, relating to flammable and combustible liquids.
Effective 09-01-99.

Commerce (CR 99-52):

An order affecting ch. Comm 113, relating to the annual allocation of volume cap on tax-exempt private activity bonds.
Effective 09-01-99.

Funeral Directors Examining Board (CR 99-8):

An order affecting s. FD 6.10, relating to the solicitation of prospective purchasers of burial agreements funded with the proceeds of a life insurance policy.
Effective 08-01-99.

State Public Defender (CR 99-74):

An order creating s. PD 1.04 (10), relating to certification criteria.
Effective 09-01-99.

Public Service Commission (CR 98-157):

An order creating ch. PSC 187, relating to sewer main extension cost recovery.
Effective 09-01-99.

Public Service Commission (CR 98-194):

An order creating ch. PSC 183, relating to requirements for joint local water authorities.
Effective 09-01-99.

Regulation and Licensing (CR 99-36):

An order affecting s. RL 12.04 and ch. RL 25, relating to education, pre-license and continuing education programs and courses.
Effective 09-01-99.

Transportation (CR 99-37):

An order amending ch. Trans 212, relating to standards for the inspection of bridges in Wisconsin.
Effective 08-01-99.

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