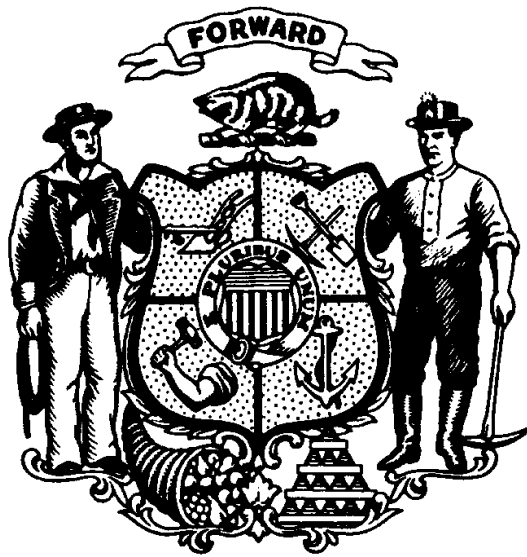


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EMERGENCY RULES NOW IN EFFECT

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 100.45, 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 & 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 Department of Commerce finds that an emergency exists and that adoption of the rule included in this order is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under sections 101.143 and 101.144, Wisconsin Statutes, 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. In administering this fund, the Department has relied upon a Memorandum of Understanding with the Department of Natural Resources for classifying contaminated sites, disbursing funds, and addressing other statements of policy that affect the two Departments.

On September 17, 1998, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26(2)(b), Stats., that directed the Department and the Department of Natural Resources to jointly adopt the above portions of the Memorandum of Understanding and related policy issues as an Emergency Rule. An emergency rule in response to that directive was then adopted by the two Departments and became effective on January 1, 1999. Subsequently, further improvements for jointly administering the PECFA fund were developed that were consistent with the JCRAR directive, and were adopted by the two Departments in an emergency rule which replaced the initial emergency rule. That second emergency rule became effective on February 23, 1999. Now, significant additional changes have again been developed, which are also consistent with the JCRAR directive.

Chapter Comm 46 defines "high priority site," "medium priority site," and "low priority site," and provides that the Department of Natural Resources has authority for high priority sites and that the Department of Commerce has authority for low and medium priority sites. The rule requires transfer of authority for sites with petroleum contamination in the groundwater below the enforcement standard in ch. NR 140 from the Department of Natural Resources to the Department of Commerce. The rule also establishes procedures for transferring sites from one agency to the other when information relevant to the site classification becomes available.

Chapter Comm 46 requires the two agencies to work cooperatively to develop the following:

1. A system of joint decision-making for the selection of remedial bids and the setting of remediation targets for sites which are competitively bid or bundled with another site or sites.

2. An agreed-upon methodology for determining if there is evidence of an expanding plume and the actions to take if the data provided through the site investigation is not adequate.

3. A process for taking into account the impact of error of measurement, repeatability of results and statistical significance, when determining whether a site is above or below the enforcement standard or any other contaminant level or target.

4. A system for electronically tracking the achievement of remediation targets.

5.A reconciled list of sites in remediation.

Publication Dates: June 8 & July 10, 1999
Effective Date: June 8, 1999
Expiration Date: August 28, 1999
Hearing Dates: July 12, 13, 14 & 15, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Commerce

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

1. 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

2. Rules adopted creating **ch. Comm 111**, relating to certified capital companies.

Finding of Emergency

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

Analysis of Rules

Statutory Authority: ss. 560.31, 560.34 (1m) (b), and 227.24

Statutes Interpreted: ss 560.31, 560.34 (1m) (b), and 227.24

On June 17, 1999, the Department of Commerce (Commerce) held a public hearing on proposed rules in response to 1997 Wis. Act 215. That act provides tax credits to persons that make certain investments in certified capital companies that are certified by Commerce. Legislators and persons interested in the rules testified at the hearing and requested that Commerce adopt an emergency rule that would (1) allow persons to apply for certification to become certified as capital companies, (2) allow persons to apply to make a certified capital investment in a certified capital company, and (3) set forth the operational and reporting requirements of certified

capital companies required under the law. Since then, articles in the newspaper as well as business journals have pointed out the lack of venture capital in the state hinders high-tech growth and making that capital available will benefit Wisconsin as it has done in other states. This emergency rule is necessary to begin implementation of the law and to place Wisconsin in a better position to make capital available to draw high-tech industries, create new businesses, and expand existing businesses that will ultimately create new jobs and benefit all its citizens.

Publication Date: July 23, 1999
Effective Date: July 23, 1999
Expiration Date: December, 19, 1999
Hearing Date: August 17, 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

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 & Family Services

(Medical Assistance, Chs. HFS 101–108)

1. Rules were adopted revising **chs. HFS 101 to 103, and 108**, relating to operation of BadgerCare health insurance program.

Finding of Emergency

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

This order creates rules that specify how a new program called BadgerCare, established under s. 49.665, Stats., will work. Under BadgerCare, families with incomes up to 185% of the federal poverty level, but not low enough to be eligible for regular Medical Assistance (MA) coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs. The order incorporates the rules for operation of BadgerCare into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the MA program.

BadgerCare is projected to cover over 40,000 currently uninsured Wisconsin residents, including more than 23,000 children, by the end of 1999.

Benefits under BadgerCare will be identical to the comprehensive package of benefits provided by Medical Assistance. The existing Wisconsin Medicaid HMO managed care system, including mechanisms for assuring the quality of services, improving health outcomes and settling grievances, will be used also for BadgerCare.

Department rules for the operation of BadgerCare must be in effect before BadgerCare may begin. The program statute, s. 49.665, Stats., was effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement BadgerCare not later than July 1, 1998, or the effective date of the waiver, whichever date was later. The federal waiver letter approving BadgerCare was received on January 22, 1999. It specified that BadgerCare was not to be implemented prior to July 1, 1999. Once the letter was received, the Department began developing the rules. They are now ready. The Department is publishing the rules by emergency order so that they will go into effect on July 1, 1999, rather than at least 9 months later, which is about how long the process of making permanent rules takes, and thereby provide already authorized health care coverage as quickly as possible to families currently not covered by health insurance and unable to pay for needed health care.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate BadgerCare and in the process provide more specificity than s. 49.665, Stats., about the nonfinancial and financial conditions of eligibility for BadgerCare; state who is included in a BadgerCare group and whose income is taken into consideration when determining the eligibility of a BadgerCare group; expand on statutory conditions for continuing to be eligible for BadgerCare; exempt a BadgerCare group with monthly income at or below 150% of the federal poverty level from being obliged to contribute toward the cost of the health care coverage; and set forth how the Department, as an alternative to providing Medical Assistance coverage, will go about purchasing family coverage offered by the employer of a member of a family eligible for BadgerCare if the Department determines that

purchasing that coverage would not cost more than providing Medical Assistance coverage.

Publication Date: July 1, 1999
Effective Date: July 1, 1999
Expiration Date: November 28, 1999
Hearing Dates: August 26, 27, 30 & 31, 1999

2. Rule adopted amending **s. HFS 105.39 (4) (b) 3.**, relating to certification of specialized medical vehicle providers.

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's rules for certification of specialized motor vehicle (SMV) providers under the Medical Assistance (MA) program include requirements for SMV drivers. Among current requirements is that each driver must receive training in first aid and cardiopulmonary resuscitation (CPR) before driving a vehicle or serving as an attendant and must receive refresher training in first aid every 2 years and refresher training in CPR annually. The specific requirements for refresher training date from December 1, 1994. When revising its rules for SMV providers earlier in 1994 the Department proposed to require refresher training every 2 years for both first aid and CPR, but at the public hearings on the proposed rules 5 SMV providers said the CPR refresher training should take place annually and the Department agreed and made that its requirement.

Although the American Red Cross CPR training and certification that the person is trained continue to be annual, the equivalent American Heart Association CPR training and certification (the American Heart Association prefers "recognition" to "certification") is now every 2 years. This means that to comply with the Department's current MA rule for SMV drivers, s. HFS 105.39 (4) (b) 3., drivers who receive their training from the American Heart Association must repeat the training each year. That is unnecessary for maintenance of American Heart Association certification (recognition) and the time and expense involved is a burden on SMV providers and drivers. The Department is modifying the rule through this order to simply require that drivers maintain CPR certification.

The Department through this order is also changing the requirement for refresher training in first aid from every 2 years to at least every 3 years. That is because the American Red Cross certification in first aid is now for 3 years. A requirement for more frequent refresher training in first aid is a burden in time and expense involved for SMV providers and drivers.

Publication Date: July 3, 1999
Effective Date: July 3, 1999
Expiration Date: November 30, 1999
Hearing Date: September 1, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Health and Family Services

(Health, Chs. HSS/HFS 110—)

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

Exemption From Finding of Emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats. 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 April 30, 1999 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 7,291 HIRSP policies in effect on March 31, 1999 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 in accordance with the authority and requirements set out in s. 149.143 (2) (a) 2., Stats. The Department is required to set premium rates by rule. These rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

There are separate sets of tables in ch. HFS 119 that show unsubsidized and subsidized Plan 2 premium rates. Both sets of tables are amended by this order to increase the premium rates because Plan 2 costs, which historically have been running about 50% less than Plan 1 costs, began to increase several years ago and now are running at about 67% of Plan 1 costs. The Plan 2 premium rates need to be increased to cover increased costs of treatment for individuals enrolled under Plan 2. The order increases these premium rates by about 18%.

In January 1999, the Department published an emergency rule order to increase HIRSP unsubsidized Plan 2 premium rates by about 10%, with the intention of increasing those rates again in July 1999 to the level provided for in this order. However, in May 1999 the Legislature's Joint Committee for the Review of Administrative Rules (JCRAR) refused to extend the effective period of that part of the January 1999 emergency rule order relating to premium rate increases, with the result that effective May 31, 1999, the rates reverted back to the rates in effect before January 1, 1999. Consequently, to increase rates effective July 1, 1999, the Department through this rulemaking order has based the increased rates on the rates in effect prior to January 1, 1999.

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. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1998. The Board of Governors approved a reconciliation methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula. By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 1999.

The result of this reconciliation process for calendar year 1998 indicated that insurance assessments collected were greater than the 20% of costs (net of the GPR contribution from appropriation s. 20.435(5)(af), Stats.), required of insurers. Also, the calendar year 1998 reconciliation process showed that an insufficient amount was collected from health care providers. As a result of this reconciliation, the insurer assessments for the time periods July 1, 1999 through December 31, 1999 and January 1, 2000 through June 30, 2000, are reduced to offset the overpayment in 1998. The total adjustments to the provider payment rates for the same time periods are sharply increased in order to recoup the provider contribution that was not collected in calendar year 1998. The budget for the plan year ending June 30, 2000 and the calendar year 1998 reconciliation

process were approved by the HIRSP Board of Governors in April 1999.

Publication Date: June 30, 1999
Effective Date: July 1, 1999
Expiration Date: November 28, 1999
Hearing Date: September 9, 1999

- Rules adopted creating s. HSS 122.10, relating to distribution of 3 closed nursing home beds to a nursing home that serves only veterans.

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:

These rules are for the one-time distribution of 3 closed nursing home beds to a nursing home or nursing homes that serve only veterans. Following distribution of the 3 beds, the rules will be allowed to lapse.

Section 150.31, Stats., establishes a statewide bed limit for nursing homes as one means of controlling nursing home costs and Medical Assistance program expenditures. Within that bed limit a facility may close or its bed capacity may be reduced, in which case beds are freed up and may be redistributed by the Department under s. HSS 122.05(1)(c).

The Wisconsin Veterans Home at King has 4 separately licensed nursing home buildings on its grounds, and a total licensed capacity of 718 beds. It is operating at 99.9 percent of capacity with a long waiting list for admission. Managers of the Wisconsin Veterans Home have decided to close their underutilized 3 bed hospital operation at King. The 3 hospital beds are currently located in Stordock Hall. The 3 nursing home beds will replace the hospital beds. Because of the burgeoning population of older veterans, whose active service was during World War II, the Korean War, and the Vietnam War, and the immediate pressure on admissions to the facility, and the desirability of having flexibility when moving residents, Wisconsin Veterans Home managers have asked that the space previously used for hospital beds be converted to nursing home space and that 3 closed nursing home beds be transferred to the Veterans Home. These beds could be put on line immediately and provide some relief to those awaiting admission.

This rulemaking order establishes a process for considering applications for 3 closed nursing home beds to be made available to a nursing home or nursing homes that serve only veterans, that ask for no more than 3 beds and that do not require space to be added to the building in which the beds will be located to accommodate those beds.

Publication Date: August 3, 1999
Effective Date: August 3, 1999
Expiration Date: December 31, 1999

EMERGENCY RULES NOW IN EFFECT

Higher Educational Aids Board

Rules adopted amending s. HEA 11.03 (3) and creating s. HEA 11.03 (5), relating to the Minority Teacher Loan Program.

Finding of Emergency

The 1989 Wis. Act 31 created s. 39.40, Stats., which provides for loans to minority students enrolled in programs of study leading to licensure as a teacher. The Wisconsin Higher Educational Aids Board (HEAB) administers this loan program under s. 39.40 and under ch. HEA 11. Current rules require that a student be enrolled full time and show financial need to be considered for participation

in the Minority Teacher Loan Program. Students who did not enroll full time and did not show financial need were allowed to participate in the program in the past when part of the program was administered by another administrative body. These students are enrolled in teacher education programs that train teachers specifically for the school districts named in the statutes that outline the intent of the Minority Teacher Loan Program. Unless the Board changes its rules, many participating students will lose their eligibility in the program. This will cause a hardship to those students who relied on the interpretation of the prior system administration. Revising the rules would allow students who participated in the program in the past to continue to participate. The proposed revision will not affect expenditures of State funds for the Minority Teacher Loan Program.

Publication Date: August 6, 1999
Effective Date: August 6, 1999
Expiration Date: January 3, 2000

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 filed 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 (2)

Natural Resources

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

1. 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

2. Rules adopted creating **ch. NR 328**, relating to regulation of water ski platforms and water ski jumps.

Analysis by the Department of Natural Resources

Statutory authority: ss. 30.135, 227.11 (2) (a) and 227.24

Statutes interpreted: ss. 30.66, 30.69 and 30.135

Chapter NR 328 describes the conditions where a water ski jump or platform will require a permit. It explains what constitutes a substantive written objection to a water ski jump or platform and provides a list of reasons that support a substantive written objection. It specifies the contents of a public notice and the process for making a substantive written objection. It details how the department will respond to complaints about an existing water ski jump or platform.

These rules were promulgated as emergency rules at the direction of the joint committee for review of administrative rules.

Publication Date: July 9, 1999

Effective Date: July 9, 1999*

Expiration Date: December 6, 1999

*Rule suspended by Joint Committee for Review of Administrative Rules on July 5, 1999.

STATEMENTS OF SCOPE OF PROPOSED RULES

Corrections, Dept. of

Subject:

Ch. DOC 328 – Relating to adult field supervision, to conform the Wisconsin Administrative Code to 1997 Wis. Act 275 relating to lifetime supervision of certain sex offenders.

Description of policy issues:

Statement of the objective of the proposed rule:

Department of Corrections administrative rules relating to adult field supervision do not conform to the requirements under 1997 Wisconsin Act 275, relating to lifetime supervision, which became effective June 26, 1998. The Department proposes to amend the rule to conform to 1997 Wisconsin Act 275. The Department also proposes to amend certain sections relating to offender property which is temporarily held by the Division of Community Corrections.

Statement of the existing relevant policies and new policies proposed and analysis of policy alternatives:

That portion of ch. DOC 328 which the Department of Corrections proposes to amend relates to lifetime supervision for persons who commit certain sex offenses, restrictions on the placement of persons released on parole for certain serious sex offenses and of sexually violent persons who are granted supervised release. Through this administrative rule, the Department of Corrections will enact procedures for providing supervision, services, and programs for clients under control in order to assure public safety, promote social reintegration, and reduce repetition of crime. The Department plans to review and revise these rules to conform to the statutory directives in 1997 Wisconsin Act 275.

In addition, the Department of Corrections, Division of Community Corrections is currently bearing the responsibility for storing offender personal property which county jails refuse to take when an offender is taken into custody. The Department of Corrections plans to review and revise the rules relating to the Department's responsibility and procedure for handling such property.

Statutory authority for the rule:

Sections 227.11, 301.03 (3b) and 973.10, Stats.

Staff time and administrative costs to develop the rule:

It is anticipated 100 hours of staff time may be necessary to develop the permanent administrative rule.

Elections Board

Subject:

SS. ElBd 7.01 to 7.03 – Relating to applying for approval of electronic voting systems and equipment and to testing and continuing approval of electronic voting systems and equipment.

Description of policy issues:

Description of objective(s):

- To create an Elections Board rule establishing a procedure for approval of electronic voting systems under s. 5.91, Stats.; to codify the method used to test electronic equipment for compliance with s. 5.91, Stats.; and to establish a procedure for revocation of approval of electronic voting equipment if it ceases to comply with s. 5.91, Stats., or with this chapter.

- To create ss. ElBd 7.01 to 7.03.

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

Under s. 5.91, Stats., the Elections Board is required to approve voting equipment before it may be used in Wisconsin elections. The Board has determined that the procedure for approval of voting equipment should be codified in a rule. The Board will now require an application for approval and that application must be accompanied by allied documentation. The voting equipment will have to follow a prescribed testing procedure demonstrating that the equipment complies with the criteria of s. 5.91, Stats. The rule also provides that approval may be revoked if the equipment ceases to meet the criteria of s. 5.91, Stats., or to meet other requirements set forth in the rule.

Statutory authority:

Sections 5.05 (1) (f), 5.93 and 227.11 (2) (a), Stats.

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

5 hours of staff time.

Medical Examining Board

Subject:

S. Med 10.02 (2) (zb) – Relating to prescribing or dispensing Schedule II amphetamines or Schedule II anorectics.

Description of policy issues:

Description of objective of rule:

Clarify the conflict between prohibiting the prescribing or dispensing of Schedule II amphetamines except for certain specified purposes, and permitting the prescribing or dispensing of Schedule II anorectics for weight control if certain conditions are met.

Policy analysis:

It appears that it is necessary to do no more than eliminate the reference to Schedule II anorectics in s. Med 10.02 (2) (zb) in order to clarify the situation, because there is no Schedule II anorectic that is not an amphetamine or sympathomimetic amine. Stimulants currently listed in ch. 961, Stats., as Schedule II substances include amphetamine, methamphetamine, pentobarbital and methylphenidate. Amphetamine and methamphetamine are amphetamines, and pentobarbital is a sympathomimetic amine. Accordingly, methamphetamine (Ritalin®) is the only Schedule II stimulant which is not also an amphetamine or sympathomimetic amine, and methylphenidate is not classified as an anorectic. As to the question whether anorectic stimulant drugs currently listed in Schedule III or IV may be elevated to Schedule II, there are not any sympathomimetic amines so as to fall within the requirements of the amphetamine rule if raised to Schedule II.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 448.40 (1), 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:

50 hours.

Natural Resources

Subject:

NR Code – Relating to the development of recommendations for revisions of state weed laws and development of an invasive plant program.

Description of policy issues:

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

Develop recommendations for revisions to Wisconsin's existing weed laws. Revisions will develop a statewide policy stressing education of cooperation between landowners and government agencies. It would change our current requirements from mandating "control" of widespread abundant weeds to a system that prioritizes prevention and mandates controls only for newly-invading plants that are feasible to eradicate and are known to have the potential to be very invasive.

This rule/Board action represents a change from past policy.

Explain the facts that necessitate the proposed change:

DNR would obtain statutory authority to write and implement rules to work on this issue, along with DATCP and UW-EX.

This rule/Board action represents an opportunity for pollution prevention and/or waste minimization. More careful use of herbicide may result from the changes.

Statutory authority:

Sections 66.955 and 66.96, Stats.

Anticipated time commitment:

The anticipated time commitment is unknown at this time.

Psychology Examining Board**Subject:**

S. Psy 2.08 – Relating to limiting the number of times an applicant may sit for the Examination for the Professional Practice of Psychology without receiving further education or training.

Description of policy issues:

Description of objective of rule:

Under s. Psy 2.08, an applicant for licensure as a psychologist or school psychologist may currently sit for the examinations required by the board an indefinite number of times. This has resulted in a few applicants who have been reexamined as many as ten times without receiving a passing score. The objective of this rule is to require that after failing to achieve a passing grade on any examination after four tries, the applicant be required to apply to the board for permission to be reexamined a fourth time, and to demonstrate further education or training as the board may require.

Policy analysis:

When an applicant has taken the national Examination for the Professional Practice of Psychology or the Examination on the Practice of School Psychology on four occasions and failed each time, there arises a presumption that the applicant may not be properly prepared to engage in the independent practice of psychology or school psychology until he or she receives further education or training. This rule would require that as a condition for being reexamined a fourth time, such applicants would be required to receive permission from the board and to demonstrate to the board that they have received further remedial education or training which in the opinion of the board addresses those areas in which the applicant has shown weakness. The Medical Examining Board has had a similar rule in place since 1976 and has found it to be an effective tool in assisting applicants to effectively address those areas of weakness which have caused repeated examination failures.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 455.08, 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:

50 hours.

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.

Commerce

Rule Submittal Date

On August 4, 1999, the Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The subject matter of the proposed rule affecting chs. Comm 82 and 84 relates to the Wisconsin Uniform Plumbing Code.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 6, 1999 at 10:30 a.m. in Conference Room 3C, WHEDA, 201 West Washington Ave., Madison.

Contact Information

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

Jean M. MacCubbin
Department of Commerce
Telephone (608) 266-0955

Commerce

Rule Submittal Date

On August 4, 1999, the Department of Commerce submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The subject matter of the proposed rule affecting ch. Comm 90 relates to the design and construction of public swimming pools.

Agency Procedure for Promulgation

A public hearing is required and will be held on October 6, 1999 at 1:00 p.m. in Conference Room 3C, WHEDA, 201 West Washington Ave., Madison.

Contact Information

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

Jean M. MacCubbin
Department of Commerce
Telephone (608) 266-0955

NOTICE SECTION

Notice of Hearing *Agriculture, Trade and Consumer Protection*

[CR 99-117]

► (Reprinted from Mid–August, 1999 Wis. Adm. Register,
page 21)

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed amendments to ch. ATPC 30, Wis. Adm. Code, relating to the use of atrazine pesticides.

Hearing Information

The hearings will be held at the times and places shown below.

August 31, 1999 Tuesday 1:00–4:00 p.m. 6:30–8:00 p.m.	La Petite Room Best Western 1616 Crestview Dr. HUDSON, WI
September 1, 1999 Wednesday 1:00–4:00 p.m. 6:30–8:00 p.m.	Main Meeting Room Comfort Suites 300 Division North St. STEVENS POINT, WI
September 2, 1999 Thursday 1:00–4:00 p.m. 6:30–8:00 p.m.	Room Timber Wolf A Black Wolf Lodge 1400 Black Wolf Dr. WISCONSIN DELLS, WI

Copies of Rule

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.

Written Comments

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 September 17, 1999 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 **August 20, 1999** 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.

Written comments will be accepted until September 17, 1999.

Analysis Prepared by the Dept. of Agriculture, Trade & 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. ATPC 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.

This rule also corrects an outdated statutory reference in the department's current **aldicarb** (not atrazine) rules. Currently, under s. ATPC 30.24(5)(b), Wis. Adm. Code, the Department may grant an exemption from an aldicarb use prohibition if certain conditions are met. The current rule identifies those conditions by reference to a statute which has since been repealed. This rule eliminates the outdated statutory reference, and identifies the conditions in the rule itself. This rule does not change the substance of the current aldicarb rule.

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 101 designated areas, including major prohibition areas in the lower Wisconsin river valley and much of Dane and Columbia counties.

This rule repeals and recreates 1 current prohibition area to expand the area, and creates 2 new prohibition areas, resulting in a new total of 103 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. ATPC 29.151(2) to (4), Wis. Adm. Code.

Fiscal Estimate

See page 21 of the Mid–August, 1999 Wis. Adm. Register.

Initial Regulatory Flexibility Analysis

See page 22 of the Mid–August, 1999 Wis. Adm. Register.

Notice to Dept. of Development

The Department has given notice of this proposed rule to the Wisconsin Department of Development, as required by s. 227.114(5), Stats.

Draft Environmental Impact Statement

The Department has prepared a draft environmental impact statement (EIS) for proposed 2000 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 **September 17, 1999**.

Notice of Hearing

Commerce

(Plumbing Code, Chs. Comm 82–87)
[CR 99–123]

Notice is hereby given that pursuant to ss. 227.14 (4m) and 227.17, Stats., the Department of Commerce announces that it will hold a public hearing on proposed rules relating to: Chs. Comm 82 and 84, Wisconsin Uniform Plumbing Code.

Hearing Information

The public hearing will be held as follows:

October 6, 1999	Conference Room 3C
Wednesday	WHEDA
10:30 a.m.	201 West Washington Ave.
	MADISON, WI

This hearing is held in accessible facilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 261–6546 or TTY at (608) 264–8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

Written Comments and Contact Information

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **October 16, 1999**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing. Written comments should be submitted to:

Jean M. MacCubbin
Department of Commerce
Safety & Buildings Division
P.O. Box 2689
Madison, WI 53701-2689

Copies of Rule

A copy of the proposed rules may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701-2689; telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Analysis of Proposed Rules

Statutory authority: ss. 101.02 (1), 101.63 (1), 101.73 (1), 101.82 (1) and 145.02 (3)

Statutes interpreted: ss. 145.02 (4), 145.045, 145.13, 145.135, 145.19, 145.20

Under s. 145.02, Stats., the Department of Commerce has the responsibility of safeguarding public health and the waters of the state relative to the construction, installation and maintenance of plumbing. One mechanism of the Department to fulfill this responsibility has been the promulgation of the state uniform plumbing code, chs. Comm 82-87.

This rule revision includes changes to various definitions important to health-related occupancies so as to conform to regulations of the Department of Health and Family Services (DHFS). Other proposed revisions are in response to 1997 Wis. Acts 27, 237 and 768 and updating administrative rules to be more contemporary within the industry by adopting more recent nationally-recognized standards.

Chapter Comm 82, the design, construction, installation, supervision and inspection of plumbing, is proposed to be revised to address conformance in definitions with Department of Health and Family Services for health-related occupancies. Section Comm 82.50 provides for methods to avoid scalding at the point of water usage, as well as providing a maximum water system temperature to reduce and/or eliminate the environment for Legionella bacteria in the supply water system.

The adoption of updated standards would now allow the use of elliptical concrete piping for storm and clear water drain. Also, included are provisions for the Department to create a process to tag and track cross connection control devices for the purposes of maintaining cyclical testing to assure the compliant operation of these devices.

A process for submittal and review of alternate and experimental plumbing systems in s. Comm 82.20 has also been established. This will allow submittals and review of plumbing systems for statewide use on an experimental basis, similar to approvals for plumbing and building products and materials.

Section Comm 82.33 has been repealed and recreated to clarify the allowable options for swimming pool and whirlpool discharge.

Chapter Comm 84, plumbing products, is proposed to be revised to reflect the adoption of more recent nationally-recognized standards for various plumbing products—fixtures and faucets, and piping materials, joints and fittings.

The proposed rule revisions were developed with the assistance of the Plumbing Advisory Code Council. The Plumbing Advisory Code Council consists of the following individuals: Thomas Boehnen, American Society of Plumbing Engineers; Rudy Petrowitsch, American Society of Sanitary Engineers; Gary Hamilton, State AFL-CIO; Gary Kowalke, Wisconsin Association of Plumbing, Heating, and Cooling Contractors, Inc.; Mark Krowski, City of Milwaukee; Jeff Kuhn, Plumbing and Mechanical Contractors of SE Wisconsin; Clint McCullough, Madison Contractors Association; Bob Netzler, League of Wisconsin Municipalities; Dave Viola, Plumbing Manufacturers Institute; Dale Schlieve, WI Society of Professional Designers of Engineering Systems, Inc.; and Gene Shumann, plumbing designers.

Environmental Assessment

Notice is hereby given that the Department has prepared a preliminary Environmental Assessment (EA) on the proposed rules. The preliminary recommendation is a finding of no significant impact. Copies of the preliminary EA are available from the Department on request and will be available at the public hearing. Requests for the EA and comments on the EA should be directed to:

Robert Langstroth
Division of Safety and Buildings
Department of Commerce
P.O. Box 2689
Madison, WI 53701

Telephone (608) 264-8801
or TTY (608) 264-8777

Written comments will be accepted until **October 16, 1999**.

Initial Regulatory Flexibility Analysis

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

By adopting more current nationally-recognized standards for plumbing fixtures and faucets, piping materials, joints and fittings, and allowing the use of performance standards for storm sewer design, the industry will now submit for review and eventually install systems without applying for a petition for variance for approval from the Department. This will not only reduce application fees for the submitter, but also decrease staff time dedicated to reviewing plan submittals now needing a petition.

By providing for a maximum system and point of use temperature, the plumbing installation and operation will have reduced costs that will offset current energy costs.

Businesses and agents who now conduct performance testing of cross connection control devices will now have the ability to tag and track these products more clearly and receive updated information from the state.

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

Cross connection control device testers would be required to file test reports with the local purveyor of water in addition to the current requirement to file such reports with the Department.

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

There are no additional skills necessary to comply with these proposed rule revisions.

Fiscal Estimate

There are no new regulatory schemes contained in these proposed rule revisions that would significantly affect revenues or expenditures.

Notice of Hearing

Commerce

(Public Swimming Pools, Ch. Comm 90)

[CR 99-122]

Notice is hereby given that pursuant to ss. 227.14 (4m) and 227.17, Stats., the Department of Commerce announces that it will hold a public hearing on proposed rules relating to design and construction of Public Swimming Pools.

Hearing Information

The public hearing will be held as follows:

October 6, 1999
Wednesday
1:00 p.m.
Conference Room 3C
WHEDA
201 W. Washington Ave.
MADISON, WI

This hearing is held in accessible facilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

Written Comments

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **October 16, 1999** to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

Copies of Rule

A copy of the proposed rules may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701, telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Analysis

Statutory authority: s. 145.26

Statute interpreted: s. 145.26

This rule revision was created in response to issues brought to the attention of the department by members of the advisory council, the public and inspection and/or licensing staff. This chapter, Comm 90, has had only minor revisions since 1989 when the chapter was moved from the then Department of Health and Social Services to the then Department of Industry, Labor and Human Relations.

The proposed changes to the fee code, chapter Comm 2, clarify current fee schedule and review types which are standard for the plan review service within Commerce. The introduction of alternate and experimental system reviews not only provides a means for the review and approval of creative designs, but also provides the opportunity and the use of new technology on a site-by-site or statewide basis, as now specified in s. Comm 90.04 and ch. Comm 2, respective fees.

Section Comm 90.02 (2) provides standard language for the submittal of a petition for variance.

Sections Comm 90.08, 90.09 and 90.19 recognize that in some cases pools and pool decks are installed on existing sites and that existing structural supports may be present and considered an obstruction. The proposed text allows such 'obstructions' when they do not impact on patron safety and pool operations, such as lifeguard access and visibility. Other revisions relate to clarification of bench and coping widths.

Section Comm 90.10 (1) is revised to reflect the safe distances between gate and fence openings, as per the U.S. Consumer Product Safety Commission, established to prevent head entrapment by young children and limiting their access to an unsupervised pool area.

Section Comm 90.19 clarifies head room for rooms where whirlpools are installed, corner location of whirlpools with respect to providing accessible access, as well as use of waterproof materials around pool walls.

Some minor revisions occur throughout the rule draft which are made to recognize titles of specific chapters contained in the Wisconsin Administrative Code--- Commerce (Comm) and Department of Health and Family Services (HFS); clarification of wavier for plan submittal and fees; and the deletion of metric units.

The proposed rule revisions were developed by the department with advice from the Pool Advisory Code Council. The Council consists of: Dave Baker, pool operators; Bill Branson, plumbing inspectors; Bob Holling, City of Sun Prairie – Parks; Duane Jackson, City of Madison – Environmental Health; Hal Maier, pool contractors; Tim Mirkes, City of Appleton – Health; Chuck Neuman, Water World Park Assoc.; Doug Voegeli, Wisconsin DHFS; and Jack Waterman, Wisconsin Innkeepers Assoc.

Environmental Assessment

Notice is hereby given that the Department has prepared a preliminary Environmental Assessment (EA) on the proposed rules. The preliminary recommendation is a finding of no significant impact. Copies of the preliminary EA are available from the Department on request and will be available at the public hearing. Requests for the EA and comments on the EA should be directed to:

Robert Langstroth
Division of Safety and Buildings
Department of Commerce
P.O. Box 2689
Madison, WI 53701

Telephone (608) 264–8801
or TTY (608) 264–8777

Written comments will be accepted until **October 16, 1999**.

Initial Regulatory Flexibility Analysis

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

The rule revisions better clarify how pools and whirlpools may be installed in existing spaces with respect to obstructions and access. These changes should reduce some remodeling costs associated with indoor installations of pools and whirlpools.

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

No new reporting or bookkeeping procedures are identified to comply with these revisions.

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

No new professional skills are identified to comply with these revisions.

Fiscal Estimate

No substantial changes in revenues or expenses are expected.

The rule revisions provide a clarification when the Department will waive plan submittal and fees for alteration or reconstruction, which should result in a minimal decrease in revenue, but at the same time, a reduction in staffing costs associated with the handling of submittals not requiring Department-level review and approval.

Notice of Hearing

Health and Family Services

(Health, Chs. HFS 110--)

Notice is hereby given that pursuant to ss. 150.03 and 227.24 (1) (a), Stats., the Department of Health and Family Services will hold a public hearing to consider the creation of s. HSS 122.10, emergency rules published on August 3, 1999, relating to special provisions for the one-time distribution of 3 closed nursing home beds to one or more nursing homes serving only veterans.

Hearing Information

September 15, 1999
Wednesday
10:30 a.m. to
12:30 p.m.
Room B-155
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 Department of Health and Family Services

These rules are for the one-time distribution of 3 closed nursing home beds to a nursing home or nursing homes that serve only veterans. Following distribution of the 3 beds, the rules will be allowed to lapse. Section 150.31, Stats., establishes a statewide bed limit for nursing homes as one means of controlling nursing home costs and Medical Assistance program expenditures. Within that bed limit a facility may close or its bed capacity may be reduced, in which case beds are freed up and may be redistributed by the Department under s. HSS 122.05 (1) (c).

The Wisconsin Veterans Home at King has 4 separately licensed nursing home buildings on its grounds, and a total licensed capacity of 718 beds. It is operating at 99.9 percent of capacity with a long waiting list for admission. Managers of the Wisconsin Veterans Home have decided to close their underutilized 3 bed hospital operation at King. The 3 hospital beds are currently located in Stordock Hall. The 3 nursing home beds will replace the hospital beds. Because of the burgeoning population of older veterans, whose active service was during World War II, the Korean War, and the Vietnam War, and the immediate pressure on admissions to the facility, and the desirability of having flexibility when moving residents, Wisconsin Veterans Home managers have asked that the space previously used for hospital beds be converted to nursing home space and that 3 closed nursing home beds be transferred to the Veterans Home. These beds could be put on line immediately and provide some relief to those awaiting admission.

This rule-making order establishes a process for considering applications for 3 closed nursing home beds to be made available to a nursing home or nursing homes that serve only veterans, that ask for no more than 3 beds and that do not require space to be added to the building in which the beds will be located to accommodate those beds.

Contact Information

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

Connie Miller
Resource Allocation Program
Division of Health Care Financing
P.O. Box 309
Madison, WI 53701-0309

Telephone (608) 266-0999 or,
if you are hearing impaired, (608) 266-1511 (TTY)

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

Written Comments

Written comments on the proposed rules received by U.S. mail at the above address no later than **September 17, 1999** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

This rulemaking order adds a new section to the Department's rules for operation of the Resource Allocation Program (RAP) under subch. II of ch. 150, Stats., to permit the one-time distribution, upon application, of 3 closed nursing home beds to a nursing home or nursing homes that serve only veterans.

The new s. HSS 122.10 will not affect the expenditures or revenues of local governments because local governments do not administer RAP and no local government nursing home is directly affected by the new rules.

The Wisconsin Veterans Home at King, a state-operated facility, has 4 nursing homes on its grounds that are at almost 100% capacity and has a long waiting list of elderly veterans wanting to be admitted. Veterans Home managers have decided to close a 3 bed hospital unit at the Home, and would like to add 3 nursing home beds in that space. However, there is a statewide limit on nursing home beds and no process for converting hospital beds to nursing home beds. Within the statewide bed limit the Department under ch. HSS 122 rules may distribute closed nursing home beds. The criteria for distribution are set out in the rules. A special process and some different criteria are needed and are set out in this rulemaking order that will permit the distribution of 3 closed nursing home beds to a home or homes serving only veterans that already have the space for the beds.

The new rules will increase costs to the Medical Assistance (MA) program. If the 3 beds are distributed to the Wisconsin Veterans Home at which the MA part of the composite per diem cost for a bed is \$59.42, the increase in state MA costs would be about \$65,065 a year (\$59.42 x 365 x 3). This cost would be funded \$26,800 GPR and \$38,300 FED. On the other hand, revenues would increase for the Veterans Home by that amount plus the difference after that amount is deducted from the composite per diem cost x 365 x 3.

Notice of Hearings

Natural Resources

*(Environmental Protection--WPDES,
Chs. NR 200--)*

(Environmental Protection--

Water Regulation, Chs. NR 300--)

(Environmental Protection--Air

Pollution Control, Chs. NR 400--)

[CR 99-109]

Notice is hereby given that pursuant to ss. 30.28, 227.11(2), 227.11(1), 285.11(1), 285.61 and 299.05, Stats., interpreting ss. 30.10 to 30.205, 30.21 to 30.27, 227.16, 281.22, 283.33(8), 285.61 and 299.05, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 216, 300, 405, 406, 408 and 411, Wis. Adm. Code, relating to the fee refund or "permit guarantee" program required by s. 299.05, Stats.

Analysis

The proposed rule will require the Department to refund permit application fees if it does not take action on permit applications within specified time limits. Permit fees which will be refunded if the Department does not act on applications within specified times are:

1. Construction site storm water discharge permit application fees submitted under ch. NR 216.
2. Fees submitted for waterway and wetland permit applications under ch. NR 300.
3. Application fees for air pollution construction permits submitted under chs. NR 405, 406, 408 and 411.

Time limits are defined in "business days". The definition of business days is included in chs. NR 216, 300 and 400.

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.

Environmental Assessment

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 documents 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:

September 28, 1999
Tuesday
10:00 a.m.

Room 611A, GEF #2
101 South Webster St.
MADISON, WI

September 29, 1999
Wednesday
11:00 a.m.

Room 149
Marathon Co. Courthouse
500 Forest St.
WAUSAU, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Bob Park at (608) 266-1054 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. Kyle Kreigh, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **September 30, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearings.

Copies of Rule

A copy of the proposed rule AM-30-99 and its fiscal estimate may be obtained from:

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Phone: (608) 266-7718
FAX: (608) 267-0560

Fiscal Estimate

A poll was taken of Fisheries Management and Habitat Protection field staff to determine if they were experiencing problems meeting time limits established for permits and approvals that would be affected by s. 299.05, Stats. Their response was that they rarely experienced difficulty in making a decision on an application within the established time limits, once all required information for a complete application was received. Based on discussions with staff in all three programs, DNR believes the time limits identified in chs. NR 216, 300, 400, 405, 406, 408 and 411 are set at a reasonable length to allow staff sufficient time to make permit decisions within these limits.

Notice of Hearing

Public Instruction
[CR 99-118]

Notice is hereby given that pursuant to s. 227.11 (2) (a), Stats., and interpreting ss. 115.76 (14) and 448.05, Stats., the Department of Public Instruction will hold a public hearing as follows to consider the amending of s. PI 11.24 (9) (c), proposed permanent rules, relating to medical referrals from a licensed physician for school occupational therapy.

Hearing Information

The hearing will be held as follows:

September 13, 1999
Monday
12:00 p.m. to
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 Paul Halverson, at (608) 266-1781 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 Information

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

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **September 17, 1999**, will be given the same consideration as testimony presented at the hearing.

Analysis by the Department of Public Instruction

Chapter 115, Subchapter V, Stats., requires school districts to provide the related service of occupational therapy to children with disabilities who need this service to benefit from special education. The requirement for a medical referral from a licensed physician in s. PI 11.24 (9) (c), Wis. Adm. Code, is based directly on ch. Med 19, Wis. Adm. Code, which regulates all practice of occupational therapy. Section Med 19.08 (2) (a) reads:

(2) REFERRAL. (a) Evaluation and rehabilitative treatment shall be based on a referral from a licensed physician, dentist, psychologist, chiropractor or podiatrist.

On October 26, 1998, the Council to the state Medical Examining Board responded to a request from the Occupational Therapy Examining Council to interpret s. Med 19.08. Based on the legislative history of the provision, the board concluded that the provision is directed exclusively at rehabilitation services, which include evaluation for the purpose of rehabilitative treatment. Since school occupational therapy is not a rehabilitative treatment system, but a system designed to assist a child to benefit from special education, the board concluded that s. Med 19.08 does not require school occupational therapists to obtain a physician's referral.

The proposed rule brings the Department's administrative code (s. PI 11.24 (9) (c)) into conformity with the state Medical Examining Board's administrative code (s. Med 19.08), relating to occupational therapy.

Fiscal Estimate

The proposed rules bring the Department's administrative code into conformity with the state Medical Examining Board's administrative code.

The proposed rules will, in most cases, decrease school administrative costs by no longer requiring that a medical referral be obtained from a child's doctor. For example, school districts currently are required to pay for a physician's evaluation for children having a physician located out-of-state or for children whose parents are unable to pay for a physician's visit. This evaluation is necessary for the sole purpose of obtaining an occupational therapy referral. Under the proposed rules, the referral will no longer be required. Any decrease in costs as a result of this rule is indeterminable.

There is no state fiscal effect as a result of this rule.

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 Proposed Rule

Revenue

[CR 99-101]

Notice is hereby given that pursuant to s. 227.11 (2) (a), Stats., and interpreting ss. 77.51 (17m) and (21m), 77.52 (2) (a) 5. and 5m., (2m) and (3m) and 77.525, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **September 1, 1999**, it is petitioned for a public hearing by 25 natural persons who will be affected by the rule, a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Contact Information

Please contact Mark Wipperfurth at (608) 266-8253, if you have any questions regarding this proposed rule order.

Analysis by the Department of Revenue

Statutory authority: s. 227.11 (2) (a)

Statutes interpreted: ss. 77.51(17m) and (21m), 77.52(2) (a) 5. and 5m., (2m) and (3m) and 77.525

SECTION 1. Tax 11.66(title) is revised, to remove cable television system services and to clarify that the section applies to telecommunications services and telecommunications message services.
SECTIONS 2 TO 5. Tax 11.66(2)(intro.), (a) and (b)(intro.) and 1. to 5. are renumbered Tax 11.66(2)(a)(intro.), 1. and 2.(intro.) and a. to e. and new sub. (2)(intro.), (a)(title) and (b) are created, to clarify the content of sub. (2) and list the types of services discussed in Tax 11.66.

Tax 11.66(2)(a)1. as renumbered is revised and examples are added, to reflect the tax treatment of certain telecommunications services which originate or terminate in Wisconsin, as a result of the amendment to s. 77.52(2)(a)5., Stats., by 1997 Wis. Act 27.

SECTIONS 6 TO 11. Tax 11.66(3)(title) and (intro.) are revised, sub. (3)(d) is repealed, sub. (3)(a), (b), (c) and (e) to (m) are renumbered sub. (3)(a)1., 2., 3. and 4. to 12. and sub. (3)(a)(intro.) is created, to clarify the content of sub. (3) and to remove cable television system services from Tax 11.66 because they are taxed separately from telecommunications services.

Tax 11.66(3)(a)1. as renumbered and the example are revised, to reflect the tax treatment of certain telecommunications services which originate or terminate in Wisconsin, as a result of the amendment to s. 77.52(2)(a)5., Stats., by 1997 Wis. Act 27.

SECTION 12. Tax 11.66(3)(b) is created, to list telecommunications message services as taxable services, as a result of the creation of s. 77.52(2)(a)5m., Stats., by 1997 Wis. Act 27.

SECTIONS 13 AND 14. Tax 11.66(4)(intro.) and (c) are revised, to correct grammar and punctuation in conformity with Legislative Council Rules Clearinghouse standards.

Tax 11.66(4)(a) is revised and sub. (4)(d) is repealed and recreated, and the example at the end of sub. (4)(d) is removed, to reflect the tax treatment of certain telecommunications services which originate or terminate in Wisconsin, as a result of the amendment to s. 77.52(2)(a)5., Stats., by 1997 Wis. Act 27.

SECTIONS 15 TO 17. Tax 11.66(4)(e) is repealed and sub. (4)(f) is renumbered sub. (4)(e), to remove nonmechanical telephone answering services from the listing of nontaxable services, as a result of the creation of s. 77.52(2)(a)5m., Stats., by 1997 Wis. Act 27.

Tax 11.66(5) is renumbered Tax 11.66(7) and new sub. (5) is created, to reflect the tax treatment of prepaid telephone calling cards and authorization numbers, as a result of the amendment to s. 77.52(2)(a)5., Stats., and the creation of s. 77.52(3m), Stats., by 1997 Wis. Act 237.

Tax 11.66(6) is created, to reflect the credit for taxes paid to other states, as a result of the creation of s. 77.525, Stats., by 1997 Wis. Act 27.

Text of Rule

SECTION 1. Tax 11.66(title) is amended to read:

Tax 11.66 Telecommunications and CATV telecommunications message services.

SECTION 2. Tax 11.66(2)(intro.) and (a) are renumbered Tax 11.66(2)(a)(intro.) and 1. and Tax 11.66(2)(a)1. as renumbered is amended to read:

Tax 11.66(2)(a)1. The service originates or terminates in Wisconsin.

Note to Revisor: Add the following examples at the end of Tax 11.66(2)(a)1. as renumbered:

Examples: 1) Mary Jones places a telephone call from her home in Wisconsin to Bill Jones in Illinois. The call originated in Wisconsin since it was placed from a telephone in Wisconsin.

2) Mary Jones receives a collect call at her home in Wisconsin. The call was placed by Bill Jones from a telephone in Illinois. The call terminated in Wisconsin since it was received in Wisconsin.

SECTION 3. Tax 11.66(2)(intro.) and (a)(title) are created to read:

Tax 11.66(2) GENERAL. This subsection describes the conditions under which telecommunications services and telecommunications message services are taxable. The conditions are as follows:

(a) *Telecommunications services.*

SECTION 4. Tax 11.66(2) (b) (intro.) and 1. to 5. are renumbered Tax 11.66(2)(a)2.(intro.) and a. to e.

SECTION 5. Tax 11.66(2)(b) is created to read:

Tax 11.66(2)(b) *Telecommunications message services.* Telecommunications message services that consist of recording telecommunications messages and transmitting them to the purchaser of the service or that purchaser's direction are taxable, except that those services are not taxable if they are merely an incidental element of another service that is sold to the purchaser and is not taxable.

SECTION 6. Tax 11.66(3)(title) and (intro.) are amended to read:

Tax 11.66(3) **TAXABLE TELECOMMUNICATIONS SERVICES.**

Telecommunications services Gross receipts which are subject to Wisconsin sales or use tax include gross receipts from the sale of the following services:

SECTION 7. Tax 11.66(3)(a) is renumbered Tax 11.66(3)(a)1. and amended to read:

Tax 11.66(3)(a)1. Local and toll service and Wide-Area Telecommunications Service, or WATS, including intrastate private line service.

Note to Revisor: Replace the example at the end of sub. (3)(a)1. as renumbered with the following:

Example: Company JKL, headquartered in Milwaukee, has branch offices in Madison, Green Bay, Chicago and Minneapolis. Company JKL contracts with a telecommunications company for private line telecommunications service between its Milwaukee office and each branch office. The charges by the telecommunications company to Company JKL for private line service are subject to Wisconsin sales or use tax. A credit may be allowed, against the Wisconsin sales or use tax, for tax paid to Illinois or Minnesota. See sub. (6).

SECTION 8. Tax 11.66(3) (a) (intro.) is created to read:

Tax 11.66(3) (a) Telecommunications services, including:

SECTION 9. Tax 11.66(3) (b) and (c) are renumbered Tax 11.66(3) (a) 2. and 3.

SECTION 10. Tax 11.66(3)(d) is repealed.

SECTION 11. Tax 11.66(3)(e) to (m) are renumbered Tax 11.66(3)(a)4. to 12.

Note to Revisor: Add the following note at the end of Tax 11.66(3)(a)12. as renumbered:

Note: Refer to sub. (5) regarding the sale of rights to purchase telecommunications services.

SECTION 12. Tax 11.66(3)(b) is created to read:

Tax 11.66(3)(b) Telecommunications message services, including:

1. Nonmechanical telephone answering services.

Examples: 1) A real estate business, whose employees spend considerable periods of time away from its office, contracts with Company A to answer incoming telephone calls during periods when employees are not available to answer the telephone. Employees of Company A receive the calls to the real estate office by telephone, take messages from incoming callers and transmit the messages to the real estate company or particular employees in that company. The service provided by Company A is not an incidental element of another service that is sold to the real estate company and is nontaxable. Company A's charge for this service is subject to Wisconsin sales or use tax.

2) Company B employs an office management service that provides receptionist, typing, filing, scheduling, bookkeeping and similar services. Employees of the office management service also answer and route incoming telephone calls. When calls cannot be routed, the office management service takes and transmits messages to the appropriate person. This answering service is only a small part of the total services provided.

The telephone answering service provided as a part of the office management service is not subject to Wisconsin sales or use tax because it is incidental to the office management service provided and that office management service is not taxable.

2. Burglar alarm and similar security monitoring services.

3. Electronic mail services.

4. Mechanical or electronic voice messaging and telephone answering services.

Example: Company A provides its customers access to an office message system computer through which a customer can deposit or retrieve telephone messages using a touch-tone telephone. The service may be used as a message center, a call forwarding service or an answering service. Messages are stored in the computer, and the customer may send or retrieve messages, reply to a message directly, reroute messages to others, broadcast messages to a wider group, save selected messages and cancel messages no longer needed. The service is available 24 hours a day, and the customer accesses the computer either through a toll-free telephone number or a local telephone number. The service provided by Company A is not an incidental element of another service that is sold to the customer and is nontaxable. Company A's charges for this service are subject to Wisconsin sales or use tax.

SECTION 13. Tax 11.66(4)(intro.), (a) and (c) are amended to read:

Tax 11.66(4) Gross receipts from the sale of or charge for the following services are not taxable:

(a) Interstate or international telecommunications service if the service originates from another state or country or if the service originates in Wisconsin but is charged to a service address in another state or country.

(c) Access services, Measured Toll Service, or MTS, and Wide-Area Telecommunications Service, or WATS, services resellers purchase, repackaging, and resell to customers.

SECTION 14. Tax 11.66(4) (d) is repealed and recreated to read:

Tax 11.66(4) (d) Services that are obtained by means of a toll-free number, that originate outside Wisconsin and terminate in Wisconsin.

Note to Revisor: Remove the example that followed sub. (4) (d) before its repeal.

SECTION 15. Tax 11.66 (4) (e) is repealed.

SECTION 16. Tax 11.66 (4) (f) and (5) are renumbered Tax 11.66 (4) (e) and (7).

SECTION 17. Tax 11.66 (5) and (6) are created to read:

Tax 11.66(5) PREPAID TELEPHONE CALLING CARDS AND AUTHORIZATION NUMBERS. (a) The sale of rights to purchase telecommunications services, including purchasing reauthorization numbers, by paying in advance and by using an access number and authorization code, is subject to Wisconsin sales or use tax.

(b) The situs of the sale of the rights to purchase telecommunications services is as follows:

1. If the sale takes place at a retailer's place of business, the situs of the sale is that place of business.

2. If the sale does not take place at a retailer's place of business and an item that will implement the right to purchase telecommunications services, such as a calling card, is shipped, the situs of the sale is the customer's shipping address.

3. If the sale does not take place at a retailer's place of business and no item that will implement the right to purchase telecommunications services is shipped, the situs of the sale is the customer's billing address.

(6) CREDIT FOR TAX PAID TO ANOTHER STATE. Any person who is subject to the tax under s. 77.52(2)(a)5., Stats., on telecommunications services that terminate in Wisconsin and who has paid a similar tax on the same services to another state may reduce the amount of the tax remitted to Wisconsin by an amount equal to the similar tax properly paid to another state on those services or by the amount due Wisconsin on those services, whichever is less. That person shall refund proportionally to the persons to whom the tax under s. 77.52(2)(a)5., Stats., was passed on an amount equal to the amounts not remitted.

Note to Revisor: 1) Replace the first note at the end of Tax 11.66 with the following:

Note: Section Tax 11.66 interprets ss. 77.51(17m) and (21m), 77.52(2)(a)5. and 5m., (2m) and (3m) and 77.525, Stats.

2) In the 3rd note at the end of Tax 11.66: remove part (b); renumber parts (c) to (h) to be parts (b) to (g); remove the word “and” before part (g) as renumbered; and add the following to the end of the note: (h) Certain telecommunications message services became taxable December 1, 1997, pursuant to 1997 Wis. Act 27; (i) Telecommunications services originating outside Wisconsin, terminating in Wisconsin and charged to a service address in Wisconsin, except certain services obtained by means of a toll-free number, became taxable December 1, 1997, pursuant to 1997 Wis. Act 27; (j) Credit for sales tax properly paid to another state on interstate telecommunications services became effective October 14, 1997, pursuant to 1997 Wis. Act 27; and (k) Sales of rights to purchase telecommunications services became taxable August 1, 1998, pursuant to 1997 Wis. Act 237.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Fiscal Estimate

The proposed order updates the Department of Revenue’s administrative code relating to telecommunications services and telecommunications message services. The changes incorporate recent law changes, clarify existing language to reflect the Department’s current position, and alter style and format to conform to Legislative Council Clearinghouse standards. These rule changes do not have a fiscal effect.

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 99-5](#)):

Chs. ATCP 29 and 40 – Relating to agricultural chemical cleanup surcharge fees.

Agriculture, Trade and Consumer Protection ([CR 99-85](#)):

Ch. ATCP 15 – Relating to humane officer training and certification.

Pharmacy Examining Board ([CR 99-92](#)):

Ch. Phar 16 – Relating to the approval of continuing education courses for pharmacists.

Podiatrists Affiliated Credentialing Board ([CR 99-38](#)):

Chs. Pod 1 to 6 – Relating to the regulation and licensure of podiatrists.

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 98-142):**

An order affecting chs. HSS 165 and ATP 77, relating to certification of laboratories engaged in public health testing of milk, water and food.

Effective 10-01-99.

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

An order affecting chs. ATP 10 and 11, relating to paratuberculosis (John's disease).

Effective 07-01-00.

Health and Family Services (CR 98-71):

An order affecting ch. HFS 90, relating to early intervention services for children with developmental needs in the age group from birth up to 3.

Effective 10-01-99.

Natural Resources (CR 98-41):

An order creating s. NR 25.06 (2) (c) 1., relating to commercial fishing for smelt on Lake Michigan and Green Bay.

Effective 10-01-99.

Natural Resources (CR 98-181):

An order affecting the chs. NR 400-- series, relating to updating and cleanup changes to the chs. NR 400-- series.

Part effective 11-01-99.

Part effective 12-01-99.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **August 31, 1999 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 and Consumer Protection

(CR 98-81):

An order affecting ch. ATCP 48, relating to drainage districts.

Effective 09-01-99.

Agriculture, Trade and Consumer Protection

(CR 98-159):

An order affecting ch. ATCP 139, relating to safety standards for children's bicycle helmets and drawstrings in children's clothing.

Part effective 09-01-99.

Part effective 01-01-00.

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.

Elections Board (CR 99-77):

An order amending s. ElBd 6.05, relating to filing campaign finance reports by electronic transmission.

Effective 09-01-99.

Financial Institutions--Banking (CR 99-58):

An order repealing ch. DFI-Bkg 4, relating to investments in time deposits and certificates of deposits.

Effective 09-01-99.

Financial Institutions--Banking (CR 99-59):

An order repealing ch. DFI-Bkg 6, relating to aggregate investments in bonds and certain other securities.

Effective 09-01-99.

Financial Institutions--Banking (CR 99-60):

An order repealing ch. DFI-Bkg 7, relating to real estate mortgage loans.

Effective 09-01-99.

Financial Institutions--Securities (CR 99-61):

An order creating s. DFI-Sec 2.01 (1) (c) 6. and (d) 6., relating to designating an alternative accounting guideline for the preparation of financial statements for Wisconsin and other state and local governmental issuers of securities utilizing the securities registration exemption in s. 551.22 (1) (a), Stats.

Effective 09-01-99.

Health and Family Services (CR 99-4):

An order affecting ss. HFS 119.07 and 119.15, relating to operation of the Health Insurance Risk-Sharing Plan (HIRSP).

Effective 09-01-99.

Natural Resources (CR 98-179):

An order creating s. NR 10.40 (5), relating to disabled turkey hunts.

Effective 09-01-99.

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 98-156):

An order creating ch. PSC 186, relating to standards for water or sewer service in mobile home parks.

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.

Revenue (CR 99-11):

An order affecting ss. Tax 11.14 and 11.53, relating to sales and use tax exemption certificates and the sales and use tax treatment of temporary events.

Effective 09-01-99.

Revenue (CR 99-26):

An order affecting ss. Tax 11.26, 11.32, 11.41 and 11.83, relating to the sales and use tax treatment of gross receipts and sales price, manufacturing exemption and motor vehicles.

Effective 09-01-99.

Revenue (CR 99-62):

An order affecting s. Tax 11.33 (4) (a) and (g), relating to auction sales of personal farm property or household goods, and exempt purchases for resale by nonprofit organizations.

Effective 09-01-99.

Workforce Development (CR 98-201):

An order creating ch. DWD 14, relating to the administration of an electronic benefit transfer (EBT) system for the delivery of food stamp benefits.

Effective 09-01-99.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

The following administrative rule revisions and corrections have taken place in August, 1999, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

REVISIONS

Agriculture, Trade and Consumer Protection:

Ch. ATCP 48

- S. ATCP 48.01 (5), (6m), (9) to (11), (13), (13m), (13r), (14m), (16), (21) and (26)
- S. ATCP 48.02 (3)
- S. ATCP 48.08 (1) (a), (b), (g) and (h) and (3) to (5)
- S. ATCP 48.14 (1) (e)
- S. ATCP 48.20 (entire section)
- S. ATCP 48.21 (entire section)
- S. ATCP 48.22 (2), (2m), (2r) and (6)
- S. ATCP 48.24 (5)
- S. ATCP 48.26 (3) and (5)
- S. ATCP 48.32 (2)
- S. ATCP 48.33 (entire section)
- S. ATCP 48.34 (entire section)
- S. ATCP 48.36 (entire section)
- S. ATCP 48.38 (entire section)
- S. ATCP 48.43 (entire section)
- S. ATCP 48.44 (entire section)
- S. ATCP 48.45 (entire section)
- S. ATCP 48.46 (1) (b) and (d), (2) and (3)

Ch. ATCP 139

- S. ATCP 139.01 (intro.), (3) and (5)
- S. ATCP 139.05 (3)
- S. ATCP 139.055 (entire section)

Commerce:

(Flammable and Combustible Liquids,
Ch. Comm 10)

Ch. Comm 10

- S. Comm 10.18 (3) (intro.) and (d)
- S. Comm 10.48 (entire section)

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

Ch. Comm 113

- S. Comm 113.01 (entire section)
- S. Comm 113.041 (entire section)
- S. Comm 113.05 (1) (c)
- S. Comm 113.06 (1), (2) and (7) (b)
- S. Comm 113.07 (1) (a) and (3) (c)
- S. Comm 113.08 (entire section)

Elections Board:

Ch. ElBd 6

- S. ElBd 6.05 (entire section)

Financial Institutions--Banking:

Ch. DFI-Bkg 4 (entire chapter)

Ch. DFI-Bkg 6 (entire chapter)

Ch. DFI-Bkg 7 (entire chapter)

Financial Institutions--Securities:

Ch. DFI-Sec 2

- S. DFI-Sec 2.01 (1) (c) and (d)

Health and Family Services

(Health, Chs. HFS 110--)

Ch. HFS 119

- S. HFS 119.07 (6) (b) and (c)
- S. HFS 119.15 (entire section)

Natural Resources:

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

Ch. NR 10

- S. NR 10.40 (5)

Public Defender:

Ch. PD 1

- S. PD 1.04 (10)

Public Service Commission:

Ch. PSC 183 (entire chapter)

Ch. PSC 186 (entire chapter)

Ch. PSC 187 (entire chapter)

Regulation and Licensing:

Ch. RL 12

- S. RL 12.04 (1) (a) and (b)

Ch. RL 25

- S. RL 25.01 (2m), (3), (4), (5m) and (7)
- S. RL 25.02 (1) (intro.) and (a), (2) (intro.), (a) to (g), (h) and (i)
- S. RL 25.025 (1), (2) (intro.), (a), (b) (intro.) and (c)
- S. RL 25.03 (1) and (3)
- S. RL 25.035 (1), (2) (intro.) and (a) to (h)
- S. RL 25.05 (3) and (6)
- S. RL 25.06 (1) (a), (b) and (e)
- S. RL 25.065 (5)
- S. RL 25.066 (1), (4), (6) (b) to (f), (i), (j) and (k)
- S. RL 25.07 (1) and (2) (c)
- S. RL 25.075 (3) and (4)
- S. RL 25.076 (entire section)

Revenue:**Ch. Tax 11**

- S. Tax 11.14 (1) (c), (2) (a), (3) (a) and (b), (5) (b) and (6) to (16)
- S. Tax 11.26 (2) (c), (d) and (h) and (3) (c)
- S. Tax 11.32 (9)
- S. Tax 11.33 (4) (a) and (g)

- S. Tax 11.41 (1) (b) and (3) (b) and (h)
- S. Tax 11.53 (1) to (6)
- S. Tax 11.83 (1) and (8) (b) and (c)

Workforce Development:

(Economic Support, Chs. DWD 11 to 59)
Ch. DWD 14 (entire chapter)

EDITORIAL CORRECTIONS

Corrections to code sections under the authority of s. 13.93 (2m) (b), Stats., are indicated in the following listing:

Commerce:

(Flammable and Combustible Liquids,
Ch. Comm 10)

Ch. Comm 10

- S. Comm 10.66 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Elections Board:**Ch. ElBd 1**

- S. ElBd 1.44 (2) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. ElBd 1.60 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. ElBd 4

- S. ElBd 4.01 (1) and (2) (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Financial Institutions—Securities:**Ch. DFI—Sec 1**

- S. DFI—Sec 1.02 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DFI—Sec 4

- S. DFI—Sec 4.08 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. DFI—Sec 4.085 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DFI—Sec 5

- S. DFI—Sec 5.08 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DFI—Sec 7

- S. DFI—Sec 7.01 (4) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Labor and Industry Review Commission:**Ch. LIRC 4**

- S. LIRC 4.02 (1) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Natural Resources:

(Fish, Game, etc., Chs. NR 1—)

Ch. NR 10

- S. NR 10.106 (2) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 10.23 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Revenue:**Ch. Tax 11**

- S. Tax 11.04 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. Tax 11.11 (2) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. Tax 11.53 (1) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

State Fair Park Board:**Ch. SFP 3**

- S. SFP 3.03 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.

ERRATA

Items reprinted to correct printing errors such as dropped copy (or other errors) are indicated in the following listing:

Health and Family Services

(Management, Policy and Budget, Chs. HFS 1—)

Ch. HFS 13

- S. HFS 13.03 (1) (a) reprinted to correct error.

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

Ch. HSS 80 reprinted to correct note.

Ch. HSS 81 reprinted to correct note.

Natural Resources:

(Fish, Game, etc., Chs. NR 1—)

Ch. NR 10

- S. NR 10.01 (1) (q) reprinted to restore dropped copy.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection

(CR 98–81)

Ch. ATPC 48 – Drainage Districts.

Summary of Final Regulatory Flexibility Analysis:

This rule makes important changes to the department's current rules related to drainage districts.

Scope of the Rule

The rule revisions to Chapter ATPC 48, Wis. Adm. Code, do not present a significant change or impact to small businesses. The revisions mainly codify existing statutory procedures or requirements and accepted practices that are already in use in drainage districts. The revisions also clarify and expand existing rule requirements.

Businesses Affected

The small businesses affected by the rule revisions include farms and agricultural food processors whose lands lie within the boundaries of drainage districts. It is estimated that there are 228 drainage districts located in 31 Wisconsin counties. Currently, 24 counties have drainage boards in place.

Fiscal Impact

Small businesses in drainage districts will experience a minor fiscal impact from the rule revisions as some additional costs will be incurred by drainage districts as a result of the rule revisions. The rule revisions require a higher level of detail on drainage district maps (specifically, cross-sections, grade profile and alignment) that was not specifically required by the current rule. Likewise, the rule revisions require more information in the drainage district compliance plans than the current rule does. The cost for generating this additional information will be borne by landowners within drainage districts, some of whom are small businesses (farms). Under current law, each small business will be assessed a portion of the anticipated cost of providing this additional information.

Landowner Petitions to the County Drainage Board

This procedure will be beneficial to small businesses. The rule establishes a procedure for landowners to file written petitions with the county drainage board asking the board to do any of the following:

- a) To restore, repair, maintain, and – if necessary – modify a district drain in order to conform the drain to the cross-section, grade profile, or alignment formally established for that drain.
- b) To remove an obstruction placed in a district drain in violation of this chapter or ch. 88, Stats.
- c) To correct a violation of this chapter or ch. 88, Stats.

This procedure provides small businesses (farms) with a means to receive adequate drainage for their land which may be crucial to maximum crop production.

Assessing Benefits to Landowners in Drainage Districts

The rule revisions regarding the assessment of benefits will be beneficial to small business (farmers) for the following three reasons:

First, farmland that is in district corridors and not being cropped will not be assessed.

Second, the farmer may be assessed at a lower rate if the county drainage board decides to base their assessment on current use instead of potential use.

Third, the assessment of benefits will be more equitable for all landowners since the county drainage board must also consider the depth of the water table for future assessments.

Recordkeeping

The rule revision will not impose any new recordkeeping requirements on small businesses.

Professional Skills Required to Comply

Small businesses will not need to acquire or retain additional professional skills or services to comply with the rule revisions.

Summary of Comments from Legislative Committees:

On March 30, 1999, this department transmitted the above rule revisions for legislative committee review. On March 31, 1999, the rule revisions were assigned to the Senate Committee on Agriculture, Environmental Resources, and Campaign Finance Reform, and on April 9, 1999, the rule revisions were assigned to the Assembly Committee on Agriculture. The Assembly Committee on Agriculture did not take any action on the rule revisions during its review period. However, the Senate Committee on Agriculture, Environmental Resources, and Campaign Finance Reform held a hearing on the rule revisions on May 12, 1999. No changes were made as a result of the hearing. The Senate Committee on Agriculture, Environmental Resources, and Campaign Finance Reform approved the rule revisions during an executive session on May 19, 1999.

2. Agriculture, Trade & Consumer Protection

(CR 98–159)

Ch. ATPC 139 – Safety standards for children's bicycle helmets and drawstrings in children's clothing.

Summary of Final Regulatory Flexibility Analysis:

Consumer Product Safety

ATPC 139.05, Wis. Adm. Code, currently prohibits from sale in Wisconsin certain types of toys and other articles intended for use by children which present a mechanical hazard and an unreasonable risk of personal injury or illness. The rule lists products such as toys with small components which may be ingested or sharp protrusions which may cause lacerations and finds that the public health and safety can be protected only by keeping these products out of the channels of commerce. The proposed rule will add two items to this list of products, children's bicycle helmets which do not meet the federal safety standards and certain kinds of children's clothing, sizes 0 to 16, with drawstrings.

It is foreseen that the impact of these amendments will have little or no effect on small businesses in regard to the sale of bicycle helmets and children's clothing without drawstrings.

Children's Bicycle Helmets

Under the Children's Bicycle Helmet Safety Act of 1994, the Federal Consumer Product Safety Commission (CPSC) issued a safety standard that requires all bicycle helmets to meet impact-attenuation and other safety requirements. The standard includes requirements specifically applicable to children's helmets and requirements to prevent children's helmets from coming off during an accident.

The federal rule was effective March 10, 1999, and applies to bicycle helmets manufactured after that date. Interim mandatory standards went into effect in 1995, and applied to bicycle helmets manufactured from 1995 until March 10, 1999, inclusive. Firms have the option of marketing and selling helmets meeting the new standard before its effective date.

The federal rule was announced in 1998 to give small businesses adequate time to adjust their inventories and prepare to purchase new products. Since the new standard allows for the continued sale of inventory manufactured prior to March 1999, which meets the 1995 safety standards, there will be no impact on small businesses as they deplete existing inventory. Adopting this federal standard into law in the Wisconsin Administrative Code will incorporate all applicable dates for sale of new and old inventory and harmonize state and federal law.

Drawstrings on Children's Clothing

In 1996, the federal Consumer Product Safety Commission (CPSC) issued guidelines to help prevent children from being strangled by or getting entangled in drawstrings. These guidelines recommend that manufacturers and retailers provide clothing with alternative closures, such as snaps, buttons, velcro and elastic, rather than drawstrings. CPSC also recommended that consumers purchase children's clothing with these alternative closures and remove all drawstrings from children's clothing already in their possession.

The proposed amendment will ban the sale of children's clothing, sized 0 to 16, manufactured after January 1, 2000, that has drawstrings on the neck area and children's outerwear with drawstrings, unless the garment meets the CPSC standards for drawstrings on children's outerwear. Because the majority of manufacturers and retailers have been following the CPSC guidelines voluntarily, these proposed rules should have no significant impact on small business in Wisconsin.

Since 1985, there have been 20 deaths and 43 injuries to children involving drawstrings. Because drawstrings on children's clothing are a hidden hazard that can lead to deaths and injuries, the interest of public safety far outweighs any potential cost to small businesses as a result of the proposed rule.

Based on the information above, the proposed rules are not expected to have a significant adverse impact on small businesses.

Summary of Comments from Legislative Committees:

On May 3, 1999, this department transmitted the above rule for legislative committee review. On May 5, 1999, this rule was assigned to the Senate Committee on Judiciary and Consumer Affairs. On May 11, 1999, the rule was assigned to the Assembly Committee on Consumer Affairs. The committee review period expired on June 11, 1999. No action was taken during the review period by the committees.

3. Commerce (CR 99-10)

Ch. Comm 10 – Flammable and combustible liquids.

Summary of Final Regulatory Flexibility Analysis:

The rule provision contains no required reporting requirements. Rather, the rule sets a process by which the agency takes enforcement actions. The rule simplifies and streamlines the enforcement process by eliminating a number of steps and re-inspections that would otherwise be required. Less stringent enforcement actions are not provided in the rule because it is an implementation of federal EPA requirements, which the agency does not have the authority to modify.

The rule provision was not the subject of extensive comment by the regulated community. The trade and industry associations support the overall enforcement process. To the extent that issues exist, it has been on the overall code element that is being enforced which does impact businesses. The overarching code requirement, however, is set by the EPA and simply incorporated as required into state rules.

Summary of Comments from Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture and Environmental Resources and Campaign Finance Reform. No comments were received.

4. Commerce (CR 99-52)

Ch. Comm 113 – Allocation of volume cap on tax-exempt private activity bonds.

Summary of Final Regulatory Flexibility Analysis:

Section Comm 113.06 requires applications to be submitted with a fee for economic development bonds. The fees are based on a sliding scale and recognize smaller economic bonds from larger ones. No issues were raised by small business at hearings, nor were any comments received during the open comment period.

Summary of Comments from Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Small Business and Economic Development and the Senate Committee on Labor. No comments were received.

5. Elections Board (CR 99-77)

S. ElBd 6.05 – Filing campaign finance reports in electronic format.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

6. Financial Institutions-Banking (CR 99-58)

Ch. DFI-Bkg 4 – Investments in time deposits and certificates of deposits.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will not have an adverse impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

7. Financial Institutions–Banking (CR 99–59)

DFI–Bkg 6 – Aggregate investments in bonds and certain other securities.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will not have an adverse impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

8. Financial Institutions–Banking (CR 99–60)

Ch. DFI–Bkg 7 – Real estate mortgage loans.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will not have an adverse impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

9. Financial Institutions – Securities (CR 99–61)

S. DFI–Sec 2.01 (1) (c)6 & (d)6. – Designating an alternative accounting guideline for the preparation of financial statements for Wisconsin and other state and local governmental issuers of securities utilizing the securities registration exemption in s. 551.22 (1)(a), Stats.

Summary of Final Regulatory Flexibility Analysis:

No final regulatory flexibility analysis is included because the rules relate solely to municipal/governmental securities issuers and do not impact small businesses.

Summary of Comments:

No comments were reported.

10. Health & Family Service (CR 99–4)

SS. HFS 119.07 (6)(b) (intro.) and Medicare Plan tables and 119.15 – Operation of the Health Insurance Risk–Sharing Plan (HIRSP)

Summary of Final Regulatory Flexibility Analysis:

These rules will not affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. Although the program statutes and rules provide for assessment of insurers to help finance HIRSP, no assessed insurer is a small business as defined in s. 227.114 (1) (a), Stats. Moreover, s. 149.143, Stats., prescribes how the amount of total insurer assessments to help finance HIRSP is determined.

Summary of Comments:

No comments were reported.

11. Natural Resources (CR 98–179)

S. NR 10.40(5) – Turkey hunting by the disabled.

Summary of Final Regulatory Flexibility Analysis:

This rule relates to turkey hunting opportunities for the disabled. The rule does not regulate businesses. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees

The proposed rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.

12. Public Defender (CR 99–74)

S. PD 1.04 – Certification criteria.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will not have an adverse impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

13. Public Service Commission (CR 98–156)

Ch. PSC 186 – Standards for water and or sewer service in mobile home parks.

Summary of Final Regulatory Flexibility Analysis:

Chapter PSC 186 has an impact on small business. In an effort to minimize the impact of the rules on small businesses, as defined in s. 227.114 (1) (a), Stats., the Commission has met with and received input from a number of mobile home park owners as well as the Wisconsin Manufactured Housing Association.

Summary of Comments:

No comments were reported.

14. Public Service Commission (CR 98–194)

Ch. PSC 183 – Requirements for joint local water authorities.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules apply only to joint local water authorities, which are defined in the authorizing statute to be municipalities. Because the rules will apply only to joint local water authorities, which are defined as municipalities, there will be no financial burden of these proposed rules on small businesses. The rule will not have “a significant economic impact on a substantial number of small businesses.” as defined in s. 227.19(3m).

Summary of Comments:

No comments were reported.

15. Public Service Commission (CR 98-157)

Ch. PSC 187 – Sewer main extension and cost recovery.

Summary of Final Regulatory Flexibility Analysis:

As indicated in s. 66.076(1) (b), Stats., the purpose of these proposed rules is to compensate subdivision developers who construct sewer systems to which non-subdivision residents connect. These developers appear to be the only small businesses which would be affected by the rules, and the rules benefit rather than place a burden upon them. As such, there will be no financial burden of these proposed rules on small businesses. The rule will not have “a significant economic impact on a substantial number of small businesses.” as defined in s. 227.19 (3m), Stats.

Summary of Comments:

No comments were reported.

16. Regulation & Licensing (CR 99-36)

Chs. RL 12 & 25 – Education, pre-license and continuing education programs and courses.

Summary of Final Regulatory Flexibility Analysis:

These proposed rules will not have an adverse impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

17. Revenue (CR 99-62)

S. Tax 11.33 (4) (a) & (g) – Auction sales of personal farm property or household goods, and exempt purchases for resale by nonprofit organizations.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

18. Revenue (CR 99-26)

Ch. Tax 11 – Sales and use tax treatment of gross receipts and sales price, manufacturing exemption and motor vehicles.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

19. Revenue (CR 99-11)

Ch. Tax 11 – Sales and use tax exemption certificates and the sales and use tax treatment of temporary events.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

20. Workforce Development (CR 98-201)

Ch. DWD 14 – Electronic benefit transfer.

Summary of Final Regulatory Flexibility Analysis:

1. Reason for including or failing to include the following methods for reducing impact of the rule on small businesses: Less stringent compliance or reporting requirements; less stringent schedules or deadlines for compliance or reporting requirements; simplification of compliance or reporting requirements; establishment of performance standards to replace design or operational standards; exemption from any or all requirements.

The rule will affect retail food stores authorized by the USDA Food and Nutrition Service to accept food stamps. DWD will afford all authorized retailers the opportunity to participate in the EBT system. As DWD's agent, the EBT services vendor will arrange for authorized retailers with owned or leased point of sale (POS) terminals to use the equipment for EBT transactions. During the first two years of EBT operations, the department shall pay a fee of \$.08 per food stamp purchase and merchandise return transaction conducted on POS terminals owned or leased by retailers which have signed an agreement with the EBT vendor to use such equipment. The department shall also commission a study to determine actual EBT costs incurred by retailers.

As an alternative, the vendor may supply EBT-only POS equipment to authorized retailers in accordance with federal regulatory requirements. Under a federal waiver, the vendor may not provide a POS terminal to retailers with less than \$100 per month in food stamp redemption activity. Retailers who do not have a POS terminal will use a manual voucher system. Also, non-traditional retailers such as route vendors and farmer's markets without access to telephone lines may use the manual voucher system.

2. Issues raised by small businesses during hearings, changes in proposed rules as a result of comments by small businesses and reasons for rejecting any alternatives suggested by small businesses.

The issues raised by the Wisconsin Grocers Association and the responses of DWD are contained in the written summary of public hearing comments and agency response, included with this filing.

3. Nature and estimated cost of preparation of any reports by small businesses.

See #4 below.

4. Nature and estimated cost of other measures and investments required of small businesses.

(1) A manual voucher system is required if the retailer does not have a POS device or if the POS device is not useable. The manual voucher must be submitted for payment within a specified amount of time. (2) An agreement for EBT services between the retailer and the EBT vendor is required. (3) Employee training which includes technical training on the specific EBT equipment in the retailer's store, manual procedures, reversals, adjustments, corrections, and accessing the retailer customer service helpline. (4) Reconciliation of transaction data.

5. Additional cost to agency of administering or enforcing a rule which includes any of the methods in 1. for reducing impact on small business.

None.

6. Impact on public health, safety and welfare caused by including any of the methods in 1. for reducing impact on small businesses.

None.

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

The following is a listing of recent Executive Orders issued by the Governor.

Executive Order 372. Relating to the Transfer of Two Medical Clinics to the University of Wisconsin Hospitals and Clinics Authority.

Executive Order 373. Relating to the Creation of the Governor's Task Force on Privacy.

Executive Order 374. Relating to the Proclamation of a State of Emergency.

Executive Order 375. Relating to the Proclamation of an Energy Emergency.

Executive Order 376. Relating to the Proclamation of a State of Emergency.

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