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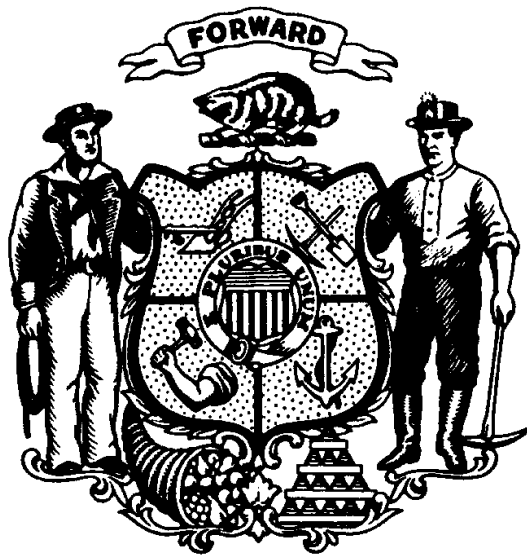
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TABLE OF CONTENTS

Emergency Rules Now In Effect.

Agriculture, Trade and Consumer Protection:

Commerce:

Commerce:

Crime Victims Rights Board:

Health & Family Services:

Health & Family Services:

Health & Family Services:

Health & Family Services:

Higher Educational Aids Board:

Natural Resources:

Natural Resources:

Revenue:

Transportation:

Pages 5 to 10.

Rules relating to security of dairy plant payments to milk producers.

PECFA Interagency Responsibilities, Ch. Comm 46
Rules relating to Petroleum Environmental Cleanup Fund interagency responsibilities.Resources for Communities, etc., Chs. Comm 105–128
Rules relating to certified capital companies.

Rules relating to review of allegations of crime victims rights violations.

Management, etc., Chs. HFS 1–
Rule relating to caregiver background checks.Community Services, Chs. HFS 30–
Rules relating to the adoption assistance program.Medical Assistance, Chs. HFS 100–108
Rules relating to operation of the BadgerCare health insurance program.Health, Chs. HFS 110–
Rules relating to the Health Insurance Risk-Sharing Plan (HIRSP).

Rules relating to the Minority Teacher Loan Program.

Environmental Protection–Water Regulation, Chs. NR 300–
Rules relating to determination of navigability in farm ditches.Environmental Protection–Investigation & Remediation, Chs. NR 700–
Rules relating to sites contaminated with petroleum products from petroleum storage tanks.

Rules relating to assessment of agricultural property.

Rules adopted revising ch. Trans 4, relating to evaluating bids solicited for transit service in a competitive process.
[FIRST APPEARANCE]**Scope Statements.**

Agriculture, Trade and Consumer Protection:

Agriculture, Trade and Consumer Protection:

Health and Family Services (Health, Chs. HFS 110–):Natural Resources (Environ. Protection–General, Chs. NR 100–):

Revenue:

Transportation:

Veterans Affairs:

Pages 11 to 13.

Ch. ATCP 10 – Relating to financial assistance for Johne's disease testing.

Chs. ATCP 10, 11 and 12 – Relating to animal health, animal import and livestock markets, dealers and truckers.

Ch. HFS 144 – Relating to immunization of students.

Ch. NR 190 – Relating to lake management planning grants.

S. Tax 2.82 – Relating to nexus.

Ch. Trans 4 – Relating to the administrative policies and procedures for implementing the State Urban Mass Transit Operating Assistance Program.

SS. VA 2.01 (2) (b) and 12.02 and ch. VA 15 – Relating to the health care aid grant and personal loan programs and tribal grant agreements.

Workforce Development (Economic Support, Chs. DWD 11–59):

Notices of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse.

Pharmacy Examining Board:

Workforce Development:

Workforce Development:

Workforce Development:

Notices of Hearings or of Proposed Rules.

Pharmacy Examining Board:

Transportation:

Veterans Affairs:

Workforce Development:

Workforce Development:

Workforce Development:

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

Health & Family Services:

Pharmacy Examining Board:

Public Service Commission:

Public Service Commission:

Administrative Rules Filed with the Revisor of Statutes Bureau.

Corrections:

Natural Resources:

Rules Published in this Wis. Adm. Register.

Agriculture, Trade and Consumer Protection:

Agriculture, Trade and Consumer Protection:

Agriculture, Trade and Consumer Protection:

Employment Relations, Dept. of:

Chs. DWD 12 and 56 – Relating to W–2 financial eligibility and to child care eligibility.

Page 14.

S. Phar 7.09 – Relating to the automated dispensing of prescription drugs.

Ch. DWD 12 – Relating to two–parent families under Wisconsin Works.

Chs. DWD 100 to 149 – Relating to a limited waiver of the work search requirement, ability to work and availability for work, and various minor changes relating to unemployment insurance.

Chs. DWD 290 and 294 – Relating to prevailing wages.

Pages 15 to 20.

Hearing to consider s. Phar 7.09, relating to the automated dispensing of prescription drugs.

Hearing to consider revision to ch. Trans 4, relating to requiring use of a fully–allocated cost methodology when evaluating bids solicited for transit service.

Hearing to consider a rule relating to Fannie Mae Program underwriting guidelines.

Economic Support, Chs. DWD 11–59

Hearing to consider revision of ch. DWD 12, relating to two–parent families under Wisconsin Works.

Unemployment Compensation, Chs. DWD 100–150

Hearings to consider revision to chs. DWD 100 to 149, relating to a limited waiver of work search requirements, ability to work and availability to work.

Prevailing Wage Rates, Chs. DWD 290–294

Hearing to consider revision to chs. DWD 290 and 294, relating to prevailing wages.

Page 21.

(CR 99–56) – Ch. HFS 145

(CR 98–76) – SS. Phar 1.01 and 1.02 and ch. Phar 15

(CR 98–27) – Ch. PSC 113

(CR 99–19) – Ch. PSC 160

Page 22.

(CR 97–67) – Ch. DOC 309

(CR 97–136) – SS. NR 132.085 and 132.09

Pages 23 to 24.

(CR 98–158) – S. ATPC 75.015 (7) (c)

(CR 99–78) – S. ATPC 60.19 (3) and (4)

(CR 99–116) – Ch. ATPC 77

(CR 99–110) – Ch. ER 18 and ss. ER 1.02, 29.03 and 29.04

Employment Relations—Merit Recruitment and Selection:	(CR 99–111) – SS. ER–MRS 1.02, 11.03, 16.025, 16.035, 16.04, 22.11 and 34.08
Financial Institutions—Securities:	(CR 99–121) – Chs. DFI–Sec 1 to 5 and ss. DFI–Sec 7.06 and 9.01
Professional Geologists, Hydrologists and Soil Scientists Examining Board:	(CR 99–88) – Chs. GHSS 1 to 5
Health and Family Services:	(CR 99–81) – SS. HFS 115.04 and 115.06
Health and Family Services:	(CR 99–112) – S. HFS 105.39 (4) (b) 3.
Law Enforcement Standards Board:	(CR 99–93) – Ch. LES 4
Medical Examining Board:	(CR 99–1) – Ch. Med 8
Medical Examining Board:	(CR 99–98) – Chs. Med 6, 13 and 21 and ss. Med 10.02 and 17.02
Natural Resources:	(CR 98–162) – S. NR 410.03
Natural Resources:	(CR 99–23) – Ch. NR 20 and ss. NR 21.04, 23.05 and 26.26
Natural Resources:	(CR 99–47) – Ch. NR 6, 8, 50 and 64 and s. NR 60.09
Natural Resources:	(CR 99–82) – S. NR 45.10
Natural Resources:	(CR 99–83) – Chs. NR 40, 41 and 45
Natural Resources:	(CR 99–97) – SS. NR 10.01, 10.06, 10.12 and 10.31
Pharmacy Examining Board:	(CR 98–187) – S. Phar 7.10
Transportation:	(CR 98–168) – Ch. Trans 102
Transportation:	(CR 99–91) – SS. Trans 213.02 and 213.03
Transportation:	(CR 99–107) – Ch. Trans 134
Transportation:	(CR 99–119) – SS. Trans 276.07 and 276.09

Sections Affected by Rule Revisions and Corrections.

Pages 25 to 28.

REVISIONS

Agriculture, Trade and Consumer Protection:	Chs. ATCP 60, 75 and 77
Employment Relations:	Chs. ER 1, 18 and 29
Employment Relations—Merit Recruitment and Selection:	Chs. ER–MRS 1, 11, 16, 22 and 34
Financial Institutions—Securities:	Chs. DFI–Sec 1 to 5, 7 and 9
Professional Geologists, Hydrologists and Soil Scientists Examining Board:	Chs. GHSS 1 to 5
Health and Family Services (<u>Medical Assistance, Chs. HFS 100—</u>):	Ch. HFS 105
Health and Family Services (<u>Health, Chs. HFS 110—</u>):	Ch. HFS 115
Law Enforcement Standards Board:	Ch. LES 4
Medical Examining Board:	Chs. Med 6, 8, 10, 13, 17 and 21
Natural Resources (<u>Fish, Game, etc., Chs. NR 1—</u>):	Chs. NR 6, 8, 10, 20, 21, 23, 26, 40, 41, 45, 50 and 64
Natural Resources (<u>Air Pollution Control, Ch. NR 400—</u>):	Ch. NR 410
Pharmacy Examining Board:	Ch. Phar 7
Transportation:	Chs. Trans 102, 134, 213 and 276

EDITORIAL CORRECTIONS

Employment Relations:	Chs. ER 1 and 18
Employment Relations—Merit Recruitment and Selection:	Chs. ER–MRS 6 and 16
Health and Family Services (<u>Community Services, Chs. HFS 30—</u>):	Chs. HFS 42, 57, 59, 60, 86 and 88
Health and Family Services (<u>Medical Assistance, Chs. HFS 100—</u>):	Ch. HFS 105

Health and Family Services (~~Health, Chs. HFS 110—~~):

Law Enforcement Standards Board:

Medical Examining Board:

Natural Resources (~~Fish, Game, etc., Chs. NR 1—~~):

Ch. HFS 155

Ch. LES 1

Chs. Med 1, 3, 4, 11 and 20

Chs. NR 6, 8, 45, 50 and 64

ERRATA

Employee Trust Funds:

Ch. ETF 50

Public Service Commission:

Ch. PSC 166

Final Regulatory Flexibility Analyses.

1. Agriculture, Trade and Consumer Protection:
2. Agriculture, Trade and Consumer Protection:
3. Agriculture, Trade and Consumer Protection:
4. Employment Relations, Dept. of:
5. Employment Relations—Merit Recruitment and Selection:
6. Financial Institutions—Securities:
7. Professional Geologists, Hydrologists and
Soil Scientists Examining Board:
8. Health and Family Services:
9. Health and Family Services:
10. Law Enforcement Standards Board:
11. Medical Examining Board:
12. Medical Examining Board:
13. Natural Resources:
14. Natural Resources:
15. Natural Resources:
16. Natural Resources:
17. Natural Resources:
18. Natural Resources:
19. Pharmacy Examining Board:
20. Transportation:
21. Transportation:
22. Transportation:
23. Transportation:

Pages 29 to 33.

- (CR 98–158) – S. ATP 75.015
- (CR 99–78) – S. ATP 60.19
- (CR 99–116) – Ch. ATP 77
- (CR 99–110) – Chs. ER 1, 18 and 29
- (CR 99–111) – Chs. ER–MRS 1, 11, 16, 22 and 34
- (CR 99–121) – Chs. DFI–Sec 1 to 5 and ss. DFI–Sec 7.06
and 9.01
- (CR 99–88) – Chs. GHSS 1 to 5
- (CR 99–81) – Ch. HFS 115
- (CR 99–112) – S. HFS 105.39 (4) (b) 3.
- (CR 99–93) – Ch. LES 4
- (CR 99–1) – Ch. Med 8
- (CR 99–98) – Chs. Med 6, 10, 13, 17 and 21
- (CR 98–162) – S. NR 410.03
- (CR 99–23) – Ch. NR 20 and ss. NR 21.04, 23.05
and 26.26
- (CR 99–47) – Ch. NR 6, 8, 50 and 64 and s. NR 60.09
- (CR 99–82) – Ch. NR 45
- (CR 99–83) – Chs. NR 40, 41 and 45
- (CR 99–97) – SS. NR 10.01, 10.06, 10.12 and 10.31
- (CR 98–187) – S. Phar 7.10
- (CR 98–168) – Ch. Trans 102
- (CR 99–91) – Ch. Trans 213
- (CR 99–107) – Ch. Trans 134
- (CR 99–119) – Ch. Trans 276

Executive Order.

Executive Order No. 385:

Page 34.

Relating to the Creation of the Governor's Council in
Workforce Investment.

Notice of Nonacquiescence.

Revenue:

Page 35.

Tax Appeals Commission
Milwaukee Safeguard Insurance Co. and Milwaukee
Guardian Insurance, Inc., v. Wisconsin Department of
Revenue.

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

Agriculture, Trade & Consumer Protection

Rules adopted revising s. ATP 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. ATP 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. ATP 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. ATP 100.45(5).

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

(3) Under s. ATP 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. ATP 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. ATP 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
Hearing Date:	May 18, 1999
Extension Through:	January 25, 2000

EMERGENCY RULES NOW IN EFFECT

Commerce

(PECFA – Chs. Comm 46–47)

Rules adopted creating **ch. Comm 46**, relating to “Petroleum Environmental Cleanup Fund Interagency Responsibilities,” and relating to sites contaminated with petroleum products from petroleum storage tanks

Exemption From Finding of Emergency

On September 22, 1999, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26 (2) (b), Stats., that directs the Departments Commerce and Natural Resources to promulgate as an emergency rule, no later than October 22, 1999, the policies and interpretations under which they intend to administer and implement the shared elements of the petroleum environmental cleanup fund program.

In administering the fund, the Departments had previously relied upon a Memorandum of Understanding for classifying contaminated sites and addressing other statements of policy that affect the two Departments. The rule that is being promulgated details the policies and interpretations under which the agencies intend to administer and guide the remedial decision making for sites with petroleum product contamination from petroleum product storage tank systems.

The rule 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.

Publication Date: October 20, 1999
Effective Date: October 20, 1999
Expiration Date: March 18, 2000
Hearing Date: November 18, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce

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

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
Extension Through: February 16, 2000

EMERGENCY RULES NOW IN EFFECT

Crime Victims Rights Board

Rules adopted creating **ch. CVRB 1**, relating to the rights of crime victims.

Finding of Emergency

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

The Crime Victims Rights Board was created by 1997 Wis. Act 181, effective December 1, 1998, to enforce victims' rights established by Wis. Const. Art. I, s. 9m, adopted in 1993. The Wisconsin Constitution states that the Legislature shall provide remedies for the violation of victims' constitutional rights. The Board's process represents the only means of enforcing the remedies available to victims of crime who are not provided with the rights guaranteed to them by the Wisconsin Constitution and the Wisconsin statutes. The Board can issue reprimands to correct violations of victims' rights, seek forfeitures in egregious cases, and seek equitable relief to enforce victims' rights. The Board can also work to prevent future violations of victims' rights by issuing reports and recommendations on crime victims' rights and services.

Complaints must be presented to the Department of Justice before they can be presented to the Board. The Department estimates that it receives 200 complaints annually involving the treatment of crime victims. The Department has no authority to enforce victims' rights; the Department can only seek to mediate disputes. Of those complaints, approximately 25 per year cannot be resolved to the parties' satisfaction, and are therefore ripe for the Board's consideration. There are presently 5 complaints that could be referred to the Board if the Board were able to receive and act on complaints.

Until the Board establishes its complaint process by administrative rule, it is unable to provide the remedies constitutionally guaranteed to crime victims.

Publication Date: September 17, 1999
Effective Date: September 17, 1999
Expiration Date: February 14, 1999
Hearing Date: November 9, 1999

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Management, Technology, etc., Chs. HFS 1–)

A rule was adopted revising **chapter HFS 12, Appendix A**, relating to caregiver background checks.

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:

Since October 1, 1998, the Department has been implementing statutes that became effective on that date that require use of uniform procedures to check the backgrounds of persons who apply to the Department, to a county social services or human services department that licenses foster homes for children and carries out adoption home studies, to a private child-placing agency that does the same or to a school board that contracts for day care programs, to provide care or treatment to persons who need that care or treatment, or who apply to a regulated entity to be hired or contracted with to provide services to the entity's clients or who propose to reside as a non-client at the entity. The statutes, ss. 48.685 and 50.065, Stats., direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction, finding or charge, who have in their backgrounds a specified conviction, finding or charge substantially related to the care of clients, from operating a service provider organization, providing care or treatment to persons who need that care or treatment or otherwise having contact with the clients of a service provider.

The new statutes, commonly referred to as the Caregiver Law, were effective on October 1, 1998, for applicants on or after that date for licensure, certification or other agency approval, and for persons applying to be hired by or to enter into a contract with a regulated entity on or after that date to provide services to clients or to take up residence as a non-client at a regulated entity.

For regulated agencies approved before October 1, 1998, and for persons employed by, under contract to or residing as non-clients at regulated entities before October 1, 1998, the Caregiver Law's required uniform procedures and "bars" are to apply beginning on October 1, 1999. That is to say, by October 1, 1999, background checks, using the uniform procedures, are to be completed for all service providers who were approved before October 1, 1998, and for all employees, contractors and non-client residents employed by, under contract to or living at a regulated entity before October 1, 1998, and action taken to withdraw approval, terminate employment or end a contract, as appropriate.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. Chapter HFS 12 included an appendix which consisted of a list of crimes. The original list specified 159 crimes for conviction of any one of which a person would be barred permanently (45 crimes), all programs, or would be barred temporarily, all programs, pending demonstration of rehabilitation, from being approved to be a service provider or from providing care or treatment to clients or otherwise having access to clients. The October 1998 emergency rules were modified in December 1998 and February 1999 by emergency order, and were replaced by permanent rules effective July 1, 1999. The Crimes List

in the current permanent rules specifies 117 crimes with 9 being permanent bar crimes for all programs.

This order again modifies ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes is reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being permanent bar crimes for all programs. The change to the ch. HFS 12 Crimes List is being made at this time because the 1999–2001 Budget Bill, now before the Legislature but not likely to take effect before October 1, 1999, is expected to provide for a more modest Crimes List than the one now appended to ch. HFS 12. This means that the Legislature intends that some persons who under the current rules would lose their jobs effective October 1, 1999, will be able to keep their jobs. The Department has the authority to further modify the Crimes List so that it corresponds to how the Legislature, after having heard arguments since October 1998 about how the Caregiver Law should be amended and implemented, wants it to work. This is what the Department is doing through this order.

Publication Date: September 16, 1999

Effective Date: September 16, 1999

Expiration Date: February 13, 2000

Hearing Date: October 28, 1999

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Community Services, Chs. HFS 30–)

Rules adopted revising **ch. HFS 50**, relating to adoption assistance programs.

Finding of Emergency

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

This rulemaking order amends ch. HFS 50, the Department's rules for facilitating the adoption of children with special needs, to implement changes to the adoption assistance program statute, s. 48.975, Stats., made by 1997 Wisconsin Act 308. Those changes include permitting a written agreement for adoption assistance to be made following an adoption, but only in "extenuating circumstances;" permitting the amendment of an adoption assistance agreement for up to one year to increase the amount of adoption assistance for maintenance when there is a "substantial change in circumstances;" and requiring the Department to annually review the circumstances of the child when the original agreement has been amended because of a substantial change in circumstances, with the object of amending the agreement again to either continue the increase or to decrease the amount of adoption assistance if the substantial change in circumstances no longer exists. The monthly adoption assistance payment cannot be less than the amount in the original agreement, unless agreed to by all parties.

The amended rules are being published by emergency order so that adoption assistance or the higher adoption assistance payments, to which adoptive parents are entitled because of "extenuating circumstances" or a "substantial change in circumstances" under the statutory changes that were effective on January 1, 1999, may be made available to them at this time, now that the rules have been developed, rather than 7 to 9 months later which is how long the promulgation process takes for permanent rules. Act 308 directs the Department to promulgate rules that, among other things, define

extenuating circumstances, a child with special needs and substantial change in circumstances.

Publication Date: November 16, 1999
Effective Date: November 16, 1999
Expiration Date: April 13, 2000

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Medical Assistance, Chs. HFS 101–108)

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
Extension Through: January 26, 2000

EMERGENCY RULES NOW IN EFFECT

Health and Family Services

(Health, Chs. HSS/HFS 110–)

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
Extension Through: January 26, 2000

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
Hearing Date: October 28, 1999
Extension Through: March 2, 2000

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

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

Exemption From Finding of Emergency

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

Analysis Prepared by the Department of Natural Resources

Statutory authority: s. 227.26 (2)(b)

Statute interpreted: s. 30.10 (4)(c)

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

Publication Date: May 1, 1999
Effective Date: May 1, 1999
Expiration Date: September 28, 1999
Hearing Dates: June 16 and 17, 1999
Extension Through: January 25, 2000

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted creating **ch. NR 746**, relating to sites contaminated with petroleum products from petroleum storage tanks.

Finding of Emergency

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

The Department of Commerce has adopted administrative rules under ss. 101.143 and 101.144, Stats., to implement the Petroleum Environmental Cleanup Fund Act (PECFA). The purpose of PECFA is to reimburse responsible persons for the eligible costs incurred to investigate and remediate petroleum product discharges from a petroleum product storage system or home oil tank system. The recent emergency rule, ch. Comm 46, was adopted by both the Department of Natural Resources and the Department of Commerce in January 1999, incorporating parts of a Memorandum of Understanding between the two agencies that relates to the classification of contaminated sites and creating risk screening criteria for assessing petroleum-contaminated sites. However, ch. Comm 46 expired on September 27, 1999, prior to publication of the permanent rule. The emergency rule, ch. NR 746, is being proposed in order to ensure rules continue in effect during the time period between now and when the permanent rule is published. This action is also in response to a resolution adopted by the Joint Committee for Review of Administrative Rules (JCRAR), which directed the Department of Commerce and the Department of Natural Resources to promulgate a new emergency rule for this interim time period.

The emergency rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 29, 1999.

Publication Date: October 20, 1999
Effective Date: October 20, 1999
Expiration Date: March 18, 2000
Hearing Date: November 18, 1999

EMERGENCY RULES NOW IN EFFECT

Revenue

Rule adopted creating **s. Tax 18.08 (4)**, relating to assessment of agricultural land.

Finding of Emergency

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

1995 Wisconsin Act 27 changed the way agricultural land is valued for property tax purposes. The law requires the Farmland Advisory Council to make recommendations regarding the transition from valuation under prior law to valuation under current law, and requires the department to promulgate rules to implement those recommendations.

On October 18, 1999, the Farmland Advisory Council recommended that agricultural land be assessed as of January 1, 2000 and thereafter according to value in agricultural use. Major Wisconsin farm organizations, among others, have petitioned the Department under s. 227.12, Stats., to promulgate an administrative rule implementing the Council's recommendation.

Since the Department holds assessor schools in November and typically publishes the next years use-value guidelines prior to January 1 of that year, an emergency rule requiring assessment of each parcel of agricultural land according to its value in agricultural

use is necessary for the efficient and timely assessment of agricultural land as of January 1, 2000.

Publication Date: November 30, 1999
Effective Date: November 30, 1999
Expiration Date: April 27, 2000
Hearing Date: January 7, 2000

EMERGENCY RULES NOW IN EFFECT

Transportation

Rules adopted revising **ch. Trans 4**, relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process.

Exemption From Finding of Emergency

Chapter Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats. and prescribes administrative policies and procedures for implementing the state urban public transit operating assistance program authorized under s. 85.20, Stats. 1999 Wis. Act 9, section 9150(2bm), requires the Department to adopt an emergency rule to amend Chapter Trans 4 by adding a section that requires that cost proposals submitted by a publicly owned transit system in response to a request for proposals issued by a public body for the procurement of transit services to be funded under the state urban transit operating assistance program must include an analysis of fully allocated costs. The analysis must include all of the publicly owned system's costs, including operating subsidies and capital grants. This analysis shall be the basis for evaluating costs when ranking proposals.

Pursuant to 1999 Wis. Act 9, section 9150(2bm)(b), the Department is not required to provide evidence that the rule is necessary for the preservation of the public peace, health, safety or welfare, and is not required to provide a finding of emergency.

Publication Date: December 12, 1999
Effective Date: December 12, 1999
Expiration Date: May 9, 2000
Hearing Date: February 14, 2000

[See Notice this Register]

STATEMENTS OF SCOPE OF PROPOSED RULES

Agriculture, Trade and Consumer Protection

Subject:

Ch. ATPC 10 – Relating to financial assistance for Johne's disease testing.

Description of policy issues:

Preliminary objectives:

In 1999 Wis. Act 9, s. 95.197, Stats., is created. This new statute requires the Department to provide financial assistance to farmers who have cattle tested for Johne's disease. It also requires the Department to adopt a rule establishing a procedure for distributing the allocated funds.

Preliminary policy analysis:

Johne's disease is a chronic disease which significantly reduces the production of dairy cattle, and can lead to death of the animals. It is a persistent problem which has not been adequately addressed in the past. The Department, Wisconsin's veterinarians and affected producers have recently undertaken a new approach toward controlling this disease. The cornerstone of the new approach relies on extensive Johne's disease testing of Wisconsin cattle and providing test information to persons who are buying animals from the tested herd. Buyers can then use this information to assess the degree of risk their herd faces if animals from the selling herd are introduced. This enables buyers to make a more informed decision about how to control the risk and the disease in their herds.

The testing program is completely voluntary. However, if a seller does not test his/her herd, the herd will automatically be classified "maximum risk for Johne's." The cost of testing the animals may put a significant financial burden on producers who would like to participate. The Legislature and Governor included a provision in this year's budget providing dollars to be used to assist farmers who test their animals in paying the costs of testing. The statutory provision requires the Department to determine an appropriate means of distributing the funds. The Department will be seeking input from industry representatives in determining an appropriate distribution plan.

Policy alternatives:

- Do nothing. If the Department does nothing, farmers will not receive the planned assistance, and the testing program would probably not be used as extensively as is needed. In addition, the department would be in violation of a statutory mandate to adopt rules establishing the distribution plan. Neither outcome is acceptable.

Statutory authority:

The Department proposes to promulgate these rules under the authority of ss. 93.07 (1) and 95.197 (2), Stats. The rules would interpret s. 95.197(1), Stats.

Staff time required:

The Department estimates that it will use approximately 0.5 FTE staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions, and communicating with affected persons and groups. The Department believes that, in the long run, the rule will increase program efficiency. The Department will assign existing staff to develop this rule.

Agriculture, Trade and Consumer Protection

Subject:

Chs. ATPC 10, 11 and 12 – Relating to animal health, animal import and livestock markets, dealers and truckers.

Description of policy issues:

Preliminary objectives:

Current Department rules under chs. ATPC 10, 11 and 12 regulate animal disease control programs, animal import and livestock markets. These rules create animal disease control programs for many diseases such as bovine brucellosis, bovine tuberculosis, pseudorabies, equine infectious anemia and Johne's disease. Scientific research is still being done to advance understanding of many of these diseases and to develop more effective means of controlling these diseases. The Department proposes to revise disease control programs to reflect the results of ongoing research.

New knowledge and information may indicate a need to tighten import requirements in some instances and may permit easing import restrictions in other cases. The Department intends to revise import requirements as a result of new information.

Current restrictions on livestock markets, dealers and truckers were developed as a means of facilitating animal disease control programs. As disease control programs change, the provisions regulating livestock markets, dealers, and truckers need to be reviewed and may need to be changed to advance the cause of controlling animal disease.

The Department may also revise portions of the rule to clarify the rule and make it easier to understand, or to facilitate easier compliance with the rule through the use of new technology.

Preliminary policy analysis:

Animal production agriculture is a major segment of Wisconsin's economic base. To remain competitive in national and international markets, Wisconsin producers must continue to provide healthy, high quality animals. The Department needs to assist Wisconsin producers by incorporating the latest technological and scientific advances in our animal regulations. The Department also promotes healthy animals in this state by imposing import restrictions consistent with preventing import of diseased animals while minimizing impediments to importing healthy animals.

Policy alternatives:

- Do nothing. This would continue current rules and could lead to reliance on obsolete disease control programs. It could result in loss of national or international markets for Wisconsin animals and animal products. It could prevent the Department from providing adequate assistance to the animal industry to maintain healthy animals.

Statutory authority:

The Department proposes to promulgate these rules under the authority of s. 93.07 (1), Stats. The rules would interpret ch. 95, Stats., and other applicable laws administered by the Department.

Staff time required:

The Department estimates that it will use approximately 1.5 FTE staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions, and communicating with affected persons and groups. The Department believes that, in the long run, the rule will increase program efficiency. The Department will assign existing staff to develop this rule.

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

Subject:

Ch. HFS 144 – Relating to immunization of students.

Description of policy issues:

Description of objective(s):

To require students to receive varicella (chickenpox) vaccine or have other evidence of immunity to varicella in order to greatly reduce varicella morbidity.

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

The Department of Health and Family Services carries out a statewide immunization program under s. 252.04, Stats. to eliminate mumps, measles, rubella (German measles), diphtheria, pertussis (whooping cough), poliomyelitis, Haemophilus influenzae b, hepatitis B and other diseases that the Department specifies by rule. To achieve this goal, any student admitted to a day care center or a nursery, elementary, middle, junior or senior high school is required to present written evidence of having completed the immunizations for each vaccine required for the student's grade. The immunization requirement is waived if the student's parent, guardian or legal custodian submits a written statement to the school or day care center objecting to the immunization for reasons of health, religion or personal conviction.

The Department proposes to add varicella to the list of diseases against which children are to be immunized for the following reasons:

1. Varicella accounts for more morbidity than any other childhood vaccine-preventable disease. In 1998, 4446 cases of varicella were reported in Wisconsin.

2. Complications from varicella can lead to hospitalization and even death. Before the availability of varicella vaccine, varicella was responsible for an estimated 11,000 hospitalizations and 100 deaths per year in the United States.

3. Varicella vaccine is under-utilized. According to the latest National Immunization Survey, only 32.8% of Wisconsin 2-year-olds have received varicella vaccine.

4. Past experience has shown that requiring a vaccine for students can have a dramatic impact on morbidity. Measles morbidity declined from more than 1300 cases to 3 cases the year after a comprehensive school requirement was enacted.

5. The Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP) has recommended that all states require that children entering child care facilities and elementary schools either have received varicella vaccine or have other evidence of immunity to varicella.

Because children affected by the rule may have already had natural varicella infection, parents will be able to comply with the requirement by indicating that their child has had the disease.

Statutory authority for the rule:

Section 252.04(1), (2) and (10), Stats.

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

About 80 hours of Immunization Section Staff time to develop the rules in preparation for Department review.

The Wisconsin Immunization Practices Advisory Committee (WCIP) will provide opportunities for provider input to the drafting process. WCIP membership includes representatives from the Wisconsin Chapters of the American Academy of Pediatrics and the American Academy of Family Physicians, the State Medical Society, the Milwaukee County Medical Society, the Wisconsin Association of Local Health Departments and Boards, the Milwaukee Health Department, the Association of Wisconsin HMOs, the Marshfield Clinic, the Medical College of Wisconsin, the Wisconsin Nurses Association and Wisconsin Association of School Nurses.

Parents will have input to rulemaking through public hearings that will be held in two or more of the public health regions of the state.

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

Subject:

Ch. NR 190 – Relating to lake management planning grants.

Description of policy issues:

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

The priority-ranking criteria for awarding grants and other administrative aspects of the lake planning grant program need to be reviewed and revised to keep pace with evolving customer needs. 1999 Wis. Act 9 enables a wider range of grant eligible activities necessitating rule development. Project sponsors, lake management organizations, local government, and nonprofit conservation organizations will be impacted in a positive way by providing a broader range of funded project types.

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

Explain the facts that necessitate the proposed change:

Enabling legislation requires development of new policies regarding new lake planning grant activities.

This rule/Board action represents an opportunity for pollution prevention and/or waste minimization.

Statutory authority:

Section 281.68, Stats.

Anticipated time commitment:

The anticipated time commitment is 292 hours. Three public hearings are proposed to be held in April 2000 in the Spooner, Rhinelander and Waukesha vicinities.

Revenue

Subject:

S. Tax 2.82 – Relating to nexus.

Description of policy issues:

Objective of the proposed rule:

The objectives of the proposed rule are to:

- Provide a listing of activities that do not create nexus, as provided by statute.
- Reflect that in some of the subdivisions relating to factors constituting nexus, only one of the activities is necessary for nexus to apply.
- Provide an additional activity that constitutes nexus, pursuant to a Wisconsin Supreme Court decision.
- Reflect the proper agency from which a Certificate of Authority is obtained, and list the correct statutory reference.
- Reflect proper language, punctuation, style and format, including placing definitions in the proper subsection and in alphabetical order, per Legislative Council Rules Clearinghouse standards.

Policy analysis:

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect law changes and court decisions. If the rules are not changed, they will be incomplete and will not reflect current law and current Department policy.

Statutory authority:

Section 71.80 (1) (c), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 40 hours to develop this rule order.

Transportation

Subject:

Ch. Trans 4 – Relating to the administrative policies and procedures for implementing the State Urban Mass Transit Operating Assistance Program.

Description of policy issues:

Description of the objective of the proposed rule-making:

Chapter Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats., and prescribes the administrative policies and procedures for implementing the State Urban Mass Transit Operating Assistance Program authorized under s. 85.20, Stats. The purpose of this rule-making is to establish a fully allocated cost methodology in the competitive bidding of transit services funded under s. 85.20, Stats.

Description of objective of the amendment:

Amend s. Trans 4.04 (4) to add a section that requires public bodies soliciting bids for transit services to require publicly-owned transit systems bidding for the services to submit cost proposals that include an analysis of fully allocated costs., which will be used as the basis for evaluating costs when ranking proposals.

Description of existing policies relevant to the amendment:

Use of this fully allocated cost methodology was mandated by 1999 Wis. Act 9. The intent is to level the playing field between publicly-owned transit systems and private transportation providers in a competitive procurement process.

Statutory authority for the rule:

Sections 85.16 (1), 85.20 and 227.11 (2), Stats.

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

20 person hours.

Veterans Affairs

Subject:

Sections VA 2.01(2)(b) and 12.02 and ch. VA 15 – Relating to the health care aid grant and personal loan programs and tribal grant agreements.

Description of policy issues:

Objective of the rule:

In relation to the health care aid grant program, the proposed rule would raise the income eligibility limit for low income applicants on January 1 rather than on July 1 of each year. The increase in the eligibility limit would then coincide with cost of living adjustments for federal benefit programs.

In relation to the personal loan program, the proposed rule would permit each spouse in a married couple, in which both spouses are veterans, the opportunity to receive a personal loan in the amount of \$10,000, or an aggregate amount of \$20,000. Under current rules, such a couple would be limited to an aggregate amount of \$10,000 in personal loan program proceeds.

In relation to tribal grant agreements, the new rule would identify the eligibility criteria for federally recognized American Indian tribes and bands who seek to receive a service officer grant. The legislature created the program through the enactment of 1999 Wis. Act 9 and directed the Department to promulgate rules to implement the program.

Policy analysis:

In relation to the health care aid grant program, the amendment would assure that an applicant's cost-of-living adjustment would not necessarily disqualify the applicant for a grant until the following July. These low income veterans should not have to wait for six months to again qualify for needed health care reimbursement.

In relation to the personal loan program, the amendment would recognize the unique status of a two veteran couple. It would allow each veteran to receive the maximum loan amount, subject to normal underwriting criteria.

In relation to tribal grant agreements, the new rule would comply with the legislative directive regarding implementation of the grant program. It would serve to provide guidance, goals, and objectives to eligible tribes and bands who want to serve veterans through a tribal veterans' service officer.

Statutory authority:

Sections 45.35 (3) and (14) (h) and 45.356 (7) (c).

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

Approximately 20 staff hours.

Workforce Development

(Economic Support, Chs. DWD 11–59)

Subject:

Chs. DWD 12 and 56 – Relating to W-2 financial eligibility and to child care eligibility.

Description of policy issues:

Objective of the rule:

Implement changes adopted in 1999 Wis. Act 9.

Existing policies and new policies included in the proposed rule and an analysis of policy alternatives:

Income of dependent children and child support is excluded in determining W-2 eligibility. The child care income limit is increased from 165% of the Federal Poverty Level to 185% of the FPL. Net income, rather than gross income, is used to determine eligibility for child care subsidies for self-employed families. The asset limitation and the requirement of a 9-month workforce attachment are repealed in determining child care eligibility. Child care eligibility is extended to disabled children who are under the age of 19. Adult teens who are attending high school or participating in a course of study meeting the standards established to obtain a GED will pay the minimum copay for their family size.

Statutory authority for the proposed rule:

Sections 49.145 and 49.155, Stats.

Estimate of the amount of time employees will spend developing the proposed rule and of other resources needed to develop the rule:

40 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.

Pharmacy Examining Board

Rule Submittal Date

On December 14, 1999, the Pharmacy Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (a), (b), (d) and (e), Stats.

The proposed rule-making order creates s. Phar 7.09, relating to the automated dispensing of prescription drugs.

Agency Procedure for Promulgation

A public hearing is required and will be held on Wednesday, January 5, 2000.

Contact Information

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

Workforce Development

Rule Submittal Date

On December 13, 1999, the Department of Workforce Development submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 49.15 and 49.151, Stats.

The proposed rule affects ch. DWD 12, relating to two-parent families under Wisconsin Works.

Agency Procedure for Promulgation

A public hearing is required and will be held on Friday, January 28, 2000, at 1:30 p.m. in Room 400X, G.E.F. 1 Building, 201 East Washington Avenue, Madison. The organizational unit responsible for the promulgation of the proposed rule is the Division of Economic Support.

Contact Information

Elaine Pridgen
Telephone: (608) 267-9403
Email: pridgel@dwd.state.wi.us

Workforce Development

Rule Submittal Date

On December 13, 1999, the Department of Workforce Development submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 103.005 (1), 108.04 (2) (b), 108.14 (2), 227.11 (2), Stats.

The proposed rule-making order affects chs. DWD 100 to 149, relating to a limited waiver of the work search requirement, ability to work and availability for work, and various minor changes relating to unemployment insurance.

Agency Procedure for Promulgation

Public hearings are required and will be held on January 19, February 8, and February 10, 2000.

The organizational unit responsible for the promulgation of the proposed rule is the DWD Unemployment Insurance Division.

Contact Information

Elaine Pridgen
Telephone: (608) 267-9403
Email: pridgel@dwd.state.wi.us

Workforce Development

Rule Submittal Date

On December 13, 1999, the Department of Workforce Development submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 66.293 and 103.49, Stats.

The proposed rule-making order affects chs. DWD 290 and 294, relating to prevailing wage rates.

Agency Procedure for Promulgation

A public hearing is required and will be held on Monday, January 24, 2000. The organizational unit responsible for the promulgation of the proposed rule is the DWD Equal Rights Division.

Contact Information

Elaine Pridgen
Telephone: (608) 267-9403
Email: pridgel@dwd.state.wi.us

NOTICE SECTION

Notice of Hearing Pharmacy Examining Board [CR 99-166]

Notice is hereby given that pursuant to authority vested in the Pharmacy Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (a), (b), (d) and (e), Stats., and interpreting s. 450.02 (3) (a), (b), (d) and (e), Stats., the Pharmacy Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. Phar 7.09, relating to the automated dispensing of prescription drugs.

Hearing Information

January 12, 2000
Wednesday
9:30 A.M.

1400 E. Washington Ave.
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **January 21, 2000** to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (a), (b), (d) and (e)
Statute interpreted: s. 450.02 (3) (a), (b), (d) and (e)

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

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

Accordingly, rules need to be developed defining minimum standards for assuring these systems are working properly by accurately dispensing patient medications; that only authorized and qualified personnel have access to them; that required records are maintained; and that procedures are in place to assure the security of the system and patient confidentiality.

Text Of Rule

SECTION 1. Phar 7.09 is created to read:

Phar 7.09 Automated dispensing systems. (1) In this section:

- (a) "Automated dispensing system" means, but is not limited to, mechanical systems that perform operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing or distribution of medications, and which collects, controls, and maintains all transaction information.
- (b) "Inpatient health care facility" means any hospital, nursing home, county home, county mental hospital, or tuberculosis sanitarium, but does not include community-based residential facilities.
- (2) Automated dispensing systems may be utilized in licensed pharmacies, and inpatient health care facilities where legally permissible.
- (3) Automated dispensing systems may only be used in inpatient health care facilities, where there is an established program of pharmaceutical care that ensures medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.
- (4) The managing pharmacist shall be responsible for:
 - (a) Assuring that the automated dispensing system is in good working order and accurately dispenses the correct strength, dosage form, and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards.

- (b) Implementing an ongoing quality assurance program that monitors performance of the automated dispensing system, which is evidenced by written policies and procedures.
- (c) Providing the board with prior written notice of the installation or removal of an automated dispensing system. The notice provided shall include, but is not limited to the:

- 1. Name and address of the pharmacy.
- 2. Location of the automated equipment.
- 3. Identification of the managing pharmacist.
- (d) Assigning, discontinuing or changing personnel access to the system.
- (e) Assuring that access to the medications comply with state and federal laws.
- (f) Assuring that the automated dispensing system is stocked accurately and in accordance with established written policies and procedures.
- (5) An automated dispensing system shall comply with the following provisions:

(a) Documentation as to type of equipment, serial numbers, content, policies and procedures, and location shall be maintained on-site in the pharmacy. The documentation may include, but is not limited to, the following:

- 1. Name and address of the pharmacy or inpatient health care facility where the automated dispensing service is being used.
- 2. Manufacturer's name and model.
- 3. Description of how the device is used.
- 4. Quality assurance procedures to determine continued appropriate use of the automated device.
- 5. Policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access and malfunction.

(b) All policies and procedures shall be maintained in the pharmacy responsible for the system and, if the system is not located within the facility where the pharmacy is located, at the location where the system is being used.

(c) An automated dispensing system shall have adequate security systems and procedures, evidenced by written policies and procedures to:

- 1. Prevent unauthorized access to comply with federal and state laws.
- 2. Maintain patient confidentiality.

(d) Records and data kept by the automated dispensing system shall meet the following requirements:

- 1. All events involving the contents of the automated dispensing systems must be recorded electronically.

2. Records shall be maintained by the pharmacy and be available to the board. Records shall include:

- a. Identity of system accessed.
- b. Identification of the individual accessing the system.
- c. Type of transaction.
- d. Name, strength, dosage form and quantity of the drug accessed.
- e. Name of the patient for whom the drug was ordered.
- f. Such additional information as the managing pharmacist may deem necessary.

(e) Access to and limits on access to the automated dispensing system shall be defined by policy and procedures and must comply with state and federal laws.

(f) The stocking of all medications in the automated dispensing system shall be accomplished by qualified personnel under no less than the general supervision of a licensed pharmacist; except that when an automated dispensing system is located within a pharmacy the supervision must be direct.

(g) A record of medications stocked into an automated dispensing system shall be maintained and shall include identification of the person stocking and checking for accuracy.

(h) All containers of medications stored in the automated dispensing system shall be packaged and labeled in accordance with federal and state law.

(i) All aspects of handling controlled substances shall meet the requirements of all state and federal law.

(j) The automated dispensing system shall provide a mechanism for securing and accounting for medications removed from and subsequently returned to the automated dispensing system, all in accordance with existing state and federal laws.

(k) The automated dispensing system shall provide a mechanism for securing and accounting for wasted medications or discarded medications in accordance with existing state and federal laws.

Fiscal Estimate

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495

Notice of Hearing *Transportation*

Notice is hereby given that pursuant to ss. 85.16(1), 85.20(3) and 227.11(2), Stats., interpreting s. 85.20, Stats., the Department of Transportation will hold a public hearing **on Monday, February 14, 2000, at the Hill Farms State Transportation Building, Room 994, 4802 Sheboygan Avenue, Madison, WI, at 10:00 AM**, to consider the emergency rule amendment of ch. Trans 4, Wis. Adm. Code, relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process.

An interpreter for the hearing impaired will be available on request for this hearing. Please make reservations for a hearing interpreter no later than 10 days prior to the hearing.

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

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 85.20(3) and 227.11(2)

STATUTE INTERPRETED: s. 85.20

General Summary of Emergency Rule. Chapter Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats. and prescribes administrative policies and procedures for implementing the state urban public transit operating assistance program authorized under s. 85.20, Stats. 1999 Wis. Act 9, section 9150(2bm), requires the Department to adopt an emergency rule to amend ch. Trans 4 by adding a section that requires that cost proposals submitted by a publicly owned transit system in response to a request for proposals issued by a public body for the procurement of transit services to be funded under the state urban transit operating assistance program must include an analysis of fully allocated costs. The analysis must include all of the publicly owned system's costs, including operating subsidies and capital grants. This analysis shall be the basis for evaluating costs when ranking proposals.

Pursuant to 1999 Wis. Act 9, section 9150(2bm)(b), the Department is not required to provide evidence that the rule is necessary for the preservation of the public peace, health, safety or welfare, and is not required to provide a finding of emergency.

Fiscal Estimate

No fiscal effect is anticipated from the promulgation of this proposed rule.

Initial Regulatory Flexibility Analysis

This proposed rule has no significant impact on small businesses.

Copies of Emergency Rule and Contact Person

Copies of this emergency rule are available without cost upon request by writing to Richard A. Martin, Department of Transportation, Division of Transportation Investment Management, Bureau of Transit and Local Roads, 4802 Sheboygan Avenue, Room 933, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-6812. Alternate formats of the proposed rule will be provided to individuals at their request. Hearing-impaired individuals may contact the Department using TDD (608) 266-3351.

Notice of Hearing *Veterans Affairs*

[CR 99-160]

Notice is hereby given that the Department of Veterans Affairs will hold a public hearing at the time and place indicated below to consider rules affecting ch. VA 4, relating to the primary mortgage loan program.

Hearing Information

<u>Date & Time</u>	<u>Location</u>
January 21, 2000 Friday 9:00 A.M.	Board Room 8th Floor 30 West Mifflin St. MADISON, WI

Analysis Prepared by the Dept. of Veterans Affairs

Statutory authority: ss. 45.35 (3) and 45.73 (1), Stats.
Statute interpreted: Subchapter II, Chapter 45, Stats.

The proposed rule will adopt Fannie Mae program underwriting guidelines. This will enable the Department to process loans more efficiently and minimize the differences between the underwriting of primary loans and conventional loans administered by the Department’s originating lenders. Additionally, home improvement loans will be separated from the regular primary loan program to facilitate separate underwriting and application processing.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Fiscal Estimate

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

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

Contact Information

John Rosinski
Telephone (608) 266-7916

Notice of Hearing
Workforce Development
(Economic Support,
Chs. DWD 11 to 59)
[CR 99-165]

Notice is hereby given that pursuant ss. 49.15 and 49.151, Stats., the Department of Workforce Development will hold a public hearing to consider the creation and amendment of proposed rules relating to two-parent families under Wisconsin Works.

Hearing Information

January 28, 2000 Friday 1:30 p.m.	GEF 1 Bldg., Room 400X 201 E. Washington Ave. Madison, WI
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An accessible entrance to the building is available via a ramp from the corner of Washington Avenue and Webster Street to the Webster Street door. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: ss. 49.15 and 49.151

Statutes interpreted: ss. 49.15 and 49.151

This proposed rule implements requirements created by 1997 Wisconsin Act 27 for two-parent families under the Wisconsin Works (W-2) program. The rule provides that if a W-2 participant resides with the second parent of a child in common for whom the family receives federally-funded child care assistance, the second parent must participate in prescribed work activities. The second parent must participate in work activities for at least the difference between 55 hours and the number of hours the parent in the W-2 employment position participates in assigned employment and training activities. A second parent who is disabled or caring for a severely disabled child is not required to participate in the work activities.

Participation by the second parent has no effect on the W-2 benefit amount. If a second parent who is required to participate refuses to participate 3 times, the parent in the W-2 employment position will be ineligible to participate in that employment component. Employment components under W-2 are W-2 Transitions, Community Service Jobs, and Trial Jobs.

The W-2 agency may offer the second parent the opportunity to voluntarily participate in work activities if the family is not receiving federally-funded child care assistance.

Initial Regulatory Flexibility Analysis

Privately-run W-2 agencies will be affected by the rule change, but the rule will not have a significant economic impact because there is no material change from current procedures.

Fiscal Estimate

Costs for implementation of the two-parent participation requirement when a family receives federally-funded child care assistance were included in the 1997-98 biennial budget, 1997 Wisconsin Act 27. The rule offers optional participation to the second parent when the family does not receive child care assistance. Optional participation by the second parent may increase the W-2 agency caseload slightly. Participation by the second parent does not increase the benefit amount and costs of training the second parent are not funded by W-2.

Contact Information

The proposed rule is available on the Internet site for the DWD Division of Economic Support at www.dwd.state.wi.us/des/heardings.htm. A Word 97 email attachment or paper copy may be obtained at no charge by contacting:

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403
pridgel@dwd.state.wi.us

Written Comments

Written comments on the proposed rules received at the above address no later than **February 4, 2000**, will be given the same consideration as testimony presented at the hearing.

Notice of Hearings

Workforce Development
(Unemployment & Compensation,
Chs. DWD 100-150)
[CR 99-163]

Notice is hereby given that pursuant ss. 103.005(1), 108.04(2)(b), and 227.11(2), Stats., the Department of Workforce Development will hold three public hearings to consider the creation, amendment, and repeal of proposed rules relating to a limited waiver of the work search requirement, ability to work and availability for work, and various minor changes relating to Unemployment Insurance.

Hearing Information

January 19, 2000
Wednesday
10:00 a.m.
GEF 1 Bldg., Room 400X
201 E. Washington Ave.
Madison, WI

February 8, 2000
Tuesday
1:30 p.m.
State Office Bldg.
Basement Room 40
819 North 6th Street
Milwaukee, WI

February 10, 2000
Thursday
11:00 a.m.
State Office Bldg.
Room #4
2610 Industrial Street
Wisconsin Rapids, WI

If you have special needs or circumstances that may make communication or accessibility difficult at a hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: ss. 103.005(1), 108.04(2)(b), 108.14(2), 227.11(2)

Statute interpreted: s. 108.04(2)(a)1

Limited Waiver of the Work Search Requirement

Section 108.04(2), Stats., provides that a claimant for unemployment insurance benefits must search for work. The statute authorizes the Department of Workforce Development to promulgate rules waiving the work search requirement under conditions to be stated by the department. The existing ch. DWD 127 allows the department to waive a claimant's work search requirement if the claimant has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which the claimant files a claim for unemployment insurance benefits.

The proposed rule change will extend the waiver to 18 weeks for employees of a primary employer in a small labor market who are laid off due to a disaster or a temporary closing of the employer's work site. The rule requires the department to determine that the usual work search activities will not be likely to result in a substantial number of employees finding alternative suitable work in their labor market because of their numbers and the nature of the labor market. In making this determination, the department must consider the overall job availability and unemployment rate in the local labor market. The employer or an employee must request the waiver.

Without the extended waiver of the work search requirement, laid-off employees will be required to repeatedly contact other employers in the small labor market in order to satisfy the work search requirement. Employers may receive numerous applications from laid-off employees who fully intend to return to their former employer when recalled and are contacting other employers solely to fulfill their UI work search requirement. The department may expend limited resources in informing claimants of the work search requirement and in monitoring work searches that are not expected to find alternative suitable work. Other unemployed workers without the same assurance of recall by their employer may also be disadvantaged in their work search efforts.

Ability to Work and Availability for Work

The proposed rule adds language concerning the "able and available" requirements in ch. DWD 128. Generally, partially-employed individuals are considered to have demonstrated their ability to work and availability for work by the fact that they are already working. A formal determination of whether such an individual is "able and available" is not done unless there is some indication that the person is not interested in or willing to work full-time. The rule change adds language that requires the "able and available" test to be applied to prisoners whose work hours are reduced enough that they might qualify for benefits. Although they might be interested in and willing to work full-time, these individuals may not be "able and available" for the general labor market. This restriction will not apply to prisoners with Huber privileges since they are allowed to search for work on the general labor market.

Various Minor Changes

Claimants generally receive UI benefits effective the week in which they file an initial claim. The department may backdate a claim to a prior week if exceptional circumstances exist for the failure to apply in the correct week. The list of exceptional circumstances in the current rule provides examples of circumstances that will be considered to meet the "exceptional circumstances" standard and is not exclusive. In the last revision of this rule, certain items were removed from the nonexclusive list because they were expected to be used less frequently under the new telephone initial claims system. It was acknowledged at the time that these were being removed from the rule solely because they were not considered to be good examples since they were likely to arise infrequently. However, removal of two of these items has caused confusion and some mistaken beliefs that these circumstances no longer qualify as exceptional circumstances. In order to clarify the situation, these two sets of circumstances are being added back to the nonexclusive list in s. DWD 129.01(4).

The rest of the changes in this rule package are minor and technical in nature, such as changing the phrase "unemployment compensation" to "unemployment insurance" to be consistent with statutory language, removing names of obsolete publications, and updating citations.

Initial Regulatory Flexibility Analysis

The proposed rule will not have a significant impact on a substantial number of small businesses. The limited waiver of the work search requirement may help small businesses in a labor market with a temporary lay-off by a primary employer because the small businesses will be less likely to be inundated with job applications from UI claimants who expect to return to work with their former employer in a limited amount of time. Other rule changes are minor corrections and clarifications that will not affect small business.

Fiscal Estimate

The proposed rule changes have no significant fiscal effect on the Unemployment Insurance Trust Fund. The limited waiver of work search has been invoked in the past as an emergency rule when needed in a particular situation and only when there would be no significant fiscal effect. The proposed rule is intended to avoid the need for emergency rules, but no significant policy change or fiscal effect is anticipated. Changes to the able and available rule articulate current practice and are added to make the rules easier to use by the public. Other changes are minor and technical corrections to rule language.

Contact Information

The proposed rule is available on the Internet site for the DWD Unemployment Insurance Division at www.dwd.state.wi.us/hearings.htm. A Word 97 email attachment or paper copy may be obtained at no charge by contacting:

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403
pridgel@dwd.state.wi.us

Written Comments

Written comments on the proposed rules received at the above address no later than **February 17, 2000**, will be given the same consideration as testimony presented at the hearing.

Notice of Hearing Workforce Development (Prevailing Wages, Chs. DWD 290 to 294) [CR 99-164]

Notice is hereby given that pursuant ss. 66.293, 103.49, and 227.11, Stats., the Department of Workforce Development will hold a public hearing to consider the creation, amendment, and repeal of rules relating to prevailing wage rates.

Hearing Information

January 24, 2000
Monday
1:30 p.m.
GEF 1 Bldg., Room 400X
201 E. Washington Ave.
Madison, WI

An accessible entrance to the building is available via a ramp from the corner of Washington Avenue and Webster Street to the Webster Street door. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 267-9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

Analysis Prepared by the Department of Workforce Development

Statutory authority: ss. 66.293, 103.49, and 227.11

Statutes interpreted: ss. 66.293 and 103.49

The proposed rule includes substantive changes suggested by a focus group representing the major parties with interests related to these rules, statutory updates, and clarifications to rule language.

1. Substantive changes

Fringe benefits to apprentices. The proposed rule requires a consistent method for providing fringe benefits to apprentices who work on public works projects. In the past, there has been no standard practice on the provision of fringe benefits in the private sector or on public works projects. The proposed rule provides that apprentices receive the same percentage of journeypersons' fringe benefits as they receive of journeypersons' wages when they are working on public works projects.

Cross-Classifications. The proposed rule allows workers to perform tasks in more than one classification during a work week without a requirement that they be paid a separate pay rate for the second classification if the work in the second classification is 15% or less of their work time for the week. The department previously had an informal policy of allowing work in a second classification up to 20% of the work week without a separate pay rate.

Debarment. Falsifying, deliberately destroying, or failing to keep required payroll records on a public works project is added as an independent cause for debarment. It was previously a cause only when done in combination with one of the other three causes. Only responsible officers and directors of a business that commits a debarable offense may be debarred.

Exempt local governmental units. Local governmental units seeking an exemption from the state prevailing wage law on the grounds that they have their own local ordinance on prevailing wage must show that they have enacted a methodology to enforce the payment of the prevailing wage rates before an exemption from the state law will be granted.

Standard contract language. Every state agency or local governmental unit must ensure that standardized language is in every prime contract that states the contractor's obligation to pay or ensure the payment of the prevailing wage rates to all workers on the project.

Miscellaneous. The classification of projects is updated to reflect current construction industry practices.

The prevailing wage rate determination for projects of a local governmental agency or exempt municipality may be posted at the place normally used to post public notices if there is no appropriate site on a project to post it. This provision does not apply to state-owned projects.

The list of debarred contractors will be sent to exempt local governmental units quarterly only if there has been a change in the list. The debarment list may be sent by a method other than first-class mail.

A written summary or tape recording of a debarment hearing must be requested before the hearing.

2. Statutory updates

Statutory references and terminology are updated to be consistent with 1995 Wisconsin Act 215. The term "municipality" is changed to "local governmental unit" and "fringe benefit" is changed to "economic benefit." The rule is amended to reflect the statute's addition of demolition work to prevailing wage law coverage. The rule repeals language on hours of labor because the statute now determines what is considered standard hours of labor and what is considered overtime.

3. Clarification

Definitions of the terms "project," "service and maintenance work," and "supply and installation contract" are created. The definition of "project" is important because the prevailing wage law does not apply to a project that has an estimated cost of completion below a particular dollar amount. Definitions of "service and maintenance work" and "supply and installation contract" are created to clarify when work falls in these two categories that are not covered under the prevailing wage law.

"Truck driver" is added to the phrase "laborer, worker, or mechanic" in various places throughout the rule that refer to covered employees. The addition of "truck driver" is for clarification and consistency with statutory language and is not a substantive change. The definition of "public works project" is amended to include information formerly contained in the definition of "erection, construction, remodeling, or repairing" and "erection, construction, remodeling, or repairing" is repealed as a defined term. The definition of the term "trade or occupation" is rewritten for clarity.

Initial Regulatory Flexibility Analysis

Contractors on public works projects may be affected by the rule changes but the changes will not have a significant economic impact on a substantial number of small businesses. A focus group representing the major parties with interests related to these rules agreed on the substantive changes.

Fiscal Estimate

None of the substantive changes in the rule have a fiscal effect on state or local governments. The two most significant changes affecting government are intended to ensure that existing law is clear and applied consistently. First, the proposed rule provides that local governments must show they have enacted a methodology for enforcing a prevailing wage ordinance before they will be exempted from the state prevailing wage law. Second, state agencies and local governments must ensure that standardized language on the application of the prevailing wage law is in every prime contract. Other changes affecting government are minor with no fiscal effect.

Contact Information

The proposed rule is available on the Internet site for the DWD Equal Rights Division at www.state.wi.us/er/hearing.htm. A Word 97 email attachment or paper copy may be obtained at no charge by contacting:

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
P.O. Box 7946
Madison, WI 53707-7946
(608) 267-9403
pridgel@dwd.state.wi.us

Written Comments

Written comments on the proposed rules received at the above address no later than **January 31, 2000**, will be given the same consideration as testimony presented at the hearing.

***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.

Health and Family Services (CR 99-56):

Ch. HFS 145 – Relating to control of communicable diseases.

Pharmacy Examining Board (CR 98-76):

SS. Phar 1.01 and 1.02 and ch. Phar 15 – Relating to the preparation of sterile pharmaceuticals by pharmacists.

Public Service Commission (CR 98-27):

Ch. PSC 113 – Relating to service rules for electric utilities in the general area related to the technical and administrative aspects of electric service adequacy and consumer protection.

Public Service Commission (CR 99-19):

Ch. PSC 160 – Relating to the provision of universal telecommunications service and administration of the universal service fund.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Corrections (CR 97-67):

An order affecting ch. DOC 309, relating to inmate access to legal materials and legal services.
Effective 02-01-00.

Natural Resources (CR 97-136):

An order affecting ss. NR 132.085 and 132.09, relating to regulation of metallic mineral mining.
Effective 02-01-00.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **December 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 98-158):

An order amending s. ATP 75.015 (7) (c), relating to the retail food establishment license exemption for restaurant permit holders.

Effective 01-01-00.

Agriculture, Trade and Consumer Protection

(CR 99-78):

An order amending s. ATP 60.19 (3) and (4), relating to drug residues in raw milk.

Effective 01-01-00.

Agriculture, Trade and Consumer Protection

(CR 99-116):

An order affecting ch. ATP 77, relating to certification fees for laboratories engaged in public health testing of milk, water and food.

Effective 01-01-00.

Employment Relations, Dept. of (CR 99-110):

An order affecting ch. ER 18 and ss. ER 1.02, 29.03 and 29.04, relating to reinstatement eligibility and restoration of sick leave for state employees, other related time periods for state personnel transactions, and minor and technical rule changes.

Effective 01-01-00.

Employment Relations--Merit Recruitment and Selection (CR 99-111):

An order affecting ss. ER-MRS 1.02, 11.03, 16.025, 16.035, 16.04, 22.11 and 34.08, relating to reinstatement eligibility and employment register expiration for state employment and minor and technical rule changes.

Effective 01-01-00.

Financial Institutions--Securities (CR 99-121):

An order affecting chs. DFI-Sec 1 to 5 and ss. DFI-Sec 7.06 and 9.01, relating to securities broker-dealer, agent and investment adviser licensing requirements and procedures, securities registration exemptions, definitions and forms.

Effective 01-01-00.

Professional Geologists, Hydrologists and Soil Scientists Examining Board (CR 99-88):

An order creating chs. GHSS 1 to 5, relating to the licensure and regulation of professional geologists, hydrologists and soil scientists.

Effective 01-01-00.

Health and Family Services (CR 99-81):

An order affecting ss. HFS 115.04 and 115.06, relating to screening of newborns for congenital and metabolic disorders.

Effective 01-01-00.

Health and Family Services (CR 99-112):

An order amending s. HFS 105.39 (4) (b) 3., relating to refresher training requirements in cardiopulmonary resuscitation (CPR) and first aid for drivers of specialized medical vehicles (SMVs) under the Medical Assistance (MA) program.

Effective 01-01-00.

Law Enforcement Standards Board (CR 99-93):

An order affecting ch. LES 4, relating to the certification of instructors for law enforcement, jail and secure detention training.

Effective 01-01-00.

Medical Examining Board (CR 99-1):

An order affecting ch. Med 8, relating to licensure and regulation of physician assistants.

Effective 01-01-00.

Medical Examining Board (CR 99-98):

An order affecting chs. Med 6, 13 and 21 and ss. Med 10.02 and 17.02, relating to the repeal of rules relating to the practice of podiatry.

Effective 01-01-00.

Natural Resources (CR 98-162):

An order amending s. NR 410.03, relating to an increase in construction permit fees.

Effective 07-01-00.

Natural Resources (CR 99-23):

An order affecting ch. NR 20 and ss. NR 21.04, 23.05 and 26.26, relating to fishing regulations for inland, outlying and boundary waters and fish refuges.

Part effective 01-01-00.

Part effective 04-01-00.

Natural Resources (CR 99-47):

An order affecting chs. NR 6, 8, 50 and 64 and s. NR 60.09, relating to snowmobiles.

Effective 01-01-00.

Natural Resources (CR 99-82):

An order affecting s. NR 45.10, relating to camping and reservations on state parks, forests and other public lands and waters under the Department's jurisdiction.

Effective 01-01-00.

Natural Resources (CR 99-83):

An order affecting chs. NR 40, 41 and 45, relating to public use of Department lands.

Effective 01-01-00.

Natural Resources (CR 99-97):

An order affecting ss. NR 10.01, 10.06, 10.12 and 10.31, relating to the 1999 migratory game bird season.

Effective 01-01-00.

Pharmacy Examining Board (CR 98-187):

An order creating s. Phar 7.10, relating to pharmacists administering by injection a drug product or device in the course of teaching a patient self-administration techniques.

Effective 01-01-00.

Transportation (CR 98-168):

An order affecting ch. Trans 102, relating to operator's licenses and identification cards.

Effective 01-01-00.

Transportation (CR 99-91):

An order affecting ss. Trans 213.02 and 213.03, relating to the local bridge program.

Effective 01-01-00.

Transportation (CR 99-107):

An order creating ch. Trans 134, relating to registration plates for authorized special groups.

Effective 01-01-00.

Transportation (CR 99-119):

An order affecting ss. Trans 276.07 and 276.09, relating to allowing the operation of "double bottoms" (and certain other vehicles) on certain specified highways.

Effective 01-01-00.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

The following administrative rule revisions and corrections have taken place in December, 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. ATP 60

S. ATP 60.19 (3) and (4)

Ch. ATP 75

S. ATP 75.015 (7) (c)

Ch. ATP 77

S. ATP 77.06 (1) and (2)

S. ATP 77.22 (2) (b) and (c)

Employment Relations:

Ch. ER 1

S. ER 1.02 (14) and (41)

Ch. ER 18

S. ER 18.01 (3) (f)

S. ER 18.02 (2) (b)

S. ER 18.03 (4) (d)

S. ER 18.04 (4) (d)

S. ER 18.05 (4) (d)

S. ER 18.16 (entire section)

Ch. ER 29

S. ER 29.03 (6)

S. ER 29.04 (intro.)

Employment Relations--Merit Recruitment and Selection:

Ch. ER-MRS 1

S. ER-MRS 1.02 (29)

Ch. ER-MRS 11

S. ER-MRS 11.03 (1)

Ch. ER-MRS 16

S. ER-MRS 16.025 (entire section)

S. ER-MRS 16.035 (1) to (3)

S. ER-MRS 16.04 (2)

Ch. ER-MRS 22

S. ER-MRS 22.11 (1), (1m) and (2)

Ch. ER-MRS 34

S. ER-MRS 34.08 (entire section)

Financial Institutions--Securities:

Ch. DFI-Sec 1

S. DFI-Sec 1.02 (1) (a), (14) (g) and (18)

Ch. DFI-Sec 2

S. DFI-Sec 2.01 (3)

S. DFI-Sec 2.02 (9) (a) and (L)

S. DFI-Sec 2.04 (1) (a)

Ch. DFI-Sec 3

S. DFI-Sec 3.03 (3)

Ch. DFI-Sec 4

S. DFI-Sec 4.01 (3) (a) to (g), (4) (f) to (h)
and (5) (a) to (e)

S. DFI-Sec 4.035 (entire section)

S. DFI-Sec 4.04 (5) (a) and (6)

S. DFI-Sec 4.05 (9)

Ch. DFI-Sec 5

S. DFI-Sec 5.01 (3) and (4) (a) and (d)

S. DFI-Sec 5.02 (1) and (2)

S. DFI-Sec 5.03 (1) (o) and (5)

S. DFI-Sec 5.035 (entire section)

S. DFI-Sec 5.04 (1)

S. DFI-Sec 5.05 (11) (f)

S. DFI-Sec 5.06 (6)

Ch. DFI-Sec 7

S. DFI-Sec 7.06 (1) (b)

Ch. DFI-Sec 9

S. DFI-Sec 9.01 (1) (a) and (b)

Professional Geologists, Hydrologists and Soil Scientists Examining Board:

Chs. GHSS 1 to 5 (entire chapters)

Health and Family Services:

(Medical Assistance, Chs. HFS 100--)

Ch. HFS 105

S. HFS 105.39 (4) (b)

(Health, Chs. HFS 110--)

Ch. HFS 115

S. HFS 115.04 (intro.), (1) to (6) and (8)

S. HFS 115.06 (intro.) and (1) to (5)

Law Enforcement Standards Board:**Ch. LES 4**

- S. LES 4.01 (intro.) and (2) (a) to (d)
- S. LES 4.02 (entire section)
- S. LES 4.03 (1)
- S. LES 4.04 (entire section)
- S. LES 4.05 (entire section) renumbered to be
s. LES 4.04
- S. LES 4.06 (entire section) renumbered to be
s. LES 4.05
- S. LES 4.07 (entire section)
- S. LES 4.08 (entire section) renumbered to be
s. LES 4.06 and amended
- S. LES 4.09 (entire section) renumbered to be
s. LES 4.07 and amended
- S. LES 4.10 (entire section) renumbered to be
s. LES 4.08 and amended

Medical Examining Board:**Ch. Med 6 (entire chapter)****Ch. Med 8**

- S. Med 8.01 (entire section)
- S. Med 8.02 (3), (5m) and (6)
- S. Med 8.03 (entire section)
- S. Med 8.04 (entire section)
- S. Med 8.05 (intro.), (1) (intro.) and (cm), (2) (b),
(c) and (d) and (4)
- S. Med 8.06 (1) (intro.) and (b) to (3) and (4)
- S. Med 8.07 (1), (2) (intro.), (c) (e), (f) and (i)
- S. Med 8.08 (1) to (2) (d) and (e)
- S. Med 8.10 (1)

Ch. Med 10

- S. Med 10.02 (2) (v), (y) and (za)

Ch. Med 13

- S. Med 13.01 (entire section)
- S. Med 13.02 (entire section)
- S. Med 13.03 (1) (c)
- S. Med 13.05 (1m) and (2)
- S. Med 13.06 (entire section)

Ch. Med 17

- S. Med 17.02 (2)

Ch. Med 21

- S. Med 21.01 (entire section)
- S. Med 21.02 (2)
- S. Med 21.03 (1) and (2) (intro.)

Natural Resources:*(Fish, Game, etc., Chs. NR 1--)***Ch. NR 6**

- S. NR 6.08 (6)
- S. NR 6.11 (entire section)
- S. NR 6.12 (entire section)

Ch. NR 8

- S. NR 8.01 (1)
- S. NR 8.02 (1m)

Ch. NR 10

- S. NR 10.01 (1) (b), (g), (u) and (v)
- S. NR 10.06 (4)
- S. NR 10.12 (1) (h)
- S. NR 10.31 (1) (c)

Ch. NR 20

- S. NR 20.03 (28m)
- S. NR 20.06 (3m)
- S. NR 20.15 (entire section)
- S. NR 20.20 (1) (f), (2) (dm), (4) (c) and (i), (6) (f),
(7) (c), (9) (dm) and (e), (11) (i),
(13) (a), (16) (h), (18) (f), (22) (a),
(25) (a), (c) and (em), (26) (d), (29) (f),
(33) (a) and (am), (37) (g), (47) (f),
(50) (f), (53) (a), (55) (b), (bm), (bs)
and (bw), (56) (h), (57) (e), (64) (c)
and (h), (65) (dm), (68) (d), (70) (b),
(d) and (g), (72) (f), (73) (e), (f)
and (me)
- S. NR 20.33 (5)

Ch. NR 21

- S. NR 21.04 (1)

Ch. NR 23

- S. NR 23.05 (5) (c)

Ch. NR 26

- S. NR 26.26 (entire section)

Ch. NR 40 (entire chapter)**Ch. NR 41 (entire chapter)****Ch. NR 45**

- S. NR 45.02 (entire section)
- S. NR 45.03 (8m) and (21m)
- S. NR 45.04 (3) (g), (m), (n) and (o)
- S. NR 45.06 (3m)
- S. NR 45.09 (1), (2) and (7)
- S. NR 45.10 (1) (a), (k) and (L), (2m), (3) and (4)
- S. NR 45.11 (4) (h) and (6) (m)
- S. NR 45.12 (2) (a)
- S. NR 45.13 (14) (b)

Ch. NR 50

- S. NR 50.03 (7) and (17m)
- S. NR 50.09 (4) (c) and (f) and (7)
- S. NR 50.10 (3) (a) and (5)
- S. NR 50.11 (4) (intro.)
- S. NR 50.12 (3) (e)
- S. NR 50.13 (4) (d)

Ch. NR 64

- S. NR 64.03 (4)
- S. NR 64.04 (3)
- S. NR 64.085 (entire section)
- S. NR 64.13 (8)
- S. NR 64.14 (2) (a), (b) and (c), (9) (a) and (am)
and (11)
- S. NR 64.15 (2) and (3) (d) and (g)

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

Ch. NR 410

S. NR 410.03 (intro.), (1) (a), (b) and (d), (2) and (4)

Pharmacy Examining Board:

Ch. Phar 7

S. Phar 7.10 (entire section)

Transportation:

Ch. Trans 102

S. Trans 102.02 (6), (6m) and (9) (intro.), (a) and (b)

S. Trans 102.03 (2) and (3)

S. Trans 102.07 (2)

S. Trans 102.09 (1) and (3)

S. Trans 102.11 (1) (a), (b), (c) and (2)

S. Trans 102.14 (1) (a), (b), (c) and (6)

S. Trans 102.15 (2) (a) and (c), (3) (a), (b) and (c),
(4) (a) and (b) and (6) (intro.) and (b)

S. Trans 102.16 (2), (3), (3m) and (5)

S. Trans 102.20 (10) (a) and (b), (11) and (13)

Ch. Trans 134 (entire chapter)

Ch. Trans 213

S. Trans 213.02 (2m), (5), (6), (8) and (9)

S. Trans 213.03 (entire section)

Ch. Trans 276

S. Trans 276.07 (4), (12), (12m) and (17)

S. Trans 276.09 (4)

EDITORIAL CORRECTIONS

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

Employment Relations:

Ch. ER 1

S. ER 1.02 (6) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Ch. ER 18

S. ER 18.02 (2) (a) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Employment Relations--Merit Recruitment and Selection:

Ch. ER-MRS 6

S. ER-MRS 6.10 (9) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Ch. ER-MRS 16

S. ER-MRS 16.035 (4) had corrections made under
s. 13.93 (2m) (b) 7., Stats.

Health and Family Services:

(Community Services, Chs. HFS 30--)

Ch. HFS 42 (entire chapter) was renumbered from ch. HSS 42 under s. 13.93 (2m) (b) 1., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. HFS 57 (entire chapter) was renumbered from ch. HSS 57 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. HFS 59 (entire chapter) was renumbered from ch. HSS 59 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. HFS 60 (entire chapter) was renumbered from ch. HSS 60 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. HFS 86 (entire chapter) was renumbered from ch. HSS 86 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. HFS 88 (entire chapter) was renumbered from ch. HSS 88 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

(Medical Assistance, Chs. HFS 100--)

Ch. HFS 105

S. HFS 105.17 (1) (intro.) had a correction made
under s. 13.93 (2m) (b) 7., Stats.

S. HFS 105.265 (entire section) had corrections
made under s. 13.93
(2m) (b) 7., Stats.

S. HFS 105.36 (1) (b) had a correction made
under s. 13.93 (2m) (b) 7., Stats.

S. HFS 105.42 (1) and (2) had corrections made
under s. 13.93 (2m) (b) 7., Stats.

S. HFS 105.43 (entire section) had a correction
made under s. 13.93
(2m) (b) 7., Stats.

S. HFS 105.44 (entire section) had a correction
made under s. 13.93
(2m) (b) 7., Stats.

S. HFS 105.46 (entire section) had a correction
made under s. 13.93
(2m) (b) 7., Stats.

(Health, Chs. HFS 110--)

Ch. HFS 155 (entire chapter) was renumbered from ch. HSS 155 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Law Enforcement Standards Board:

Ch. LES 1

S. LES 1.03 (10), (12) and (16) had corrections
made under s. 13.93
(2m) (b) 7., Stats.

Medical Examining Board:**Ch. Med 1**

S. Med 1.02 (5) had a correction made under
s. 13.93 (2m) (b) 6., Stats.

Ch. Med 3

S. Med 3.01 (entire section) had a correction made
under s. 13.93 (2m) (b) 7., Stats.

S. Med 3.02 (5) had a correction made under
s. 13.93 (2m) (b) 6., Stats.

Ch. Med 4

S. Med 4.02 (5) had a correction made under
s. 13.93 (2m) (b) 6., Stats.

Ch. Med 11

S. Med 11.04 (1) (intro.) and (g) had corrections
made under s. 13.93 (2m) (b) 7., Stats.

S. Med 11.05 (entire section) had a correction
made under s. 13.93 (2m) (b) 7., Stats.

Ch. Med 20

S. Med 20.03 (1) (b) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

S. Med 20.04 (7) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

S. Med 20.05 (1) (b) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Natural Resources:

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

Ch. NR 6

S. NR 6.08 (4) (c) and (5) (c) had corrections made
under s. 13.93 (2m) (b) 6., Stats.

Ch. NR 8

S. NR 8.02 (1) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

S. NR 8.04 (1) (d) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Ch. NR 45

S. NR 45.13 (20) had a correction made
under s. 13.93 (2m) (b) 1., Stats.

Ch. NR 50

S. NR 50.01 (entire section) had a correction made
under s. 13.93 (2m) (b) 7., Stats.

S. NR 50.02 (entire section) had a correction made
under s. 13.93 (2m) (b) 7., Stats.

S. NR 50.03 (12) and (15) had corrections made
under s. 13.93 (2m) (b) 7., Stats.

S. NR 50.06 (1) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

S. NR 50.20 (1) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

S. NR 50.21 (3) had corrections made under
s. 13.93 (2m) (b) 7., Stats.

Ch. NR 64

S. NR 64.11 (2) had a correction made under
s. 13.93 (2m) (b) 6., Stats.

ERRATA

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

Employee Trust Funds:**Ch. ETF 50**

S. ETF 50.62 (Table 3) was reprinted to correct its
format.

Public Service Commission:**Ch. PSC 166**

S. PSC 166.03 (2) was reprinted to restore dropped
copy.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection (CR 98-158)

Ch. ATPC 75 – Retail Food Establishment License Exemption for Restaurant Permit Holders.

Summary of Final Regulatory Flexibility Analysis:

The amendments to s. ATPC 75.015 (7)(c), Wis. Adm. Code, will have a fiscal impact on small businesses as defined in s. 227.114 (1)(a), Stats. Currently, approximately 7,500 retail food establishments are licensed and inspected by either the department or a local city/county health department that is an agent of the department. Retail food establishments range from small establishments that sell only pre-packaged food to large establishments which process as well as sell a variety of foods.

Over time some retail food establishments have added restaurant type operations and, conversely, some restaurants have added retail food sales operations. Under current rules, a person who operates both a retail food store and a restaurant at the same location may be subject to duplicate licensing by both the Department of Agriculture, Trade and Consumer Protection (DATCP) and the Department of Health and Family Services (DHFS). Local city/county health departments that contract to perform licensing and inspection of retail food establishments as agents of the state may also issue duplicate licenses for establishments which perform both restaurant and retail food sales or processing activities.

This rule exempts holders of restaurant permits from licensing as a retail food establishment if the retail food sales at the same location as the restaurant are less than 50% of the total food sales at the location. This rule effectively eliminates unnecessary duplication of licensing in restaurants with limited retail food sales or processing activities. DHFS is adopting a similar rule which will exempt retail food establishment licenses from obtaining a restaurant permit if meal food sales are less than 50% of the total food sales. These actions will eliminate unnecessary costs and help small business by reducing their license fees and inspection costs.

The proposed rule provides specific accommodations to certain small businesses. Restaurant operators who are exempt from a retail food establishment license will no longer have to pay the retail food establishment license fee or be inspected by the DATCP or its local agent.

The proposed rule does not require any additional recordkeeping for small businesses. The proposed rule does not require any additional professional services to be acquired by small businesses.

Summary of Comments from Legislative Committees:

On May 13, 1999, the department transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Economic Development, Housing and Government Operations on May 18, 1999, and the Assembly Committee on Agriculture on May 24, 1999. No action was taken during the review period by either committee.

2. Agriculture, Trade & Consumer Protection (CR 99-78)

Ch. ATPC 60 – Drug Residues in Raw Milk.

Summary of Final Regulatory Flexibility Analysis:

The modifications to ch. ATPC 60, Wis. Adm. Code, Dairy Farms, will not have a fiscal impact on small businesses as defined in s. 227.114(1)(a), Stats. There are approximately 110 dairy plants currently licensed and inspected by the department that meet the definition of a small business.

The testing of every bulk load of raw milk for a drug residue received by a dairy plant operator is required under the dairy farm rule. A dairy plant operator is also required to test each of the producer milk samples collected for a bulk load that tests positive for a drug residue in order to identify the violative producer or producers.

A dairy plant operator is required to reject a bulk load of raw milk that tests positive for a drug residue. The rejected bulk load cannot be shipped to another dairy plant or used for human food.

The proposed changes to ch. ATPC 60, Wis. Adm. Code, are:

1. Clarify and standardize the testing procedures for the producer milk samples collected for a bulk load of raw milk that tested positive for a drug residue.

2. Clarify who is responsible for insuring that a bulk load of raw milk that tested positive for a drug residue is not used for human food.

The impact of the proposed rule changes on small business is negligible. It would not be necessary for licensed dairy plants to provide additional laboratory facilities or staff, or retain additional testing services to comply with these changes.

Summary of Comments from Legislative Committees:

On September 28, 1999, the department transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform on September 30, 1999, and the Assembly Committee on Agriculture on October 5, 1999. No action was taken during the review period by either committee.

3. Agriculture, Trade & Consumer Protection (CR 99-116)

Ch. ATPC 77 – Certification Fees for Laboratories Engaged in Public Health Testing of Milk, Water, and Food.

Summary of Final Regulatory Flexibility Analysis:

This rule establishes fees for certification of laboratories examining milk, food or water for the protection of public health. The 1995–97 biennial budget act transferred much of the administration of Wisconsin's laboratory certification program from the Department of Health and Family Services (DHFS) to the Department of Agriculture, Trade and Consumer Protection (DATCP). Shortly after that transfer, DATCP proposed rules establishing fees to offset the costs of certification of laboratories as required in s. 93.12, Wis. Stats. These fees are based on recovering 100% of the costs of this program from the industry affected by the program. Those rules also required the DATCP to evaluate laboratory certification fees by FY 2000 and make appropriate adjustments to the fees.

The approximately 180 laboratories currently certified range from small, one person laboratories to large facilities with dozens of analysts. This rule will have a fiscal impact on "small businesses" as defined in s. 227.14(1)(a) Wis. Stats. Annual laboratory fees are increased as compared to the \$216 per test fee currently charged by DATCP. This fee increase is due to the fact that the laboratory certification program is inadequately funded. Inadequate funding occurs because the number of laboratories requiring certification has decreased. Costs of the program have actually been reduced in the past two years by reducing program support activities.

The proposed rule will increase costs for laboratories that test milk, food or water. These laboratories currently pay a fee of \$216 per test. Fees under the proposed rule range from \$336 for one milk or food test to \$3,360 for 10 tests. Fees for water laboratories under the proposed rule range from \$276 for one test to \$1104 for four tests.

The proposed rule will impact local government water laboratories. These laboratories currently pay fees of \$216 per test, based on the number of tests they run. Under the proposed rule, these laboratories would pay a \$276 fee for each test.

The proposed rule has no other impact on small businesses. It would not be necessary for certified laboratories to retain additional professional services such as accounting or legal services to comply with this rule.

Summary of Comments from Legislative Committees:

On October 1, 1999, the department transmitted the above rule for legislative committee review. The rule was assigned to the Senate Committee on Agriculture, Environmental Resources Campaign Finance Reform on October 5, 1999, and the Assembly Committee on Agriculture on October 12, 1999. No action was taken during the review period by either committee.

4. Employment Relations (CR 99–110)

Chs. ER 1, 18 & 29 – Reinstatement eligibility and restoration of sick leave for state employees, other related time periods for state personnel transactions, and minor and technical rule changes.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule does not affect small business; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments:

No comments were reported.

5. Employment Relations – Division of Merit Recruitment and Selection (CR 99–111)

Ch. ER–MRS 1, 11, 16, 22 & 34 – Reinstatement eligibility and employment register expiration for state employment and minor and technical rule changes.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule does not affect small business; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments:

No comments were reported.

6. Financial Institutions – Securities (CR 99–121)

Chs. DFI–Sec 1, 2, 4 & 5 – Securities broker–dealer, agent and investment adviser licensing requirements and procedures, securities registration exemptions, definitions and forms.

Summary of Final Regulatory Flexibility Analysis:

No final regulatory flexibility analysis is included on the basis that the Division of Securities has determined, after complying with s. 227.016(1) to (5), Wis. Stats., that the proposed rules will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

7. Geologists, Hydrologists and Soil Scientists (CR 99–88)

Chs. GHSS 1 to 5 – Registration and regulation of professional geologists, hydrologists and soil scientists.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments reported.

8. Health & Family Services (CR 99–81)

Ch. HFS 115 – Screening of newborn children for congenital and metabolic disorders.

Summary of Final Regulatory Flexibility Analysis:

These rule changes will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. The addition of another condition for which the same blood sample of a newborn child is screened will affect the State Laboratory of Hygiene, the Department for follow–up treatment, newborn children identified as having the particular condition who will benefit from the follow–up treatment, and their parents, and all parents of newborn children or their third–party payers for the additional cost (about \$5.50) of a delivery. No third–party payer is likely to be a small business, and in any case would likely absorb or else pass–on increased costs to parents.

Summary of Comments:

No comments were reported.

9. Health and Family Services (CR 99–112)

S. HFS 105.39 (4) (b) 3. — Refresher training requirements in cardiopulmonary resuscitation (CPR) and first aid for drivers of specialized medical vehicles (SMVs) under the medical assistance (MA) program.

Summary of Final Regulatory Flexibility Analysis:

Nearly all of the 191 MA–certified SMV providers are small businesses as “small business” is defined ins. 227.114 (1) (a), Stats. Many of the SMV providers and their drivers are affected by the amendment of s. HFS 105.39 (4) (b) 3.

The amendments change the required frequency of SMV driver refresher training in first aid and provide that the drivers get the refresher training in CPR that they need in order to maintain certification.

Because of this updating of s. HFS 105.39 (4) (b) 3., SMV providers are likely to realize savings in training costs and providing coverage for drivers taking training. Drivers will not have to receive refresher training in first aid and CPR as often as they did before publication of the emergency rules. Consequently, the amendments themselves provide regulatory relief to some small businesses.

No comments were received on the emergency and the proposed permanent rule changes during public review of them.

Summary of Comments:

No comments were received.

10. Law Enforcement Standards Board (CR 99–93)

Ch. LES 4 – Certification of instructors for law enforcement, jail and secure detention training.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not affect small businesses.

Summary of Comments:

No comments reported.

11. Medical Examining Board (CR 99–1)

Ch. Med 8 – Licensure and regulation of physician assistants.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

12. Medical Examining Board (CR 99–98)

Chs. Med 6, 10, 13 & 21 – The repeal of rules relating to the practice of podiatry.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

13. Natural Resources (CR 98–162)

Ch. NR 410 — Increase in construction permit fees.

Summary of Final Regulatory Flexibility Analysis:

All small businesses which require an air pollution control construction permit or certain permit exemptions are required to pay a fee under the present ch. NR 410. Under this proposal, the basic fee for natural minor sources will not be increased. Other permit fees will increase approximately 35%. The construction permit application fee is invoiced at the time the permit is issued. There are no changes proposed in the fee collection procedures. There will be no additional compliance and reporting requirements imposed on small businesses as a result of this rule.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform and the Assembly Committee on Natural Resources. On March 10, 1999, the Assembly Committee on Natural Resources held a public hearing. On March 25, 1999, the Assembly Committee on Natural Resources requested the Department to modify the proposed rule to provide a different fee for some or all types of minor sources or to substitute a method for determining the fee for minor sources rather than a set fee amount. The Committee also requested the department to list and analyze the potential methods of reducing the effect of the rule on small businesses and to incorporate into the rule any of the methods for reducing the effect of the rule on small businesses that are feasible and consistent with the statutes.

On April 28, 1999, the Natural Resources Board proposed to eliminate the increase in the basic fee for natural minor sources. Specifically, the basic fee ins. NR 410.03(1)(a)1. remains at \$2,300 for natural minor sources. For all other sources, including synthetic minors, the proposed fee schedule in ch. NR 410 would apply. Natural minor sources do not have the potential to emit enough pollutants to qualify as major sources. Synthetic minor sources are those sources which have the potential to emit pollutants above major source thresholds, but which are constrained by enforceable permit conditions to operate within the limits of a minor source. The synthetic minor sources require extensive engineering reviews to develop the enforceable conditions.

The Assembly Committee on Natural Resources affirmed their willingness to approve the revisions. However, the Committee requested that the effective date be July 1, 2000. On September 29, 1999, the Natural Resources Board adopted the later effective date.

14. Natural Resources (CR 99–23)

NR 20 – Fishing regulations for inland, outlying and boundary waters and fish refuges

Summary of Final Regulatory Flexibility Analysis:

The proposed rules affect individual anglers and do not impact 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. On August 4, 1999, the Assembly Committee on Natural Resources held a public hearing. The Committee requested the Department to make two modifications to the rule. One modification correcting the description of the fish refuge on Cox Hollow Lake was approved by the Natural Resources Board. The second modification of deleting the words "or possessed" from s. NR 20.15 relating to the possession of only barbless hooks during the early catch and release season for trout was not adopted by the Natural Resources Board.

On September 1, 1999, the Assembly Committee on Natural Resources objected to the words "or possessed" in s. NR 20.15 and notified the Joint Committee for Review of Administrative Rules.

15. Natural Resources (CR 99-47)

Chs. NR 6, 8, 50 and 64 – Snowmobiles.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not regulate small 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 Tourism and Recreation and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.

16. Natural Resources (CR 99-82)

Ch. NR 45 – Camping and reservations on state parks, forests and other public lands and waters under the Department's jurisdiction.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not regulate small 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 Tourism and Recreation and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.

17. Natural Resources (CR 99-83)

Chs. NR 40, 41 and 45 – Public use of department lands.

Summary of Final Regulatory Flexibility Analysis:

The rule will not directly affect small business; therefore, no final regulatory flexibility analysis is required.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. On October 13, 1999, the Assembly Committee on Natural Resources extended their review period for 30 days. A Department representative met with Representative Johnsrud to discuss his concerns. No modification to the rule was requested.

18. Natural Resources (CR 99-97)

Ch. NR 10 – 1999 Migratory game bird season.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules regulate individual hunters; 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.

19. Pharmacy Examining Board (CR 98-187)

S. Phar 7.10 – Pharmacists administering by injection a drug product or device in the course of teaching a patient self-administration techniques.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

20. Transportation (CR 98-168)

Ch. Trans 102 – Operator's licenses and identification cards.

Summary of Final Regulatory Flexibility Analysis:

This rule will have no direct affect on small businesses.

Summary of Comments:

No comments were reported.

21. Transportation (CR 99-91)

Ch. Trans 213 – Local bridge program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

22. Transportation (CRF 99-107)

Ch. Trans 134 – Registration plates for authorized special groups.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

23. Transportation (CR 99-119)

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

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

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

Executive Order 385. Relating to the Creation of the Governor's Council in Workforce Investment.

NOTICE OF NONACQUIESCENCE

NOTICE OF NONACQUIESCENCE

Tax Appeals Commission

MILWAUKEE SAFEGUARD INSURANCE CO. and	:	
MILWAUKEE GUARDIAN INSURANCE INC.,	:	
Petitioners,	:	NOTICE OF NONACQUIESCENCE
v.	:	Docket Nos. 97-I-265 and 97-I-266
WISCONSIN DEPARTMENT OF REVENUE,	:	
Respondent.	:	

Pursuant to s. 73.01 (4) (e) 2. of the Wisconsin Statutes, the respondent hereby gives notice that, although it is not appealing the decision or order of the Tax Appeals Commission rendered in the above captioned matters under date of November 12, 1999, it has adopted a position of nonacquiescence in regard to that decision or order. The effect of this action is that, although the decision or order is binding on the parties for the instant case, the Commission's conclusions of law, the rationale and construction of statutes in the instant case are not binding upon or required to be followed by the respondent in other cases.

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