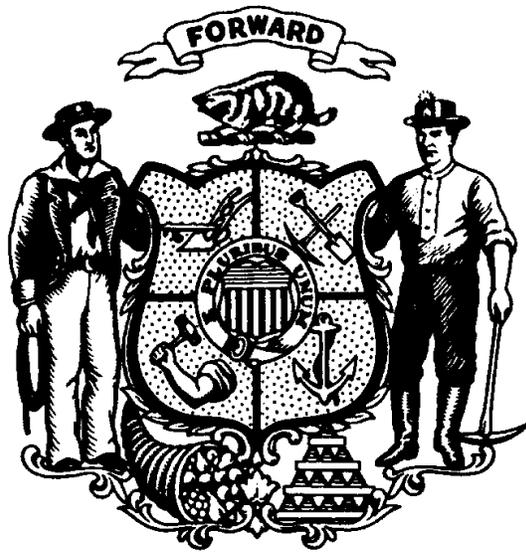


WISCONSIN ADMINISTRATIVE REGISTER

No. 531



Publication Date: March 31, 2000
Effective Date: April 1, 2000



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

The *entire* Administrative Code is now published on *WisLaw*[®]

Starting with the November 1, 1999 release, the entire Wisconsin Administrative Code will be included with your subscription to *WisLaw*[®]. There will be no additional charge. The same low subscription rate for *WisLaw*[®] remains in effect. In addition, *WisLaw*[®] now features Folio Views 4.2, which takes full advantage of the 32-bit capabilities of Windows 95 and higher.

Up-to-date *WisLaw*[®] CD-ROM's will be released by the Revisor of Statutes Bureau quarterly. *WisLaw*[®] contains the *continuously-updated Wisconsin Statutes and Annotations* with Index, Table of Cross-References, Table of Sections Affected by Acts, the *Wisconsin Acts* with Index, the *Supreme Court Rules and Internal Operating Procedures*, recent *Opinions of the Attorney General* with Index, the *Wisconsin Constitution*, the *U.S. Constitution*, the *Administrative Register* (from January 1996 through CD release date), the *Town Law Forms*, and the *Wisconsin Code of Military Justice*. The *Wisconsin Administrative Code* with Index is the newest addition to *WisLaw*[®].

All of the above *WisLaw*[®] Infobases are substantially integrated with hypertext links. *WisLaw*[®] is only available by subscription for 12-month periods. End-user license and subscription order forms are available at Document Sales; CD's will only be delivered upon receipt of a signed license and subscription form and full payment. No orders will be accepted by FAX. *WisLaw*[®] is distributed by DOA's Document Sales Unit to requesting state agencies on a complimentary basis.

A 12-month subscription plus a license for no more than one simultaneous user costs \$99. A 12-month subscription plus a license for no more than 4 simultaneous users costs \$149. A 12-month subscription plus a license for no more than 10 simultaneous users costs \$199. Shipping is included. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% Wisconsin stadium sales tax.

To obtain a *WisLaw*[®] Subscription Order Form call (608) 266-3358 {TTY (608) 264-8499} or write to:

**Wisconsin Department of Administration
Bureau of Integrated Document Services
Document Sales and Distribution Section
P.O. Box 7840
Madison, WI 53707-7840**

TABLE OF CONTENTS

Emergency Rules Now In Effect.**Pages 7 to 14.**

Commerce:

PECFA, Chs. Comm 46 and 47

Rules relating to Petroleum Environmental Cleanup Fund interagency responsibilities.

Rules relating to appeals under the PECFA program.

Crime Victims Rights Board:

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

Employe Trust Funds:

Rules relating to the distribution to annuitants under 1999 Wis. Act 11.

Financial Institutions—Securities:

Rules relating to investment advisor competency examination grandfathering provisions.

Gaming Division:

Rules relating to the conduct of pari-mutuel snowmobile racing.

Rules relating to snowmobile racing.

See Revenue.

Health & Family Services:

Management, etc., Chs. HFS 1--

Rules relating to caregiver background checks.

Rules relating to family care.

Health & Family Services:

Community Services, Chs. HFS 30--

Rules relating to the adoption assistance program.

Health & Family Services:

Medical Assistance, Chs. HFS 100-108

Rules relating to discovery rights in contested case proceedings.

Natural Resources:

Environmental Protection-General, Chs. NR 100--

Rules relating to river protection grants.

Natural Resources:

Environmental Protection-Investigation & Remediation, Chs. NR 700--

Rules relating to sites contaminated with petroleum products from petroleum storage tanks.

Public Instruction:

Rules relating to the Milwaukee parental school choice program.

Rules relating to alternative education grants.

Rules relating to supplemental aid for school districts with a large area.

Rules relating to state aid for achievement guaranteed contracts and aid for debt service.

Rules adopted creating s. PI 6.07, relating to library system aid payment adjustments. **[FIRST APPEARANCE]**Rules adopted revising ch. PI 32, relating to grants for alcohol and other drug abuse (AODA) programs. **[FIRST APPEARANCE]**

Revenue:

Rules relating to assessment of agricultural property.

Rules relating to retailer performance program of the Wisconsin Lottery.

Technical College System:

Rules relating to grants for students.

Transportation:

Rules relating to evaluating bids solicited for transit service in a competitive process.

Workforce Development:

Prevailing Wage Rates, Chs. DWD 290-294

Rule relating to the annual adjustment of the prevailing wage rate for public works projects.

Scope Statements.

Administration:

Administration:

Agriculture, Trade and Consumer Protection:

Commerce (Uniform Dwelling, Chs. Comm 20–25):

Ethics Board:

Natural Resources (Investigation and Remediation, Chs. NR 700--):Natural Resources (Investigation and Remediation, Chs. NR 700--):Natural Resources (Investigation and Remediation, Chs. NR 700--):

Public Instruction:

Public Service Commission:

Transportation:

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

Agriculture, Trade and Consumer Protection:

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

Health and Family Services:

Health and Family Services:

Health and Family Services:

Nursing, Board of:

Pharmacy Examining Board:

Pharmacy Examining Board:

Pharmacy Examining Board:

Revenue:

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board:

Pages 15 to 18.

Adm Code – Relating to utility public benefits fees.

Adm Code – Relating to grant application process and eligibility for low-income public benefits programs.

Chs. ATCP 1 and 162 and various chapters – Relating to technical rule changes.

Chs. Comm 20 to 25 – Relating to inspection procedures in Uniform (1–2 Family) Dwelling Code.

Ch. Eth 4 – Relating to the identification of a topic of a lobbying communication.

Chs. NR 714, 716, 726 and 749 – Relating to revisions regarding sampling, public notices for performance standards, use of a GIS registry to replace groundwater use restrictions, and fees for using the registry.

Ch. NR 754 – Relating to new insurance requirements in the Voluntary Party Liability Exemption process.

Ch. NR 756 – Relating to new insurance requirements in the Voluntary Party Liability Exemption process.

S. PI 14.03 – Relating to minor modifications to align the rule with Generally Accepted Accounting Principles (GAAP) requirements and to update or eliminate obsolete references and terminology.

Ch. PSC 163 – Relating to telecommunications utility price regulation, regarding the productivity offset factor [Docket 1–AC–193].

Ch. Trans 276 – Relating to adding one highway segment to the network of highways on which long combination vehicles may operate.

Pages 19 to 22.

Ch. ATCP 35 – Relating to the Agricultural Chemical Cleanup Program.

SS. A–E 2.02, 4.05, 6.04 and 6.05 – Relating to registration seals, experience requirements for professional engineers, and educational requirements for land surveyors.

Ch. HFS 10 – Relating to family care.

Ch. HFS 12 – Relating to caregiver background checks.

Ch. HFS 73 – Relating to Community Options Program (COP) & CIP: criteria for determining infeasibility of providing services in the home.

S. N 5.08 – Relating to renewal after 5 years.

S. Phar 7.05 (3) – Relating to transfer of prescription orders.

Phar Code – Relating to delivery of prescriptions.

Phar Code – Relating to delegation of duties by a pharmacist.

Tax Code – Relating to updating the definition of “agricultural use”; to updating references to federal agricultural programs; and to providing that land enrolled in those programs is in “agricultural use”.

SS. SFC 8.02 and 8.03 – Relating to continuing education programs.

Transportation:	Chs. Trans 101 to 104 – Relating to the demerit point system and graduated driver license restriction extensions.
<i>Notices of Hearings or of Proposed Rules.</i>	<i>Pages 23 to 41.</i>
Agriculture, Trade & Consumer Protection:	Hearing to consider revision to ch. ATCP 35, relating to the agricultural chemical cleanup program. [Hearing date: 04/11/00]
Agriculture, Trade & Consumer Protection:	Hearings to consider revision to ch. ATCP 75, relating to retail food establishments. [Hearing dates: 04/25/00, 04/27/00, 04/28/00, 05/02/00 and 05/05/00]
Architects, Landscape Architects, etc. Examining Board:	Hearing to consider revision to chs. A–E 2, 4 and 6, relating to experience and educational requirements and registration seals. [Hearing date: 04/12/00]
Health and Family Services:	<u>Management, Policy, etc., Chs. HFS 1—</u> Hearing to consider revision to ch. HFS 12, relating to caregiver background checks. [Hearing date: 04/13/00]
Health and Family Services:	<u>Health, Chs. HFS 110—</u> Hearings to consider revision to ch. HFS 196, relating to restaurants. [Hearing dates: 04/25/00, 04/27/00, 04/28/00, 05/02/00 and 05/05/00]
Nursing, Board of:	Hearing to consider revision to s. N 5.08, relating to renewal after 5 years. [Hearing date: 05/18/00]
Pharmacy Examining Board:	Hearing to consider revision to s. Phar 7.05, relating to transfer of prescription orders. [Hearing date: 04/11/00]
Revenue:	Proposed s. Tax 2.32, relating to defining gross receipts for recycling surcharge.
Revenue:	Hearing to consider revision of ss. Tax 18.05 and 18.08, relating to assessment of agricultural land. [Hearing date: 04/11/00]
Social Workers, Therapists and Counselors Examining Board:	Hearing to consider revision to ch. SFC 8, relating to continuing education programs for social workers. [Hearing date: 04/11/00]
Transportation:	Hearing to consider emergency rule amendment to ch. Trans 4, relating to establishing cost–efficiency standards for all urban transit systems participating in the State Urban Mass Transit Operating Assistance Program. [Hearing date: 04/12/00]
Transportation:	Hearings to consider revision to chs. Trans 101 to 104, relating to the demerit point system and graduated driver license restriction extensions. [Hearing dates: 04/12/00, 04/13/00 and 04/17/00]
Veterans Affairs:	Hearing to consider rules relating to the health care aid grant, personal loan and tribal grant programs. [Hearing date: 04/14/00]

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

Page 42.

Crime Victims Rights Board:	(CR 99–153) – Ch. CVRB 1
Employe Trust Funds:	(CR 00–11) – S. ETF 20.25 (1)
Employe Trust Funds:	(CR 00–21) – SS. ETF 10.31 and 10.35
Employe Trust Funds:	(CR 00–22) – SS. ETF 10.01(1k) and 20.19
Financial Institutions–Securities:	(CR 00–17) – S. DFI–Sec 5.01 (4) (b) and (e)
Insurance, Commissioner of:	(CR 99–170) – S. Ins 6.57 (4)
Veterans Affairs:	(CR 99–160) – Ch. VA 4

Administrative Rules Filed with the Revisor of Statutes Bureau.

Public Service Commission:

Revenue:

Page 43.

(CR 99-19) – Ch. PSC 160

(CR 99-105) – S. Tax 11.67

Rules Published in this Wis. Adm. Register.

Agriculture, Trade and Consumer Protection:

Agriculture, Trade and Consumer Protection:

Agriculture, Trade and Consumer Protection:

Chiropractic Examining Board:

Commerce:

Health and Family Services:

Health and Family Services:

Higher Educational Aids Board:

Medical Examining Board:

Natural Resources:

Natural Resources:

Natural Resources:

Natural Resources:

Pharmacy Examining Board:

Public Service Commission:

Transportation:

Veterinary Examining Board:

Page 44.

(CR 99-87) – Ch. ATCP 34

(CR 99-117) – Ch. ATCP 30

(CR 99-133) – SS. ATCP 105.009 and 105.23

(CR 99-148) – S. Chir 4.07

(CR 99-120) – Chs. Comm 51 to 55, 57 to 59 and 64
and ss. Comm 62.93 and 66.32

(CR 99-56) – Ch. HFS 145

(CR 99-106) – Chs. HFS 101 to 103 and 108

(CR 99-132) – S. HEA 11.03

(CR 99-128) – SS. Med 1.06, 1.08, 2.02 and 2.04

(CR 98-161) – Ch. NR 5

(CR 99-45) – SS. NR 439.06, 439.07 and 484.04

(CR 99-67) – Chs. NR 460 and 466 and s. NR 484.04

(CR 99-108) – SS. NR 140.10 and 140.28

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

(CR 98-172) – Ch. PSC 117

(CR 99-144) – Ch. Trans 316

(CR 99-127) – SS. VE 2.01 and 3.03

Sections Affected by Rule Revisions and Corrections.**REVISIONS**

Agriculture, Trade and Consumer Protection:

Chiropractic Examining Board:

Commerce (Building and Heating, etc., Chs. Comm 50-64):Commerce (Uniform Multifamily Dwellings, Ch. Comm 66):Health and Family Services (Medical Assistance, Chs. HFS 100--):Health and Family Services (Health, Chs. HFS 110--):

Higher Educational Aids Board:

Medical Examining Board:

Natural Resources (Fish, Game, etc., Chs. NR 1--):Natural Resources (Environmental Protection--General, Chs. NR 100--):Natural Resources (Environmental Protection--Air Pollution Control, Chs. NR 400--):

Pharmacy Examining Board:

Public Service Commission:

Transportation:

Veterinary Examining Board:

Pages 45 to 47.

Chs. ATCP 30, 34 and 105

Ch. Chir 4

Chs. Comm 51, 52, 53, 54, 55, 57, 58, 62 and 64

Ch. Comm 66

Chs. HFS 101, 102, 103 and 108

Ch. HFS 145

Ch. HEA 11

Chs. Med 1 and 2

Ch. NR 5

Ch. NR 140

Chs. NR 439, 466 and 484

Chs. Phar 1 and 15

Ch. PSC 117

Ch. Trans 316

Chs. VE 2 and 3

EDITORIAL CORRECTIONS

Commerce (<u>Building and Heating, etc., Chs. Comm 50–64</u>):	Chs. Comm 50, 52, 53, 57, 59, 61 and 62
Health and Family Services (<u>Medical Assistance, Chs. HFS 100–</u>):	Ch. HFS 101
Natural Resources (<u>Environmental Protection--General, Chs. NR 100–</u>):	Chs. NR 140, 141 and 142
Pharmacy Examining Board:	Ch. Phar 1

Final Regulatory Flexibility Analyses.

1. Agriculture, Trade and Consumer Protection:	(CR 99–87) – Ch. ATCP 34
2. Agriculture, Trade and Consumer Protection:	(CR 99–117) – Ch. ATCP 30
3. Agriculture, Trade and Consumer Protection:	(CR 99–133) – SS. ATCP 105.009 and 105.23
4. Chiropractic Examining Board:	(CR 99–148) – S. Chir 4.07
5. Commerce:	(CR 99–120) – Chs. Comm 50 to 64 and s. Comm 66.32
6. Health and Family Services:	(CR 99–106) – Chs. HFS 101 to 103 and 108
7. Health and Family Services:	(CR 99–56) – Ch. HFS 145
8. Higher Educational Aids Board:	(CR 99–132) – S. HEA 11.03
9. Medical Examining Board:	(CR 99–128) – Chs. Med 1 and 2
10. Natural Resources:	(CR 98–161) – Ch. NR 5
11. Natural Resources:	(CR 99–108) – Ch. NR 140
12. Natural Resources:	(CR 99–45) – Ch. NR 439 and s. NR 484.04
13. Natural Resources:	(CR 99–67) – Chs. NR 460, 466 and 484
14. Pharmacy Examining Board:	(CR 98–76) – Chs. Phar 1 and 15
15. Public Service Commission:	(CR 98–172) – Ch. PSC 117
16. Transportation:	(CR 99–144) – Ch. Trans 316
17. Veterinary Examining Board:	(CR 99–127) – SS. VE 2.01 and 3.03

Pages 48 to 51.**Sections Affected by Revisor's Corrections Not Published.**

Administration:	Ch. Adm 15
Employment Relations:	Ch. ER 4
Health and Family Services (<u>Community Services, Chs. HFS/HSS 30–</u>):	Chs. HFS 40, 55 and 63 and HSS 56
Health and Family Services (<u>Medical Assistance, Chs. HFS 100–</u>):	Chs. HFS 105 and 107
Health and Family Services (<u>Health, Chs. HFS 110–</u>):	Chs. HFS 125, 127, 132, 136, 139, 140, 146, and 192
Transportation:	Ch. Trans 309
Workforce Development:	Ch. DWD 58

Page 52.

EMERGENCY RULES NOW IN EFFECT

Under s. 227.24, Stats., state agencies may promulgate rules without complying with the usual rule-making procedures. Using this special procedure to issue emergency rules, an agency must find that either the preservation of the public peace, health, safety or welfare necessitates its action in bypassing normal rule-making procedures.

Emergency rules are published in the official state newspaper, which is currently the Wisconsin State Journal. Emergency rules are in effect for 150 days and can be extended up to an additional 120 days with no single extension to exceed 60 days.

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

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

EMERGENCY RULES NOW IN EFFECT (2)

Commerce

(PECFA – Chs. Comm 46–47)

1. Rules adopted creating **ch. Comm 46**, relating to “Petroleum Environmental Cleanup Fund Interagency Responsibilities,” and relating to site 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
Extension Through: May 16, 2000

2. Rules adopted amending **s. Comm 47.53**, relating to appeals of decisions issued under the Petroleum Environmental Cleanup Act (PECFA) program.

Finding of Emergency

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

The department is receiving funds from a bonding initiative to enable it to issue approximately 3,500 decisions on applications for PECFA funding which had been awaiting the availability of funding. Because these decisions will be issued over a very short time frame, parties receiving decisions and law firms representing them, will be required to review and analyze a large volume of decisions to determine whether they wish to appeal specific departmental decisions. Given the large number of decisions and the normal rate of appeals, it is reasonable to expect that the public will be required to prepare and file a large volume of appeals within a short time period. Attorneys, lenders and consultants representing multiple claimants have expressed concern about the workload associated with having to review decisions and draft appeals on the higher volume of decisions issued by the department within the current 30 day window. The emergency rule temporarily expands the filing period from 30 days to 90 days to provide additional time to evaluate decisions and determine whether an appeal should be filed. The rule covers the time period when the highest volume of decisions are to be issued.

Publication Date: February 15, 2000
Effective Date: February 15, 2000
Expiration Date: July 14, 2000
Hearing Date: March, 27, 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
Extension Through: April 13, 2000

EMERGENCY RULES NOW IN EFFECT

Employe Trust Funds

Rules adopted revising s. **ETF 20.25 (1)**, relating to the distribution to annuitants from the transaction amortization account to the annuity reserve under 1999 Wis. Act 11.

Finding of Emergency

The Department of Employe Trust Funds, Employe Trust Fund Board, Teacher Retirement Board and Wisconsin Retirement Board find that an emergency exists and that administrative rules are necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

The Public Employe Trust Fund was created for the purpose of helping public employes to protect themselves and their beneficiaries against the financial hardships of old age, disability, death, illness and accident. The Trust Fund thus promotes economy and efficiency in public service by facilitating the attraction and retention of competent employes, by enhancing employe morale, by providing for the orderly and humane departure from service of employes no longer able to perform their duties effectively, and by establishing equitable benefit standards throughout public employment. There are approximately 102,000 annuitants of the Wisconsin Retirement System, of whom about 80% reside throughout the State of Wisconsin. The Department of Employe Trust Funds estimates that up to 7,000 public employes covered by the Wisconsin Retirement System will retire and take annuity benefits effective during 1999.

WRS participants who retire during 1999 are not eligible to have their retirement benefits calculated using the higher formula factors for pre-2000 service which are provided by the treatment of Wis. Stats. 40.23 (2m) (e) 1. through 4. by 1999 Wis. Act 11. Section 27 (b) 2. of the Act directs that any funds allocated to the employer reserve in the Trust Fund as a result of the \$4 billion transfer mandated by the Act, which exceed \$200,000,000 shall be applied towards funding any liabilities created by using the higher formula factors with respect to pre-2000 service.

If the existing administrative rule mandating proration is not revised, then the distribution of the funds transferred into the annuity reserve by Act s. 27 (1) (a) of 1999 Wis. Act 11 will be prorated with respect to annuities with effective dates after December 31, 1998, and before January 1, 2000. The extraordinary transfer of funds from the Transaction Amortization Account (TAA) mandated by 1999 Wis. Act 11 causes funds, which would otherwise have remained in the TAA to be recognized and fund annuity dividends in later years, to instead be transferred into the annuity reserve in 1999 and paid out as an annuity dividend effective April 1, 2000. Normally, annuities effective during 1999 would receive only a prorated dividend. If this occurred with respect to this extraordinary distribution, then annuitants with annuity effective dates in 1999 would be deprived of a portion of the earnings of the Public Employe Trust Fund that would otherwise have affected their annuities as of April 1, 2001 and in subsequent years.

Promulgation of an emergency rule is the only available option for revising the effect of Wis. Adm. Code s. ETF 20.25 (1) before December 31, 1999. Accordingly, the Department of Employe Trust Funds, Employe Trust Funds Board, Teacher Retirement Board and Wisconsin Retirement Board conclude that preservation of the public welfare requires placing this administrative rule into effect before the time it could be effective if the Department and Boards were to comply with the scope statement, notice, hearing, legislative review and publication requirements of the statutes.

Publication Date: December 27, 1999
Effective Date: December 31, 1999
Expiration Date: May 29, 2000
Hearing Date: February 11, 2000

EMERGENCY RULES NOW IN EFFECT

Department of Financial Institutions **Division of Securities**

Rules adopted revising s. **DFI-Sec 5.01 (4)**, relating to investment adviser representative competency examination grandfathering provisions.

Finding of Emergency and Analysis

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

The Division recently adopted for January 1, 2000 effectiveness as part of its annual rule revision process for 1999, a new administrative rule in s. DFI-Sec 5.01(3) that prescribes a new examination requirement for investment advisers and investment adviser representatives seeking licensure in Wisconsin on or after January 1, 2000. That new examination requirement, which includes completely revised Series 65 and Series 66 examinations, was developed over a 3-year period by a Project Group of the North American Securities Administrators Association ("NASAA").

The new NASAA examination requirement (which also included certain "grandfathering"/examination-waiver provisions) was approved by vote of NASAA member states (including Wisconsin) at the NASAA 1999 Spring Conference to become effective on December 31, 1999. The NASAA membership vote was accompanied by a recommendation that for uniformity purposes, each NASAA member state complete the necessary steps to adopt and have effective by January 1, 2000, the new examination requirement conforming to the NASAA format in all respects.

Following the adoption on November 18, 1999 by the Division of the new investment adviser examination requirement in s. DFI-Sec 5.01(3) as part of the Division's annual rule revision process, it was noted that the "grandfathering"/examination waiver

provisions that had been included in s. DFI–Sec 5.01(4) did not track the NASAA Model language in two respects.

Because it is critical that the grandfathering provisions for the new Wisconsin investment adviser examination requirement be uniform with those of the other NASAA member states as of the coordinated January 1, 2000 date so that applicants for licensing in Wisconsin receive equivalent treatment to that accorded them by other states in which they may be seeking licensure, this emergency rulemaking for January 1, 2000 effectiveness is necessary.

The emergency rulemaking action is comprised of two provisions which do the following: (1) provide an examination waiver in new section DFI–Sec 5.01(4)(e) for any applicant licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. on January 1, 2000; and (2) provide an examination waiver in amended section DFI–Sec 5.01(4)(b) for any applicant that has been licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. within two years prior to the date the application is filed.

Publication Date: December 28, 1999
Effective Date: January 1, 2000
Expiration Date: May 30, 2000
Hearing Date: March 13, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Gaming Division

1. Rules adopted creating **ch. Game 27**, relating to the conduct of pari–mutuel snowmobile racing.

Finding of Emergency

The Department of Administration's Division of Gaming 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:

In January of 2000 a snowmobile promoter proposes to offer pari–mutuel wagering on snowmobile races conducted in Wisconsin. Section 562.124, Stats., allows for pari–mutuel snowmobile racing with the requirement that the Division of Gaming regulate the racing and promulgate all rules necessary to administer the statutory provision in the statutes.

Since this will be the first occasion within the United States that there will be pari–mutuel wagering on a motor sport or mechanical event, the Division of Gaming took extra time in preparing and reviewing the proposed rules with emphasis and attention directed toward the health, welfare and safety of the participants, workers and the public. Additionally, the Division of Gaming is incorporating standards by reference, specifically the Oval Sprint Racing Rules; Sno–Cross Racing Rules; and the General Competition Rules, excluding Enforcement, Discipline and Violation, of International Snowmobile Racing, Incorporated as identified in the 1999–2000 *ISR Snowmobile Racing Yearbook*. These rules, which were made public in October of 1999 were reviewed extensively, once again with an emphasis on the health, welfare and safety of the prior noted individuals.

The conduct of pari–mutuel snowmobile racing will create additional jobs, increase tourism within the State of Wisconsin and generate revenues for the Division of Gaming.

Publication Date: December 23, 1999
Effective Date: December 23, 1999
Expiration Date: May 21, 2000

2. Rule adopted repealing **ch. Game 27**, relating to the conduct of pari–mutuel snowmobile racing, which was created by emergency rule on December 23, 1999.

Finding of Emergency

Based upon the public opposition to this emergency rule, the Department has reconsidered its creation of ch. Game 27 as an emergency rule. The Department will instead pursue creation of the proposed rule under the permanent rulemaking procedures.

Publication Date: January 15, 2000
Effective Date: January 15, 2000
Expiration Date: May 21, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Health & Family Services

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

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

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:

Since October 1, 1998, the Department has been implementing ss. 48.685 and 50.065, Stats., effective on that date, that require use of uniform procedures to check the backgrounds of persons who apply to the Department for regulatory approval, 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 direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction or finding, who have in their backgrounds a specified conviction or finding 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 from otherwise having contact with the clients of a service provider.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. 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. On September 12, 1999, the Department issued another emergency order again modifying ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes was reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being crimes that permanently barred persons for all programs. The change to the ch. HFS 12 Crimes List was made at that time because the 1999–2001 Budget Bill, subsequently passed by the Legislature as 1999 Wisconsin Act 9, was expected to provide for a more modest list of crimes than the one that was appended to ch. HFS 12. The more modest crimes list published by an emergency rulemaking order on September 12, 1999 reflected the Legislature's intent that some persons who under the previous rules would lose their jobs effective October 1, 1999, were able to keep their jobs.

The 1999–2001 Biennial Budget Act, 1999 Wisconsin Act 9, made several changes to ss. 48.685 and 50.065, Stats., the Caregiver Law. These changes were effective on October 29, 1999. The Department's current rules, effective July 1, 1999, as amended on September 16, 1999, have been in large part made obsolete by those statutory changes. Consequently, the Department through this order is repealing and recreating ch. HFS 12 to bring its rules for operation of the Caregiver Law into conformity with the revised statutes. This

is being done as quickly as possible by emergency order to remove public confusion resulting from administrative rules, which have been widely relied upon by the public for understanding the operation of the Caregiver Law, that are now in conflict with current statutes.

The revised rules minimize repetition of ss. 48.685 and 50.065, Stats., and are designed to supplement those statutes by providing guidance on:

- Sanctions associated with the acts committed under the Caregiver Law;
- Determining whether an offense is substantially related to client care;
- Reporting responsibilities; and
- The conduct of rehabilitation review.

Publication Date: February 12, 2000

Effective Date: February 13, 2000

Expiration Date: July 12, 2000

Hearing Date: April 13, 2000

[See Notice this Register]

2. Rules adopted creating **ch. HFS 10**, relating to family care.

Exemption From Finding of Emergency

The Legislature in s. 9123 (1) of 1999 Wis. Act 9 directed the Department to promulgate rules required under ss. 46.286 (4) to (7), 46.288 (1) to (3) and 50.02 (2) (d), Stats., as created by 1999 Wis. Act 9, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency.

Analysis Prepared by the Department of Health and Family Services

Legislation establishing a flexible Family Care benefit to help arrange or finance long-term care services to older people and adults with physical or developmental disabilities was enacted as part of 1999 Wis. Act 9. The benefit is an entitlement for those who meet established criteria. It may be accessed only through enrollment in Care Management Organizations (CMOs) that meet requirements specified in the legislation.

The Act also authorizes the Department of Health and Family Services to contract with Aging and Disability Resource Centers to provide broad information and assistance services, long-term care counseling, determinations of functional and financial eligibility for the Family Care benefit, assistance in enrolling in a Care Management Organization if the person chooses to do so, and eligibility determination for certain other benefits, including Medicaid, and other services.

Until July 1, 2001, the Department of Health and Family Services is authorized to contract with CMOs and Resource Centers in pilot counties to serve up to 29% of the state's eligible population. Further expansion is possible only with the explicit authorization of the Governor and the Legislature.

When Aging and Disability Resource Centers become available in a county, the legislation requires nursing homes, community-based residential facilities, adult family homes and residential care apartment complexes to provide certain information to prospective residents and to refer them to the Resource Center. Penalties are provided for non-compliance.

These proposed rules interpret this new legislation, the main body of which is in newly enacted ss. 46.2805 to 46.2895, Stats. The Department of Health and Family Services is specifically directed to promulgate rules by ss. 46.286 (4) to (7), 46.288 (1) to (3), 50.02 (2) (d) and 50.36 (2) (c), Stats. Non-statutory provisions in section 9123 of 1999 Wis. Act 9 require that the rules are to be promulgated using emergency rulemaking procedures and exempts the Department from the requirements under s. 227.24 (1) (a), (2) (b) and (3) of the Stats., to make a finding of emergency. These are the

rules required under the provisions cited above, together with related rules intended to clarify and implement other provisions of the Family Care legislation that are within the scope of the Department's authority. The rules address the following:

- Contracting procedures and performance standards for Aging and Disability Resource Centers.
- Application procedures and eligibility and entitlement criteria for the Family Care benefit.
- Description of the Family Care benefit that provides a wide range of long-term care services.
- Certification and contracting procedures for Care Management Organizations.
- Certification and performance standards and operational requirements for CMOs.
- Protection of client rights, including notification and due process requirements, complaint, grievance, Department review, and fair hearing processes.
- Recovery of incorrectly and correctly paid benefits.
- Requirements of hospitals, long-term care facilities and Resource Centers related to referral and counseling about long-term care options.

Publication Date: February 1, 2000

Effective Date: February 1, 2000

Expiration Date: June 30, 2000

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
Hearing Dates: February 24, & 28, 2000

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Medical Assistance, Chs. HFS 101–108)

Rules adopted creating ss. **HFS 106.12 (9) and 108.02 (9)(f)**, relating to discovery rights in contested case proceeding involving health care providers under the MA program.

Finding of Emergency

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

In Wisconsin, contested case proceedings for which state agencies must hold administrative hearings are by statute divided into three categories. Class 1 cases involve situations in which the agency has substantial discretionary authority (such as rate setting or the grant or denial of a license) but no imposition of a sanction or penalty is involved; Class 2 contested cases involve the imposition of a sanction or penalty; and Class 3 cases are those not included in Class 1 or Class 2. Under s. 227.45(7), Stats., in a Class 2 proceeding the parties have an automatic right to take and preserve evidence prior to the hearing by using discovery procedures such as depositions and interrogatories, but in a Class 1 or Class 3 proceeding the parties generally do not have the right to use discovery unless rules of the agency specifically provide for that right.

The Department of Health and Family Services does not have rules providing for discovery in a Class 1 or Class 3 contested case. Accordingly, discovery has not been available for Class 1 or Class 3 cases except with respect to certain witnesses identified in s. 227.45 (7), Stats. The Department of Administration's Division of Hearings and Appeals handles cases delegated from this Department. Recently, a hearing examiner in the Division of Hearings and Appeals issued an order in a Class 3 case which held that, because the Division of Hearings and Appeals has its own rules allowing discovery in all cases, those rules override the absence of any mention of discovery in the Department of Health and Family Services' rules concerning hearing rights and procedures.

This Department believes that an emergency exists. If other hearing examiners issue similar rulings, the Department of Health and Family Services would be subject to discovery in all cases. This means that in the absence of Department rules that provide otherwise, the process of litigation for Class 1 and Class 3 cases would be significantly prolonged for all parties and the additional administrative costs to the Department associated with that process (including the need to hire additional program staff, attorneys, and support staff to handle the depositions, interrogatories, and other discovery procedures) would be considerable.

There is a particularly high volume of Class 1 and Class 3 cases involving Medical Assistance program providers. Accordingly, these rules are issued to make clear that discovery remains

unavailable in Class 1 and Class 3 Medical Assistance contested case proceedings involving providers.

Publication Date: December 23, 1999
Effective Date: December 23, 1999*
Expiration Date: May 21, 2000
Hearing Date: March 8, 2000

*On January 20, 2000, the Joint Committee for Review for Administrative Rules suspended these emergency rules under s. 227.19 (4) (d)1., Stats.

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted creating **ch. NR 195**, relating to establishing river protection grants.

Finding of Emergency

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

These grants are funded from a \$300,000 annual appropriation that lapses into other programs at the end of each fiscal year. Due to delays in approving the biennial budget, there is not enough time remaining in the current fiscal year to develop a permanent rule, following standard procedures, to allow grants to be awarded with the current fiscal year appropriation. Potential river protection grant sponsors have been anticipating these grants and are ready to apply and make use of these funds. An emergency order will prevent the loss of \$300,000 for protecting rivers that the legislature clearly intended to make available to these organizations. Initiating this much-anticipated program through emergency order, while permanent rules are being developed, is a positive step toward successful implementation.

Publication Date: February 17, 2000
Effective Date: February 17, 2000
Expiration Date: July 16, 2000
Hearing Dates: March 16, 17, 21 & 22, 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
Extension Through: May 16, 2000

EMERGENCY RULES NOW IN EFFECT (6)

Public Instruction

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

Finding of Emergency

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

Emergency rules are necessary to clarify the eligibility criteria and requirements for parents and participating private schools in time for schools to properly establish procedures for the 2000–2001 school year. Furthermore, emergency rules are necessary to allow the private schools to begin planning summer school programs. The department is in the process of developing permanent rules, but such rules will not be in place prior to January 2000.

The requirements established under this rule have been discussed with the private schools and initial indications reflect an acceptance of these provisions.

Publication Date: January 4, 2000
Effective Date: January 4, 2000
Expiration Date: June 2, 2000
Hearing Date: March 20, 2000

2. Rules adopted creating **ch. PI 10**, relating to supplemental aid for school districts with a large area.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

1999 Wis. Act 9 appropriated \$125,000 to be awarded by the department to eligible school districts in the 1999–2000 school year. Emergency rules are necessary to clarify the eligibility criteria and procedures for school districts to apply for funds under the program.

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

Publication Date: January 28, 2000
Effective Date: January 28, 2000
Expiration Date: June 26, 2000
Hearing Date: March 15, 2000

3. Rules adopted creating **ch. PI 24**, relating to state aid for achievement guarantee contracts and aid for debt service.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

State Aid for Achievement Guarantee Contracts:

The department will send SAGE contract information to school districts by mid-February and require proposed contracts to be submitted to the department by April 1, 2000. Emergency rules are necessary to clarify the eligibility criteria and requirements for school districts applying for state aid for achievement guarantee contracts in time for the 2000–2001 school year.

Partial Debt Service Reimbursement:

On or after October 29, 1999, a school board must adopt an initial resolution under s. 67.05 (6a), Stats., for issuance of bonds where the purpose for borrowing includes providing funds for classroom expansion necessary to fulfill a contract under s. 118.43, Stats. Emergency rules are necessary to clarify the criteria and procedures for SAGE school districts to receive partial debt service reimbursement for the 2000–2001 school year.

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

Publication Date: January 28, 2000
Effective Date: January 28, 2000
Expiration Date: June 26, 2000
Hearing Date: March 15, 2000

4. Rules adopted creating **ch. PI 44**, relating to alternative education grants.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

1999 Wis. Act 9 appropriated \$5,000,000 to be awarded by the department to eligible school districts or consortia of school districts in the 2000–2001 school year. Emergency rules are necessary to clarify the eligibility criteria and procedures for school districts or consortia of school districts to apply for funds under the program.

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

Publication Date: January 28, 2000
Effective Date: January 28, 2000
Expiration Date: June 26, 2000
Hearing Dates: March 9, 14 & 15, 2000

5. Rules adopted creating **s. PI 6.07**, relating to the public library system aid payment adjustments.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that a rule is necessary for the immediate preservation of

the public welfare. A statement of the facts constituting the emergency is:

In accordance with s. 43.24 (1)(b), Stats., the rules adjust public library aid payments to be consistent with system services areas after territorial changes occur. Using the formula created under the rule, an aid adjustment will be paid by the department in April for a territorial change. Emergency rules must be in place before the formula may be used.

Publication Date: March 4, 2000
Effective Date: March 4, 2000
Expiration Date: August 1, 2000

6. Rules adopted revising **ch. PI 32**, relating to grants for alcohol and other drug abuse programs.

Finding of Emergency

The Department of Public Instruction finds that an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

For the upcoming school year, the department will send grant application materials to school districts in March. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000. In order for applicants to development proposals and for the state superintendent to review the proposals and make grant awards in time for the 2000–2001 school year, rules must be in place as soon as possible.

Publication Date: March 4, 2000
Effective Date: March 4, 2000
Expiration Date: August 1, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Revenue

1. 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

2. Rules were adopted revising **ch. WGC 61**, relating to the implementation and maintenance of the retailer performance program of the Wisconsin lottery.

Finding of Emergency

The 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 the facts constituting the emergency is:

Sections 565.02 (4)(g) and 565.10 (14)(b)3m., Stats., as created by 1999 Wis. Act 9, provide for the implementation of a retailer performance program, effective January 1, 2000. The program may be implemented only by the promulgation of rules.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. The retailer performance program is being implemented retroactively to January 1, 2000, pursuant to Section 9443 (1) of 1999 Wis. Act 9.

Publication Date: March 3, 2000
Effective Date: March 3, 2000
Expiration Date: July 31, 2000

EMERGENCY RULES NOW IN EFFECT

Wisconsin Technical College System

- Rules adopted creating **ch. TCS 16**, relating to grants for students.

Finding of Emergency

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

1999 Wis. Act 9 (the 2000–2001 biennial budget bill) took effect on October 29, 1999. That act created ss. 20.292(1)(ep) and 38.305, Stats. An annual appropriation of \$6,600,000 GPR in the second fiscal year of the 2000–2001 biennium was established. These funds are to be awarded by the WTCS Board as grants to students who are attending a Wisconsin technical college on a full–time basis and who are enrolled in a vocational diploma or associate degree program.

The Act requires the WTCS Board to promulgate rules to implement and administer the awarding of these grants. The Board has begun the permanent rule making process for establishing administrative rules for these student grants, but cannot complete the required public hearing and review of these rules prior the start of the upcoming school year, which begins on July 1, 2000. Moreover, prospective students evaluate their educational options, including costs, as early as February preceding their graduation from high school. Therefore, for the TOP Grant program to be implemented and the funds distributed to each technical college

district, and in turn to each eligible student, in time for the upcoming school year, emergency administrative rules must be established immediately.

Publication Date: February 1, 2000
Effective Date: February 1, 2000
Expiration Date: June 30, 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: See 1999 Wis. Act 9, section 9150 (2bm)
Hearing Date: February 14, 2000

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Prevailing Wage Rates, Ch. DWD 290–294)

A rule was adopted revising **s. DWD 290.155**, relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.

Finding of Emergency

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

The Department of Workforce Development is acting under its statutory authority to annually adjust thresholds for the application of prevailing wage laws on state or local public works projects. The thresholds are adjusted in accordance with any change in construction costs since the last adjustment. The last adjustment was by emergency rule in January 1999 based on construction costs in December 1998. The Department uses the construction cost index in the December issue of the Engineering News–Record, a national construction trade publication, to determine the change in construction costs over the previous year. The current construction cost index indicates a 2.3% increase in construction costs over the previous year. This increase in construction costs results in an increase in the threshold for application of the prevailing wage laws from \$33,000 to \$34,000 for single–trade projects and from \$164,000 to \$168,000 for multi–trade projects.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six months, until the conclusion of the permanent rule–making process. Between January 1, 2000, and July 1, 2000, a single–trade project with a minimum estimated project cost of more than \$33,000 but less than \$34,000 or a multi–trade project with an estimated cost of more than \$164,000 but less than \$168,000 would not be exempt from the prevailing wage laws, as they would be if the emergency rule were promulgated. The threshold adjustments for application of the prevailing wage laws are based on national construction cost statistics and are unlikely to be changed by the permanent rule–making process. The Department is proceeding with this emergency rule to avoid imposing an additional administrative burden on local governments and state agencies.

Publication Date: December 29, 1999
Effective Date: January 1, 2000
Expiration Date: May 30, 2000
Hearing Date: February 28, 2000

STATEMENTS OF SCOPE OF PROPOSED RULES

Administration

Subject:

Adm Code – Relating to utility public benefits fees.

Description of policy issues:

Statement of the objective of the proposed rule:

The Department of Administration proposes to create rules to establish the public benefits fees that are to be collected by certain electric utilities from their customers, and to provide procedures for fee collection and making annual adjustments for under-collection or over-collection.

Description of policy issues:

The Department of Administration is responsible under s. 16.957 (4) (b), Stats., to promulgate rules establishing the amount of public benefits fees to be collected by certain electric utilities from their customers and, which are to be paid to the Department for use in funding low-income programs and energy conservation and efficiency and renewable resource programs. The proposed rule will establish fees that may vary by class of customer, but will be uniform within each class. The proposed rule will provide that the fees cannot be based on volume of electricity consumed, and that they may not exceed 3 percent of the total of every other charge for which a customer is billed, or \$750 per month, whichever is less.

The rule will be promulgated in consultation with the Council on Utility Public Benefits.

Statutory authority for the rule:

Sections 16.004 (1) and 16.957 (4) (c), Stats.

Staff time required:

The Department of Administration estimates 120 to 180 hours to promulgate this rule.

Administration

Subject:

Adm Code – Relating to grant application process and eligibility for low-income public benefits programs.

Description of policy issues:

Statement of the objective of the proposed rule:

The Department of Administration proposes to create rules to establish eligibility requirements for households seeking low-income assistance and to establish the requirement and procedures for applications for grants awarded for low-income public benefits programs.

Description of policy issues:

The Department of Administration is responsible for administering and awarding grants to eligible entities for energy assistance and services under s. 16.957 (2) (a), Stats. The proposed rule will establish the application process to be used for programs serving low-income households. The proposed rule will also establish eligibility requirements for households seeking low-income assistance under public benefits programs. The rule is intended to be consistent with existing federal programs and guidelines.

Statutory authority for the rule:

Sections 16.004 (1) and 16.957 (2) (c), Stats.

Staff time required:

The Department of Administration estimates 40 to 60 hours to promulgate this rule.

Agriculture, Trade and Consumer Protection

Subject:

Chs. ATCP 1 and 162 and various chapters – Relating to technical rule changes.

Description of policy issues:

Preliminary objectives:

Make minor technical changes and updates to a variety of current rules. Changes will not involve major policy issues.

Preliminary policy analysis:

The Department proposes to make the following changes:

- Modify ch. ATCP 1 (Administrative Orders and Contested Cases) to be consistent with s. 227.485, Stats., and the Wisconsin Court of Appeals decision in Gordon v. State Medical Examining Board, 225 Wis. 2d 552 (Ct. App. 1999). The change would clarify that prevailing parties filing motions for costs and attorneys fees must file those motions within 30 days after the Department issues its proposed (not final) decision in an administrative contested case.

- Modify definition of “person” in various rules to clarify that a “person” may include an individual, corporation, cooperative, partnership, limited liability company, trust or other legal entity.

- Repeal and recreate ch. ATCP 162 (Farm Mediation and Arbitration Program) as a rule of the Department, not the Farm Mediation and Arbitration Board (which no longer exists). The rule change would delete references to the Farm Mediation and Arbitration Board, but make no substantive changes to the current rules or program.

- Incorporate new statutory requirements.
- Simplify some rule titles, and renumber rule provisions as necessary.
- Update obsolete references.
- Make other minor changes and updates, as necessary.

Policy alternatives:

- No change. If the Department does not make the proposed changes, its rules will not be fully up-to-date or accurate. Some rules will be inconsistent with current statutes and court interpretations.

Statutory authority for the rule:

Section 227.11 (2) (a), Stats.

Staff time required:

The Department estimates that it will use approximately 0.1 FTE (Full-Time Equivalent) staff time to modify this rule. This includes research, drafting, preparing related documents, holding public hearings, and communication with affected persons and groups. The Department will use existing staff to develop this rule.

Commerce

(Uniform Dwelling, Chs. Comm 20–25)

Subject:

Chs. Comm 20 to 25 – Relating to inspection procedures in Uniform (1–2 Family) Dwelling Code.

Description of policy issues:

Description of the objective of the rule:

The Uniform Dwelling Code establishes statewide uniform construction rules for 1- and 2-family dwellings. Inspection requirements in the code are mandatory for all municipalities of greater than 2500 population and optional for smaller municipalities.

In the most recent budget bill, changes were made to s. 101.651, Stats., that encourage smaller municipalities to adopt and enforce the Uniform Dwelling Code.

The objective of the rule is to codify Department policies, procedures, and requirements to conform to the change in the statutes.

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

- a) Existing policies: There are no existing policies relevant to the statute change.
- b) New policies: The proposed rules will:
 - Require municipalities to notify the department of their decisions relating to code adoption and enforcement,
 - Clarify municipal responsibilities, and
 - Clarify departmental jurisdiction policies.
- c) Policy alternatives:
 - The Department could leave the code as written and just enforce the relevant statutes. This would leave Departmental policies vague and subject to varied interpretation.
 - The Department could, after consulting with the Uniform Dwelling Code Council, adopt rules in the code that clearly state Department policies and municipal responsibilities. The Department recommends this alternative as it will allow the rules to be reviewed by the Legislative Council Clearinghouse and legislative committees.

Statutory authority for the rule:

- Section 101.60, Stats. – Establishes uniform statewide construction standards for 1–2 family dwellings.
- Section 101.63, Stats. – Requires Commerce to establish uniform standards for construction and inspection.
- Section 101.64 (3), Stats. – Permits revision of rules after consultation with UDC Council.
- Section 101.651, Stats. – Establishes Departmental authority and municipal responsibility relating to enforcement of the Uniform Dwelling Code.

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

The following is an estimate of staff development time between 3/00 and 10/00:

Uniform Dwelling Code Council meeting	= 8 hr
Research and drafting	=25 hr
<u>Hearings and subsequent paperwork</u>	<u>=40 hr</u>
Total	=73 hr

Contact information:

If you have any questions, contact:

Duane Hubeler
 Program Development Bureau
 Safety & Buildings Division
 Dept. of Commerce
 Telephone (608) 266–1390

Ethics Board

Subject:

Ch. Eth 4 – Relating to the identification of a topic of a lobbying communication.

Description of policy issues:

Preliminary objective:

The preliminary objective is to describe the information a lobbying principal must furnish to the Ethics Board in order to identify a topic of a lobbying communication pursuant to s. 13.67, Stats.

Preliminary policy analysis:

Under Wisconsin’s lobbying law, s.13.67, Stats., a lobbying principal must identify to the Ethics Board, beginning July 1, 2000, each topic of a lobbying communication that is not a legislative proposal or proposed administrative rule, that have been numbered, or a budget bill subject. Section 13.67, Stats., requires that a principal describe each topic with reasonable specificity, sufficient to identify the subject matter of the lobbying communication and whether the communication is an attempt to influence legislative or administrative action, or both. Section 13.685 (4), Stats., requires that the Ethics Board, by rule, define what constitutes a topic. The proposed rule describes the type of information that a lobbying principal must provide to satisfy the statutory identification requirement.

Statutory authority:

Section 13.685 (4), Stats.

Anticipated time commitment:

The anticipated time commitment is 60 hours.

Contact information:

If you have any questions, contact:

Jonathan Becker, Legal Counsel
 Ethics Board
 Telephone (608) 267–0647

Natural Resources
(Investigation and Remediation,
Chs. NR 700—)

Subject:

Chs. NR 714, 716, 726 and 749 – Relating to revisions regarding sampling, public notices for performance standards, use of a GIS registry to replace groundwater use restrictions, and fees for using the registry.

Description of policy issues:

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

Well drillers and environmental groups may have concerns about the elimination of a public notice when a performance standard is to be used for closure. Well drillers support use of the Geographic Information System (GIS) registry, as it will serve the purpose of notifying well drillers of well construction changes in a form that is more accessible than groundwater use restrictions on deeds. Municipal officials may support the notification requirement instead of groundwater use restrictions for road rights of way, as their concerns can still be addressed. Fees for placing information on the registry, rather than placing restrictions on a deed, may generate some controversy.

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

Explain the facts that necessitate the proposed change:

Currently, groundwater use restrictions required because of residual contamination are created by the recording of a deed restriction. Public access via a computer database (GIS registry) will increase well drillers’, developers’ and buyers’ ability to check if there is residual contamination on a property, to ensure safe well construction practices. Requiring the GIS locational information to be submitted in the site investigation report will be more efficient than using a deed restriction. Notification of a municipality, rather than deed restrictions on road rights-of-way, will make it easier to close sites in certain situations, while still retaining the responsibility to inform people of the residual contamination and

any use restrictions that might be appropriate. The requirement to public notice intended use of a performance standard for closure will be replaced with a publicly-accessible GIS database for all types of closures. Sampling references are clarified.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

Proposed rule changes only affect the process used to inform people about the selected remedy and related restrictions on well construction, and the fees that are charged for closure.

Statutory authority:

Section 292.57 (2), Stats., as created by 1999 Wis. Act 9.

Anticipated time commitment:

The anticipated time commitment is 342 hours. Four public hearings are proposed to be held in June 2000 at Madison, Eau Claire, Green Bay and Wausau.

Natural Resources
(Investigation and Remediation,
Chs. NR 700--)

Subject:

Ch. NR 754 – Relating to new insurance requirements in the Voluntary Party Liability Exemption process.

Description of policy issues:

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

1999 Wis. Act 9 contains a number of changes to the Voluntary Party Liability Exemption process (s. 292.15, Stats.). This rule relates to s. 292.15 (2) (ae), Stats., that allows voluntary parties (VP) to use natural attenuation to obtain a Certificate of Completion before the groundwater enforcement standards are met. Under this section, the Department may require a VP to buy insurance. Some policy issues include: when parties need insurance and when they do not, the required level of coverage, amount of the deductible, and length of the policy, and criteria for determining when natural attenuation has failed. Affected parties include attorneys, consultants, local governments, and real estate developers.

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

Explain the facts that necessitate the proposed change:

Before the 1999 Wis. Act 9 was enacted, the Department did not have the legal authority to issue a Certificate of Completion where groundwater enforcement standards were not met. As recommended by the Brownfields Study Group and supported by the Department, the budget changed the statute to allow the Department to issue Certificates before standards are met. This new statutory section includes a requirement that the Department may require voluntary parties to purchase environmental insurance. This rule is required under s. 292.15 (2) (ae), Stats., and will describe when insurance would be required and what requirements the insurance needs to meet.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

This rule deals with financial and legal requirements to obtain liability protection and does not require environmental actions.

Statutory authority:

Section 292.15 (2) (ae) 3m. and (e), Stats.

Anticipated time commitment:

The anticipated time commitment is 822 hours. Three public hearings are proposed to be held in November 2000 at Milwaukee, Green Bay and Eau Claire.

Natural Resources
(Investigation and Remediation,
Chs. NR 700--)

Subject:

Ch. NR 756 – Relating to new insurance requirements in the Voluntary Party Liability Exemption process.

Description of policy issues:

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

1999 Wis. Act 9 contains a number of changes to the Voluntary Party Liability Exemption process (s. 292.15, Stats.). This rule relates to the new s. 292.15 (2) (at), Stats., which allows voluntary parties to obtain liability exemptions after a site investigation has been approved by the Department. This interim liability protection is available to parties who obtain insurance to cover the cost to cleanup contamination that was missed during the investigation. The Department is required to promulgate rules which define the insurance requirements. Some policy issues include: the required level of coverage and the amount of the deductible. Affected parties include attorneys, consultants, local governments, and real estate developers.

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

Explain the facts that necessitate the proposed change:

Before 1999 Wis. Act 9 was enacted, voluntary parties could not obtain any liability protection until the cleanup had been completed. The Brownfields Study Group recommended that this interim liability exemption be created and this was not recommended by the Department. To obtain this new interim liability protection, voluntary parties must obtain environmental insurance that complies with rules promulgated by the Department.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

This rule deals with financial and legal requirements to obtain liability protection and does not require environmental actions.

Statutory authority:

Section 292.15 (2) (at) and (e), Stats.

Anticipated time commitment:

The anticipated time commitment is 822 hours. Three public hearings are proposed to be held in November 2000 at Milwaukee, Green Bay and Eau Claire.

Public Instruction

Subject:

S. PI 14.03 – Relating to minor modifications to align the rule with Generally Accepted Accounting Principles (GAAP) requirements and to update or eliminate obsolete references and terminology.

Description of policy issues:

Rationale for proposed rule development:

The proposed rules make several minor modifications to align s. PI 14.03, minimum standards for audit and standard school district audit contract, with Generally Accepted Accounting Principles as promulgated by the Governmental Accounting Standards Board (GASB) and American Institute of Certified Public Accountants (AICPA).

The rules also update or eliminate terminology and references to documents that are no longer used in school district audits.

Describe the objective(s) of the proposed rule:

See rationale above.

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

N/A (Not Applicable)

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

N/A

Describe policy alternatives:

If current rule is maintained, it will continue to conflict with GASB and AICPA requirements. Therefore, the rules should be modified.

Statutory reference/authority:

Sections 120.14 (4) and 227.11 (2) (a), Stats.

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

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

Contact information:

Please contact Lori Slauson, Bureau of Policy and Budget, at (608) 267-9127 if you have further questions.

Public Service Commission**Subject:**

Ch. PSC 163 – Relating to telecommunications utility price regulation, regarding the productivity offset factor [Docket 1-AC-193].

Description of policy issues:*Objective of rule:*

The objective of the proposed rule revision is to make those changes to s. PSC 163.04 (2) (b) regarding the productivity offset factor deemed necessary as a result of a productivity study for the telecommunications industry in the state pursuant to s. PSC 163.04 (2) (bm).

Existing policies relevant to rule, new policies proposed, and analysis of alternatives:

Section 196.196 (1) (c), Stats., provides for the use of a productivity offset mechanism in determining the amount a price-regulated company may increase or shall decrease its rates for price-regulated services. According to this section, the productivity factor offset to the change in the gross domestic product price index (GDPPI) shall be 2 percentage points. For a telecommunications utility with more than 500,000 access lines, the percentage offset shall be 3 percentage points. Pursuant to s. 196.196 (1) (c), Stats., the first time the productivity offset may be changed is after September 1, 2000. Section PSC 163.04 (2) (b) sets forth the factors the Commission may consider in determining any statewide changes in productivity.

Pursuant to s. PSC 163.04 (2) (bm), each time the productivity factors are reviewed, the Commission shall provide for a productivity study for the telecommunications industry in this state. This study shall address the factors set forth in s. PSC 163.04 (2) (b) plus additional evidence relative to a utility's ability to increase productivity in the future.

The Commission found in docket 05-TI-174, Investigation of Telecommunications Utility Price Regulation Pursuant to s. 196.196 (1) (g), Stats., that in connection with the rule-making proceeding to revise ch. PSC 163, a second rule-making proceeding should be initiated to review the productivity offset. In developing a plan for a statewide productivity study, the Commission indicated in docket 05-TI-174 that it wished to make a determination as to the need for external expertise. In making this determination, the Commission considered the level of existing internal expertise and the scope of the productivity study, including the maximum impact of the results of the study. As a result of these considerations, the Commission finds that a more comprehensive productivity study by an outside consultant is needed.

Statutory authority:

Sections 196.02 (3), 196.196 (1) (c), and 227.11 (2), Stats.

Time estimates for rule development:

Completing the rule-making proceeding is estimated to take at least 250 staff hours.

Other resources necessary to develop rule:

As discussed above, an outside consultant will need to be hired to complete the productivity study.

Contact information:

If you have specific questions or comments regarding the proposed rule-making, please contact Mr. Thomas J. Ferris, of the Telecommunications Division staff, at (608) 266-1124.

Transportation**Subject:**

Ch. Trans 276 – Relating to adding one highway segment to the network of highways on which long combination vehicles may operate.

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

This proposal will amend ch. Trans 276, which establishes a network of highways on which long combination vehicles may operate, by adding one highway segment to the network. The actual segment being proposed is State Trunk Highway 17 from STH 64 in Merrill to USH 8 in Rhinelander.

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

Federal law requires the Department of Transportation to react within 90 days to requests for changes to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to deal with changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. The Department has received requests from Pat Walker Trucking of Gleason, WI, L & S Trucking of Wausau, Rhinelander Transfer/Bekins of Rhinelander, Dahlquist Trucking of Rhinelander, Elite Carriers of Wausau, Tomahawk Transfer & Distribution of Tomahawk, Spirit Express, Inc., of Rhinelander, Pioneer Transportation, Ltd. and B & D Motors, Inc., both of Merrill, WI, to add one highway segment.

Statutory authority for the rule:

Section 348.07 (4), Stats.

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

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

Contact information:

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

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.

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On March 16, 2000, the Wisconsin Department of Agriculture, Trade and Consumer Protection submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. ATCP 35, Wis. Adm. Code, relating to the Agricultural Chemical Cleanup Program.

Agency Procedure for Promulgation

A public hearing is required and the Department will hold hearings on this rule after the Wisconsin Legislative Council Rules Clearinghouse completes its review. The Department's Division of Agricultural Resource Management is primarily responsible for this rule.

Contact Information

If you have questions, you may contact:

Duane Klein
Telephone (608) 224-4519

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

Rule Submittal Date

On March 7, 2000, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

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

The proposed rule-making order affects ss. A-E 2.02, 4.05, 6.04 and 6.05, relating to registration seals, experience requirements for professional engineers, and educational requirements for land surveyors.

Agency Procedure for Promulgation

A public hearing is required and will be held on Wednesday, April 12, 2000 at 1:30 p.m. in Room 179A at 1400 East Washington Ave., Madison, Wisconsin.

Contact Information

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

Health and Family Services

Rule Submittal Date

On March 8, 2000, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. HFS 10, relating to family care.

Analysis

Statutory authority: Sections 46.286 (4) to (7), 46.287 (2) (a) 1. (intro.), 46.288, 50.02 (2) (d) and 50.36 (2) (c), Stats., as created by 1999 Wis. Act 9, and s. 227.11 (2), Stats., and s. 9123 (1) of 1999 Wis. Act 9.

Reason for rules, intended effects, requirements:

This order interprets new legislation, the main body of which is in newly-enacted ss. 46.2805 to 46.2895, Stats. The Department of Health and Family Services is specifically directed to promulgate rules by ss. 46.286 (4) to (7), 46.288 (1) to (3), 50.02 (2) (d) and 50.36 (2) (c), Stats. These are the rules required under the provisions cited above, together with related rules intended to clarify and implement other provisions of the Family Care legislation that are within the scope of the Department's authority. The rules address the following:

- Contracting procedures and performance standards for Aging and Disability Resource Centers.
- Application procedures and eligibility and entitlement criteria for the Family Care benefit.
- Description of the Family Care benefit that provides a wide range of long-term care services.
- Certification and contracting procedures for Care Management Organizations.
- Certification and performance standards and operational requirements for CMOs.
- Protection of client rights, including notification and due process requirements, complaint, grievance, Department review, and fair hearing processes.
- Recovery of incorrectly and correctly paid benefits.
- Requirements of hospitals, long-term care facilities and Resource Centers related to referral and counseling about long-term care options.

Forms:

1) HFS 10.31 (4) and 10.32 (2) Application and Review Form for Medical Assistance and Food Stamps.

Agency Procedure for Promulgation

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

Contact Information

If you have any questions regarding this rule, please contact:

Lorraine Barniskis
Bureau of Aging and Long-Term Care
Telephone (608) 267-5267

Health and Family Services

Rule Submittal Date

On March 7, 2000, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ch. HFS 12, relating to caregiver background checks.

Analysis

Statutory authority: Sections 48.685 (1) (ag), (2) (d), (4), (5), (6) (b) and (c) and 50.065 (1) (ag), (d) and (f), (2) (d), (4), (5) and (6) (b) and (c), Stats.

Reason for rules, intended effects, requirements:

Since October 1, 1998, the Department has been implementing ss. 48.685 and 50.065, Stats., effective on that date, that require use of uniform procedures to check the backgrounds of persons who apply to the Department for regulatory approval, 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 direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction or finding, who have in their backgrounds a specified conviction or finding 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 from otherwise having contact with the clients of a service provider.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. 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. On September 12, 1999, the Department issued another emergency order again modifying ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes was reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being crimes that permanently barred persons for all programs. The change to the ch. HFS 12 Crimes List was made at that time because the 1999-2001 Budget Bill, subsequently passed by the Legislature as 1999 Wis. Act 9, was expected to provide for a more modest list of crimes than the one that was appended to ch. HFS 12 before September 12, 1999. The more modest crimes list published by an emergency rule-making order on September 12, 1999 reflected the Legislature's intent that some persons who under the previous rules would lose their jobs effective October 1, 1999, were able to keep their jobs.

The 1999-2001 Biennial Budget Act, 1999 Wis. Act 9, made several changes to ss. 48.685 and 50.065, Stats., the Caregiver Law. These changes were effective on October 29, 1999. The Department's current rules, effective July 1, 1999, as amended on September 16, 1999, have been in large part made obsolete by those statutory changes. Consequently, the Department through this order is repealing and recreating ch. HFS 12 to bring its rules for operation of the Caregiver Law into conformity with the revised statutes. This was done by emergency order effective February 13, 2000 to remove public confusion resulting from continued reliance on administrative rules, that have been widely relied upon by the public for understanding the operation of the Caregiver Law, that are now in conflict with current statutes.

These proposed rules are the same as the emergency rules. Therefore, they minimize repetition of ss. 48.685 and 50.065, Stats., and are designed to supplement those statutes by providing guidance on:

- Sanctions associated with the acts committed under the Caregiver Law;
- Determining whether an offense is substantially related to client care;

- Reporting responsibilities; and
- The conduct of rehabilitation review.

Forms:

- 1) HFS 12.05 (3) (intro.) Background Information Disclosure Form
- 2) HFS 12.12 (2) (b) Rehabilitation Review Application
- 3) HFS 12.12 (5) (a) (intro.) Rehabilitation Review Panel Decision Report
- 4) HFS 12.12 (5) (a) 3. Rehabilitation Review Appeals Report

Agency Procedure for Promulgation

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

Contact Information

If you have any questions regarding this rule, please contact:

Sue Dow
Office of Legal Counsel
Telephone (608) 264-9893

Health and Family Services

Rule Submittal Date

On March 13, 2000, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse affecting ss. HFS 73.01, 73.10 (1) and 73.11, relating to Community Options Program (COP) & CIP: criteria for determining infeasibility of providing services in the home.

Analysis

Statutory authority: Sections 46.27 (2) (h) 2., (7) (c) 3. b. and (11) (c) 5n. b. and 46.277 (5) (d) 1n. b. and (5r), Stats., as created by 1997 Wis. Act 27. The rules interpret ss. 46.27 (3) (f), (7) (c) and (11) (c) 5n. and 46.277 (3) (c) and (5) (d) 1n., Stats., as affected by 1997 Wis. Act 27.

Reason for rules, intended effects, requirements:

Under the Community Options Program (COP) and related home- and community-based medical assistance (MA) waivers, federal and state funds are provided to implement care plans for eligible individuals to enable them to live in community-based settings rather than nursing homes despite disabilities or functional limitations.

Statutory language was added by 1997 Wis. Act 27 to restrict the use of Community Options and certain MA Waiver funds (COP-W and CIP II) to paying for services for persons living in their own homes, except under certain circumstances. One of the exceptions permits the use of these funds to pay for services for a person residing in a community-based residential facility (CBRF) if additional conditions are met. One of those conditions is if the county long-term support agency documents that the option of in-home services has been discussed with the person, is thoroughly evaluated and is found to be "infeasible" as determined by the county agency in accordance with rules promulgated by the Department. Of the five conditions, this is the only one that is required to be determined in accordance with rules.

This rule-making order establishes criteria for a county agency to make a determination that home care is not possible for a program participant. Upon meeting the criteria in the rules, along with the four criteria in the statutes, the county agency is permitted to use COP, COP-W or CIP II funds to pay for services for the program participant in a CBRF.

The rule-making order also amends s. HFS 73.10 to delete the 25% limit on spending for services to program participants who live in CBRFs. 1997 Wis. Act 27 deleted that limit from the program statutes.

Forms:

No forms are referenced in this rule-making order.

Agency Procedure for Promulgation

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

Contact Information

If you have any questions regarding this rule, please contact:

Janice Smith
Bureau of Aging and Long-Term Care
Telephone (608) 266-7872

Nursing, Board of**Rule Submittal Date**

On March 7, 2000, the Board of Nursing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

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

The proposed rule-making order affects s. N 5.08 (2), relating to renewal after 5 years.

Agency Procedure for Promulgation

A public hearing is required and will be held on Thursday, May 18, 2000 at 2:15 p.m. in Room 179A at 1400 East Washington Ave., Madison, Wisconsin.

Contact Information

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

Pharmacy Examining Board**Rule Submittal Date**

On March 6, 2000, 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) and (e), Stats.

The proposed rule-making order affects s. Phar 7.05 (3), relating to transfer of prescription orders.

Agency Procedure for Promulgation

A public hearing is required and will be held on Tuesday, April 11, 2000 at 9:15 a.m. in Room 179A at 1400 East Washington Ave., Madison, Wisconsin.

Contact Information

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

Pharmacy Examining Board**Rule Submittal Date**

On March 6, 2000, the Pharmacy Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

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

The proposed rule-making order relates to delivery of prescriptions.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled at a later date.

Contact Information

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

Pharmacy Examining Board**Rule Submittal Date**

On March 6, 2000, 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), 450.02 (2) (a) and (d) and 450.11 (3), Stats.

The proposed rule-making order relates to delegation of duties by a pharmacist.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled at a later date.

Contact Information

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

Revenue**Rule Submittal Date**

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on March 7, 2000, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Under the current rule, agricultural use is defined by reference to the 1987 Standard Industrial Classification (SIC) Manual and includes land eligible for enrollment in specified federal agricultural programs. The rule amends the definition of agricultural use to update the 1987 SIC references to 1997 North American Industrial Classification System references. The rule also updates the references to the federal agricultural programs and provides that land enrolled in those programs is in agricultural use. The rule also defines land enrolled in specified state agricultural programs as being in agricultural use if such lands were in agricultural use at the time of enrollment. The updated definition of agricultural use is effective for assessments as of January 1, 2001.

The rule provides that, beginning with the assessments as of January 1, 2000, the assessed value of each parcel of agricultural land is its use value.

Agency Procedure for Promulgation

A public hearing on the proposed rule is required and will be scheduled. The Office of the Secretary is primarily responsible for promulgation of the proposed rule.

Contact Information

Questions regarding the proposed rule may be addressed to:

Blair Kruger
Division of Research and Analysis
Telephone (608) 266-1310
Email: bkruger@dor.state.wi.us

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board**Rule Submittal Date**

On March 8, 2000, the Social Workers Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) and 457.22, Stats. The proposed rule-making order affects ss. SFC 8.02 and 8.03, relating to continuing education programs.

Agency Procedure for Promulgation

A public hearing is required and will be held on Tuesday, April 11, 2000 at 9:15 a.m. in Room 180 at 1400 East Washington Ave., Madison, Wisconsin.

Contact Information

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

Transportation**Rule Submittal Date**

On March 14, 2000, the Wisconsin Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects chs. Trans 101 to 104, relating to the demerit point system and graduated driver license restriction extensions.

Agency Procedure for Promulgation

A public hearing is required and three hearings will be held on:

- Wednesday, April 12, 2000 at 3:15 p.m. in the DC Everest High School Auditorium, 6500 Alderson St., Schofield, Wisconsin;
- Thursday, April 13, 2000 at 7:00 p.m. in the Little Theater of Eau Claire Memorial High School, 225 Keith St., Eau Claire, Wisconsin; and
- Monday, April 17, 2000 at 4:00 p.m. in the Cafeteria at John Marshall High School, 4141 North 64th St., Milwaukee, Wisconsin.

The organizational unit responsible for the promulgation of the proposed rule is the Division of Motor Vehicles, Bureau of Driver Services.

Contact Information

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

NOTICE SECTION

Notice of Hearings

Agriculture, Trade & Consumer Protection

[CR 00-58]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on proposed rule changes to ATCP 35, Wis. Adm. Code. The hearing will be held at the times and places shown below. The public is invited to attend the hearing and make comments on the proposed rule. Following the public hearing, the hearing record will remain open until **April 25, 2000**, for additional written comments.

A copy of this rule may be obtained free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Agricultural Resource Management, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708 or by calling (608)224-4523. Copies will also be available at the public hearing.

An interpreter for the hearing impaired will be available on request for the hearing. Please make reservations for a hearing interpreter by April 5, 2000 either by writing Karen Ayers, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, (608/224-4523), or by contacting the message relay system (TTY) at 608/224-5058. Handicap access is available at the hearing.

Hearing Information

One hearing is scheduled:

<p>April 11, 2000 Tuesday 1:00 p.m. – 3:00 p.m.</p>	<p>Conference Room 472 Department of Agriculture, Trade and Consumer Protection Office Building 2811 Agriculture Drive Madison, WI</p>
--	---

Evening session
5:00 p.m. – 7:00 p.m.

<p>April 11, 2000 Tuesday 1:00 p.m. – 3:00 p.m.</p>	<p>(via Video Conference to Madison) Conference Room 4 Wisconsin Rapids State Office Building 2610 Industrial Street Wisconsin Rapids, WI</p>
--	--

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

Statutory Authority: ss. 93.07(1) and 94.73 (11)

Statute Interpreted: s. 94.73

This rule modifies current rules related to the department's agricultural chemical cleanup program. The program is designed to clean up spills of agricultural chemicals and minimize environmental contamination. Under the program, the Department of Agriculture, Trade and Consumer Protection (DATCP) may reimburse a portion of the cleanup cost. Cleanups, reimbursement applications and reimbursement payments must comply with DATCP rules under ch. ATCP 35, Wis. Adm. Code.

This rule makes the following changes to the current rules:

- Clarifies landspreading requirements, and expands DATCP's authority to reimburse landspreading costs incurred in a cleanup project.
- Clarifies and expands DATCP's authority to reimburse the cost of removing or relocating utilities and other fixtures.

- Modifies competitive bidding and other cost control procedures.

- Requires consultants to identify, in their project bids to persons needing cleanup services, any contract services and costs that are not eligible for DATCP reimbursement.

- Authorizes DATCP to reimburse a person for some reasonable and necessary cleanup costs, even if the person fails to comply with competitive bidding or other cost control requirements.

- Creates an advisory council to advise DATCP on the cleanup program.

Landspreading

Current rules authorize landspreading of soils contaminated with fertilizers or pesticides if those fertilizers or pesticides can be legally applied to land. Landspreading reduces the concentration of the fertilizer or pesticide, and provides an economical and potentially useful disposal option in many cases. Persons proposing to landspread soils contaminated with fertilizers or pesticides must obtain a permit from DATCP. This rule clarifies permit application requirements, and describes the documentation required. This rule also authorizes DATCP to reimburse some additional landspreading costs.

Costs to Move Utilities, Equipment and Other Fixtures

This rule authorizes DATCP to reimburse costs for moving utilities, equipment and other fixtures, so that contaminated soils can be removed. Current rules prevent reimbursement of these costs. This rule authorizes DATCP to reconsider these cost claims that were not previously eligible for reimbursement.

Bidding for Services

Under current rules, a person seeking DATCP reimbursement of cleanup costs must use a competitive bidding process to contract for cleanup services. This rule modifies the current bidding requirements. Under this rule:

- The applicant must submit the initial bids to DATCP. DATCP must also approve any revised cost estimate.

- The general contractor (consultant) must give the responsible person written notice of any cleanup costs that are ineligible for reimbursement.

Failure to Implement Cost Controls; Partial Reimbursement

Under current rules, DATCP must deny a reimbursement claim if the applicant fails to comply with competitive bidding and other cost control measures. This rule authorizes DATCP to reimburse a portion of the reasonable and necessary cleanup costs, even if the claimant fails to comply with cost control measures. Under this rule, DATCP may pay up to 75% of the reimbursement that would have been available, had the claimant complied with all required cost control measures.

Advisory Council

This rule creates an advisory council for the agricultural chemical cleanup program. The agricultural chemical cleanup council will advise DATCP on reimbursement decisions, program funding and rulemaking needs. This advisory council will replace a statutory advisory council that was recently eliminated.

Fiscal Estimate

The Department of Agriculture, Trade and Consumer Protection anticipates a cost increase as a result of the proposed rules that can be absorbed. Most of the costs result from expanding the eligibility of certain remedial activities at sites conducting cleanups of agricultural chemicals. As a result, the following is a listing of items that will have an annual fiscal impact to the ACCP fund, an estimated amount and a brief explanation of how that estimate was calculated. The total annual increase is estimated to be \$76,000.

- Facility equipment moving: \$12,000 based upon 5 sites/year at \$3,000/site at 80% reimbursement.
- Fixture or structure removal and reinstallation: \$20,000 based upon 5 sites/year at \$5,000/site at 80% reimbursement.
- Landspreading incentive payment: \$12,000 based upon 30,000 yards of soil spread per year at \$.50 per yard at 80% reimbursement.
- The rule proposes to reimburse a portion of all reasonable and necessary corrective action costs even if they were incurred without following all of the cost control provisions of the rules. This is expected to increase the annual expenditures by about \$12,000 based upon \$30,000 denied annually because of not following cost control provisions. The department might pay 50% of those costs eligible of which they would get reimbursed 80%.

A one time impact to the ACCP reimbursement fund will also occur based upon allowing past claimants to submit old costs for the first three items above to the fund after the rule becomes effective. This total amount is estimated to be \$40,000 and is based upon sites where we are aware of fixtures or equipment being moved in the past.

Initial Regulatory Flexibility Analysis

The proposed changes to ATCP 35, Wis. Adm. Code, will allow greater reimbursement of business expenses when a business cleans up a spill of fertilizer or pesticide.

Expected Business Income

The proposed changes to ATCP 35, Wis. Adm. Code, will decrease business costs for cleaning up spills. The proposed changes to ATCP 35 include:

- Expanding reimbursement eligibility to include costs that have been ineligible in the past. Additional costs proposed to be eligible include removing and replacing fixtures (railroad tracks, ties and ballast; culverts; fences; and utility equipment).
- Expanding reimbursement eligibility to include a portion of costs that a responsible person incurred without complying with the cost control provisions of the rule. The current rule language denies all of these costs whether or not they were reasonable or necessary corrective actions.
- Expanding reimbursement eligibility to include payment to landowners for use of their land to landspread soil which contains agricultural chemicals.
- Modifying the contracting language to require contractors to be more accountability to the responsible persons and the agency.

Alternative Options Considered

Most of the fiscal impacts for small businesses contained in proposed revisions to ch. ATCP 35, Wis. Adm. Code, are costs savings. Maintaining status quo was the alternative options considered.

Draft Environmental Assessment

The Department has prepared a draft environmental assessment (EA) for the proposed 2000 amendments to the rules on the Agricultural Chemical Cleanup Program. Copies are available from the Department on request and will also be available at the public hearing. Comments on the EA should be directed to the Agricultural Resource Management Division, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708 in care of Duane Klein. Phone 608/224-4519. Written comments on the EA will be accepted until **April 25, 2000**.

Notice of Hearings

Agriculture, Trade & Consumer Protection **[CR 00-60]**

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on the proposed repeal and recreation of chapter ATCP 75, Wisconsin Administrative Code, relating to Retail Food Establishments.

Included in the revisions is the adoption of the "Wisconsin Food Code" as Appendix A. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **May 15, 2000**, for additional written comments. The hearings will be held in conjunction with hearings held by the Department of Health and Family Services, which has proposed the repeal and recreation of its rule for restaurants (chapter HFS 196). The DHFS rule includes the identical "Wisconsin Food Code" as appendix A to its proposed rule.

A copy of this rule may be obtained free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Division of Food Safety, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, or by calling (608) 224-4700. Copies will also be available at the public hearings.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **April 10, 2000**, either in writing to Debbie Mazanec, 2811 Agriculture Drive, P.O. Box 8911, Madison WI 53708, (608) 224-4712, or by contacting the message relay system (TTY) at (608) 266-4399 to forward your call to the department at (608) 224-5058. Handicap access is available at all locations for the hearings.

Hearing Information

Five hearings are scheduled:

April 25, 2000
Tuesday
9:30 a.m. until 12:30 p.m.
Eau Claire
Eau Claire Health Department
Room G 30-31
720 Second Avenue
Eau Claire WI 54703

Handicapped accessible through front door.

April 27, 2000
Thursday
9:30 a.m. until 12:30 p.m.
Appleton
Appleton Public Library
Lower Level
125 N Oneida Street
Appleton WI 54911

Handicapped accessible through front door.

April 28, 2000
Friday
9:30 a.m. until 12:30 p.m.
Milwaukee
Milwaukee Health Department
Northwest Health Center
Basement Conference Room
7630 W. Mill Road
Milwaukee WI 53218

Handicapped accessible front door.

The hearing is scheduled for video-conference participation from each of the five locations shown below.

May 2, 2000
Tuesday
9:30 a.m. until 12:30 p.m.

Madison
Wis. Department of Agriculture,
Trade and Consumer Protection
Prairie Oak State Office Building
Room 472
2811 Agriculture Drive
Madison WI 53718

Handicapped accessible through front door.

(NOTE: A LIVE HEARING IS ALSO SCHEDULED IN MADISON ON MAY 5, 2000.)

LaCrosse
LaCrosse State Office Building
Room B-29
3550 Morman Coulee Road
LaCrosse WI 54601

Handicapped accessible through front door.

Wisconsin Rapids State Office Bldg
2610 Industrial Street
Conference Room #4
Wisconsin Rapids WI 54495

Handicapped accessible through front door.

Department of Transportation –
Superior
1701 N. 4th Street
Conference Room
Superior WI 54880

Handicapped accessible through front door.

Rhineland
DNR Northcentral Regional
Headquarters
107 Sutliff Avenue, Room #1
Rhineland WI 54501

Handicapped accessible through front door.

May 5, 2000
Friday
9:30 a.m. until 12:30 p.m.

Madison
Wis. Department of Agriculture,
Trade and Consumer Protection
(Prairie Oak State Office Building)
Conference Room 106
(Board Room)
2811 Agriculture Drive
Madison WI 53718

Handicapped accessible through front door.

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

Statutory Authority: ss. 93.07(1), 97.30(5) and 227.14(1s), Stats., as created by s. 2355mm., 1999 Wis. Act 9

Statute Interpreted: s. 97.30

This rule repeals and recreates current rules related to retail food establishments, such as grocery stores. The department of Agriculture, Trade and Consumer Protection (“DATCP”) licenses and inspects retail food establishments under s. 97.30, Stats.

Uniform Rules Based on Model Food Code

Many retail food establishments also include restaurants, and vice-versa. The department of health and family services (“DHFS”) licenses and inspects restaurants under s. 254.64., Stats. DATCP and DHFS now coordinate their activities so that a combined grocery store and restaurant is licensed and inspected by DATCP or DHFS, but not both. In metropolitan areas, agent counties or municipalities often license and inspect grocery stores and restaurants as agents of DATCP and DHFS.

Although DATCP and DHFS have coordinated their activities to avoid duplicate licensing and inspection, they still enforce somewhat different rules. This makes it difficult to administer a coordinated program, and makes it difficult for food businesses to comply. The current rules of both agencies are also outdated in certain respects.

DATCP and DHFS are therefore proposing uniform rules for retail food establishments. DATCP is proposing this rule for retail food establishments, while DHFS is proposing a nearly identical rule for restaurants. The proposed rule is based on the 1999 model food code published by the United States food and drug administration (FDA). The model food code is applicable to retail food establishments as well as restaurants. The FDA has recommended that state and local governments adopt the model food code. The model food code is based on the best science currently available to FDA.

Rule Contents

The format of the model food code differs from that of state administrative rules. Under s. 227.14(1s), Stats., created by 1999 Wis. Act 9, DATCP and DHFS are authorized to adopt

administrative rules in the format of the model food code. This rule, like the DHFS rule, has two parts:

- The first part contains DATCP licensing and administrative procedures related retail food establishments. This part is drafted in the normal state format. This rule does not change current licensing or administrative procedures for retail food establishments. Nor does it change current license fees.

- The second part, attached as an appendix, is the model food code. The model food code is written in the federal format, as authorized by the Wisconsin legislature. The food industry is familiar with the model food code format. DATCP and DHFS have jointly reviewed the model food code, and have made minor modifications to adapt it for use in Wisconsin.

Retail Food Establishments; Rule Coverage

This rule applies to retail food establishments licensed under s. 97.30, Stats., including grocery stores and retail food processing operations. It does not apply to activities conducted under a dairy plant license (s. 97.20, Stats.), a meat or poultry establishment license (s. 97.42, Stats.) or a food processing plant license (s. 97.29, Stats.).

Licensing and Fees

DATCP currently licenses retail food establishments under s. 97.30, Wis. Stats. A retail food establishment operator must pay fees specified by statute and rule. This rule incorporates statutory licensing requirements and fees without change. This rule continues current provisions that eliminate overlapping license requirements between DATCP and DHFS.

Definitions

The food code defines key terms. When a defined term is used in the code, it appears in SMALL CAPS.

Variations

Under the state version of the model food code, DATCP may grant variations from specific code requirements. A variance request must be reasonable and the requester must document that the variance will not compromise food safety.

Potentially Hazardous Foods

The food code revises the current definition of “potentially hazardous foods,” and requires that they be kept at safe temperatures. Under the code:

- Potentially hazardous foods must be refrigerated at or below 41° F. or kept frozen.

- Hot-held potentially hazardous foods must be kept at or above 140° F. during handling and storage.

- Raw animal foods, cooked plant foods, wild game species and exotic game species must be cooked at or above specified minimum temperatures.

- Potentially hazardous foods that have been cooked must be rapidly cooled to 41°F. or less, according to one or more specified cooling methods.

- Cooked potentially hazardous food must be heated to a temperature of at least 145°F for at least 15 seconds, except as otherwise provided in the code. The code provides specific cooking times and temperatures for various foods including poultry, pork, ground meats and rare roast beef.

- Potentially hazardous foods must be thawed in a refrigerated space at a temperature of 41°F. or less, or under running water at a temperature of 70°F. or less for no more than 4 hours, or in a microwave oven or other cooking equipment as part of the cooking process.

- Potentially hazardous food, if previously cooked and cooled, must be reheated to a temperature of at least 165°F for at least 15 seconds.

- Potentially hazardous foods cooked or reheated in a microwave oven must be cooked or reheated according to specified standards.

- Refrigerated potentially hazardous foods must be received at safe temperatures of 41°F or less, except that milk or milk products,

molluscan shellfish, eggs and smoked fish must be received according to other applicable laws.

- Cooked, hot potentially hazardous foods must be received at safe temperatures of 140°F or more.

Construction, Equipment and Maintenance

The food code, like current rules, establishes construction and equipment standards for retail food establishments. The code makes the following changes to current rules:

- It prohibits the use of living quarters for food establishment operations.
- It clarifies handwashing facility requirements for toilet rooms and processing rooms.
- It describes acceptable procedures for garbage recycling and refuse handling.
- It reconciles equipment standards between DATCP and DHFS.
- It regulates the operation and maintenance of live fish and crustacean display tanks.

Management and Personnel Standards

This food code includes management and personnel standards. Management must understand principles for preventing foodborne disease or illness, must understand the use of a Hazard Analysis Critical Control Point (HACCP) program. The code also addresses employee health, personal cleanliness and hygienic practices

Food Sources

Under the food code:

- Food must be obtained from approved sources.
- Eggs offered for sale as “ungraded” must be grade “B” or better.
- Shellfish must comply with the National Shellfish Sanitation Program.

The food code prohibits a retail food establishment operator from doing any of the following:

- Vacuum packaging foods unless authorized in writing by DATCP or its agent.
- Vacuum packaging fish.
- Selling fish, shellfish or crustaceans unless they are commercially and legally harvested.

Date Marking and Food Labels

The food code requires date marking of ready-to-eat potentially hazardous food held in a food establishment for longer than 24 hours. The food must be clearly marked to ensure that it will be consumed or discarded within 7 calendar days. If the food is received frozen or is subsequently frozen by the establishment, it must be discarded within 24 hours after thawing. Aged hard cheeses and whole, unsliced portions of cured and processed sausage are exempt from date marking.

This food code prohibits a retail food establishment operator from receiving molluscan shellfish that are not properly labeled as required by federal law.

Time as a Public Health Control

The food code allows a retail food establishment to hold potentially hazardous food for up to 4 hours without temperature control if the food is being prepared for cooking or if it is being held for immediate sale and consumption as ready-to-eat food.

Receiving, Handling, Storing and Displaying Food

The food code updates and clarifies basic requirements related to food receipt, handling, storage and display. A retail food establishment operator must:

- Handle, package and display food using the risk-based Hazard Analysis Critical Control Point (HACCP) system, if the food is specially processed (such as smoking, curing, brewing, or reduced-oxygen packaging). DATCP or its agent must approve HACCP plans.
- Protect food from contamination during receipt.

- Receive only clean, live shellfish, and store shellfish in their original shipping container.

- Provide an accurate thermometer for frequent food temperature monitoring.

- Identify containers holding food that has been removed from its original package.

- Protect food condiments from contamination while they are being dispensed.

- Refrain from storing packaged foods in direct contact with ice or water if water may enter the food.

- Designate a trained employee to monitor consumer self-service operations.

- Provide disposable, single service tissues or serving utensils at customer self-service display containers. Serving utensils must be removable for cleaning.

- Refrain from using sulfiting agents, except under certain defined circumstances.

- Present food for sale in a way that does not mislead or misinform the consumer.

- Thoroughly wash raw fruits and vegetables before cutting and offering them for consumption in ready-to-eat form.

- Keep produce-fogging devices clean and sanitary.

Consumer Advisory

The food code requires the operator of a food establishment to inform consumers about the increased risk associated with eating certain raw or undercooked animal foods. The operator may inform consumers by brochures, deli counter or menu advisories, label statements, table tents, placards or other effective written means.

Highly Susceptible Populations

The food code includes special requirements for food establishments serving highly susceptible populations. Highly susceptible populations may include infants, elderly people, pregnant women and people whose immune systems are compromised. The code restricts the serving of certain foods such as raw animal food and partially cooked food. Other high-risk foods may be served if they are prepared and served according to an approved HACCP plan.

Cleaning, Sanitizing and Cross-Contamination

This rule updates and clarifies basic cleaning and sanitizing requirements, as well as requirements to minimize cross-contamination of food. A retail food establishment operator must:

- Clean equipment and utensils every 4 hours when processing potentially hazardous foods. The cleaning interval may be extended, up to 24 hours if the processing area is refrigerated.

- Wash equipment and utensils thoroughly in clean water at 110°F. if the equipment and utensils are washed manually.

- Clean equipment and utensils when there is a change in processing from raw foods to ready-to-eat foods.

- Clean equipment and utensils between uses when processing raw fruits and vegetables and potentially hazardous foods.

- Clean equipment and utensils whenever contamination may have occurred.

- Rinse equipment and utensils to remove abrasives and cleaning compounds.

- Use warewashing sinks only to clean equipment and utensils. A sink may be used for activities such as washing produce or thawing foods if the sink is cleaned and sanitized before and after use.

- Use warewashing sinks that are self-draining and equipped with self-draining drain boards.

- Immerse equipment and utensils for at least one minute in 150 parts-per-million quaternary ammonium when quaternary ammonium is used as a sanitizing agent.

- Use approved sanitizers in a safe manner.

- Provide accurate thermometers to measure washing and sanitizing solution temperatures.
- Store clean and sanitized equipment and utensils at least 6 inches above the floor in a self-draining position.
- Prohibit bare hand contact with ready-to-eat food, unless otherwise approved by the regulatory authority.
- Separate raw animal foods from ready-to-eat foods.
- Separate different species of raw animal foods.
- Clean and sanitize equipment and utensils between uses.
- Separate unwashed raw fruits and vegetables from ready-to-eat foods.

Other Requirements

The food code establishes requirements for:

- Mobile and temporary food establishments.
- Public toilet rooms.
- Food manager certification.

Records and Reports

The food code requires the operator of a retail food establishment to keep records related to:

- Molluscan shellfish sources and sale dates.
- HACCP plans required by the code.
- Microbiological analyses of water obtained from private wells.

Technical Changes

The food code makes a large number of technical changes to current rules.

Fiscal Estimate

This proposal to repeal and recreate ch. ATCP 75, Wis. Adm. Code, Retail Food Establishments, will have minimal fiscal impact. Currently, ch. ATCP 75 includes our licensing and enforcement procedures, as well as regulatory requirements for retail food establishments. The proposed ch. ATCP 75 includes the same licensing and enforcement procedures. However, the sanitary and regulatory requirements are contained in an Appendix that is modeled after the federal Food and Drug Administration (FDA) Model Food Code. The federal Food Code is a model code offered to the states to provide regulatory consistency between states based on the best science currently available to the FDA. The State Legislature gave the department authorization to adopt retail food rules in the format of the federal Food Code in 1999 Wis. Act 9.

The format, style and size of the FDA Model Food Code will cause an initial one-time cost for printing copies of the rule and training the industry and state and local regulatory staff on the format and style changes. The initial printing cost will be significant. It will be necessary to provide copies of the Code to approximately 8000 Retail Food Stores, 80 state inspection staff, and 22 Local Agent Health Departments with an average of 4 inspectors each. We estimate that the initial printing cost would be approximately \$1100 per 1000 copies. The initial number of copies needed is 10,000. Total cost of initial printing is estimated to be \$11,000. A significant amount of training is necessary to familiarize industry and state and local regulators with the format, style and content of the Food Code. We will absorb these training costs by reallocating current training staff to develop and deliver this training. State and local staff needing training will be reallocated to this training from other training, again absorbing training costs. After the initial training period, we will be able to maintain training as we currently do.

Initial Regulatory Flexibility Analysis

Retail Food Establishments

Repealing and recreating ch. ATCP 75, Wis. Adm. Code, Retail Food Establishments, will have a minimal fiscal impact on small businesses as defined in s. 227.114 (1)(a), Stats. Approximately 8,000 retail food establishments are currently licensed and inspected by either the department or a local city/county health department that serves as an agent of the department. The retail food

establishments range from small establishments that only sell prepackaged food, to large, retail food establishments which process as well as sell large volumes of food.

The proposed retail food establishment rule will include an "Appendix A", Wisconsin Food Code, which will update existing requirements and provide guidance for safe food handling and processing practices. This proposed retail food establishment rule is nearly identical to the rule being proposed by DHFS for restaurants. The proposed rule is based on the 1999 model food code published by the United States food and drug administration (FDA) which is applicable to retail food establishments as well as restaurants. The FDA has recommended that state and local governments adopt the model food code to provide more regulatory uniformity between retail food establishments and restaurants and across local, state & federal jurisdictions.

The proposed changes to ATCP 75, which may impact on small businesses are:

- The food code includes management and personnel standards. Management must have knowledge of principles necessary for the prevention of foodborne disease or illness and the use of a Hazard Analysis Critical Control Point (HACCP) program. Additional personnel standards address employee health, personal cleanliness and hygienic practices.

- This rule expands and clarifies the current rules regarding sanitation standards for personnel in retail food establishments.

- This rule expands from the current rule on the procedures of how, when and where to wash your hands and the maintenance of fingernails.

- Under this rule, no retail food establishment may acquire food from an unlicensed, unapproved source.

- This rule adds the United States Food And Drug Administration (FDA) national shellfish safety program regulations regarding the handling of shellfish in retail food establishments.

- Temperatures required for the preparation, storage, holding and reheating of potentially hazardous foods have been changed to be consistent with national food safety standards. New temperature requirements for raw animal foods, cooked plant foods, wild game species, and exotic games species are provided.

- Cooling requirements for potentially hazardous foods are changed to allow longer cooling times.

- Requirements related to handling of ready-to-eat food have been changed to specifically prohibit touching of such foods with bare hands, unless otherwise approved by the department.

- New in the code is the requirement for date marking ready-to-eat potentially hazardous food held in a food establishment for more than 24 hours.

- The proposed rule allows the use of time, as the only factor, rather than time in conjunction with temperature, as a public health control measure.

- A variance from the department will be required for specialized processing methods as a method of food preservation; such as smoking food, curing food, brewing alcoholic beverages, using food additives, using reduced oxygen packaging methods and similar specialized processing methods will require.

- The model food code requires the operator of a food establishment to inform consumers of the increased risk associated with eating certain animal foods that may be served raw, undercooked or not otherwise processed to eliminate pathogens.

- The proposed rule includes special requirements for food establishments that restricts the serving of certain foods to highly susceptible populations.

- The proposed rule, as does the current rule, includes food equipment standards, and requirements for utensils, linens and other equipment. It also includes requirements for mobile and temporary food establishments, public toilet rooms, and food manager certification requirements for restaurant or food service operations.

With the exception of "Demonstration of Knowledge", this rule does not propose major changes which will impact businesses in the State of Wisconsin.

The impact of requiring food service management to have knowledge of principles necessary for the prevention of foodborne disease (Demonstration of Knowledge) at licensed retail food establishments would be minimal. Currently most retail food establishments have managers that are required to maintain a Food Managers Certification. This certification covers the knowledge of food safety principles. The only additional cost would involve providing an appropriate level food safety training of all staff who handles food.

The overall impact of the proposed ATCP 75 rule change on small business is minimal. It would not be necessary for licensed food establishments to retain additional professional services to comply with this rule.

Notice of Hearing

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board [CR 00-50]

Notice is hereby given that pursuant to authority vested in the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting ss. 443.04 (1) (b), (c) and (d) and 443.06 (2) (am), Stats., the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors will hold a public hearing at the time and place indicated below to renumber s. A-E 6.04 (1) and (2); to renumber and amend s. A-E 6.04 (intro.); to amend ss. A-E 4.05 (1) (b), (2) (a), (3) (a) and (4) (b), 6.05 (1) and (3) (a) and (b); and to create ss. A-E 2.02 (8), 6.04 (2) and 6.05 (3) (c) (intro.), 1., 2., 3., 4. and (d) (intro.), 1., 2., 3. and 4., relating to registration seals, experience requirements for professional engineers, and educational requirements for land surveyors.

Hearing Information

April 12, 2000
Wednesday
1:30 p.m.

Room 179A
1400 East Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **April 28, 2000** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

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

Statutes interpreted: ss. 443.04 (1) (b), (c) and (d) and 443.06 (2) (am)

In this proposed rule-making order, the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors contains amendments which relate to use of registration seals, experience requirements for professional engineers, and educational requirements for land surveyors.

The Board creates s. A-E 2.02 (8) to clarify what a registrant must do in situations where plans and specifications are to be submitted for state approval by a licensee who did not do the original design work. This rule would allow Wisconsin registrants to finish projects in which the original design person because of death or dismissal is unable to finish it.

The Board amends s. A-E 4.05 (1) (b), (2) (a) and (4) (b) to require that an applicant for professional engineer registration must complete their experience within 10 years preceding his or her application for registration and under s. A-E 4.05 (3) within 15 years preceding his or her application for registration. The Professional Engineers Section believes it is in the best interest of the health, safety and welfare of the citizenry of Wisconsin for an applicant's experience to be within 10 to 15 years immediately preceding their application, to assure that the applicant can apply the current professional engineering procedures.

The Board amends s. A-E 6.04 to identify the educational requirements for becoming a land surveyor, which becomes effective July 1, 2000. The requirement will increase the educational requirement from a two-year degree to a four-year college or university degree.

Text of Rule

SECTION 1. A-E 2.02 (8) is created to read:

A-E 2.02 (8) Plans, specifications and calculations for buildings and structures not exempt under s. 443.15, Stats., which have been prepared by an architect or professional engineer other than the Wisconsin registered architect or engineer who is submitting the plans, specifications and calculations for filing as public documents, may be submitted provided the following conditions are satisfied:

(a) The plans, specifications and calculations shall bear the signature and seal or stamp of the architect or professional engineer who prepared them or under whose supervision and control they were prepared.

(b) A certificate, dated, signed and sealed by the Wisconsin registered architect or engineer who is submitting the plans, specifications and calculations for filing as public documents, shall be attached to the plans, specifications and calculations. The certificate shall indicate that the plans, specifications and calculations were prepared by an architect or professional engineer other than the submitting registered architect or registered engineer; shall describe the work performed by the submitting registered architect or registered engineer; and shall include statements to the effect that the plans and specifications have been reviewed and comply with all applicable local and state building codes, and that the reviewing registered architect or registered engineer will be responsible for the supervision of construction in accordance with the requirements of the state, and of the county and municipality where the building or structure is to be erected.

SECTION 2. A-E 4.05 (1) (b), (2) (a), (3) (a) and (4) (b) are amended to read:

A-E 4.05 (1) (b) Not less than 4 years of experience within the 10 years preceding the application in engineering work of a character satisfactory to the board indicating that the applicant is competent to practice engineering. Experience gained in obtaining a master's degree in engineering and experience gained in obtaining a Ph.D. in engineering or in an engineering related program shall each be deemed equivalent to one year of qualifying experience.

(2) (a) A specific record of 8 or more years of experience within the 10 years preceding the application in engineering work of a character satisfactory to the board indicating that the applicant is competent to be placed in responsible charge of the work, or a combination of engineering experience and equivalent education totaling 8 years.

(3) (a) A specific record of not less than 12 years experience within the 15 years preceding the application in engineering work of a character satisfactory to the board indicating that the applicant is competent to practice engineering, or a combination of experience and equivalent education totaling 12 years.

(4) (b) Not less than 8 years of experience in engineering work within the 10 years preceding application of a character satisfactory to the board indicating that the applicant is competent to practice engineering. Experience gained in obtaining a master's degree in engineering and experience gained in obtaining a Ph.D. in engineering or in an engineering related program shall each be deemed equivalent to one year of qualifying experience.

SECTION 3. A-E 6.04 (intro.) is renumbered A-E 6.04 (1) (intro.) and, as renumbered, amended to read:

A-E 6.04 Educational requirements for land surveyors. (1)

To meet the educational requirements of s. 443.06 (2) (a) ~~and (bm)~~, Stats., requiring “a course in land surveying of not less than 2 years duration approved by the section” an applicant for registration as a land surveyor shall have satisfactorily completed at least 60 semester credits in a civil engineering or land surveying curriculum including no less than 12 semester credits in land surveying ~~granted by a college or university accredited by a regional accrediting agency approved by the state board of education in the state in which the college or university is located.~~ Credits in land surveying which shall be in the following categories of study:

SECTION 4. A-E 6.04 (1) and (2) are renumbered A-E 6.04 (1) (a) and (1) (b).

SECTION 5. A-E 6.04 (2) is created to read:

A-E 6.04 (2) To meet the educational requirements of s. 443.06 (2) (am), Stats., an applicant for registration as a land surveyor shall have:

(a) Received a bachelor’s degree in a course of study in land surveying of not less than 4 years duration from a college or university accredited by a regional accrediting agency approved by the state board of education in the state where the college or university is located; or

(b) Received a bachelor’s degree in civil engineering of not less than 4 years duration from a college or university accredited by a regional accrediting agency approved by the state board of education in the state where the college or university is located. The curriculum shall include no less than 12 credits in courses concentrating on the legal principles of land surveying and the technical aspects of land surveying. These courses shall include areas of study such as research of public and private records, principles of evidence and the interpretation of written documents used in boundary determination, the study of the legal elements of land surveying including those involving resurveys, boundary disputes, defective descriptions, riparian rights and adverse possession, the study of the professional and judicial functions of a land surveyor, the study of surveying methods for measuring distance and angular values, note keeping, computation and writing descriptions and the study of the Wisconsin statutes and local ordinances relating to the preparation of subdivision maps and plats.

SECTION 6. A-E 6.05 (1) and (3) (a) and (b) are amended to read:

A-E 6.05 (1) LAND SURVEYOR EXAMINATION REQUIRED. Applicants for registration as a land surveyor ~~other than applicants under s. 443.06 (2) (c), Stats.,~~ shall take and pass an examination. The examination parts are the fundamentals of surveying examination and the principles and practice examination. The principles and practice examination is divided into 2 sections, a “national” and a “state” section which are scored separately.

(3) REQUIREMENTS FOR ENTRANCE TO EXAMINATIONS. (a) ~~To Prior to July 1, 2000,~~ to be eligible to take the “fundamentals of land surveying” examination, an applicant shall have complied with s. A-E 6.04 (1), or have at least 4 years of practice in land surveying, or a combination of work and training in a course in land surveying and practice in land surveying which totals at least 4 years.

(b) ~~To Prior to July 1, 2000,~~ to be eligible to take the “principles and practice of land surveying” examination, an applicant shall have complied with s. A-E 6.04 (1) and have at least 2 years of approved practice in land surveying, or have at least 5 years of approved practice in land surveying, or a combination of at least 5 years of approved work and training in a course in land surveying and practice in land surveying.

SECTION 7. A-E 6.05 (3) (c) (intro.), 1., 2., 3. and 4. and (d) (intro.), 1., 2., 3. and 4. are created to read:

A-E 6.05 (3) (c) After June 30, 2000, to be eligible to take the “fundamentals of land surveying” examination, an applicant shall have done one of the following:

1. Complied with s. A-E 6.04 (2).
2. Complied with s. A-E 6.04 (1).

3. Have at least 5 years of practice in land surveying, or a combination of work and training in a course in land surveying and practice in land surveying which totals at least 5 years.

4. Have completed an apprenticeship training course in land surveying prescribed by the department of industry labor and job development, and engaged in a period of additional land surveying of a satisfactory character that, when added to the period of apprenticeship, totals at least 6 years of land surveying practice.

(d) After June 30, 2000, to be eligible to take the “principles and practice of land surveying” examination, an applicant shall have done one of the following:

1. Complied with s. A-E 6.04 (2) and have at least one year of approved practice in land surveying.

2. Complied with s. A-E 6.04 (1) and have at least 3 years of approved practice in land surveying.

3. Have at least 9 years of approved practice in land surveying, or a combination of at least 9 years of approved work and training in a course in land surveying and practice in land surveying.

4. Have completed an apprenticeship training course in land surveying prescribed by the department of industry labor and job development, and engaged in a period of additional land surveying of a satisfactory character that, when added to the period of apprenticeship, totals at least 7 years of land surveying practice.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

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

Telephone (608) 266-0495

Notice of Hearing

*Health & Family Services
(Management & Technology,
Executive & Strategic
Finance, Chs. HFS 1-)
[CR 00-52]*

Notice is hereby given that, pursuant to ss. 48.685 (1) (ag), (2) (d), (4), (5), (6) (b) and (c) and 50.065 (1) (ag), (d) and (f), (2) (d), (4), (5) and (6) (b) and (c), Stats., as repealed and recreated by 1999 Wis. Act 9, and ss. 227.11 (2) (a) and 227.24 (4), Stats., the Department of Health and Family Services will hold a public hearing to consider the proposed repeal and recreation of ch. HFS 12, Wis. Adm. Code, relating to caregiver background checks, and emergency rules published on February 13, 2000 on the same subject.

Hearing Information

April 13, 2000
Thursday
from 1 p.m. to 4 p.m.

Room 751
State Office Building
1 W. Wilson St.
MADISON WI

The hearing site is fully accessible to people with disabilities.

Analysis Prepared by the Department of Health & Family Services

Since October 1, 1998, the Department has been implementing ss. 48.685 and 50.065, Stats., effective on that date, that require use of uniform procedures to check the backgrounds of persons who apply to the Department for regulatory approval, 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 direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction or finding, who have in their backgrounds a specified conviction or finding 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 from otherwise having contact with the clients of a service provider.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. 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. On September 12, 1999, the Department issued another emergency order again modifying ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes was reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being crimes that permanently barred persons for all programs. The change to the ch. HFS 12 Crimes List was made at that time because the 1999-2001 Budget Bill, subsequently passed by the Legislature as 1999 Wisconsin Act 9, was expected to provide for a more modest list of crimes than the one that was appended to ch. HFS 12 before September 12, 1999. The more modest crimes list published by an emergency rulemaking order on September 12, 1999 reflected the Legislature's intent that some persons who under the previous rules would lose their jobs effective October 1, 1999, were able to keep their jobs.

The 1999-2001 Biennial Budget Act, 1999 Wisconsin Act 9, made several changes to ss. 48.685 and 50.065, Stats., the Caregiver Law. These changes were effective on October 29, 1999. The Department's current rules, effective July 1, 1999, as amended on September 16, 1999, have been in large part made obsolete by those statutory changes. Consequently, the Department through this order is repealing and recreating ch. HFS 12 to bring its rules for operation of the Caregiver Law into conformity with the revised statutes. This was done by emergency order effective February 13, 2000 to remove public confusion resulting from continued reliance on administrative rules, that have been widely relied upon by the public for understanding the operation of the Caregiver Law, that are now in conflict with current statutes.

These proposed rules are the same as the emergency rules. Therefore, they minimize repetition of ss. 48.685 and 50.065, Stats., and are designed to supplement those statutes by providing guidance on:

- Sanctions associated with the acts committed under the Caregiver Law;
- Determining whether an offense is substantially related to client care;
- Reporting responsibilities; and
- The conduct of rehabilitation review.

Contact Person

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

Larry Hartzke
Office of Legal Counsel
Department of Health and Family Services
P. O. Box 7850
Madison, WI 53707-7850

(608) 267-2943 or,
if you are hearing impaired,
(608) 266-3683 (TDD)
hartzlr@dhfs.state.wi.us

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

Written comments on the proposed rules received at the above address no later than **April 21, 2000** will receive the same consideration as testimony presented at the hearing.

Fiscal Estimate

Because this order simply implements changes to chs. 48 and 50, Stats., in Act 9, the order, by itself, does not affect the expenditures or revenues of state government or local governments. Any changes to workload, revenues and expenditures were accounted for in Act 9.

Initial Regulatory Flexibility Analysis

These rules apply to the following "agencies:" the Department, county social services and human services departments that license foster homes for children or carry out adoption home studies, child-placing agencies that do the same, and school boards that contract for a day care program. These rules also apply to the following licensed, certified, registered or approved "entities:"

- emergency mental health service programs;
- mental health day treatment services for children;
- community mental health programs
- developmental disability programs;
- community support programs;
- certified community alcohol and other drug abuse (AODA) prevention and treatment programs;
- family day care centers for children;
- group day care centers for children;
- day camps for children;
- foster homes and treatment foster homes for children;
- group homes for children;
- shelter care facilities for children;
- child-placing agencies;
- ambulance service providers;
- 3-4 bed adult family homes certified or licensed by the Department;
- residential care apartment complexes (formerly called assisted living facilities);
- community-based residential facilities (CBRFs);
- nursing homes and facilities for the developmentally disabled;
- hospice programs;
- home health agencies, including those that provide personal care services;
- rural medical centers; and

- hospitals.
- child–caring institutions;
- county–certified family day care providers; and
- day care providers contracted through local school boards.

Many of the entities are small businesses as “small businesses” is defined in s. 227.114 (1) (a), Stats. This includes about 1/3 of the community mental health and AODA programs; nearly all the 2,665 family day care centers; nearly 1/3 of the 2,269 group day care centers; 12 of the 80 private child–placing agencies; most of the 2,800 foster homes and 10% of the 140 group homes; 25 of 450 ambulance service providers; 7 of 45 residential care apartment complexes; 600 of 1,120 CBRFs; 96 of 472 nursing homes; most of the hospice programs; and 115 of 191 home health agencies.

The revised rules minimize repetition of ss. 48.685 and 50.065, Stats., and are designed to supplement those statutes by providing guidance on:

- Sanctions associated with the acts committed under the Caregiver Law;
- Determining whether an offense is substantially related to client care;
- Reporting responsibilities; and
- The conduct of rehabilitation review.

The requirements found in the rules are either taken from the statutes that the rules implement, ss. 48.685 and 50.065, Stats., as created by 1997 Wis. Act 27 and amended by 1997 Wis. Act 237 and 1999 Wis. Act 9, or those statutes direct the Department to specify the requirements.

No new professional skills are necessary for entities to comply with ch. HFS 12.

Notice of Hearings

Health & Family Services

(Health, Chs. HFS 110–)

[CR 00–59]

Notice is hereby given that, pursuant to ss. 254.71 (6) and 254.74 (1), Stats., the Department of Health and Family Services will hold public hearings to consider the repeal and recreation of Ch. HFS 196, Wis. Adm. Code, relating to restaurants. The hearings are being held in conjunction with the Department of Agriculture, Trade and Consumer Protection which is promulgating a rule for retail food establishments that includes the same Appendix A, Wisconsin Food Code, as is being proposed as an appendix to ch. HFS 196.

Hearing Information

<p>April 25, 2000 Tuesday 9:30 a.m. to 12:30 p.m.</p>	<p>Eau Claire Health Department Room G 30–31 720 Second Avenue EAU CLAIRE WI</p>
<p>April 27, 2000 Thursday 9:30 a.m. to 12:30 p.m.</p>	<p>Appleton Public Library Lower Level 125 N. Oneida St. APPLETON WI</p>
<p>April 28, 2000 Friday 9:30 a.m. to 12:30 p.m.</p>	<p>Northwest Health Center Basement Conference Room Milwaukee Health Department 7630 W. Mill Road MILWAUKEE WI</p>

May 2, 2000

Tuesday
 9:30 a.m. to 12:30 p.m.

Videoconference at the following 5 sites:

LaCrosse State Office Building
 Room B–29
 3550 Mormon Coulee Road
 LACROSSE WI

Wis. Rapids State Office Bldg.
 2610 Industrial Street
 Conference Room #4
 WISCONSIN RAPIDS WI

Dept. of Transportation – Superior
 1701 N. 4th St., Conference Room
 SUPERIOR WI

Univ. of Wis. – Extension and DNR
 Northcentral Regional Hdquarters.
 107 Sutliff Avenue, Room #1
 RHINELANDER WI

Wis. Dept. of Agriculture, Trade and Consumer Protection
 Prairie Oak State Office Bldg.
 2811 Agriculture Drive
 MADISON WI

May 5, 2000

Friday
 9:30 a.m. to 12:30 p.m.

Wis. Dept. of Agriculture, Trade and Consumer Protection (Prairie Oak State Office Bldg.)
 Conference Room 106 (Board Room)
 2811 Agriculture Drive
 MADISON WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health & Family Services

Pursuant to ss. 254.71 (6) and 254.74 (1), Stats., the Department of Health and Family Services is required to promulgate administrative rules relative to the issuance of permits to restaurants in the State of Wisconsin. The proposed rules interpret ss. 254.61 to 254.62, 254.64 to 254.72, 254.74 and 254.85, Stats. A permit is a type of approval that signifies that the restaurant complies with the requirements intended to protect public health and safety that are set forth in ch. HFS 196.

The Department proposes to revise the Department’s rules for restaurants, ch. HFS 196, Wis. Adm. Code, mainly to incorporate the 1999 Federal Food Code. The Food Code is issued by the U.S. Food and Drug Administration and contains model requirements for safeguarding public health with respect to purchased food. Adherence to the Code by restaurants promotes the offering of food that is unadulterated and honestly presented to consumers. The Federal Food Code, adapted to Wisconsin, is Appendix A to ch. HFS 196 and takes the place of current ss. HFS 196.05 to 196.19, relating to food supplies; food protection; food storage; food preparation; food display service and transportation; personnel; equipment and utensils; equipment installation and location; cleaning, sanitization and storage of equipment and utensils; sanitary facilities and controls; construction and maintenance of physical facilities; mobile restaurants; temporary restaurants; special organizations serving meals; and food protection practices certification of a restaurant operator or manager.

The Wisconsin Food Code, Appendix A, is simultaneously being included by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) as an Appendix A to the DATCP’s proposed revision of ch. ATCP 75, relating to retail food establishments. The effect of having a common Wisconsin Food Code for restaurants and retail food establishments, including convenient stores, delicatessens and bakeries, is that the same rules will apply to all types of food establishments, including combinations.

The operator of every restaurant in the state must have a permit from the Department of Health and Family Services or an agent local health department before the restaurant is opened for business and in order for it to continue in business. A permit is a type of approval that signifies that the restaurant complies with the requirements intended to protect public health and safety that are set forth in ch. HFS 196. The requirements of this chapter are enforced by either the Department or a local health department that has been designated by the Department as the Department's agent.

The Department's current rules for restaurants were established in 1985 and were formatted to be similar to the U.S. Food and Drug Administration's 1976 Food Service Sanitation Manual. The rules have been amended 6 times since 1985. The major changes currently proposed to be made to ch. HFS 196 include the following:

1. Changing the temperatures required for the preparation, storage, holding and reheating of potentially hazardous foods to be consistent with national food safety standards. New temperature requirements for raw animal foods, cooked plant foods, wild game species, and exotic game species are provided.

2. Changing the cooling requirements for most potentially hazardous foods to allow longer cooling times. The new rule allows a maximum cooling time of 6 hours using a 2-step process. With certain exceptions, potentially hazardous food must be cooled from 140°F to 70°F in the first 2 hours and from 70°F to 41°F or below in the next 4 hours. Exceptions to the 2-step, 6-hour cooling process are that potentially hazardous foods made from ingredients at ambient temperature or foods received in compliance with laws that allow temperatures above 41°F (e.g., eggs, milk, etc.) during shipment, must be cooled to 41°F or below within 4 hours.

3. Requiring the permit holder and designated person in charge to demonstrate to the regulatory authority, upon request, knowledge of foodborne disease prevention, application of Hazard Analysis Critical Control (HACCP) principles and code requirements.

4. Changing requirements related to handling of ready-to-eat food to specifically prohibit touching of such foods with bare hands, unless otherwise approved by the regulatory authority.

5. Adding provisions regarding the application and removal of food worker exclusions and restrictions from food preparation and service activities, based on the signs and symptoms or a physician's diagnosis of an illness that can be transmitted through food.

6. Adding a provision requiring the date marking of ready-to-eat potentially held in a food establishment 24 hours. The proposed rules require that such foods be clearly marked to indicate that food will be consumed or discarded within 7 calendar days or within 24 hours after thawing, if receive frozen or subsequently frozen by the establishment.

7. Except for food establishments that serve a highly susceptible population, allowing a food establishment to use time (up to 4 hours) as a public health control for a working supply of potentially hazardous food before cooking, or a ready-to-eat potentially hazardous food that is displayed or held for service for immediate consumption. In order to use time as a public health control, the food establishment is proposed to be required to have a written procedure in place, approved by the regulatory authority, indicating how specific food items will be identified and procedures for discarding after 4 hours.

8. Requiring a permit holder to obtain a variance from the Department before doing any of the following: smoking food as a method of food preservation rather than as a method of flavor enhancement; curing food; brewing alcoholic beverages; using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so it is not potentially hazardous; packaging food using a reduced oxygen packaging method; or preparing food by another method that is determined by the department to require a variance.

9. Establishing criteria for reduced oxygen packaging and require that when *Clostridium botulinum* is identified as a microbiological hazard in the final package form, a Hazard Analysis Critical Control Point (HACCP) plan with information specified and approved by the department must be provided.

10. Requiring the permit holder to inform consumers by brochures, deli case or menu advisories, label statement, table tents, placards, or other effective written means of the increased risk associated with eating certain animal foods that may be served raw, undercooked or otherwise not processed to eliminate pathogens.

11. Providing special requirements for food establishments serving highly susceptible populations that restrict the serving of certain foods and allow the serving of some high risk foods provided they are prepared and served in accord with an approved HACCP plan.

12. Revising and expanding food equipment certification to include certification by any ANSI-accredited equipment program or the approval of the Department of Agriculture, Trade and Consumer Protection and the Department of Health and Family Services.

13. Reducing the required minimum number of sink compartments for manually cleaning and sanitizing utensils and equipment from 4 to 3. However, the proposed rules add a requirement that an additional sink be installed for pre-cleaning if the restaurant demonstrates that it is unable to effectively clean equipment and utensils.

14. Requiring a separate food preparation sink in all new restaurants and in an existing food establishment when there is a new operator. The appropriate regulatory authority may allow an existing establishment to continue using a sanitizer compartment of a warewash sink for food preparation if the permit holder can provide evidence that there is insufficient space for a separate food preparation sink, and permission is obtained from the Department of Commerce to air-gap the warewash sink or sanitizer compartment drain to prevent backflow.

15. Changing the food manager certification section to allow certificates to be issued for a period of less than 5 years, requiring approved food manager certification examinations to be evaluated and listed by the Conference on Food Protection and extending reciprocity to persons certified by an out-of-state manager certification program approved by the Conference on Food Protection.

Contact Person

To find out more about the hearing or to obtain copies of the proposed rules, write, phone or e-mail:

Ed Rabotski, Chief
Environmental sanitation Section
Bureau of Environmental Health
P. O. Box 2659
Madison, WI 53708-2659

(608) 266-8294
[or, if you are hearing impaired,
(800) 947-3529 (TDD)]
e-mail: raboteg@dhs.state.wi.us

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

Written comments on the proposed rules received at the above address no later than **May 12, 2000** will receive the same consideration as testimony presented at the hearing.

Fiscal Estimate

This proposal to repeal and recreate ch. HFS 196, Restaurants, will have minimal fiscal impact. The proposed rules, like the existing administrative rules, include the Department's licensing and enforcement procedures, as well as regulatory requirements for restaurants.

A significant amount of training will be necessary to familiarize affected parties with the format, style and content of the Wisconsin Food Code. The Department will absorb these costs by reallocating current training staff to develop and deliver this training.

Initial Regulatory Flexibility Analysis

Repealing and recreating ch. HFS 196, Wis. Adm. Code, Restaurants, will have a minimal fiscal impact on small businesses as defined in s. 227.114 (1) (a), Stats. Approximately 18,000 restaurant establishments are currently licensed and inspected by either the department or a local city/county health department that serves as an agent of the department. The restaurant establishments range from small establishments that have only limited food preparation and service, to large, restaurant establishments that prepare and serve large volumes of food.

The proposed restaurant establishment rule will include an "Appendix A", Wisconsin Food Code, that will update existing requirements and provide guidance for safe food handling and processing practices. The proposed restaurant rule is nearly identical to the rule being proposed by the Department of Agriculture, Trade and Consumer Protection for retail food establishments. The proposed rule is based on the 1999 model food code published by the United States Food and Drug Administration (FDA) which is applicable to restaurants as well as retail food establishments. The FDA has recommended that state and local governments adopt the model food code to provide more regulatory uniformity between restaurants and retail food establishments and across local, state and federal jurisdictions.

The proposed changes to ch. HFS 196 that may affect small businesses are the following:

- The Wisconsin Food Code includes management and personnel standards. Restaurant management must have knowledge of principles necessary for the prevention of foodborne disease or illness and the use of a Hazard Analysis Critical Control Point (HACCP) program. Additional personnel standards address employee health, personal cleanliness and hygienic practices.

- The proposed rule expands and clarifies the current rules regarding sanitation standards for personnel in restaurants.

- The proposed rule expands from the current rule the procedures of how, when and where to wash one's hands and maintain one's fingernails.

- Under the proposed rule, no restaurant may acquire food from an unlicensed, unapproved source.

- The proposed rule adds the United States Food And Drug Administration (FDA) national shellfish safety program regulations regarding the handling of shellfish in restaurants.

- Temperatures required for the preparation, storage, holding and reheating of potentially hazardous foods have been changed to be consistent with national food safety standards. New temperature requirements for raw animal foods, cooked plant foods, wild game species, and exotic games species are provided.

- Cooling requirements for potentially hazardous foods are changed to allow longer cooling times.

- Requirements related to handling of ready-to-eat food have been changed to specifically prohibit touching of such foods with bare hands, unless otherwise approved by the Department.

- The proposed rule allows the use of time, as the only factor, rather than time in conjunction with temperature, as a public health control measure.

- A variance from the Department will be required for specialized processing methods as a method of food preservation; such as smoking food, curing food, brewing alcoholic beverages, using food additives, using reduced oxygen packaging methods and similar specialized processing methods.

- The Wisconsin Food Code requires the operator of a food establishment to inform consumers of the increased risk associated with eating certain animal foods that may be served raw, undercooked or not otherwise processed to eliminate pathogens.

- The proposed rule includes special requirements for restaurants that restrict the serving of certain foods to highly susceptible populations.

- The proposed rule, as the current rule, includes food equipment standards, and requirements for utensils, linens and other equipment. It also includes requirements for mobile and temporary food establishments, public toilet rooms, and food manager certification requirements for restaurant or food service operations.

With the exception of "Demonstration of Knowledge", the proposed rule does not propose major changes that will affect small businesses in Wisconsin.

The affect of requiring food service management to have knowledge of principles necessary for the prevention of foodborne disease (Demonstration of Knowledge) at restaurants would be minimal. Currently most restaurants have managers that are required to maintain a Food Managers Certification. This certification covers the knowledge of food safety principles. The only additional cost would entail providing an appropriate level food safety training of all staff who handle food.

The overall impact of the proposed ch. HFS 196 rule changes on small business are minimal. It will not be necessary for restaurants to retain additional professional services to comply with this rule.

Notice of Hearing

Nursing, Board of ***[CR 00-51]***

Notice is hereby given that pursuant to authority vested in the Board of Nursing in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 440.08 (3), Stats., the Board of Nursing will hold a public hearing at the time and place indicated below to consider an order to renumber s. N 5.08 (2); and to create s. N 5.08 (2) (b), relating to renewal after 5 years.

Hearing Information

May 18, 2000
Thursday
2:15 p.m.

Room 179A
1400 East Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **June 2, 2000** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

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

Statute interpreted: s. 440.08 (3)

Under s. N 5.08 (2), the Board of Nursing may require a credential holder who has failed to renew his or her license within 5 years after its renewal date to demonstrate continued competence in the practice of nursing as a prerequisite to credential renewal. The rule provides that the Board may require demonstration of competence by various methods, including written or oral examination, documentation of nursing work in other jurisdictions, or documentation of current education or experience in the field. Where an applicant is unable to demonstrate current competence in the manner suggested, the Board has required the applicant to appear before the Board in order to provide the Board an opportunity to determine what remedial education and training is necessary. In cases where there is no other negative information relating to the application, the Board has invariably required that the applicant complete a nursing refresher course. The proposed rule would

provide for a limited license to permit an applicant who is unable to demonstrate current competence to complete a nursing refresher course without the need to make a personal appearance before the Board.

The Board has authority under s. 440.08 (3), Stats., and s. N 5.08 (2), to require that an applicant who has failed to renew his or her credential in more than 5 years to demonstrate current competence. In most instances, there is no adverse information relating to the applicant and the only question is whether he or she has remained current in the profession. In cases where the applicant is unable to demonstrate current competence, he or she has been required to appear before the Board for a personal appearance, thus delaying the renewal of the license for two to three months. The Board's invariable decision in these cases is to require simply that the applicant complete a nursing refresher course. A nursing license is a prerequisite to enrollment in nursing refresher courses, and the proposed rule would permit the applicant to receive a limited license for that purpose without suffering the expense and delay of making a personal appearance before the Board.

Text of Rule

SECTION 1. N 5.08 (2) is renumbered N 5.08 (2) (a).

SECTION 2. N 5.08 (2) (b) is created to read:

N 5.08 (2) (b) An applicant for renewal who has failed to renew his or her license within 5 years, and who is unable to document nursing work in other jurisdictions, or document current education or experience in the field, may apply to the board for a limited license to enable the applicant to complete a nursing refresher course approved by the board.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

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

Telephone (608) 266-0495

Notice of Hearing

Pharmacy Examining Board

[CR 00-49]

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) 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 amend s. Phar 7.05 (3) (a) (intro.), (c), (5) and (6) (intro.), relating to transfer of prescription orders.

Hearing Information

April 11, 2000
Tuesday
9:15 a.m.

Room 179A
1400 East Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **April 25, 2000** to be included in the record of rule-making proceedings.

Analysis

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

Statute interpreted: s. 450.02 (3) (a), (b), (d) and (e)

Under s. Phar 7.05 (3) and (4), a prescription order may be transferred between pharmacies only one-time. The Pharmacy Examining Board amends its rules to permit an unlicensed number of transfers between pharmacies. For example, a consumer may have a prescription order for medication with five refills that is originally presented and filled at a Milwaukee pharmacy. If the consumer goes on vacation in Door County and finds he or she requires a refill while there, the consumer can have the prescription order "transferred" to a Door County pharmacy for dispensing a refill. However, under the current one-time transfer rule, when the consumer returns to Milwaukee he or she will need a new prescription order for the medication, because the prescription cannot be transferred back to the original pharmacy even though there are refills remaining. The Board believes the rule should be modified to rectify these types of situations.

The current reference to the transfer of an original prescription order is removed and modifies the one-time transfer limitation to permit unlimited transfer with the restriction that the transfer of original prescription order information for the purpose of renewal dispensing of controlled substances is only permitted between two pharmacies on a one-time basis. The controlled substance one-time transfer restriction does not apply where pharmacies have access to a common central processing unit, and approval is received from the Pharmacy Examining Board, and a variance is obtained from the Federal Drug Enforcement Administration.

Text of Rule

SECTION 1. Phar 7.05 (3) (a) (intro.), (c), (5) and (6) (intro.) are amended to read:

Phar 7.05 (3) (a) Except as provided in sub. (5), the transfer of original prescription order information for the purpose of renewal dispensing is permissible between 2 pharmacies on a one-time an unlimited basis pursuant to the following requirements:

(c) The original and transferred prescription order orders shall be maintained for a period of 5 years from the date of the last renewal.

(5) Pharmacies The transfer of original prescription order information for the purpose of renewal dispensing of a controlled substance is permissible between 2 pharmacies only on a one-time basis. However, pharmacies having access to a common central processing unit are not limited in the transfer of original prescription order information pertaining to controlled substances for the purpose of renewal dispensing if prior written approval is received from the board.

(6) A computerized system may be used for maintaining a record, as required under this section, of prescription dispensing and transfers of original prescription order information for the purposes of renewal dispensing, if the system:

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: These rules would increase agency costs due to printing and postage costs for mailings for approximately 6,000 pharmacists. A copy of the rules and a cover letter would need to be mailed and associated with this mailing would be approximately \$15,000. This cost to print and mail each rule is estimated at \$2.50 multiplied by 6,000. This is a one-time cost.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

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

Telephone (608) 266-0495

Notice of Proposed Rule

Revenue

[CR 00-23]

Notice is hereby given that, pursuant to s. 71.80(1)(c), Stats., and interpreting subch. VII of ch. 77, Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the Department of Revenue will adopt the following rules as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **April 1, 2000**, it is petitioned for a public hearing by 25 natural persons who will be affected by the rule, a municipality which will be affected by the rule, or an association which is representative of a farm, labor, business or professional group which will be affected by the rule:

Contact Person

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

Analysis by the Department of Revenue

Statutory authority: s.71.80(1)(c)

Statutes interpreted: subch. VII of ch. 77

SECTION 1. Tax 2.32 is created, to define the term "gross receipts" as it applies to subch. VII of ch. 77, Stats., relating to the recycling surcharge.

As a result of a nonstatutory provision in 1999 Wis. Act 9, sec. 9143(3d), the department is required to submit proposed rules to define "gross receipts" under subch. VII of ch. 77, Stats., as affected by 1999 Wis. Act 9. The proposed rules are to be submitted to the Legislative Council staff under s. 227.15(1), Stats., no later than February 1, 2000.

Text of Rules

SECTION 1. Tax 2.32 is created to read:

Tax 2.32 Recycling surcharge – gross receipts defined. (1) PURPOSE. This section defines "gross receipts" for purposes of the recycling surcharge under subch. VII of ch. 77, Stats.

Note: For any taxable year, a recycling surcharge is imposed on: (a) individuals, estates, trusts, statutory employes and partnerships that have at least \$4,000,000 in gross receipts from a trade or business for the taxable year; (b) corporations and insurers that have at least \$4,000,000 in gross receipts from all activities for the taxable year; and (c) individuals, estates, trusts and partnerships engaged in farming that have at least \$1,000,000 in gross receipts from farming for the taxable year.

(2) DEFINITIONS. In subch. VII of ch. 77, Stats., and this section:

(a) "Gross receipts from all activities of corporations" means the sum of the following items reportable by corporations other than those listed in pars. (c) and (d):

1. Gross receipts or sales reportable on line 1a of federal form 1120, U. S. corporation income tax return.
2. Gross dividends reportable on line 4 of federal form 1120.
3. Gross interest income reportable on line 5 of federal form 1120.
4. Gross rents reportable on line 6 of federal form 1120.
5. Gross royalties reportable on line 7 of federal form 1120.
6. The gross sales price from the disposition of capital assets and business assets includable in computing the net gain or loss on lines 8 and 9 of federal form 1120.
7. Gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

Note: In this subsection, line numbers of forms refer to the 1999 forms.

(b) "Gross receipts from all activities of exempt organizations taxable as corporations" means the sum of the following items reportable by those entities:

1. Gross receipts or sales reportable on line 1a of federal form 990-T, exempt organization business income tax return.
2. The gross sales price from the disposition of capital assets and business assets includable in computing the gain or loss on lines 4a and 4b of federal form 990-T.
3. Gross rents includable in computing rent income on line 6 of federal form 990-T.
4. Gross income from unrelated debt-financed property includable in computing unrelated debt-financed income on line 7 of federal form 990-T.
5. Gross interest, annuities, royalties and rents from controlled organizations includable in computing those items of income on line 8 of federal form 990-T.
6. Gross investment income includable in computing investment income on line 9 of federal form 990-T.
7. Gross exploited exempt activity income includable in computing that item of income on line 10 of federal form 990-T.
8. Gross advertising income includable in computing advertising income on line 11 of federal form 990-T.
9. Gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

(c) "Gross receipts from all activities of insurance companies" means the sum of the following items reportable by insurance companies:

1. Gross premiums earned reportable on lines 1 and 8 of schedule A on federal form 1120-PC, U. S. property and casualty insurance company income tax return.
2. Gross dividends reportable on line 2 of schedule A, or line 2 of schedule B if applicable, on federal form 1120-PC.
3. Gross interest income reportable on line 3a of schedule A, or line 1a of schedule B if applicable, on federal form 1120-PC.

4. Gross rents reportable on line 4 of schedule A, or line 3 of schedule B if applicable, on federal form 1120-PC.

5. Gross royalties reportable on line 5 of schedule A, or line 4 of schedule B if applicable, on federal form 1120-PC.

6. The gross sales price from the disposition of capital assets and business assets includable in computing the gain or loss on lines 6 and 7 of schedule A, or lines 5 and 7 of schedule B if applicable, on federal form 1120-PC.

7. Gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

(d) "Gross receipts from all activities of tax-option (S) corporations" means the sum of the following items reportable by S corporations:

1. Gross receipts or sales reportable on line 1a of federal form 1120S, U. S. corporation income tax return for an S corporation.

2. Gross rents includable in computing the income from real estate and other rental activities reportable on lines 2 and 3a of schedule K on federal form 1120S.

3. Gross interest income reportable on line 4a of schedule K on federal form 1120S.

4. Gross dividends reportable on line 4b of schedule K on federal form 1120S.

5. Gross royalties includable in computing royalty income reportable on line 4c of schedule K on federal form 1120S.

6. The gross sales price from the disposition of capital assets and business assets includable in computing the gain or loss on line 4 of federal form 1120S and lines 4d, 4e, 4f and 5 of schedule K on federal form 1120S.

7. Gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

(e) "Gross receipts from farming, of individuals, estates, trusts and partnerships engaged in farming" means the sum of the following items reportable by those entities:

1. Gross receipts or sales reportable on lines 1, 4, 5a, 6a, 7a, 8a and 9 of federal schedule F, profit or loss from farming.

2. The gross sales price of farm assets, including livestock, includable in computing ordinary income or loss on federal form 4797, sales of business property.

(f) "Gross receipts of exempt organizations taxable as trusts" means the total receipts or sales from all trade or business activities other than farming, reportable by those entities for federal income tax purposes, before any deduction for returns and allowances or any other business expenses. Gross receipts include any of the following:

1. Gross receipts or sales reportable on line 1a of federal form 990-T, exempt organization business income tax return.

2. The gross sales price from the disposition of capital assets and business assets includable in computing the gain or loss on lines 4a and 4b of federal form 990-T.

3. Gross rents includable in computing rent income on line 6 of federal form 990-T.

4. Gross income from unrelated debt-financed property includable in computing unrelated debt-financed income on line 7 of federal form 990-T.

5. Gross interest, annuities, royalties and rents from controlled organizations includable in computing those items of income on line 8 of federal form 990-T.

6. Gross investment income includable in computing investment income on line 9 of federal form 990-T.

7. Gross exploited exempt activity income includable in computing that item of income on line 10 of federal form 990-T.

8. Gross advertising income includable in computing advertising income on line 11 of federal form 990-T.

9. Gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

(g) "Gross receipts of individuals, estates, trusts and statutory employees" means the total receipts or sales from all trade or business activities other than farming, reportable by those entities for federal income tax purposes, before any deduction for returns and allowances or any other business expenses. Gross receipts include any of the following:

1. Gross receipts or sales reportable on line 1 of federal schedule C, profit or loss from business.

2. Gross receipts reportable on line 1 of federal schedule C-EZ, net profit from business.

3. The gross sales price of assets includable in computing ordinary income or loss on federal form 4797, sales of business property.

Note: See par. (e) for information relating to individuals, estates and trusts engaged in farming.

(h) "Gross receipts of partnerships" means the total receipts or sales from all trade or business activities other than farming, reportable by partnerships for federal income tax purposes, before any deduction for returns and allowances or any other business expenses. Gross receipts include the sum of the following:

1. Gross receipts or sales reportable on line 1a of federal form 1065, U. S. partnership return of income.

2. Gross receipts, other than farm receipts, passed through from other partnerships and fiduciaries and includable in computing the amount on line 4 of federal form 1065.

3. The gross sales price from the sale or disposition of business assets, other than farm assets, includable in computing the net gain or loss on line 6 of federal form 1065.

4. Gross receipts from the rental of tangible personal property.

5. Other gross receipts includable in computing other income or loss on line 7 of federal form 1065.

Note: See par. (e) for information relating to partnerships engaged in farming.

Note: Section Tax 2.32 interprets subch. VII of ch. 77, Stats.

Note: Subchapter VII of ch. 77, Stats., was amended by 1999 Wis. Act 9, to replace the expired temporary recycling surcharge with a recycling surcharge, effective for taxable years beginning on or after January 1, 2000. This section applies to the recycling surcharge imposed for taxable years beginning on or after January 1, 2000.

Initial Regulatory Flexibility Analysis

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

Fiscal Estimate

This rule defines gross receipts for purposes of the recycling surcharge, as required by section 9143 (3d) of 1999 Wis. Act 9. To the extent that gross receipts as defined in this rule are the receipts intended by the Legislature to be subject to the recycling surcharge in enacted in Act 9, this rule has no fiscal effect.

Notice of Hearing

Revenue

[CR 00-53]

Notice is hereby given that pursuant to ss. 70.32(2)(c) 1., (2r)(b) and 227.11(2)(a), Stats., and interpreting s. 70.32(2)(c)1., (2r)(b) and (c), Stats., the State of Wisconsin Department of Revenue will hold a public hearing in **Room 027, GEF-2, 101 South Webster Street, in the City of Madison, Wisconsin, on the 11th day of April, 2000, commencing at 1 p.m.**, to consider the proposed rule submitted to the Legislative Council Rules Clearinghouse March 7, 2000 relating to the assessment of agricultural land.

Analysis prepared by the Wisconsin Department Of Revenue

Statutory Authority: ss. 70.32 (2) (c) 1., 70.32 (2r) (b) and 227.11 (2) (a)

Statute Interpreted: s. 70.32 (2) (c) 1., (2r) (b) and (c)

Under the current rule, agricultural use is defined by reference to the 1987 Standard Industrial Classification (SIC) Manual and includes land eligible for enrollment in specified federal agricultural programs. The rule amends the definition of agricultural use to update the 1987 SIC references to 1997 North American Industrial Classification System references. The rule also updates the references to the federal agricultural programs and provides that land enrolled in those programs is in agricultural use. The rule also defines land enrolled in specified state agricultural programs as being in agricultural use if such lands were in agricultural use at the time of enrollment. The updated definition of agricultural use is effective for assessments as of January 1, 2001.

The rule also provides that, beginning with the assessments as of January 1, 2000, the assessed value of each parcel of agricultural land is its use value.

Text of Rule

SECTION 1. Section Tax 18.05 is amended to read:

Tax 18.05 Definitions. In this subchapter:

(1) "Agricultural use" means any of the following:

(a) Activities included in ~~major group 01 — agricultural production—crops, set forth in the standard industrial classification manual, 1987 edition, subsector 111 Crop Production, set forth in the North American Industry Classification System (NAICS), United States, 1997, published by the executive office of the president, U.S. office of management and budget. "Agricultural use" does not include growing short rotation woody trees with a growing and harvesting cycle of 10 years or less for pulp or tree stock under NAICS industry 111421.~~

(b) Activities included in ~~major group 02 — agricultural production—livestock and animal specialties, set forth in the standard industrial classification manual, 1987 edition, subsector 112 Animal Production, set forth in the North American Industry Classification System, United States, 1997, published by the executive office of the president, U.S. office of management and budget.~~

Note: ~~Major group 01 — agricultural production—crops and major group 02 — agricultural production—livestock and animal specialties, set forth in the standard industrial classification manual, 1987 edition, Subsector 111 Crop Production and subsector 112 Animal Production, set forth in the North American Industry Classification System, United States, 1997, published by the executive office of the president, U.S. office of management and budget, are reproduced in full in the Wisconsin property assessment manual under s. 73.03(2a), Stats. In addition, copies are on file with the department, the secretary of state, and the revisor of statutes.~~

(d) Land ~~eligible for enrollment~~ enrolled in any of the following federal agriculture programs: the conservation reserve program 1991–1995 under 7 C.F.R. 1410; the conservation reserve program 1986–1990 under 7 C.F.R. 704; ~~the feed grain program under 7 C.F.R. 1413; the water bank program under 7 C.F.R. 752; the agricultural conservation program under 7 C.F.R. 701; or the dairy price support program under 7 C.F.R. 1430 and 282~~ or provided that the land was in agricultural use under subpar. (a), (b) or (c) at the time of enrollment, the environmental quality incentives program under 7 C.F.R. 1466.

(e) Land that is subject to an easement under any of the following programs provided that the land was in agricultural use under subpar. (a), (b) or (c) at the time the easement was acquired: the stream bank protection program under s. 23.094, Wis. stats.; the conservation reserve enhancement program under s. 93.70, Wis. stats.; or the nonpoint source water pollution abatement program under s. 281.65, Wis. stats.

(f) Land that is subject to a private landowner wildlife agreement under ss. 23.09(2)(h) and 23.11, Wis. stats., provided that the land was in agricultural use under subpar. (a), (b) or (c) at the time the agreement was executed.

SECTION 2. Section Tax 18.08 is repealed and recreated to read:

Tax 18.08 Assessment of agricultural land.

Beginning with the assessments as of January 1, 2000, the assessment of each parcel of agricultural land shall be its use–value, as determined under s. Tax 18.07(3)(b).

Initial Regulatory Flexibility Analysis

This rule order is not expected to directly affect small business and, therefore, under s. 227.114(8)(b), Stats., a regulatory flexibility analysis is not required.

Fiscal Estimate

Summary. The fiscal effect of advancing use value assessment from January 1, 2008, to January 1, 2000, is a reduction in the taxable value of agricultural land and a consequent shift in property taxes from agricultural land to other classes of taxable property in each year from 2000 to 2007. In 2000, \$41 million is shifted to other taxable property and a total of \$164 million is shifted by 2007. Equalizing state aid distribution formulas — shared revenues and school aids — will reallocate aids away from taxing jurisdictions with little or no agricultural land to jurisdictions where agricultural land is relatively more important. In addition, state forestry taxes will decrease under the proposed rule in each year from 2000 to 2007. The decrease in 2000 will be \$380,000 and the total decrease will be about \$1.5 million.

The provisions updating the definition of "agricultural use" have a minimal fiscal effect.

Contact Person

Following the public hearing, the hearing record will remain open until **April 18, 2000**, for additional written comments. Copies of the proposed rule and complete fiscal estimate are available upon request from the Department of Revenue at the address below. An interpreter for the hearing–impaired will be available on request for the hearing. Please make reservations for a hearing interpreter by **April 7, 2000**, either by writing:

Blair P. Kruger
Division of Research and Analysis
Wisconsin Department of Revenue
125 S. Webster Street
Madison, WI 53702

or by calling (608) 266–1310
or fax (608) 266–8704

Notice of Hearing

*Social Workers, Marriage and Family
Therapists and Professional Counselors
Examining Board*
[CR 00–54]

Notice is hereby given that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.22, Stats., and interpreting s. 457.22, Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to renumber s. SFC 8.03 (intro.) and (1) to (8); to amend s. SFC 8.02 (1), (1) (a) and (c), (2), (6), (9) and the Note following s. SFC 8.03 (8); and to create s. SFC 8.03 (2), relating to continuing education programs.

Hearing Information

April 11, 2000
Tuesday
9:15 a.m.

Room 180
1400 East Washington Ave.
MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **April 28, 2000** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 457.22

Statute interpreted: s. 457.22

Under ch. SFC 8, social workers, advanced practice social workers, independent social workers and independent clinical social workers are required to complete continuing education in order to renew their certificates on July 1 of every odd-numbered year. These continuing education requirements for social workers were implemented on June 1, 1999. This proposed rule-making order clarifies what types of programs will be acceptable for meeting those requirements.

Text of Rule

SECTION 1. SFC 8.02 (1) (intro.), (a) and (c), (2), (6) and (9) are amended to read:

SFC 8.02 (1) Unless granted a postponement or waiver under sub. (7), every social worker, advanced practice social worker, independent social worker, and independent clinical social worker certificate holder shall complete at least 30 ~~hours~~ of continuing education hours in each 2-year certification period which begins on July 1 of each odd-numbered year as specified in s. 457.20 (2), Stats.

(a) The 30 ~~hours~~ of continuing education hours shall be in courses and programs specified in this chapter.

(c) In this chapter ~~one hour of continuing education~~ "CEH" means a period of continuing education consisting of not less than 50 minutes.

(2) Continuing education hours shall apply only to the certification period in which the hours are acquired. A certificate holder who applies for renewal after the renewal date specified in s. 457.20 (2), Stats., shall submit proof to the section that he or she has completed at least 30 ~~hours~~ of continuing education hours during the 2 years immediately preceding the date of application for renewal and meet the requirements for late renewal specified in s. 440.08 (3), Stats. Continuing education hours submitted to satisfy this requirement for late renewal shall not be used to satisfy continuing education requirements for a subsequent renewal.

(6) Applicants from other states applying under s. 457.15 (1), Stats., shall submit proof of completion of at least 30 ~~hours~~ of continuing education hours substantially meeting the requirements of this chapter within the 2-year certification period prior to application.

(9) A certificate holder who has been granted an exemption from the requirements of this chapter based on retirement from the active practice of social work may not return to the active practice of social work without submitting evidence satisfactory to the section that the holder completed at least 30 ~~hours~~ of continuing education hours during the 2 years immediately preceding the date of application to

return to active practice and meets the requirements for late renewal specified in s. 440.08, Stats.

SECTION 2. SFC 8.03 (intro.) and (1) to (8) are renumbered SFC 8.03 (1) (intro.) and (a) to (h).

SECTION 3. The Note following SFC 8.03 (8) is amended to read:

Note: The following are examples of acceptable programs if the program covers subject matter described in this section: programs provided by public and private agencies as ongoing in-house training and development programs which meet agency mission requirements; programs by accredited college and university schools of social work; and, programs sponsored or provided by local or national professional social work associations. The acceptability of a continuing education program depends on the subject matter of the program rather than the program's title. The subject matter of a program in social work ethics should address one or more of the topics in ch. SFC 20.

SECTION 4. SFC 8.03 (2) is created to read:

SFC 8.03 (2) A continuing education program may take any of the following forms, with credit granted as follows:

(a) Formal presentations of relevant professional material at seminars, workshops, programs or institutes, which may include formal presentation and directed discussion of videotaped material: one CEH per continuing education hour for attendees; 2 CEHs per continuing education hour for presenters, but no additional CEHs will be granted for subsequent presentations of the same material.

(b) University, college or vocational technical adult education courses, which may include formal presentation and directed discussion of videotaped instruction: 10 CEHs per semester credit or 6.6 CEHs per quarter credit for students; 20 CEHs per semester hour or 13.2 CEHs for instructors, but no additional CEHs will be granted for subsequent presentations of the same material.

(c) Educational sessions at state and national conferences: one CEH for attendees; 2 CEHs for presenters, but no additional CEHs will be granted for subsequent presentations of the same material.

(d) Educational telephone network courses: one CEH for attendees but educational telephone network courses may not be used to satisfy the social work ethics requirement; 2 CEHs for presenters, but no additional CEHs will be granted for subsequent presentations of the same material.

(e) Self-study courses approved by the American association of state social work boards, including courses via the internet: one CEH per credit completed, but self-study courses may not be used to satisfy the social work ethics requirement, and a maximum of 5 CEHs for self-study courses will be accepted in any biennium unless an exception is granted in advance by the section based on hardship or other extenuating circumstances.

(f) Authorship of a published textbook or professional resource book: 20 CEHs.

(g) Authorship of a published chapter in a textbook or professional resource book, or a professional journal article: 8 CEHs.

(h) Development of alternative media, such as computer software, videotapes, or audiotapes, relating to the profession: 8 CEHs.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

These proposed rules will be reviewed by the Department through its Small Business Review Advisory Committee to

determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

Copies of Rule and Contact Information

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

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

Telephone (608) 266-0495

Notice of 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 (7) (c), Stats., as created by 1999 Wis. Act 9, section 1849g, the Department of Transportation will hold a public hearing at the time and place indicated below to consider the emergency rule amendment of ch. Trans 4, Wis. Adm. Code, relating to establishing cost-efficiency standards for all urban transit systems participating in the State Urban Mass Transit Operating Assistance Program.

Hearing Information

<u>Date & Time:</u>	<u>Location</u>
April 12, 2000 Wednesday 10:00 a.m.	Room 951 Hill Farms State Trans Bldg. 4802 Sheboygan Ave. Madison, WI

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

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.

Analysis Prepared by the Wis. Dept. of Transportation

Statutory authority: ss. 85.16 (1), 85.20 (3) and 227.11 (2)

Statute interpreted: s. 85.20 (7) (c), Stats., as created by 1999 Wis. Act 9, section 1849g

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. The purpose of this emergency rule is to amend ch. Trans 4 by adding a section that establishes cost-efficiency standards for all urban transit systems participating in the state aid program. 1999 Wis. Act 9 specifies that the Department may not enter into a contract for the payment of state aids until cost-efficiency standards have been incorporated into an administrative rule, which is "in effect" for calendar year 2000 contracts, and unless the contract requires the transit system to comply with those rules as a condition of receiving state aid. The Department will promulgate an emergency rule using the procedure under s. 227.24, Stats., so that state aid contracts can be executed prior to the scheduled first quarter payment date in calendar year 2000, to ensure that payments are not delayed causing undue hardship to Wisconsin municipalities.

Fiscal Estimate

While not possible to know the exact fiscal impact at this time, it is anticipated that promulgation of this proposed rule will have a

negative fiscal impact on those transit systems not able to meet the minimum established cost-efficiency standard.

Initial Regulatory Flexibility Analysis

This proposed rule has no significant impact on small businesses.

Copies of Emergency Rule and Contact Information

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 Hearings

Transportation

[CR 00-57]

Notice is hereby given that pursuant to ss. 343.32 (2) (bc) as created by s. 2749gg 1999 Wis. Act 9, 343.32 (2) (c) 2. as created by s. 2749gr of 1999 Wis. Act 9, 343.085 (1) (b) as created by s. 2734rh of 1999 Wis. Act 9, 343.06 (1) (cm) as created by s. 2734qd. of 1997 Wis. Act 9, 351.02 (1) (f), 343.02 (1), 343.16, 343.25, 85.16, s. 9150 (5g), 1999 Wis. Act 9., and interpreting those statutory provisions and s. 2734qd to 2747s, 9150 (5g), 9350 (4g) and 9446 (3g) of 1999 Wis. Act 9, the Department of Transportation will hold public hearings at the following locations to consider the amendment of chs. Trans 101, 102, 103 and 104, Wis. Adm. Code, relating to the demerit point system and graduated driver license restriction extensions.

Hearing Information

<u>Date & Time:</u>	<u>Location:</u>
April 12, 2000 Wednesday 3:15 p.m.	Auditorium DC Everest High School 6500 Alderson Street Schofield, WI

(Parking for persons with disabilities is available on south driveway near back door)

<u>Date & Time:</u>	<u>Location:</u>
April 13, 2000 Thursday 7:00 p.m.	Little Theater, Eau Claire Memorial High School 225 Keith Street Eau Claire, WI

(Parking for persons with disabilities is located by door #1; enter from Clairemont Avenue)

<u>Date & Time:</u>	<u>Location:</u>
April 17, 2000 Monday 4:00 p.m.	Cafeteria, John Marshall High School 4141 N. 64th Street Milwaukee, WI

(Parking for persons with disabilities is located in the north parking lot by door #10; enter from 64th or 66th Streets)

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

Written Comments

The public record on this proposed rule-making will be held open until close of business on the date of the last hearing scheduled herein, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to John Alley, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7917, Madison, WI 53707-7917.

Note: This hearing is being conducted at 3 locations in order to give the public greater opportunity to present its facts, arguments and opinions. The records from all locations will be combined into a single Hearing Record on which the Department will base its decisions. Individuals need only attend one of the public hearings for their testimony to be fully considered.

Analysis Prepared by the Wis. Dept. of Transportation

Statutory authority: ss. 343.32 (2) (bc) as created by s. 2749gg 1999 Wis. Act 9, 343.32 (2) (c) 2. as created by s. 2749gr of 1999 Wis. Act 9, 343.085 (1) (b) as created by s. 2734rh of 1999 Wis. Act 9, 343.06 (1) (cm) as created by s. 2734qd. of 1997 Wis. Act 9, 351.02 (1) (f), 343.02 (1), 85.16, s. 9150 (5g), 1999 Wis. Act 9.

Statutes interpreted: ss. 343.32 (2) (bc) as created by s. 2749gg 1999 Wis. Act 9, 343.32 (2) (c) 2. as created by s. 2749gr of 1999 Wis. Act 9, 343.085 (1) (b) as created by s. 2734rh of 1999 Wis. Act 9, 343.06 (1) (cm) as created by s. 2734qd. of 1997 Wis. Act 9, 351.02 (1) (f), 343.02 (1), 85.16, s. 9150 (5g), 1999 Wis. Act 9.

General Summary of Proposed Rule. 1999 Wis. Act 9, the 1999 budget bill, incorporated the provisions of 1999 AB 52 and established a Graduated Driver License ("GDL") system for Wisconsin. The general scheme of the legislation is to require drivers to practice more before obtaining their first drivers licenses, to restrict the types of driving activities they may engage in after first obtaining their licenses, and to penalize those that break traffic laws, such as speeding, more harshly than experienced drivers.

This proposed rule-making administratively interprets the GDL provisions of 1999 Wis. Act 9 and provides a framework for enforcement of the driver license restrictions applied to new drivers and to implement the harsher demerit point system applied to drivers that are subject to the new law.

In addition to implementing a GDL law, 1999 Wis. Act 9 also amended existing law to provide the Department with authority to regulate the copying of driver licenses. This rule proposes to implement that legislative directive by permitting any business to copy driver licenses for legitimate business purposes, provided they do not compile a library of photographs from the copies, nor sell them.

In addition, where administrative changes in rules being amended were already contemplated by the Department, those changes are incorporated into this rule-making.

Demerit Point Counting. 1999 Wis. Act 9 requires the Secretary to double demerit points assessed for second and subsequent traffic offenses to drivers who obtain probationary licenses or are eligible for probationary licensing after September 1, 2000. Under current ch. Trans 101, two extra points per offense are charged to a driver who commits such offenses. This rule making proposes to eliminate the current rule providing for only two extra points per offense and provides that all probationary drivers shall be subject to the same point doubling rules after September 1, 2000.

Under current law, a person who accumulates 12 demerit points in a one-year period is subject to a 2-month suspension. Act 9 requires that GDL holders receive 6 month license suspensions for accumulating 12 demerit points in a year. This rule-making proposes to implement this requirement, but retains the Department's current rule which calls for revoking or suspending the driver license of a driver who accumulates more than 30 points in a year.

As under current law, a driver's first traffic offense does not result in increased point assessments, but all subsequent offenses do.

Unlike current law, safety equipment violations, such as speedometer violations, missing lights, or failure to buckle small children into child safety restraints cannot be enhanced. This rule-making proposes to amend ch. Trans 101 to conform to these new requirements.

License Eligibility – Clean Driver Record Requirement. Act 9 requires the Department to establish a list of offenses which, if committed within 6 months of application for a GDL, makes the person ineligible for licensing. The usual impact of this provision will be to delay an instruction permit holder who is ticketed for a traffic law violation from receiving his or her GDL.

This rule proposes to make any person committing a demerit point offense ineligible for licensing, except for equipment violations resulting in assessment of 2 points or less and illegal riding. Although Act 9 prohibits the doubling of demerit points for seat belt, child restraint and defective speedometer violations, this rule proposes to make drivers who commit those specific equipment violations ineligible for licensing for 6 months.

Restriction Extensions. Act 9 provides that all new drivers' licenses shall be restricted for the first 9 months they hold their GDL. Those extensions can be extended if the drivers commit certain offenses during that first 9 month period. The Department is required to promulgate rules defining which offenses will result in extension of the restrictions.

This rule-making proposes to extend GDL restrictions for drivers who commit any offense for which demerit points are assessed or any of the following:

- Underage "drinking and driving" offenses.
- Hit and run offenses.
- Offenses in other jurisdictions which, if committed in Wisconsin, would result in an extension.

Extensions will not, however, be required for drivers who commit any of the following offenses:

- Any violation of ch. 347, Stats., resulting in 2 or fewer demerit points except that child safety restraint, seat belt and defective speedometer violations will be used. (These are primarily equipment violations.)
- Illegal riding.
- Operating with Multiple Licenses.
- Operating without a license. [Required by 1999 Wis. Act 9 s. 9150 (5g)]
- Unlawful possession of a commercial driver license.
- Operating while suspended or revoked. [Required by 1999 Wis. Act 9 s. 9150 (5g)]
- Operating while disqualified.

Most of these offenses are not "moving violations" under Wisconsin law in that neither operating a motor vehicle nor being on duty time with respect to a commercial motor vehicle is an element of the offense, s. 343.01 (2) (cg), Stats. Under s. 343.085 (2m) (b) 1., the Department may only extend restrictions of drivers who are convicted of moving offenses. In addition, s. 9150 (5g) of 1999 Wis. Act 9 prohibits the Department from proposing in this rule draft to extend restrictions based upon conviction of any of the offenses set forth in that section.

Other Administrative Changes. The Department also proposes a few administrative housekeeping changes to the chapters affected by this GDL rule-making. Provisions are proposed that permit the Department to deny knowledge tests to applicants who repeatedly take and fail the tests unless they provide some evidence that they have taken a class or there is some other basis to believe they have improved the likelihood of their passing. The Department is faced with certain individuals who will take and retake these tests for months and who come no closer to passing them. This rule-making is intended to reduce the administrative burden of testing, testing and retesting these individuals when diminished capacities make them unable to pass driver knowledge tests.

The Department's nearly 10 years of experience testing CDL drivers has led it to conclude that it is not necessary to completely retest most drivers who fail an airbrake restriction, school bus or

abbreviated skills test. Usually, these drivers are competent, but simply forgot to check one item (a score of 100% is federally required to pass). Retesting them on just the air brake portion of the test is usually sufficient. This rule does provide, however, that an examiner may require a complete skills test if the results of a renewal test lead the examiner to question the driver's competence to operate commercial motor vehicles.

Effective Date. This rule becomes effective September 1, 2000, the effective date for the graduated driver license provisions of 1999 Wis. Act 9. These rules apply to all persons holding probationary licenses or graduated driver licenses after that date.

Fiscal Estimate

Act 9, as it relates to Graduated Driver Licensing, will directly impact approximately 103,600 16- and 17-year-old drivers. Cost and revenue impact are as follows:

The Department of Transportation will incur:

- 1) \$383,700 in one-time costs:
 - \$292,700 for 476 DP development days or 2.6 programmers for 9 months to complete computer system changes.
 - \$91,000 for public awareness, materials and training.
- 2) \$41,100 **net** ongoing cost increase including an additional 1 FTE in DMV for additional customer contacts and processing.
- 3) \$57,400 **net** ongoing revenue increase related to instruction permits processed.

Local Costs

1) Courts incur an indeterminable cost increase and related revenue increase from the additional operating while suspended convictions due to an increase in demerit point suspensions.

2) The Wisconsin Technical College System (WTCS) will incur an indeterminable cost increase and related revenue increase from additional attendees in traffic safety school due to an increase in attendance in point reduction classes.

Initial Regulatory Flexibility Analysis

This rule-making will have no effect on small businesses, except that it may increase revenues to commercial driving schools to the extent that some parents may have commercial schools provide their children with the training needed to meet the 30 hour practice driving requirements for driver licensing.

Copies of Proposed Rule and Contact Information

Copies of this proposed rule may be obtained upon request, without cost, by writing to John Alley, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7920, Madison, WI 53707-7920, or by calling (608) 266-0614. Hearing-impaired individuals may contact the Department using

TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearing

Veterans Affairs

[CR 00-41]

Notice is hereby given that the Department of Veterans Affairs will hold a public hearing on the **14th day of April, 2000, at 9:00 a.m., in the 8th floor board room at 30 West Mifflin Street in Madison, Wisconsin.**

Analysis Prepared by the Department of Veterans Affairs

Statutory authority: ss. 45.35 (3) and (14) (h) and 45.356 (7)

Statutes interpreted: ss. 45.35 (14) (h), 45.351 (lj), and 45.356

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 and assure continued eligibility for low income veterans.

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. It would recognize the service of each veteran under these circumstances.

In relation to tribal grant agreements, the proposed 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.

Internal Regulatory Flexibility Analysis

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

Fiscal Estimate and Contact Person

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

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

Telephone (608) 266-7916

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

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

Crime Victims Rights Board (CR 99-153):

Ch. CVRB 1 – Relating to the review of complaints alleging violations of the rights of crime victims.

Employe Trust Funds (CR 00-11):

S. ETF 20.25 (1) – Relating to the distribution to annuitants of the total amount distributed from the transaction amortization account to the annuity reserve under the non-statutory provisions of 1999 Wis. Act 11.

Employe Trust Funds (CR 00-21):

SS. ETF 10.31 and 10.35 – Relating to participation in the variable trust fund.

Employe Trust Funds (CR 00-22):

SS. ETF 10.01 (1k) and 20.19 – Relating to the Department's interpretation of what Wisconsin Retirement System (WRS) creditable service is considered to be performed before January 1, 2000 (versus considered to be performed on or after that date) under 1999 Wis. Act 11.

Financial Institutions-Securities (CR 00-17):

S. DFI-Sec 5.01 (4) (b) and (e) – Relating to investment adviser representative competency examination grandfathering provisions.

Insurance, Commissioner of (CR 99-170):

S. Ins 6.57 (4) – Relating to listing fees for resident agents.

Veterans Affairs (CR 99-160):

Ch. VA 4 – Relating to the primary mortgage loan program.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Public Service Commission (CR 99-19):

An order affecting ch. PSC 160, relating to the provision of universal telecommunications service and administration of the universal service fund.
Effective 05-01-00.

Revenue (CR 99-105):

An order affecting s. Tax 11.67, relating to service enterprises.
Effective 05-01-00.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **March 31, 2000 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 99-87):

An order affecting ch. ATCP 34, relating to the chemical and container collection program ("clean sweep").
Effective 04-01-00.

Agriculture, Trade and Consumer Protection (CR 99-117):

An order affecting ch. ATCP 30, relating to pesticide product restrictions.
Effective 04-01-00.

Agriculture, Trade and Consumer Protection (CR 99-133):

An order affecting ss. ATCP 105.009 and 105.23, relating to selling motor vehicle fuel below cost.
Effective 04-01-00.

Chiropractic Examining Board (CR 99-148):

An order creating s. Chir 4.07, relating to practice while suspended.
Effective 04-01-00.

Commerce (CR 99-120):

An order affecting chs. Comm 51 to 55, 57 to 59 and 64 and ss. Comm 62.93 and 66.32, relating to fire safety requirements in the Commercial Building Code.
Effective 04-01-00.

Health and Family Services (CR 99-56):

An order affecting ch. HFS 145, relating to control of communicable diseases.
Effective 04-01-00.

Health and Family Services (CR 99-106):

An order affecting chs. HFS 101 to 103 and 108, relating to providing eligibility under the BadgerCare program to families with incomes up to 185% of the federal poverty level that are not covered by health insurance, do not have access to an employer-subsidized family health care plan which is 80% or more subsidized and are not otherwise eligible for the Medical Assistance (MA) program under AFDC-related or SSI-related criteria.
Effective 04-01-00.

Higher Educational Aids Board (CR 99-132):

An order affecting s. HEA 11.03, relating to the Minority Teacher Loan Program.
Effective 04-01-00.

Medical Examining Board (CR 99-128):

An order affecting ss. Med 1.06, 1.08, 2.02 and 2.04, relating to computer-based examinations.
Effective 04-01-00.

Natural Resources (CR 98-161):

An order affecting ch. NR 5, relating to boating enforcement and education.
Effective 04-01-00.

Natural Resources (CR 99-45):

An order affecting ss. NR 439.06, 439.07 and 484.04, relating to volatile organic compound (VOC) capture efficiency test methods.
Effective 04-01-00.

Natural Resources (CR 99-67):

An order affecting chs. NR 460 and 466 and s. NR 484.04, relating to national emission standards for hazardous air pollutants for the printing and publishing industry.
Effective 04-01-00.

Natural Resources (CR 99-108):

An order amending ss. NR 140.10 and 140.28, relating to groundwater quality standards.
Effective 04-01-00.

Pharmacy Examining Board (CR 98-76):

An order affecting ss. Phar 1.01 and 1.02 and ch. Phar 15, relating to the preparation of sterile pharmaceuticals by pharmacists.
Effective 04-01-00.

Public Service Commission (CR 98-172):

An order creating ch. PSC 117, relating to the assignment of costs and revenues, from sales of electric capacity and energy by public utility to out-of-state customers that the public utility does not have a duty to serve, in setting rates for retail electric service.
Effective 04-01-00.

Transportation (CR 99-144):

An order creating ch. Trans 316, relating to wood harvesting slashers.
Effective 04-01-00.

Veterinary Examining Board (CR 99-127):

An order affecting ss. VE 2.01 and 3.03, relating to computerized examinations.
Effective 04-01-00.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

The following administrative rule revisions and corrections have taken place in March, 2000, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

REVISIONS

Agriculture, Trade and Consumer Protection:

Ch. ATCP 30

S. ATCP 30.24 (5) (b), (c) and (d)

Ch. ATCP 34

S. ATCP 34.02 (entire section)
 S. ATCP 34.03 (entire section)
 S. ATCP 34.04 (2) and (3)
 S. ATCP 34.05 (entire section)
 S. ATCP 34.06 (2) and (3)
 S. ATCP 34.07 (entire section)
 S. ATCP 34.08 (entire section)
 S. ATCP 34.09 (entire section)

Ch. ATCP 105

S. ATCP 105.009 (5)
 S. ATCP 105.23 (intro.)

Chiropractic Examining Board:

Ch. Chir 4

S. Chir 4.07 (entire section)

Commerce:

(Building and Heating, etc., Chs. Comm 50-64)

Ch. Comm 51

S. Comm 51.01 (7), (47), (56a), (56m), (60), (119c), (119e) and (119m)
 S. Comm 51.02 (4) (c) and (d), (5) (a), (15), (19) (a), (24) and (25) and Tables 51.02-A and 51.02-B
 S. Comm 51.03 (1) (d) and (2) (e) and Table 51.03-B
 S. Comm 51.042 (1) (d)
 S. Comm 51.043 (1) (a)
 S. Comm 51.044 (entire section)
 S. Comm 51.047 (1) to (3), (5) and (6)
 S. Comm 51.048 (1)
 S. Comm 51.0485 (entire section)
 S. Comm 51.049 (5) (b) and (6)
 S. Comm 51.06 (6) (a)
 S. Comm 51.08 (2) and (3) and Table 51.08-2
 S. Comm 51.20 (1)

S. Comm 51.21 (1), (3) (i) and (8)

S. Comm 51.22 (1) and (3)

S. Comm 51.23 (1) (a) and (2) (a) and (b), (6) (a) and (b), (7) (b) and (8)

S. Comm 51.235 (entire section)

S. Comm 51.236 (entire section)

S. Comm 51.24 (intro.), (1) and (10)

S. Comm 51.245 (2) and (3)

S. Comm 51.25 Table 51.25-17

Ch. Comm 52

S. Comm 52.01 (1) (c)

S. Comm 52.011 (4)

S. Comm 52.013 (6) (b) and (c) and (7) (b)

Ch. Comm 53

S. Comm 53.63 (1)

Ch. Comm 54

S. Comm 54.01 (2) (c)

Ch. Comm 55

S. Comm 55.09 (4)

Ch. Comm 57

S. Comm 57.01 (2) (a)

S. Comm 57.16 (1) (b) and (d) and (2)

Ch. Comm 58

S. Comm 58.22 (entire section)

Ch. Comm 62

S. Comm 62.93 (entire section)

Ch. Comm 64

S. Comm 64.22 (8)

S. Comm 64.42 (entire section)

S. Comm 64.51 (4) (a)

S. Comm 64.67 (1), (5) (f), (6), (8) and (9)

(Uniform Multifamily Dwellings, Ch. Comm 66)

Ch. Comm 66

S. Comm 66.32 (5) (c)

Health and Family Services:*(Medical Assistance, Chs. HFS 100--)***Ch. HFS 101**

- S. HFS 101.01 (entire section)
- S. HFS 101.03 (1), (1m), (17r), (17t), (17w), (22g), (27g), (52m), (67m), (69m), (78s), (95), (114p), (125m), (132), (170m) and (172m)

Ch. HFS 102

- S. HFS 102.01 (intro.) and (5) (h)
- S. HFS 102.03 (1)
- S. HFS 102.04 (2) and (3) (c)

Ch. HFS 103

- S. HFS 103.01 (1) (a)
- S. HFS 103.03 (1) (a), (b) and (f)
- S. HFS 103.04 (3) (a), (6) and (7)
- S. HFS 103.08 (1), (2) (a), (b) and (c) and (5)
- S. HFS 103.085 (entire section)

Ch. HFS 108

- S. HFS 108.02 (13)
- S. HFS 108.03 (1)

*(Health, Chs. HFS 110--)***Ch. HFS 145**

- S. HFS 145.01 (entire section)
- S. HFS 145.02 (entire section)
- S. HFS 145.03 (entire section)
- S. HFS 145.04 (1) (g), (1m), (3) (a) and (4) (a) and (c)
- S. HFS 145.05 (2) and (3)
- SS. HFS 145.06 to 145.22 (entire sections)

Higher Educational Aids Board:**Ch. HEA 11**

- S. HEA 11.03 (3) and (5)

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

- S. Med 1.06 (1) (a) and (d) and (3) (a), (b), (d), (e), (f) and (g)
- S. Med 1.08 (2)

Ch. Med 2

- S. Med 2.02 (entire section)
- S. Med 2.04 (entire section)

Natural Resources:*(Fish, Game, etc., Chs. NR 1--)***Ch. NR 5**

- S. NR 5.001 (7m)
- S. NR 5.125 (1) (b), (3) and (4)
- S. NR 5.15 (entire section)
- S. NR 5.17 (entire section)
- S. NR 5.18 (entire section)

*(Environmental Protection--General, Chs. NR 100--)***Ch. NR 140**

- S. NR 140.10 Table 1
- S. NR 140.28 (2)

*(Environmental Protection--Air Pollution Control, Chs. NR 400--)***Ch. NR 439**

- S. NR 439.06 (3) (am)
- S. NR 439.07 (8) (L)

Ch. NR 466 (entire chapter)**Ch. NR 484**

- S. NR 484.04 (9), (21m) and (24) to (28)

Pharmacy Examining Board:**Ch. Phar 1**

- S. Phar 1.01 (entire section)
- S. Phar 1.02 (intro.)

Ch. Phar 15 (entire chapter)**Public Service Commission****Ch. PSC 117 (entire chapter)****Transportation:****Ch. Trans 316 (entire chapter)****Veterinary Examining Board:****Ch. VE 2**

- S. VE 2.01 (2)

Ch. VE 3

- S. VE 3.03 (intro.)

EDITORIAL CORRECTIONS

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

Commerce:*(Building and Heating, etc., Chs. Comm 50--64)***Ch. Comm 50**

- S. Comm 50.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. Comm 50.04 (9) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 52

- S. Comm 52.02 (1) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. Comm 52.07 (9) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. Comm 52.24 (3) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 53

S. Comm 53.11 (4) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 57

S. Comm 57.01 (2) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 57.71 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 59

S. Comm 59.01 (1) and (2) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 61

S. Comm 61.001 (2) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 61.215 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 62

S. Comm 62.31 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 62.34 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. Comm 62.81 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Health and Family Services:

(Medical Assistance, Chs. HFS 100--)

Ch. HFS 101

S. HFS 101.03 (72) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Natural Resources:

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

Ch. NR 140

S. NR 140.03 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 141

S. NR 141.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 141.03 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 141.05 (20) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 141.20 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 142

S. NR 142.02 (1), (2) (b), (3) and (17) to (19) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 142.03 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 142.04 (1) (e) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. NR 142.06 (1) (intro.), (2) (L), (3) (b) and (5) (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. NR 142.09 (1) and (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Pharmacy Examining Board:**Ch. Phar 1**

S. Phar 1.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

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

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection

(CR 99-87)

Ch. ATCP 34 – Chemical Collection and Container Collection Program.

Summary of Final Regulatory Flexibility Analysis:

Overview

The proposed rule updates ATCP 34, the Agricultural Clean Sweep Program rule. Ag Clean Sweep is an annual, competitive grants program for Wisconsin counties, allowing them to collect unwanted pesticides and chemical wastes from the agricultural community and dispose of them at public collection sites. Agricultural chemicals from active and abandoned farms have remained the primary program target over the years, and farmers use the program largely free-of-charge.

Beginning in 1996, the Department of Agriculture, Trade, and Consumer Protection began to offer collection services to businesses and municipalities that handle or use agricultural pesticides. This change came about because of changes in state rules for very small quantity generators (VSQGs) * of hazardous wastes. Participants received up to a 50% disposal subsidy from the department for the disposal of unwanted agricultural pesticides. These same rules allowed counties to create permanent or season-long collection facilities for the collection of hazardous wastes. Several counties have developed permanent facilities and have received grants from the department.

** Note: Very small quantity generator (VSQG) is a term used within the federal Resource and Conservation Recovery Act (RCRA) to define a group of businesses or entities that generate no more than 220 pounds of hazardous wastes per month and who accumulate no more than 2,205 pounds per year.*

The proposed rule will have positive impacts upon businesses. It includes provisions which allow VSQGs access to public collection sites and allows national and regional hazardous waste disposal contractors to serve counties receiving Ag Clean Sweep Program grants.

Businesses Affected

The proposed rule will make it easier for a wide variety of businesses and public entities, including schools, to use the Agricultural Clean Sweep Program. During the past two years, only businesses that were agricultural in nature were encouraged to participate. These businesses included lawn care companies, structural and aerial applicators, golf courses, and chemical co-ops. The new rule extends services to any business or municipal entity that uses or holds non-household pesticides for disposal, provided VSQG self-certification requirements are met. This means that hardware stores, department stores, marinas, parks, cemeteries, and construction companies along with schools and local units of government would qualify for service and could receive up to a 50% pesticide disposal subsidy from the department. This change could quadruple the number of businesses eligible for Agricultural Clean Sweep disposal services.

Even though the proposed rule extends services to a range of new businesses, it must also be kept in mind that farmers, the program's main audience, will benefit too. Because counties with permanent or season-long collection facilities can receive ATCP 34 grants, farmers in these counties will be able to dispose of their unwanted chemicals throughout the year thereby reducing environmental and public health risks.

Also affected by the proposed rule are national and regional hazardous waste contractors who operate federally and state-approved disposal facilities. These companies could compete for contracts from counties who have been awarded Ag Clean Sweep Program grants by the department to conduct permanent collection events. It is estimated that up to ten contractors could seek permanent collection contracts from counties. These contractors would, however, be precluded from competing for grants from temporary collection events since counties with these events are required to use the State of Wisconsin's hazardous waste contractor.

Operating Procedures Improved for Businesses

The proposed rule streamlines and simplifies procedures for business participation. To receive service at clean sweep collection sites, holders of unwanted agricultural pesticides must: 1) pre-register with the collection site or its hazardous waste contractor, 2) self-certify their Very Small Quantity Generator (VSQG) status, and 3) complete a qualification form for the department's 50% pesticide subsidy if they want financial assistance. VSQG self-certification is a Department of Natural Resources requirement under ch. NR 610.

Poor knowledge of hazardous waste risks and federal/state disposal regulations have been two obstacles preventing businesses from making good decisions on hazardous waste management. Recognizing these limitations, Ag Clean Sweep encourages interested persons to directly contact waste contractors on their disposal issues, (e.g. "Do I have hazardous wastes?", "Am I a VSQG?", "Is there a better or cheaper disposal option?"). Pre-registration begins the process, allowing waste haulers to initially see the chemical inventory. All correspondence is conducted via fax or phone. Once businesses agree to use Ag Clean Sweep, they are assigned a collection location and told to bring a check for the predetermined amount. Businesses can readily meet program disposal requirements with existing staff.

Federal and state hazardous waste reporting requirements have been incorporated into Ag Clean Sweep procedures. Because long term liability under the Resource Conservation and Recovery Act (RCRA) and Comprehensive Environmental Response Compensation and Liability Act (CERCLA or "SuperFund") cannot be waived by public program participation, businesses, with the exception of farmers, remain responsible for their wastes and appropriate records must be prepared. This reporting begins with the initial chemical inventory and ends with waste disposal receipts provided by the waste hauler. While this proposed rule incorporates federal and state reporting requirements, it does not impose any new requirements.

To support business disposal services, the department established working relationships with nine agricultural associations several years ago, (e.g., Wisconsin Federation of Coops, Wisconsin Fertilizer and Chemical Association). These associations advertise clean sweep services to members in newsletters and serve as references for program participation. The proposed rule will allow the department to create partnerships with a host of new organizations, (e.g. hardware, recreational, real estate).

Hazardous Waste Contractors

The proposed rule allows counties who have been awarded ATPC 34 grants for permanent collection events to select their own hazardous waste contractor, providing this contractor can meet Ag Clean Sweep performance standards, is selected by the annually established date, and is otherwise capable of meeting the department's statewide hazardous waste goals. It is expected that numerous local, regional, and national contractors will seek contracts from counties. The rule requires counties conducting temporary collection events to contract with the hazardous waste contractor selected under the Department of Administration's (DOA's) cooperative purchasing process.

The impact of this rule on hazardous waste contractors will generally remain unchanged for counties receiving grants for permanent collection events. It is expected that the proposed rule will facilitate better coordination and communication for contractors working with neighboring counties out of a regional, permanent collection facility. The rule will have a negative effect on hazardous waste contractors excluded from contracting with counties conducting temporary collection events who will be required to contract with the DOA's, hazardous waste contractor.

Summary of Comments from Legislative Committees:

On October 18, 1999 the department transmitted the above rule for legislative committee review. The rule was referred to the Senate Committee on Agriculture, Environmental Resources, and Campaign Finance Reform on October 20, 1999 and the Assembly Committee on Agriculture on October 28, 1999. Neither the Senate Committee on Agriculture, Environmental Resources, and Campaign Finance Reform or the Assembly Committee on Agriculture took any action on the rule during their review period.

2. Agriculture, Trade & Consumer Protection

(CR 99-117)

Ch. ATPC 30 – Pesticide product restrictions.

Summary of Final Regulatory Flexibility Analysis:Businesses Affected

The amendments to ATPC 30 Appendix A will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition areas contain approximately 6,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 1,500 acres of corn will be affected. This acreage would represent between 5 and 20 producers, depending on their corn acreage. These producers are small businesses, as defined by s. 227.114 (1)(a), Stats. Distributors and applicators of atrazine pesticides, crop consultants and equipment dealers may feel secondary effects. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

Reporting, Recordkeeping and other Procedures Required for Compliance

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10 Wis. Adm. Code.

Professional Skills Required to Comply

The rule affects how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in the State, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past University Extension personnel and farm chemical dealers have provided this type of assistance. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

Summary of Comments From Legislative Committees:

On November 24, 1999 this department transmitted the above rule for legislative committee review. The rule was referred to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform on December 1, 1999 and to the Assembly Committee on Agriculture December 6, 1999. Neither the Assembly Committee on Agriculture nor the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform took any action on the rule during their review period.

3. Agriculture, Trade & Consumer Protection

(CR 99-133)

Ch. ATPC 105 – Selling motor vehicle fuel below cost.

Summary of Final Regulatory Flexibility Analysis:

The proposed additions to ATPC 105, Wis. Adm. Code do not have a significant adverse effect on small business. ATPC 105 interprets the "Unfair Sales Act," s. 100.30, Stats. This statute prohibits sellers of motor vehicle fuel and other products from selling products below cost as "cost" is defined in the statute. An exception allows a seller to sell products below cost in order to meet the price of a competitor.

Competition in the retail motor fuel industry is also affected by credit card promotions offered by third parties. A credit card company (such as a financial institution or major oil company affiliate) may offer credit card discounts to consumers who buy a particular brand of motor fuel, even though the credit card company is not the retail seller of that motor fuel. For example, a credit card company may advertise: "Use your ABC Oil Company credit card, and receive a discount of 3 cents per gallon." The credit card company, rather than the motor fuel retailer, offers the promotional discount. Although the motor fuel retailer charges and receives the normal pump price, the credit card user receives an effective discount of 3 cents per gallon.

Because the credit card company is not the motor fuel retailer, the credit card promotion may escape coverage under the Unfair Sales Act. Since the motor fuel retailer charges and receives the full pump price, the retailer may be in compliance with the act (assuming that the pump price complies). The credit card company, which offers the promotion, may escape coverage because it is not engaged in the retail sale of motor fuel.

This rule clarifies that, under certain conditions, a motor fuel retailer may “match” a competing credit card promotion without violating the Unfair Sales Act, even though the competing promotion is offered by a credit card company rather than a competing motor fuel retailer. This rule may help some small motor fuel retailers by allowing them to compete more effectively.

Summary of Comments from Legislative Committees:

On December 22, 1999, the department transmitted the above rule for legislative committee review. The rule was referred to the Assembly Committee on Consumer Campaign Finance Reform. The Assembly Committee took no action.

The Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform held a hearing on the rule on February 15, 2000. After hearing testimony from Bill Oemichen, Administrator, Division of Trade and Consumer Protection, representing the department, the Committee held an executive session and voted unanimously to take no action.

4. Chiropractic Examining Board (CR 99–148)

S. Chir 4.07 – Practice while suspended.

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 reported.

5. Commerce (CR 99–120)

Chs. Comm 50–64 – Fire safety requirements in the Commercial Building Code.

Summary of Final Regulatory Flexibility Analysis:

Only 2 comments were received during public hearings on these rules. Both comments were strongly in favor of adopting the proposed rules as written. The NFPA standards proposed for adoption are established through a national consensus process, which takes full advantage of the latest design, inspection and maintenance technologies. The proposed rule changes are written to allow these technologies to be used. The public hearing participants, as well as the members of the Fire Safety Code Council and the Commercial Building Code Council strongly believe that adoption of these updated standards will be a service for all citizens and businesses of the state.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Labor and the Senate Committee on Economic Development, Housing and Government Operations. No comments were received.

6. Health & Family Services (CR 99–106)

Chs. HFS 101 to 103 and 108 – BadgerCare health insurance program.

Summary of Final Regulatory Flexibility Analysis:

These rules will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. The rules apply to the Department, to families that are applicants for or recipients of the health care coverage provided by BadgerCare and to county social service or human service departments that take applications and determine eligibility for BadgerCare.

Summary of Comments:

No comments reported.

7. Health & Family Services (CR 99–56)

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

Summary of Final Regulatory Flexibility Analysis:

These are amendments to rules relating to reporting of specified communicable diseases to the Department and local health departments and to the general powers of the Department and local health departments to control these diseases and the methods they are to employ in controlling them. The rule changes will affect mainly the Department and local public health officers.

The rule changes will not have a significant economic impact on a substantial number of small businesses. Some of the physicians and laboratories required to report cases and suspected cases of the 14 communicable diseases and conditions being added to the list of reportable diseases in Appendix A of the rules are small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. But for many years they have been expected to report cases and expected cases of communicable diseases that have been on that list, and the reporting system, including forms, is in place, so that this additional reporting, which includes a requirement for a written report on a Department form to follow-up the required immediate report of a Category I communicable disease, should not be burdensome and will not require new professional skills.

Comments of Legislative Standing Committees:

No comments were received.

8. Higher Educational Aids Board (CR 99–132)

S. HEA 11.03 – Minority teacher loan program.

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 comment were reported.

9. Medical Examining Board (CR 99–128)

Chs. Med 1 & 2 – Computer-based examinations.

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.

10. Natural Resources (CR 98–161)

Ch. NR 5 – Boating enforcement and education.

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 rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. On December 17, 1999, the Assembly Committee on Natural Resources extended their review period. No comments were received during the review period.

11. Natural Resources (CR 99–108)

Ch. NR 140 – Groundwater standards for toluene and xylene.

Summary of Final Regulatory Flexibility Analysis:

The Department does not believe that the proposed amendments will have a significant economic impact on a substantial number of small businesses. Rather, the Department anticipates the amendments would benefit small businesses in two ways. First, small businesses would not be required to take an action until the higher standards were exceeded. Second, a number of entities that formerly were not eligible for an exemption under ch. NR 140 would be now. This would mean a number of cases, including brownfield sites, could be closed and redeveloped.

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 December 17, 1999, the Assembly Committee on Natural Resources extended their review period. No comments were received during the review period.

12. Natural Resources (CR 99–45)

Ch. NR 439 — Volatile organic compound capture efficiency test methods.

Summary of Final Regulatory Flexibility Analysis:

The rule package is not expected to have a significant economic impact on a substantial number of small businesses. Any adverse impacts are expected to be small. For more flexibility, U.S. EPA has added two sets of statistical criteria which allow the use of data obtained with alternate capture efficiency methods.

Summary of Comments by Legislative Review Committees:

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

13. Natural Resources (CR 99–67)

Chs. NR 460, 466 and 484 — National emission standards for hazardous air pollutants for the printing and publishing industry.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not have a significant economic impact on a substantial number of small businesses. Nine facilities have notified the Department that they are major hazardous air pollutant sources subject to the code. In addition, 15 facilities have notified the Department that they are area (minor) sources. None of the 9 sources that submitted notifications as affected major sources are small businesses.

Summary of Comments by Legislative Review Committees:

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

14. Pharmacy Examining Board (CR 98–76)

Chs. Phar 1 & 15 – Preparation of sterile pharmaceuticals by pharmacists.

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.

15. Public Service Commission (CR 98–172)

Ch. PSC 117 – Assignment of costs and opportunity sales.

Summary of Final Regulatory Flexibility Analysis:

Rules affect public utilities as defined in s. 196.01 (5), Stats. These entities are not small businesses as defined by s. 227.114, Stats.

Summary of Comments:

No comments were reported.

16. Transportation (CR 99–144)

Ch. Trans 316 – Wood harvesting slasher.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

17. Veterinary Examining Board (CR 99–127)

Chs. VE 2 & 3 – Computerized examinations.

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 reported.

SECTIONS AFFECTED BY REVISOR'S CORRECTIONS NOT PUBLISHED

Revisor's corrections under s. 13.93 (2m) (b), Stats., identified in this *Wis. Adm. Register*.

Sections affected by Revisor's corrections not published.

Subscriber's note: Please make corrections (manually) in your printed code. The affected sections are shown as corrected on the Revisor of Statutes Internet site, <http://www.legis.state.wi.us/rsb/>, and on the WisLaw® CD-ROM. Printed code will be shown as corrected in its next printing.

Location of invalid cross-reference	Correction
Adm 15.04 (2) (f)	Replace "ch. HSS 83" with "ch. HFS 83"
ER 4.03 (2)	Replace "ch. HSS 45" with "ch. HFS 45"
HFS 40.04 (2) (e)	Replace "ch. HSS 92" with "ch. HFS 92"
HFS 40.06 (6) (a) 7.	Replace "ch. HSS 92" with "ch. HFS 92"
HFS 40.13 (1) (m)	Replace "ch. HSS 92" with "ch. HFS 92"
HFS 55.04 (12)	Replace "ch. HSS 45" with "ch. HFS 45"
HFS 63.06 (6) (a) 4.	Replace "ch. HSS 94" with "ch. HFS 94"
HFS 63.15 (4)	Replace "ch. HSS 92" with "ch. HFS 92"
HFS 105.16	Replace "ch. HSS 133" with "ch. HFS 133"
HFS 105.17 (1)	Replace "ch. HSS 133" with "ch. HFS 133"
HFS 105.255 (2) (b) 5.	Replace "ch. HSS 129" with "ch. HFS 129"
HFS 107.11 (2) (b) 1.	Replace "ch. HSS 133" with "s. HFS 133"
HFS 107.11 (5) (i)	Replace "ch. HSS 133" with "s. HFS 133"
HFS 125.03 (6)	Replace "ch. HSS 110" with "ch. HFS 110"
HFS 125.03 (7)	Replace "ch. HSS 113" with "ch. HFS 113"
HFS 127.19	Replace "ch. HSS 131" with "ch. HFS 131" in 2 places
HFS 132.51 (2) (b) 3.	Replace "ch. HSS 145" with "ch. HFS 145"
HFS 132.63 (7) (b) 2. note	Replace "ch. HSS 145" with "ch. HFS 145"
HFS 136.03 (2) (d)	Replace "ch. HSS 135" with "ch. HFS 135"
HFS 139.06 (1) and (2)	Replace "ch. HSS 160" with "ch. HFS 160"
HFS 139.07 (1) and (2)	Replace "ch. HSS 160" with "ch. HFS 160"
HFS 140.06 (1) (c)	Replace "ch. HSS 192" with "ch. HFS 192"
HFS 146.03 (11) note	Replace "ch. HSS 144" with "ch. HFS 144"
HFS 192.03 (7)	Replace "ch. HSS 160" with "ch. HFS 160"
HFS 192.05 (2)	Replace "ch. HSS 160" with "ch. HFS 160"
HSS 56.07 (4) (a)	Replace "ch. HSS 144" with "ch. HFS 144"
Trans 309.18 (1)	Replace "ch. HSS 110" with "ch. HFS 110"
DWD 58.01 (1)	Replace "ch. HSS 45" with "ch. HFS 45"
DWD 58.04 (1)	Replace "ch. HSS 45" with "ch. HFS 45"

THE STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
BUREAU OF INTEGRATED DOCUMENT SERVICES
DOCUMENT SALES AND DISTRIBUTION SECTION
P.O. BOX 7840
MADISON, WISCONSIN 53707-7840

First Class
U.S. POSTAGE PAID
Madison, Wisconsin
Permit Number 1369

First Class Mail

*Wisconsin
Administrative
Register*

DATED MATERIAL. PLEASE DO NOT DELAY!