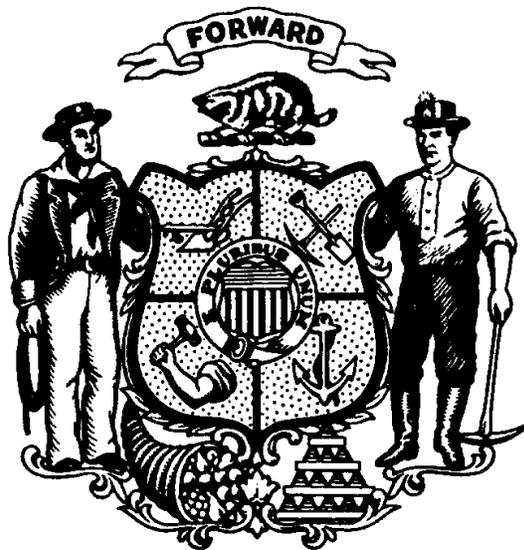


WISCONSIN ADMINISTRATIVE REGISTER

No. 533



Publication Date: May 31, 2000
Effective Date: June 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.

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 the medicaid purchase plan.

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 relating to library system aid payment adjustments.

Rules relating to grants for alcohol and other drug abuse (AODA) programs.

Revenue:

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.

Rule relating to cost--efficiency standards for systems participating in the Urban Mass Transit Operating Assistance Program.

Workforce Development:

Economic Support, Chs. DWD 11--59

Rule relating to W-2 Program disregard of 2000 census income.

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.**Pages 15 to 16.**

Financial Institutions (Division of Securities):

DFI--Sec Code -- Relating to the Wisconsin Uniform Securities Law.

Natural Resources:

Public Service Commission:

Regulation and Licensing:

NR Code – Relating to wetland compensatory mitigation.

Ch. PSC 132 – Relating to those cases where the utility and the railroad cannot agree to the compensation to be paid and conditions to be met by a public utility for the construction and maintenance of facilities within a railroad right-of-way [Docket 1-AC-195].

RL Code – Relating to:

- 1) Recommendations of the Association of Boxing Commissions; and
- 2) Uniformity between requirements of member states.

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

Pages 17 to 20.

Commerce (Elevators, Ch. Comm 18):

Ch. Comm 18 – Relating to inspection of elevators and other mechanical lifting devices.

Health & Family Services (Health, Chs. HFS 110---):

Ch. HFS 110 – Relating to licensing of Ambulance Service Providers and Emergency Medical Technicians-Basic.

Health & Family Services (Health, Chs. HFS 110---):

Ch. HFS 112 – Relating to licensing of Emergency Medical Technicians-Paramedic and approval of Emergency Medical Technician-Paramedic Operational Plans.

Health & Family Services (Health, Chs. HFS 110---):

Ch. HFS 120 – Relating to health care information.

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

S. NR 19.40 – Relating to DNR authority to rescind local hunting, fishing or trapping ordinances.

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

Ch. NR 101 – Relating to reports and fees for wastewater discharges.

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

Chs. NR 161, 162 and 163 – Relating to the clean water fund program.

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

Ch. NR 168 – Relating to the brownfield site assessment grant program.

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

Chs. NR 400, 410, 423, 428, 439 and 485 – Relating to one-hour ozone air quality standard attainment plan.

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

Chs. NR 700, 716, 720, 722 and 726 – Relating to assessment of sites contaminated with petroleum products from petroleum storage tanks.

Transportation:

Ch. Trans 134 – Relating to license plates for authorized special groups.

Notices of Hearings or of Proposed Rules.

Pages 21 to 40.

Administration:

Hearing to consider ch. Adm 43, relating to non-municipal electric utility public benefit fees. [**Hearing date: 06/16/00**]

Administration:

Hearing to consider ch. Adm 44, relating to energy conservation and efficiency and renewable resources programs. [**Hearing date: 06/16/00**]

Administration:

Hearing to consider ch. Adm 45, relating to low income assistance public benefits. [**Hearing date: 06/16/00**]

Commerce:

Elevators, Ch. Comm 18

Hearing to consider revision of ch. Comm 18, relating to the inspection and issuance of permits to operate elevators. [**Hearing date: 06/27/00**]

- Commerce: PECFA, Chs. Comm 46 and 47
See notice under Natural Resources (Environmental Protection--Investigation and Remediation).
- Health and Family Services: Community Services, Chs. HFS 30--
Hearing to consider revision of ch. HFS 73, relating to eliminating the 25% on spending long-term support funds in community-based residential facilities (CBRFs) and establishing the criteria for determining infeasibility of in-home services as a condition for the use of program funds to pay for CBRF residents. [**Hearing date: 06/27/00**]
- Health and Family Services: Medical Assistance, Chs. HFS 100--
Hearings to consider rule revision to chs. HFS 101 to 103 and 108, relating to the operation of the Medicaid Purchase Plan. [**Hearing dates: 06/15/00, 06/16/00, 06/19/00 and 06/20/00**]
- Health and Family Services: Health, Chs. HFS 110--
Hearings to consider revisions to chs. HFS 110 and 112, relating to the licensing of ambulance service providers, EMTs-basic and EMTs-paramedic. [**Hearing dates: 06/22/00, 06/23/00, 06/27/00, 06/28/00 and 06/29/00**]
- Health and Family Services: Health, Chs. HFS 110--
Hearings to consider revision to ch. HFS 120, relating to health care information. [**Hearing dates: 06/16/00, 06/19/00, 06/22/00 and 06/23/00**]
- Natural Resources: Fish, Game, etc., Chs. NR 1--
Hearing to consider revision to ch. NR 10, relating to deer hunting in certain deer hunting units. [**Hearing date: 06/12/00**]
- Natural Resources: Fish, Game, etc., Chs. NR 1--
Hearings to consider s. NR 19.40, relating to the DNR's authority to void local hunting, fishing and trapping ordinances. [**Hearing dates: 06/19/00, 06/26/00 and 06/27/00**]
- Natural Resources: Environmental Protection--General, Chs. NR 100--
Hearing to consider revision to ss. NR 101.03 and 101.13, relating to the wastewater fee program. [**Hearing date: 06/13/00**]
- Natural Resources: Environmental Protection--General, Chs. NR 100--
Hearings to consider revision to chs. NR 161 to 163, relating to the clean water fund financial assistance program. [**Hearing dates: 06/19/00, 06/21/00 and 06/22/00**]
- Natural Resources: Environmental Protection--General, Chs. NR 100--
Hearings to consider revision to ch. NR 168, relating to the brownfield site assessment grant program. [**Hearing dates: 06/12/00, 06/13/00 and 06/15/00**]
- Natural Resources: Environmental Protection--Air Pollution Control, Chs. NR 400--
Hearings to consider revision to chs. NR 400, 410, 423, 428, 439 and 485, relating an one-hour ozone air quality standard attainment plan. [**Hearing dates: 06/14/00, 06/16/00, 06/27/00, 06/28/00 and 06/29/00**]
- Natural Resources: Environmental Protection--Investigation and Remediation, Chs. NR 700--
Hearings to consider revision to chs. NR 700, 716, 720, 722 and 726 and creation of chs. Comm 46 and NR 746, relating to sites contaminated with petroleum products from petroleum storage tanks. [**Hearing dates: 06/15/00, 07/12/00 and 07/15/00**]
- Pharmacy Examining Board: Hearing to consider amendment to s. Phar 7.01 (1) (e), relating to delivery of prescriptions. [**Hearing date: 06/14/00**]

Pharmacy Examining Board:

Hearing to consider s. Phar 7.015, relating to delegation of duties by a pharmacist. [Hearing date: 06/14/00]

Public Instruction:

Hearing to consider revision to ch. PI 14, relating to school district audits. [Hearing date: 06/15/00]

Transportation:

Proposed revision of s. Trans 134.06, relating to license plates for authorized special groups.

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

Page 41.

Health & Family Services:

(CR 99-161) – Ch. HFS 50

Insurance, Commissioner of:

(CR 00-61) – SS. Ins 17.01 and 17.28

Natural Resources:

(CR 00-32) – SS. NR 10.12, 10.145, 10.27, 10.40 and 15.13

Revenue:

(CR 00-23) – S. Tax 2.32

Revenue:

(CR 00-53) – SS. Tax 18.05 and 18.08

Administrative Rules Filed with the Revisor of Statutes Bureau.

Page 42.

Chiropractic Examining Board:

(CR 98-190) – S. Chir 6.03

Insurance, Commissioner of:

(CR 99-170) – S. Ins 6.57 (4)

Tourism, Dept. of:

(CR 00-37) – S. Tour 1.03 (3) (a)

Rules Published in this Wis. Adm. Register.

Page 43.

Administration:

(CR 99-154) – Ch. Adm 47

Agriculture, Trade and Consumer Protection:

(CR 99-5) – Chs. ATCP 29 and 40

Financial Institutions—Credit Unions:

(CR 99-145) – Ch. DFI-CU 52

Financial Institutions—Credit Unions:

(CR 99-146) – Ch. DFI-CU 64

Financial Institutions—Securities:

(CR 00-17) – S. DFI-Sec 5.01 (4) (b) and (e)

Health and Family Services:

(CR 99-55) – Ch. HFS 181

Kickapoo Reserve Management Board:

(CR 99-124) – Ch. KB 1

Natural Resources:

(CR 99-22) – S. NR 150.03 (8) (a) 1. and ch. NR 170

Natural Resources:

(CR 99-43) – SS. NR 10.02, 19.26 and 19.27

Natural Resources:

(CR 99-95) – S. NR 812.05

Natural Resources:

(CR 99-155) – SS. NR 10.01, 10.27 and 10.28

Psychology Examining Board:

(CR 99-149) – SS. Psy 2.08 and 3.10

Public Instruction:

(CR 98-139) – SS. PI 11.02, 11.07 and 11.14

Public Instruction:

(CR 99-73) – SS. PI 19.03, 19.05 and 19.06

Public Instruction:

(CR 99-103) – Ch. PI 17

Public Instruction:

(CR 99-118) – S. PI 11.24

Public Instruction:

(CR 99-129) – S. PI 6.03

Public Instruction:

(CR 99-130) – Ch. PI 37

Transportation:

(CR 99-152) – Ch. Trans 320

Veterans Affairs:

(CR 99-160) – Ch. VA 4

Sections Affected by Rule Revisions and Corrections.**Pages 44 to 45.****REVISIONS**

Administration:	Ch. Adm 47
Agriculture, Trade and Consumer Protection:	Chs. ATCP 29 and 40
Financial Institutions—Credit Unions:	Chs. DFI—CU 52 and 64
Financial Institutions—Securities:	Ch. DFI—Sec 5
Health and Family Services:	Ch. HFS 181
Kickapoo Reserve Management Board:	Ch. KB 1
Natural Resources (<u>Fish, Game, etc., Chs. NR 1—</u>):	Chs. NR 10 and 19
Natural Resources (<u>Environmental Protection—General, Chs. NR 100—</u>):	Chs. NR 150 and 170
Natural Resources (<u>Environmental Protection—Water Supply, Chs. NR 800—</u>):	Ch. NR 812
Psychology Examining Board:	Chs. Psy 2 and 3
Public Instruction:	Chs. PI 6, 11, 17, 19 and 37
Transportation:	Ch. Trans 320
Veterans Affairs:	Ch. VA 4

EDITORIAL CORRECTIONS

Natural Resources (<u>Environmental Protection—General, Chs. NR 100—</u>):	Chs. NR 128 and 150
Natural Resources (<u>Environmental Protection—Water Supply, Chs. NR 800—</u>):	Ch. NR 812
Public Instruction:	Ch. PI 11

Final Regulatory Flexibility Analyses.**Pages 46 to 48.**

Administration:	(CR 99–154) – Ch. Adm 47
Agriculture, Trade and Consumer Protection:	(CR 99–5) – Chs. ATCP 29 and 40
Financial Institutions—Credit Unions:	(CR 99–145) – Ch. DFI—CU 52
Financial Institutions—Credit Unions:	(CR 99–146) – Ch. DFI—CU 64
Financial Institutions—Securities:	(CR 00–17) – S. DFI—Sec 5.01 (4) (b) and (e)
Health and Family Services:	(CR 99–55) – Ch. HFS 181
Kickapoo Reserve Management Board:	(CR 99–124) – Ch. KB 1
Natural Resources:	(CR 99–95) – S. NR 812.05
Natural Resources:	(CR 99–43) – SS. NR 10.02, 19.26 and 19.27
Natural Resources:	(CR 99–22) – S. NR 150.03 (8) (a) 1. and ch. NR 170
Natural Resources:	(CR 99–155) – SS. NR 10.01, 10.27 and 10.28
Psychology Examining Board:	(CR 99–149) – SS. Psy 2.08 and 3.10
Public Instruction:	(CR 98–139) – Ch. PI 11
Public Instruction:	(CR 99–73) – Ch. PI 19
Public Instruction:	(CR 99–103) – Ch. PI 17
Public Instruction:	(CR 99–118) – S. PI 11.24
Public Instruction:	(CR 99–129) – S. PI 6.03
Public Instruction:	(CR 99–130) – Ch. PI 37

Transportation:
Veterans Affairs:

(CR 99-152) – Ch. Trans 320
(CR 99-160) – Ch. VA 4

Executive Orders.

Executive Order #391.

Executive Order #393.

Page 49.

Relating to the Creation of the South Central Wisconsin Regional Planning Commission Study Committee.

Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Peace Officers Who Have Given Their Lives in the Line of Duty.

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 (See section 9110 (3yu) 1999 Wis. Act. 9)

Analysis prepared by the Department of Commerce

Statutory authority: ss. 227.11 (2)(a) and 227.24 and s. 9110 (3yu)(b) of 1999 Wis. Act 9.

Statutes interpreted: ss. 101.143, 101.144, 292.11, and 292.31 and ch. 160

The proposed ch. Comm 46 is identical to ch. NR 746 that is being promulgated by the Department of Natural Resources.

Chapter Comm 46 provides that the Department of Natural Resources has authority for “high-risk sites” and that the Department of Commerce has authority for “low and medium risk sites.” The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a “high-risk site” or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter Comm 46 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum-contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

Publication Date: May 17, 2000

Effective Date: May 18, 2000

Expiration Date: September 1, 2000

Hearing Dates: June 15, July 10 & 12, 2000

[See Notice this Register]

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: June 12, 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. 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
Extension Through: July 27, 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

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

Hearing Dates: April 25, & 27, May 2, 4 & 8, 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
Extension Through: June 11, 2000

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Medical Assistance, Chs. HFS 101–108)

Rules adopted revising **chs. HFS 102, 103 and 108**, relating to the medicaid purchase plan.

Finding of Emergency

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

This order creates rules that specify the manner in which a new program called the Medicaid Purchase Plan, established under s. 49.472, Stats., as created by 1999 Wis. Act 9, will operate. Under the Medicaid Purchase Plan, working adults with disabilities whose family net income is less than 250% of the poverty line are eligible to purchase Medical Assistance, the name given to Medicaid in Wisconsin, on a sliding-fee scale. The order incorporates the rules for operation of the Medicaid Purchase Plan into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the Medical Assistance program.

The Medicaid Purchase Plan is projected to provide health care coverage to 1,200 Wisconsin residents with disabilities by the end of Fiscal Year 2001.

Health care coverage under the Medicaid Purchase Plan is identical to the comprehensive package of services provided by Medical Assistance. Individuals enrolled in the Medicaid Purchase Plan would also be eligible for Wisconsin's home and community-based waivers under s. 46.27, Stats., provided they meet the functional criteria for these waivers.

Department rules for the operation of the Medicaid Purchase Plan must be in effect before the Medicaid Purchase Plan may begin. The program statute, s. 49.472, Stats., as created by Act 9, effective October 27, 1999, states that the Department is to implement the Medical Assistance eligibility expansion under this section not later than January 1, 2000, or 3 months after full federal approval, whichever is later. Full federal approval was received on January 7, 2000. The Department is publishing the rules by emergency order with an effective date of March 15, 2000 to meet the expected program implementation date and the legislative intent in order to provide health care coverage as quickly as possible to working people with disabilities.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate the Medicaid Purchase Plan and in the process provide more specificity than s. 49.472, Stats., as created by Act 9, regarding the non-financial and financial conditions of eligibility for individuals under the Medicaid Purchase Plan; define whose income is used when determining eligibility and the monthly premium amount; explain statutory conditions for continuing eligibility; explain how the monthly premium amount is calculated; describe the processes associated with the independence account; and set forth how the Department, in addition to providing Medical Assistance coverage, is to purchase group health coverage offered by the employer of an eligible individual or an ineligible family member of an eligible member for the Medicaid Purchase Plan if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

Publication Date: March 15, 2000
Effective Date: March 15, 2000
Expiration Date: August 12, 2000
Hearing Dates: June 15, 16, 19 & 20, 2000
 [See Notice this Register]

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 revising **chs. NR 700, 716, 720, 722, 726 and creating ch. NR 746**, relating to site contaminated with petroleum products discharged from petroleum storage tanks.

Exemption From Finding of Emergency (See section 9110 (3yu) 1999 Wis. Act 9)

The proposed ch. NR 746 is identical to ch. Comm 46 that is being promulgated by the Department of Commerce.

Chapter NR 746 provides that the Department of Natural Resources has authority for “high-risk sites” and that the Department of Commerce has authority for “low and medium risk sites.” The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a “high-risk site” or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter NR 746 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum-contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

The amendments and new provisions that are proposed to be added to chs. NR 700, 716, 720, 722 and 726, as part of this rule package, consist of cross-references to ch. NR 746 that are proposed to be inserted in chs. NR 700, 716 and 726, and exemptions from the requirements in chs. NR 720 and 722 that would conflict with the requirements in ch. NR 746: that is, an exemption from the soil cleanup standards in ch. NR 720 and the remedial action option evaluation requirements in ch. NR 722 for those sites contaminated with petroleum products discharged from petroleum storage tanks that satisfy the risk criteria in s. NR 746.06 and are eligible for closure under s. NR 746.07.

Publication Date: May 17, 2000
Effective Date: May 18, 2000
Expiration Date: September 1, 2000
Hearing Dates: June 15, July 10 & 12, 2000
[See Notice this Register]

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
Extension Through: July 31, 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

Revenue

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
Hearing Date: May 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
Hearing Date: May 1, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Transportation

1. 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

2. Rule adopted creating **s. Trans 4.09 (4)**, relating to cost-efficiency standards for systems participating in the Urban Mass Transit Operating Assistance program.

Finding of Emergency

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

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 is promulgating this emergency rule making so that state aid contracts can be executed prior to the scheduled first quarter payment date (March 31) in calendar year 2000 to ensure that payments are not delayed causing undue hardship to Wisconsin municipalities.

Publication Date: March 23, 2000
Effective Date: March 23, 2000
Expiration Date: See 1999 Wis. Act 9, section 9150 (2bm)
Hearing Date: April 12, 2000

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Economic Support, Chs. DWD 11-59)

Rules adopted creating **s. DWD 12.28**, relating to Wisconsin works disregard of year 2000 census income.

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 establish additional eligibility criteria and specify how eligibility criteria are to be administered for the Wisconsin Works (W-2) program. The department is promulgating a rule to exclude income earned from temporary employment with the U.S. Census Bureau in determining W-2 and child care eligibility and child care copayments. The rule will contribute to the welfare of the people of Wisconsin by broadening the pool of available workers to help ensure an accurate Census count, particularly in low-income neighborhoods. The rule must be effective immediately because temporary Census employment is expected to begin April 2000 and last two to six months. DWD will not be seeking a permanent rule on this issue.

Publication Date: April 9, 2000
Effective Date: April 9, 2000
Expiration Date: September 6, 2000
Hearing Date: May 15, 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
Extension Through: July 28, 2000

STATEMENTS OF SCOPE OF PROPOSED RULES

Financial Institutions (Division of Securities)

Subject:

DFI—Sec Code – Relating to the Wisconsin Uniform Securities Law.

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

The Division's annual rule revision process is conducted for the following purposes:

1) Making modifications to existing securities registration exemptions and securities advertising filing exclusions to reflect new legal or interpretive issues under the federal and state securities laws;

2) Adopting new rules or amending existing rules, relating to the securities broker–dealer, agent, investment adviser, and investment adviser representative licensing provisions relating to record–keeping requirements, licensee rules of conduct and prohibited business practices, to effectively regulate new securities licensing developments that have occurred in the securities industry and marketplace that require regulatory treatment.

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

Existing and new policies contained in the proposed rules include:

1) Revisions to the “isolated nonissuer transaction” exempt transaction rule in s. DFI—Sec 2.02 (1) (intro.) to clarify that only the specific examples set forth in sub. (1) (a) and (b) qualify for purposes of the rule;

2) Adding to the combined 10 offeree/existing securityholder registration exemption in s. DFI—Sec 2.02 (9) (c), equivalent language to that contained in the component exemption in s. 551.23 (11), Stats., to provide that offers to institutional investors listed in s. 551.23 (8), Stats., are not counted for purposes of the rule;

3) Adding to the advertising filing exclusion in s. DFI—Sec 7.02 (1) (b), materials used in connection with use of the registration exemption in s. DFI—Sec 2.02 (9) (m) for an employee benefit plan that qualifies for (automatic) use of the federal securities exemption under Rule 701 of the Securities Act of 1933;

4) Amending the broker–dealer and investment adviser record–keeping rules in s. DFI—Sec 4.03 and 5.03 (which relate to retention by licensees of a separate file of customer complaints), to also require retention of investigative inquiries directed to the licensee by any securities regulatory authority or any law enforcement authority regarding the licensee's securities business;

5) Moving the existing investment adviser record–keeping rule in s. DFI—Sec 5.03 (1) (o) [requiring creation and retention of records relating to customers' financial condition and investment objectives] to be under sub. (3) to thereby make the requirement applicable only for those advisers who provide regular and ongoing supervision and management of customer accounts, and/or have discretionary authority;

6) Creating both a new investment adviser record–keeping rule, as well as a rule of conduct provision, relating to a licensee's compliance with the federal “brochure rule” [which is incorporated by reference in s. DFI—Sec 5.05 (8)] to do the following:

- (i) Provide that advisers need to maintain a record of the initial, as well as the required annual, provision of the brochure to customers, and to

- (ii) Specify the time frames within which the brochure must be provided to customers.

Statutory authority for the rules:

Sections 551.23 (18), 551.33 (1), (2), (6) and (8), 551.53 (1) (b) and 551.63 (1) and (2), Stats.

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

Estimated time to be spent by state employees to develop the rule—20 hours. No other resources are necessary.

Contact information:

Should you have any questions, please contact Randall E. Schumann, Legal Counsel, Division of Securities, Dept. of Financial Institutions, telephone (608) 266–3414.

Natural Resources

Subject:

NR Code – Relating to wetland compensatory mitigation.

Description of policy issues:

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

The major issue will be how compensatory mitigation is considered in wetland permitting, (i.e., how does it change the process?).

Interest groups will be Wisconsin Builders Assoc., Wisconsin Cranberry Growers Association, Wisconsin Paper Council, Wisconsin Association of Lakes, Wetlanders, Farm Bureau, Sierra Club, Audubon, Wisconsin Wetland Association, Wisconsin Waterfowl Association, Ducks Unlimited, Trout Unlimited, Environmental Decade, U. S. Environmental Protection Agency, U.S. Army Corps. of Engineers, U. S. Fish and Wildlife Agency.

The state mitigation bill unanimously passed the Legislature this spring. The vote in the Assembly was 99–0 and the vote in the Senate was 33–0. The Assembly and Senate versions (AB 859 and SB 447) were identical. The lead sponsors were Senator Rob Cowles and Representative Neal Kedzie. The Governor signed the bill (1999 Wis. Act 147) into law on May 10th.

The law contains two main elements—enforcement authority for water quality certification decisions and authority to consider compensatory mitigation in wetland regulatory decisions. The enforcement authority went into effect upon the governor's signature, while the mitigation elements require an extensive rule–writing process.

The law sets forth the authority for DNR to consider mitigation proposals in reviewing applications for projects that will impact wetlands and calls for new administrative code (“rules”) to cover the specifics of the process. The process will need to address the use of mitigation banking and specifics for looking at alternative analyses to avoid and minimize impacts. The law also requires rules for mitigation projects including specifics on planning, design and follow–up monitoring, as well as long–term site protection. The law establishes a one–year time frame for rules development.

DNR must enter into negotiations with the Corps of Engineers to establish a Memorandum of Agreement (MOA) on statewide guidelines for mitigation projects. A draft guideline document was developed in September 1999 through efforts of an advisory committee of interested parties. This draft will likely be the starting point for the MOA discussions.

To monitor the results of this law on the decision process and on wetland resources in the state, the Legislature included a requirement for a report every two years (starting in 2003).

This rule/Board action does not represent a change from past policy.

Explain the facts that necessitate the proposed change:

The Natural Resources Board has been on record supporting development of a wetland compensatory mitigation program.

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

There is no waste involvement and the underlying regulatory decisions do not allow pollution of Wisconsin wetlands.

Statutory authority:

1999 Wis. Act 147.

Anticipated time commitment:

The anticipated time commitment is 600 hours. Eight hearings are proposed to be held in November and December 2000 at Green Bay, Rhinelander, Spooner, Eau Claire, Stevens Point, LaCrosse, Madison and Milwaukee.

Public Service Commission

Subject:

Ch. PSC 132 — Relating to those cases where the utility and the railroad cannot agree to the compensation to be paid and conditions to be met by a public utility for the construction and maintenance of facilities within a railroad right-of-way [Docket 1-AC-195].

Description of policy issues:

Objective of the rules:

Chapter PSC 132 was created to set forth the compensation to be paid and conditions to be met by a public utility for the construction or maintenance of facilities within a railroad right-of-way in cases where the utility and the railroad cannot agree. The objective of the proposed rule-making is to change the definition of "public utility" in ch. PSC 132 to include public utilities, cable and sewerage systems. The current definition of "public utility" in s. PSC 132.02 (3) does not include sewerage systems. This change in ch. PSC 132 is being proposed to make that chapter consistent with a recent amendment of s. 196.04 (4), Stats., by the legislature.

Existing policies relevant to the proposed rules:

There are no existing policies since the Public Service Commission (Commission) has not previously had the authority to be involved in right-of-way disputes between railroads and sewerage systems. The new policy is to apply the same conditions and compensation to cases where the railroad and sewerage system cannot agree as are currently applied when railroads and public utilities cannot agree. Since the Commission has established these conditions and compensation as reasonable and equitable in cases involving public utilities, it is appropriate for the Commission to utilize those same standards when determining equitable and reasonable conditions and compensation in cases involving sewerage systems.

New policies proposed:

The Commission will propose a change in the definition of "public utilities" to include sewerage systems. Changing the definition will add sewerage systems to the existing policy where the Commission has the authority to settle right-of-way disputes between railroads and public utilities. Stated simply, the Commission will have authority to settle right-of-way disputes between railroads and sewerage systems.

Analysis of alternatives:

There are no alternatives because this rule change is being proposed to bring the rule in conformance with recently-passed legislation.

Statutory authority:

The rules in ch. PSC 132 are authorized by ss. 196.02 (1) and (3) and 196.04 (4), Stats. Any proposed revisions of the chapter will be based on the same statutory authority and on s. 227.11 (2), Stats.

Time estimates for rule development:

The Commission estimates that four to six months will be taken up with the rule-making process.

Other resources necessary to develop the rules:

No additional staff or other agency resources are anticipated for this rule-making.

Contact information:

If you have specific questions or comments regarding the proposed rule-making, please contact Steve Levine at (608) 267-2890.

Regulation and Licensing

Subject:

RL Code – Relating to:

- 1) Recommendations of the Association of Boxing Commissions; and
- 2) Uniformity between the requirements of member states.

Description of policy issues:

Objective of the rule:

Amend existing policies that pertain to applications for permits to conduct professional boxing shows, approval of judges, weight of gloves, specifications of bandages, attire of boxers, headgear worn by boxers, weight categories for female boxers, procedures following fouls and low blows, procedures after knockdowns, suspensions for knockouts and technical knockouts, and use of drugs and ointments by boxers before or during a bout.

Policy analysis:

The Department would be authorized to:

- Require promoters to include, on the application for a permit to conduct a boxing show, information concerning the number of rounds for which each bout is scheduled.
- Deny approval of a boxer to fight at a show, based on the fact that the boxer's license has been suspended or revoked in Wisconsin or another state, due to a recent knockout or series of consecutive losses, an injury, a requirement for a medical procedure, or a physician's denial of certification, failure of a drug test, and the use of false aliases, or falsifying, or attempting to falsify, official identification cards or documents issued pursuant to ch. 444, Stats., or 15 USC 63.05.
- Appoint the judges for a show or permit a promoter to appoint the judges for a show.
- Require that the weight of gloves worn by female boxers be a specific lighter weight than the gloves worn by male boxers.
- Require that the acceptable weight differences between paired female boxers be the same as those for paired male boxers.
- Increase the acceptable length and width of hand bandages.
- Amend the procedures following an intentional or unintentional foul so they conform with the recommendations of the Association of Boxing Commissions.
- Increase the period of suspension for a knockout from 30 days to 60 days and more clearly specify the period of suspension for a technical knockout as being 30 days.
- Prohibit boxers or their seconds to use certain substances, drugs or other liquids before or during a bout.
- Order that a boxer obtain a drug test or an HIV test when warranted by circumstances.
- Prohibit a male and female boxer for a fight in the same bout.

Statutory authority:

Sections 227.11 (2), 444.02 and 444.05, Stats.

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

100 hours.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

Notice of Submittal of Proposed Rules to Wisconsin Legislative Council Rules Clearinghouse

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

Commerce

(Elevators, Ch. Comm 18)

Rule Submittal Date

On May 4, 2000, the Wisconsin Department of Commerce submitted a proposed rule affecting ch. Comm 18, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. Comm 18, relating to inspection of elevators and other mechanical lifting devices.

Agency Procedure for Promulgation

A public hearing is required under s. 227.16 (1), Stats., and a hearing is scheduled for Tuesday, June 27, 2000. The Department of Commerce is primarily responsible for promulgation of the rule.

Contact Information

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

Diane Meredith
Dept. of Commerce
Telephone (608) 266-8982

Health and Family Services

(Health, Chs. HFS 110--)

Rule Submittal Date

On May 10, 2000, the Wisconsin Department of Health and Family Services submitted a proposed rule affecting ch. HFS 110, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: Sections 146.50 (5) (b) and (d) 1., (6) (b) 2., and (c) (intro.), (6) (n), (8m), and (13) (a) and (c) and 250.04 (7), Stats.

The proposed rule affects ch. HFS 110, Wis. Adm. Code, relating to licensing of Ambulance Service Providers and Emergency Medical Technicians – Basic.

Reason for rules, intended effects, requirements:

This order generally updates ch. HFS 110, rules for licensing ambulance service providers and emergency medical technicians–basic (EMTs–basic). The updating is being done on recommendation of the Emergency Medical Services (EMS) Board under s. 146.58, Stats., which is advisory to the Department. The rules are amended to incorporate current medical practices and update training requirements and to clarify, correct and improve rule language on the basis of experience with the rules that were last revised in 1996.

The updating has involved:

- Modifying some current definitions and creating new definitions to reflect current practice;
- Merging defibrillation and non–visualized advanced airways language, currently in separate sections of ch. HFS 110, into the body of the chapter;
- Deleting or modifying some language based on experience in implementing the current rules; and
- Renumbering some of the rules to accommodate the changes and to organize this chapter in a way similar to the other chapters of Emergency Medical Services Program rules, namely ch. HFS 111, relating to licensing of EMTs–intermediate and ch. HFS 112, relating to licensing of EMTs–paramedic.

The updating also deletes the option of someone trained in first aid being eligible for an EMT–basic training permit and adds renewal requirements for instructor–coordinators. The entire subsection on defibrillation equipment in the current rules has been deleted because defibrillators are no longer such novelties that they need to be described in such detail.

Forms:

- 1) 110.06 (1) (a) Emergency Medical Technician–Basic Training Permit Application
- 2) 110.08 (2) (r) Ambulance report
- 3) 110.04 (1) (a) Ambulance Service Provider License Application
- 4) 110.05 (1) (a) Emergency Medical Technician–Basic License Application
- 5) 110.04 (2) (c) 1. EMT/FR Renewal Notice

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

Jon Morgan
Division of Public Health
Telephone (608)266-9781

Health and Family Services

(Health, Chs. HFS 110--)

Rule Submittal Date

On May 10, 2000, the Wisconsin Department of Health and Family Services submitted a proposed rule affecting ch. HFS 112, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: Sections 146.50 (4) (c), (5) (b) and (d) 3., (6) (b) 2., (6n), and (13) and 250.04 (7), Stats.

The proposed rule affects ch. HFS 112, Wis. Adm. Code, relating to licensing of Emergency Medical Technicians – Paramedic and approval of Emergency Medical Technician – Paramedic Operational Plans.

Reason for rules, intended effects, requirements:

The Department of Health and Family Services licenses emergency medical technicians-paramedic (EMTs-paramedic) and approves the operational plans that counties, cities, towns, villages and hospitals propose for using EMTs-paramedic to deliver emergency medical care. The Department's rules are in ch. HFS 112, Wis. Adm. Code. No individual may perform the duties of an EMT-paramedic unless licensed by the Department.

This rule-making order modifies ch. HFS 112, Wis. Adm. Code, to reflect changes in the practice of emergency medical services since the chapter was last revised. These changes result from extensive discussions with EMS advisory bodies and other interested parties. Significant changes to the chapter include:

- Use of the term "interfacility" to distinguish between facilities and prehospital 911 care;
- Clarification regarding the term "medical director;"
- Raising the minimum number of hours required for EMT-paramedic coursework from 750 to 1000; and
- The addition of flexibility for using fewer than 2 paramedics in certain circumstances.

The updating also adds renewal requirements for instructor-coordinators and increases authority for a medical director to remove medical authority for an EMT to practice if there are concerns about the EMT's training, skills, ability or judgment.

Forms:

- 1) 112.05 (1) (a) Emergency Medical Technician-Paramedic Training Permit Application
- 2) 112.07 (2) (r) Ambulance report
- 3) 112.04 (1) (a) Emergency Medical Technician-Paramedic License Application
- 4) 112.04 (5) (a) EMT/FR Renewal Notice

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

Jon Morgan
Division of Public Health
Telephone (608) 266-9781

Health and Family Services**(Health, Chs. HFS 110--)****Rule Submittal Date**

On May 15, 2000, the Wisconsin Department of Health and Family Services submitted a proposed rule affecting ch. HFS 120, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: Sections 153.75 and 227.11 (2) (a), Stats.

The proposed rule affects ch. HFS 120, Wis. Adm. Code, relating to health care information.

Reason for rules, intended effects, requirements:

The Department of Health and Family Services is responsible for collecting, analyzing and disseminating a variety of health care data pursuant to ch. 153, Stats. This rule-making order proposes modifying ch. HFS 120, Wis. Admin. Code, to reflect changes to ch. 153, Stats., made by 1997 Wis. Act 231 and 1999 Wis. Act 9.

Chapter HFS 120, as it currently exists, primarily addresses the collection and analysis of data from hospitals and ambulatory surgery centers. 1997 Wis. Act 231 directed the Department to collect claims data and other health care information from health care providers besides hospitals and freestanding ambulatory surgery centers, including from physicians in their offices and clinics. In response to the statutory changes, the proposed rules

specify the other providers from whom data will be collected, the data elements to be collected and the manner in which data will be disseminated, and extend to these other providers instructions for data verification and review and comment that apply now only to hospitals and freestanding ambulatory service centers. The rules also provide for assessing a fee from the other providers from whom data are collected for the costs of collection, database development and maintenance, generation of data files and standard reports, orientation and training and the expenses of the Board of Health Care Information.

Other changes that are being proposed for ch. HFS 120 to implement the 1997 Wis. Act 231 changes to ch. 153, Stats., include the following:

- A waiver process and standards by which a health care provider could, upon request, obtain an exemption from data submission requirements that are burdensome.
- A manner of assessing a fee on health care plans that voluntarily supply health care data to the Department is specified. The assessment fee covers the costs of collection, database development and maintenance and generation of public use data files and standard reports for the health care plans.
- Rules have been added to govern the release of all health care provider-specific and employer-specific information collected. The current rules have only a procedure for releasing physician-specific data.
- Methods have been specified for adjusting health care information for case mix and severity.

Several provisions have been repealed, including:

- Definitions of uniform patient billing form, charge element and uncompensated health care services;
- The requirement that hospitals and freestanding ambulatory surgery centers use uniform patient billing forms;
- The requirement that hospitals submit financial data;
- Board responsibility to determine whether to contract for provision of data processing services for the Department;
- The requirement that a hospital hold a public hearing before raising its rates;
- The production by the Department of quarterly and annual reports for the public;
- Certain procedures for data review and verification; and
- Assessment language specific to freestanding ambulatory surgery centers.

1999 Wis. Act 9, the biennial Budget Bill, further modified ch. 153, Stats., insofar as it:

- Established additional constraints on the type of physician data that can be released in public use data files.
- Established additional required means of masking the identification of specific patients, employers and health care providers.
- Established the requirement that compilation and release of custom-designed reports with nonaggregated age, zip code or physician identifiers based on physician data be subject to the review and approval of the independent review board.
- Prohibited the Department's sale or distribution of physician data that can be linked with public use data files without the approval of the independent review board.

- Established a separate set of data elements collected from physicians that constitutes “patient–identifiable data.”
- Requires the Department to develop and use a data use agreement.
- Requires that purchasers of data sign and have notarized Department data use agreements.
- Prohibits employers from requesting the release of or access to patient–identifiable data.
- Prohibits the Department from requiring physicians to submit uniform patient billing forms.
- Prohibits physicians from submitting a variety of data to the Department.
- Establishes immunity from civil liability for health care providers that mistakenly submit data to the Department in a manner that results in the release of prohibited data elements.
- Increases by 30–50% the penalties for violation of selected statutory provisions related to confidential data.

Forms:

- 1) 120.11 (4) (d) Permission to Change Authorization Form. (Under development)
- 2) 120.31 (3) (e) 1. Data Use Agreement Form. (Included, but needs modification)

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

Gary Radloff
Bureau of Health Information
Telephone (608) 267–0245

Natural Resources

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

Rule Submittal Date

On May 9, 2000, the Wisconsin Department of Natural Resources submitted a proposed rule [Board Order No. LE–14–00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects s. NR 19.40, relating to DNR authority to rescind local hunting, fishing or trapping ordinances.

Agency Procedure for Promulgation

A public hearing is required, and hearings are scheduled for June 19, 26 and 27, 2000.

Contact Information

If you have questions regarding this rule, please contact:

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

Natural Resources

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

Rule Submittal Date

On May 9, 2000, the Wisconsin Department of Natural Resources submitted a proposed rule [Board Order No. WT–24–00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 101, relating to reports and fees for wastewater discharges.

Agency Procedure for Promulgation

A public hearing is required, and a hearing is scheduled for June 13, 2000.

Contact Information

If you have questions regarding this rule, please contact:

Gail Mills
Bureau of Watershed Management
Telephone (608) 266–9955

Natural Resources

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

Rule Submittal Date

On May 9, 2000, the Wisconsin Department of Natural Resources submitted a proposed rule [Board Order No. CF–18–00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 161, 162 and 163, relating to the clean water fund program.

Agency Procedure for Promulgation

A public hearing is required, and hearings are scheduled for June 19, 21 and 22, 2000.

Contact Information

If you have questions regarding this rule, please contact:

Cynthia Hoffland
Bureau of Community Financial Assistance
Telephone (608) 266–7758

Natural Resources

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

Rule Submittal Date

On May 10, 2000, the Wisconsin Department of Natural Resources submitted a proposed rule [Board Order No. CF–30–00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 168, relating to the brownfield site assessment grant program.

Agency Procedure for Promulgation

A public hearing is required, and hearings are scheduled for June 12, 13 and 15, 2000.

Contact Information

If you have questions regarding this rule, please contact:

Valerie Thomas
Bureau of Community Financial Assistance
Telephone (608) 267–7153

Natural Resources**(Environmental Protection--Air Pollution Control, Chs. NR 400--)***Rule Submittal Date*

On May 15, 2000, the Wisconsin Department of Natural Resources submitted a proposed rule [Board Order No. AM-27-00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 400, 410, 423, 428, 439 and 485, relating to one-hour ozone air quality standard attainment plan.

Agency Procedure for Promulgation

A public hearing is required, and hearings are scheduled for June 27, 28 and 29, 2000.

Contact Information

If you have questions regarding this rule, please contact:

Robert Lopez
Bureau of Air Management
Telephone (608) 267-5284

Natural Resources**(Environmental Protection--Investigation and Remediation, Chs. NR 700--)***Rule Submittal Date*

On May 9, 2000, the Wisconsin Department of Natural Resources submitted a proposed rule [Board Order No. RR-23-00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 700, 716, 720, 722 and 726, relating to assessment of sites contaminated with petroleum products from petroleum storage tanks.

Agency Procedure for Promulgation

A public hearing is required, and hearings are scheduled for June 15, 2000 and for July 10 and 12, 2000.

Contact Information

If you have questions regarding this rule, please contact:

Theresa Evanson
Bureau of Remediation and Redevelopment
Telephone (608) 266-0941

Transportation*Rule Submittal Date*

On May 12, 2000, the Wisconsin Department of Transportation submitted a proposed rule affecting ch. Trans 134, Wis. Adm. Code, to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects s. Trans 134.06 (1) (d), relating to license plates for authorized special groups.

Agency Procedure for Promulgation

A public hearing is not required. The organizational unit primarily responsible for promulgation of this proposed rule is the Division of Motor Vehicles/Bureau of Vehicle Services.

Contact Information

If you have questions regarding this rule, please contact:

Julie A. Johnson, Paralegal
Dept. of Transportation
Telephone (608) 266-8810
FAX: (608) 267-6734

NOTICE SECTION

Notice of Hearing

Administration [CR 00–80]

Notice is hereby given that pursuant to ss. 16.004(1), 16.957(4)(b) and 227.11(2)(a), Stats., and interpreting ss. 16.957, *et seq.*, the Department of Administration will hold a public hearing to consider the creation of ch. Adm 43, Wis. Adm. Code, relating to non-municipal electric utility public benefits fees.

Hearing Information

June 16, 2000
Friday
9:00 a.m. – 11:00 a.m.

Dept. of Administration
State Office Bldg.
St. Croix Room (1st Floor)
101 East Wilson Street
Madison, WI 53702

The hearing site is accessible to people with disabilities. Interested persons are invited to present information at the hearing. People appearing may make an oral presentation but are also urged to submit facts, opinions and arguments in writing as well. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearings, should be directed to: Donna Sorenson, Department of Administration, P.O. Box 7864, Madison, WI 53707–7864. Written comments must be received by **June 30, 2000**, to be included in the record of rule-making proceedings.

Fiscal Estimate

A total of \$44 million annually is expected to be collected which will be distributed among non-municipal electric utilities, municipal utilities and retail electric cooperatives according to computations provided in s. 16.975, Stats. The Department will then review plans by the utilities to collect such fees from residential and non-residential customers. The department is reviewing staffing requirements and what costs may be associated with those requirements.

Contact Person

Donna Sorenson
Department of Administration
101 E. Wilson St., 10th Floor
P.O. Box 7864
Madison, WI 53707–7864

Telephone (608) 266–2887

Analysis Prepared by the Department of Administration

Statutory Authority: ss. 16.004 (1) and 16.957(4)(b)

Statute Interpreted: s. 16.957, *et seq.*

Under s. 16.957(4)(b), Stats., the Department of Administration is required to promulgate rules establishing the amount of public benefits fees to be collected by certain electric utilities from their customers. These fees are to be paid to the Department in order to fund low-income assistance energy conservation and efficiency, and renewable resource programs statewide. The proposed rule establishes fees that may vary by class of customer, but will be uniform within each class.

Initial Regulatory Flexibility Analysis

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

Small businesses that receive metered electric service from one of the twelve listed electric providers will be obligated to pay a public benefits fee. The public benefits fee will be included in each electric bill, and shall not exceed the lesser of three percent of the charges for electric service or \$750 per meter per month.

- Consolidated Water Power Company
- Dahlberg Light & Power Company
- Madison Gas & Electric Company
- North Central Power Company, Inc.
- Northern States Power Company
- Northwestern Wisconsin Electric Co.
- Pioneer Power & Light Company
- Superior Water Light & Power Co.
- Wisconsin Electric Power Company
- Wisconsin Power & Light Company
- Wisconsin Public Service Corporation
- Westfield Milling & Electric Light Co.

The U.S. Small Business Administration (SBA) estimate in 1998 that about 98 percent of the 120,000 businesses with employees in Wisconsin were small businesses (fewer than 500 employees) and about 220,000 self-employed persons. Accounting for some overlap, the SBA estimated that there were 337,600 small businesses in Wisconsin in 1998. The twelve electric providers served about 85 percent of all Wisconsin businesses in 1998 according to the Energy Information Administration. Therefore, nearly 287,000 small businesses will be affected by this rule.

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

None. The fee will show as a fixed charge on the electric bill.

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

None.

Text of Rule

SECTION 1. Adm 43 is created to read:

Chapter Adm 43 Non-municipal Electric Utility Public Benefits Fee

Adm 43.01 Authority. Sections 16.004(1) and 16.957(4)(b), Stats., authorize the department to promulgate rules for non-municipal electric utility public benefits fees.

Adm 43.02 Purpose. The purposes of this chapter are to establish the public benefits fee to be collected by each non-municipal electric utility from its customers, and to provide procedures for collecting that fee.

Adm 43.03 Definitions. In this chapter:

(1) “Aggregate public benefits fee” means the total annual fee to be collected under s. 16.957(4) and (5), Stats., from all electric providers.

(2) “Commission” means the public service commission.

(3) “Customer” means the party billed for electric services.

(4) “Customer class” means any grouping of electric customers in the state that is billed for electric service under the same tariff that has been approved by the Commission.

(5) “Department” means the department of administration.

(6) "Electric provider" has the meaning specified in s. 16.957(1)(f), Stats.

(7) "Electric utility" has the meaning specified in s. 16.957(1)(g), Stats.

(8) "Fiscal year" means the period beginning on July 1 and ending on June 30.

(9) "Fixed charge" means a fixed amount within an electric tariff that is charged periodically to a customer without regard to energy demand or consumption.

(10) "Low-income household" has the meaning set forth in s. 16.957(1)(m), Stats.

(11) "Low-income need" has the meaning set forth in s. 16.957(1)(n), Stats.

(12) "Municipal utility" has the meaning specified in s. 16.957(1)(q), Stats.

(13) "Non-municipal electric utility" means any electric utility that is not a municipal utility.

(14) "Non-residential customer" means any customer in this state that receives metered electric services under a commercial or industrial tariff and that is assessed a fixed customer charge at the meter's location.

(15) "Public benefits fee" means that portion of the aggregate public benefits fee, plus reasonable and prudent expenses, that is approved and annually allocated by the department to an individual non-municipal electric utility to be collected from its customers and is identified as a non-taxable fixed charge on a customer's electric bill.

(16) "Residential customer" means any customer in this state that receives metered electric services under a residential or farm tariff.

(17) "Retail electric cooperative" has the meaning specified in s. 16.957(1)(t), Stats.

(18) "Tariff" means a rate schedule and general terms and conditions under which electric service is supplied.

Adm 43.04 Estimating low-income need data. The department shall estimate the data required to compute the low-income need as directed in s. 16.957 (2)(c) 5., Stats., by the following means:

(1) Total low-income energy bill data shall be estimated by totaling all home energy bills of all low-income households as shown by the most current data available from the department's bureau of energy.

(2) Average annual income of low-income household data shall be estimated by averaging the annual income of all households at or below 150 percent of the poverty threshold as shown by the most current data available from the United States census bureau or the department's demographic services section.

(3) The number of low-income households shall be estimated by totaling the number of households at or below 150 percent of the poverty threshold as shown by the most current data available from the United States census bureau or the department's demographic services section.

Adm 43.05 Establishing the aggregate public benefits fee. (1) Annually on or before March 1 the department shall determine, in accordance with s. 16.957 (4) and (5), Stats., the aggregate public benefits fee to be collected from all electric providers for the following fiscal year.

(2) When establishing the aggregate public benefits fee, the department shall determine the number of residential and non-residential customers served by each electric provider based on the most recently published data from the energy information administration of the U.S. department of energy or any similar published data that the department determines to be reliable.

(3) After establishing the aggregate public benefits fee, the department, using the computations provided in s. 16.957(4)(c) and (5), Stats., shall determine the portion of the aggregate public benefits fee that the non-municipal electric utilities shall collect each fiscal year. The department shall allocate 70% of this portion

to be collected from residential customers and 30% to be collected from non-residential customers.

Adm 43.06 Allocating the public benefits fee. (1) The department shall determine the number of residential and non-residential customers for each non-municipal electric utility based upon the most recent available data from the annual report of major utilities, licensees and others filed with the federal energy regulatory commission, or similar sources as determined by the department.

(2) The department shall calculate the public benefits fee to be invoiced to each non-municipal electric utility by determining a residential component and a non-residential component and adding them together.

(a) An estimate of the residential component shall be made by calculating each non-municipal electric utility's percentage of the total number of residential customers served by all non-municipal electric utilities. This percentage shall be multiplied by the amount allocated to all residential customers under s. Adm 43.05(3).

(b) An estimate of the non-residential component shall be made by calculating each non-municipal electric utility's percentage of total non-residential customers served by all non-municipal electric utilities. This percentage shall be multiplied by the amount allocated to all non-residential customers under s. Adm 43.05(3).

(c) In cooperation with the non-municipal electric utilities, the department may adjust the estimated residential component to minimize any inequities resulting from the application of the restrictions in s. 16.957(4)(c)3, Stats., in order to produce a more uniform public benefits fee.

(d) In cooperation with the non-municipal electric utilities, the department may adjust the estimated non-residential component to minimize any inequities resulting from the application of the restrictions in s. 16.957(4)(c)3, Stats., in order to produce a more uniform public benefits fee.

(e) A customer that pays one or more bills to a single non-municipal electric utility for meters located within that utility's service territory, may present documentation to and request relief from that non-municipal electric utility if the public benefits fees paid by the customer within that utility's service territory, when aggregated by the customer, exceed \$750 in any month. The non-municipal electric utility shall rebate that portion of the public benefits fee that exceeds \$750 in any month. Any amount so rebated to a customer under this provision shall be treated as an under-collection for purposes of s. Adm 43.08 (3).

(3) The department shall provide all calculations and related information in writing to each non-municipal electric utility in the form of a single annual invoice on or before March 1 of each fiscal year. This documentation shall include an itemization of the residential and non-residential components based on the proportions prescribed in s. 16.957(4)(b)2., Stats.

Adm 43.07 Collecting the public benefits fee. (1) COLLECTION PLAN. On or before April 1, each individual non-municipal electric utility shall submit a collection plan and supporting documentation to the department for collecting the following fiscal year's public benefits fee. The collection plan shall be based on the calculation and related information provided by the department under s. Adm 43.06.

(2) CHARGES BILLED. All charges relating to the cost of supplying electric service to a residential or non-residential customer shall constitute the basis for calculating the limit on customer billing increases specified in s. 16.957(4)(c)3., Stats.

(3) EQUITABLE ALLOCATION. Each non-municipal electric utility shall submit documentation with its public benefits fee collection plan that demonstrates that the amount it intends to bill its residential and non-residential customers for public benefits fees equitably allocates the amount constituting the residential portion among its residential customer classes, and the amount constituting the non-residential portion among its non-residential customer classes. The amount of the public benefits fee billed to customers may vary between customer classes, but shall be uniform within a customer class, except for variations due to the requirements of s. 16.957(4)(c)3., Stats.

(4) **DEPARTMENT REVIEW.** On or before May 1, the department shall approve, modify, or deny each proposed collection plan and notify each non-municipal electric utility accordingly. The department shall provide reasons for a denial or modification in writing. A non-municipal electric utility may protest a denial or modification of its collection plan under the procedures set forth in s. Adm 43.12.

(5) **PLAN IMPLEMENTATION.** Each non-municipal electric utility shall implement an approved or modified public benefits fee collection plan at the start of the first monthly or periodic billing cycle of the following fiscal year. A modified collection plan shall be implemented even if a protest has been filed under s. Adm 43.12.

(6) **DEPARTMENT DENIAL.** (a) If the department denies a proposed public benefits fee collection plan, the non-municipal electric utility shall resubmit a collection plan to the department on or before May 15 for the department's approval even if a protest has been filed under s. Adm 43.12. A resubmitted collection plan must address all comments and suggestions provided by the department in its denial.

(b) If the department denies a resubmitted collection plan, the non-municipal electric utility shall collaborate with the department to prepare a collection plan acceptable to the department. If the parties are unable to reach an agreement on or before June 1, the department shall issue a collection plan for the non-municipal electric utility to implement the following fiscal year.

Adm 43.08 Payment and reconciliation of the public benefits fee. (1) **PAYMENT DUE DATES.** Each non-municipal electric utility shall make equal monthly payments to the department of the amount invoiced, no later than the 15th day of each month. The first payment of each fiscal year is due on the 15th day of the second full month of the fiscal year.

(2) **LATE PAYMENTS.** Payments received after the 15th day of each month shall be assessed interest at the rate required by the commission for customer deposits for residential service set forth in s. PSC 113.131(9)(b).

(3) **RECONCILIATION OF COLLECTED FEES.** (a) Each non-municipal electric utility shall include a reconciliation statement for the preceding fiscal year with its proposed public benefits fee collection plan under s. Adm 43.07. If the amount collected is greater than the amount invoiced by the department, the amount of over-collection shall be subtracted from the amount to be collected in the succeeding fiscal year. If the amount collected is less than the amount invoiced by the department, the amount under-collected may be added to the amount to be collected for the succeeding fiscal year. Each non-municipal electric utility shall account for any variation in its collections, working capital costs, and reasonable expenses when establishing its public benefits fee collection plan for the succeeding fiscal year.

(b) Once in any fiscal year, a non-municipal electric utility may submit a written request to the department to adjust its public benefits fee collection plan. The request shall contain the current amount that has been over-collected or under-collected and the amount that is forecasted to be over-collected or under-collected for the remainder of the fiscal year, the reasons for the differences and the non-municipal utility's proposed adjustments to its approved public benefits fee collection plan. The department shall indicate its approval or disapproval of the proposed adjustments in writing within 30 days of receipt of the request. The non-municipal electric utility may implement the collection plan adjustment immediately upon department approval. If the department does not approve a collection plan adjustment, the affected non-municipal electric utility may protest under procedures set forth in s. Adm 43.12.

(c) The department shall adjust the amount to be collected by a non-municipal electric utility effective on the beginning of the fiscal year for which the collection plan was submitted, upon a successful appeal filed under the s. Adm 43.12

(4) **ACCOUNTS RECEIVABLE AND UNCOLLECTIBLE ACCOUNTS.** A non-municipal electric utility's reconciliation statement may include an estimation of the uncollectible amount of its preceding year's public benefits fee that is recorded as an

accounts receivable. A non-municipal electric utility's reconciliation statement may also include an estimated amount of its public benefits fee that was recorded in a previous fiscal year as accounts receivable and has been subsequently recognized as uncollectible. This cost may be included in a request for reasonable and prudent expenses in s. Adm. 43.09.

(5) **RECORDS.** Each non-municipal electric utility shall maintain accurate records that allow the amount billed to and the amount collected from its residential and non-residential customers in each fiscal year to be measured against the amount that the department invoiced the non-municipal electric utility. The records shall be organized by customer class for residential customers and non-residential customers.

Adm 43.09 Requesting approval for reasonable and prudent expenses. (1) **DEPARTMENT REVIEW.** A non-municipal electric utility requesting recovery of reasonable and prudent expenses incurred in the collection and administration of its public benefits fee collection plan, shall submit a request for approval to the department on or before February 15. The request shall include actual costs for the previous calendar year. The department shall determine the amount of reasonable and prudent expenses that may be recovered and shall notify the non-municipal electric utility in writing of that amount on or before March 15. The department shall deny expenses that are recovered by a non-municipal electric utility in a current tariff. The non-municipal electric utility may include approved expenses in its public benefits fee collection plan for the following fiscal year. A non-municipal electric utility may appeal a denial of expenses under the procedures set forth in s. Adm 43.12.

(2) **DOCUMENTATION.** A non-municipal electric utility shall provide all necessary documentation of reasonable and prudent expenses it seeks to include in the public benefits fee.

Adm 43.10 Voluntary contributions. (1) **ANNUAL OPPORTUNITY.** At least annually, each electric utility shall provide its residential and non-residential customers an opportunity to make voluntary contributions to the trust fund established under s. 25.96, Stats., to fund their choice of programs established in ss. 16.957(2)(a) and (b)1., Stats. An electric utility shall provide the opportunity for its residential and non-residential customers to make such voluntary contributions by including an insert and return envelope in the mailing containing the annual public benefits report required by s. 16.957(4)(am), Stats. Each electric utility may provide opportunities for its residential and non-residential customers to make voluntary contributions to an energy assistance fund administered by the electric utility at other times and by other methods.

(2) **DESIGNEE FOR RECEIPT.** The department may provide a designee to receive voluntary contributions from an electric utility's customers. Each electric utility shall forward any voluntary contributions it receives for the fund administered by the department to the department or its designee. The department's designee shall receive, process and keep records of all voluntary contributions.

Adm 43.11 Reports and annual statements. (1) **INITIAL ANNOUNCEMENT.** The department shall prepare an initial announcement of the public benefits fee program to be included by each non-municipal electric utility with its first bill in which the fee is included. Upon prior written approval by the department, a non-municipal electric utility may modify the text in order to fit within the constraints of the utility's billing system capabilities.

(2) **FINANCIAL REPORT.** No later than 60 days after the end of each fiscal year, each non-municipal electric utility shall submit to the department a complete financial report of its public benefits fee. The report shall include a complete explanation of the collection reconciliation and the balance as of the end of the fiscal year, details of the application of its public benefits fee collection plan, the amount collected by customer class, and any other matter the department determines necessary.

(3) **DEPARTMENT STATEMENT.** The department shall provide each non-municipal electric utility with an annual statement within 120 days of the end of each fiscal year identifying the total annual amount of the public benefits fee collected by each non-municipal electric utility, and describing the programs for which the public benefits fees were used.

(4) NON-MUNICIPAL ELECTRIC UTILITY STATEMENT. Each non-municipal electric utility shall distribute the department's annual statement to each of its residential and non-residential customers. A non-municipal electric utility shall not be required to provide an individual customer the specific amount of public benefits fees assessed to that customer when it distributes the department's annual statement.

Adm 43.12 Appeals. (1) RIGHT TO PROTEST. A non-municipal electric utility that disputes the department's denial or modification of its proposed public benefits fee collection plan, the denial of an expense request, or the denial of a reconciliation statement may protest to the department. The non-municipal electric utility shall serve the protest in writing on the administrator of the department's division of energy and public benefits within 15 days of the receipt of the department's denial of the proposed public benefits fee collection plan under s. Adm 43.07, the reconciliation statement under s. Adm 43.08, or the expense claim under s. Adm 43.09.

(2) AUTHORITY TO RESOLVE PROTESTS. The administrator of the department's division of energy and public benefits shall have the authority to settle and resolve any protest brought under this subsection. If the protest is not resolved by mutual agreement, the division administrator shall promptly issue a written decision to the protesting utility.

(3) APPEAL. A protesting utility may appeal the decision of the division administrator by alleging a violation of statute or a provision of this chapter to the secretary of the department within 30 calendar days of issuance of the administrator's decision. The secretary or designee shall take necessary action to settle and resolve the appeal and shall promptly issue a decision in writing which shall be mailed or otherwise served on the protestor.

Note: Implementation of the public benefits fee collection plan shall begin in fiscal year 2001. For fiscal year 2000, the department may, at its discretion, modify any deadlines contained in this rule upon notification to appropriate parties.

Notice of Hearing

Administration [CR 00-81]

Notice is hereby given that pursuant to ss. 16.004(1), 16.957(2)(c) and 227.11(2)(a), Stats., and interpreting s. 16.957(2)(b), Stats., the Department of Administration will hold a public hearing to consider the creation of ch. Adm 44, Wis. Adm. Code, relating to Energy Conservation and Efficiency and Renewable Resources Programs.

Hearing Information

June 16, 2000	Dept. of Administration
Friday	State Office Bldg.
11:00 a.m. – 12:00 p.m.	St. Croix Room (1st Floor)
	101 East Wilson Street
	Madison, WI 53702

The hearing site is accessible to people with disabilities. Interested persons are invited to present information at the hearing. People appearing may make an oral presentation but are also urged to submit facts, opinions and arguments in writing as well. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearings, should be directed to: Donna Sorenson, Department of Administration, P.O. Box 7864, Madison, WI 53707-7864. Written comments must be received by **June 30, 2000**, to be included in the record of rule-making proceedings.

Fiscal Estimate

The administrative rule proposes requirements, procedures and criteria for energy grant funding. The rule also establishes procedures for the Department to address program continuation, reduction or discontinuation as of December 31, 2003. An appeal

process is created. The Department is reviewing staffing requirements for the program and what cost may be associated with those requirements.

Contact Person

Donna Sorenson
Department of Administration
101 E. Wilson St., 10th Floor
P.O. Box 7864
Madison, WI 53707-7864

Telephone (608) 266-2887

Analysis Prepared by the Department of Administration

Statutory Authority: ss. 16.004(1) and 16.957(2)(c)

Statute Interpreted: s. 16.957(2)(b)

Under s. 16.957(2)(b), Stats., the Department of Administration is required to promulgate rules for energy conservation and efficiency and renewable resource public benefits programs. The proposed rule establishes requirements, procedures and criteria to be followed by program administrators in soliciting and selecting applications for grant funding to be awarded by the department for energy programs established under s. 16.957(2)(b), Stats.

Initial Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Text Of Rule

SECTION 1. Adm 44 is created to read.

Chapter Adm 44 Energy Conservation and Efficiency and Renewable Resource Programs

Adm 44.01 Authority. Sections 16.004(1) and 16.957(2)(c), Stats., authorize the department to promulgate rules for energy conservation and efficiency and renewable resource public benefits programs.

Adm 44.02 Purpose. The purposes of this chapter are to establish requirements, procedures and criteria to be followed by program administrators in soliciting and selecting applications for grant funding to be awarded by the department for energy programs established under s. 16.957(2)(b)1., Stats., and to determine public benefits program continuation or reduction.

Adm 44.03 Definitions. In this chapter:

- (1) "Commission" means the public service commission.
- (2) "Contractor" means a person who enters into a grant agreement with a program administrator.
- (3) "Department" means the department of administration.
- (4) "Division administrator" means the administrator of the division of energy and public benefits in the department of administration, or a designee.
- (5) "Grant" means a financial award by the department to a contractor selected by a program administrator for the purpose of implementing a public benefits program.
- (6) "Grant agreement" means a contract between a program administrator and a contractor containing the terms and conditions of a grant awarded under s. 16.957 (2)(b), Stats.
- (7) "Person" has the meaning set forth in s. 990.01(26), Stats.
- (8) "Public benefits program" means a program established in accordance with s. 16.957(2)(b)1., Stats., and designated as such in a contract between the department and a program administrator under s. 16.957(3)(b), Stats.
- (9) "Program administrator" means a non-stock, non-profit corporation organized under chapter 181 that contracts with the department to select contractors for, and administer, a public

benefits program under s. 16.957(3)(b), Stats. or a designee approved by the department.

Adm 44.04 Grant solicitation and public notice. (1) **COMPETITIVE SOLICITATION.** A program administrator soliciting proposals for grants under s. 16.957(3)(b), Stats., shall ensure that all solicitations are conducted in a manner that provides for fairness and competition whenever practicable.

(2) **PUBLIC NOTICE.** (a) A program administrator shall provide reasonable public notice of all solicitations of grant proposals under s. 16.957(3)(b), Stats. Notice may be made through the print, broadcast, or telecommunications media, including the internet, at the discretion of the program administrator. The notice period shall be as specified in the contract entered into between the department and the program administrator under s. 16.957(3)(b) Stats., which shall be commensurate with the scope of the grant.

(b) The notice shall include the purpose of the grant, the selection criteria, application procedures, and all applicable solicitation deadlines that an applicant is required to meet, or shall contain instructions for obtaining this information.

(3) **APPLICATION REQUIREMENTS.** All applications for a grant under s. 16.957(2)(b)1., Stats., shall be submitted to the department or the program administrator as directed in the notice provided under this section, on forms prescribed by the department. All applications must be fully completed, executed by an individual having authority to act for the applicant, and submitted by the required filing deadline.

Adm 44.05 Contractor selection criteria. (1) Prior to the solicitation of a grant under s. 16.957(2)(b)1., Stats., the program administrator shall submit to the department the selection criteria to be used to evaluate grant applications and select a contractor. Selection criteria for all proposals shall be designed to evaluate the following:

- (a) Compliance with s. 16.957(2)(b)1., Stats.
- (b) Qualifications and financial soundness of the applicant.
- (c) Technical feasibility and quality of the proposed work plan, including the feasibility of the proposed goals and performance measures and feasibility of the environmental and economic benefits identified as objectives of the application.
- (d) Compliance with the policies and goals of the public benefits program.
- (e) Other factors the department or program administrator considers relevant.

(2) The department may modify or reject the proposed criteria in writing to the program administrator. The division administrator and the program administrator may negotiate new criteria to replace any modified or rejected criteria.

(3) The program administrator shall notify the division administrator in writing of its intent to make a grant award to a contractor, but shall not enter into a grant agreement with the selected contractor for at least five (5) business days after notice is received by the division administrator. The program administrator may choose to negotiate a combination of proposals from various contractors, if the program administrator determines that such a combination would better meet the objectives of its contract with the department.

(4) The department may reject a proposed contractor for cause in writing within five (5) business days of the receipt of a program administrator's notice of intent to award. A program administrator may appeal a rejection of a proposed contractor under s. Adm 44.09.

Adm 44.06 Grant agreements. The department shall provide the program administrator with standard terms and conditions to be used in all grant agreements between a program administrator and a contractor. Failure of a selected contractor to execute a grant agreement shall result in withdrawal of the offer to award. Upon approval of the division administrator, the program administrator may negotiate modifications to the terms and conditions of the standard grant agreement prior to its execution. The grant

agreement shall include the following minimum terms and conditions:

(1) Quantifiable goals and performance measures that contribute to meeting the priorities of s. 16.957(2)(b)1.a., Stats. and the specific objectives of the grant agreement.

(2) A requirement to cooperate fully with independent evaluators and financial auditors, identified by the department, in evaluations and audits of the work performed under the terms of the grant agreement.

Adm 44.07 Program continuation, discontinuation or reduction. (1) Beginning December 31, 2003 and each succeeding December 31 thereafter, the department shall submit to the council on utility public benefits a report containing recommendations for the continuation, discontinuation or reduction in the energy conservation and efficiency and renewable resource programs operated under s. 16.957(2)(b)1., Stats. The report shall include a determination as to whether each program need has been satisfied by the private sector market.

(2) After receiving advice from the council on utility public benefits, the department shall annually determine and make public, no later than March 1, 2004 and every March 1 thereafter, its decision to continue, discontinue or reduce the energy efficiency and renewable energy program operated under s. 16.957(2)(b)1., Stats. The department shall also determine the total funding need for the programs to be continued or continued at reduced funding levels.

(3) The total funding amount determined under this section shall be used in the calculation of the aggregate public benefits fee under s. Adm 43.04. The department shall notify the commission of this amount as required under s. 16.957 (2)(b)2., Stats.

Adm 44.08 Establishing continuation, discontinuation or reduction criteria. The department shall include the following in the report submitted to the council on utility public benefits under s. Adm. 44.07(1):

(1) An analysis demonstrating whether the need for a program established under s. 16.957(2)(b)1., Stats., is satisfied by the private sector market and, if so, a determination whether the program should be discontinued or reduced.

(2) An assessment of the progress of efforts to transform relevant markets into markets that capture a significant portion of the available cost-effective energy efficiency potential.

(3) An analysis of the benefits that state residents receive as a result of the programs under s. 16.957(2)(b)1., Stats.

(4) An analysis of the accomplishments of the program in meeting the priorities of s. 16.957(2)(b)1.a., Stats.

(5) An analysis of the geographic distribution of funds and benefits under programs operated under s. 16.957(2)(b)1., Stats.

(6) Other information and analysis that will assist the council on utility public benefits to provide advice under s. Adm 44.07(2).

Adm 44.09 Appeals. (1) **RIGHT TO PROTEST.** A program administrator that disputes the department's rejection of a selected contractor under s. Adm. 44.05 may protest to the department. The protest shall be served in writing on the division administrator within 15 days of the receipt of the department's rejection of a selected contractor.

(2) **AUTHORITY TO RESOLVE PROTESTS.** The division administrator shall have the authority to settle and resolve any protest brought under this subsection. If the protest is not resolved by mutual agreement, the division administrator shall promptly issue a written decision to the program administrator.

(3) **APPEAL.** A program administrator may appeal the decision of the division administrator by alleging a violation of statute or a provision of this chapter to the secretary of the department within 30 calendar days of issuance of the division administrator's decision. The secretary or designee shall take necessary action to settle and resolve the appeal and shall promptly issue a decision in writing which shall be mailed or otherwise served on the program administrator.

(4) **GRANT AGREEMENT STATUS DURING APPEAL PROCESS.** A program administrator shall not enter into a grant

agreement with a proposed contractor while a decision from the division administrator under a protest, or the department secretary under an appeal, is pending.

Notice of Hearing

Administration [CR 00-82]

Notice is hereby given that pursuant to ss. 16.004 (1), 16.957 (2) (c) and 227.11 (2) (a), Stats., and interpreting s. 16.957 (2) (a), Stats., the Department of Administration will hold a public hearing to consider the creation of ch. Adm 45 of the Wis. Adm. Code, relating to low income assistance public benefits.

Hearing Information

June 16, 2000
Friday
12:00 p.m. – 1:00 p.m.

Dept. of Administration
State Office Bldg.
St. Croix Room (1st Floor)
101 East Wilson Street
Madison, WI 53702

The hearing site is accessible to people with disabilities. Interested persons are invited to present information at the hearing. People appearing may make an oral presentation but are also urged to submit facts, opinions and arguments in writing as well. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearings, should be directed to: Donna Sorenson, Department of Administration, P.O. Box 7864, Madison, WI 53707-7864. Written comments must be received by **June 30, 2000**, to be included in the record of rule-making proceedings.

Fiscal Estimate

The administrative rule proposes eligibility and applications requirements and procedures for assistance under a low-income benefits program. The Department is reviewing staffing requirements for the program and what cost may be associated with those requirements.

Contact Person

Donna Sorenson
Department of Administration
101 E. Wilson St., 10th Floor
P.O. Box 7864
Madison, WI 53707-7864

Telephone (608) 266-2887

Analysis Prepared by the Department of Administration

Statutory Authority: ss. 16.004(1) and 16.957(2)(c)

Statute Interpreted: s. 16.957(2)(a)

Under s. 16.957(2)(c), Stats., the Department of Administration is required to promulgate rules for low-income public benefits programs. The proposed rule establishes eligibility and application requirements and procedures for assistance under a low-income public benefits program established under s. 16.957(2)(a), Stats.

Initial Regulatory Flexibility Analysis

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Text Of Rule

SECTION 1. Adm 45 is created to read.

Chapter Adm 45 Low Income Assistance Public Benefits

Adm 45.01 Authority. Sections 16.004(1) and 16.957(2)(c), Stats., authorize the department to promulgate rules for low-income public benefits programs.

Adm 45.02 Purpose. The purpose of this chapter is to establish eligibility and application requirements and procedures for assistance under a low-income public benefits program established under s. 16.957(2)(a), Stats.

Adm 45.03 Definitions. In this chapter:

(1) "Contractor" means a community action agency described in s. 46.30(2)(a)1., Stats., a nonstock, nonprofit corporation organized under ch. 181, or a local unit of government under contract with the department that provides services under a public benefits program.

(2) "Department" means the department of administration.

(3) "Benefit" means an award of financial or other assistance by the department or through a contractor to an eligible household under a public benefits program.

(4) "Household" has the meaning set forth in s. 16.385(1)(c), Stats.

(5) "Low income public benefits program" means a program established in accordance with s. 16.957(2)(a), Stats.

(6) "Person" has the meaning set forth in s. 990.01(26), Stats.

(7) "Secured child caring institution" has the meaning specified in s. 938.02(15g), Stats.

(8) "Secured correctional facility" has the meaning specified in s. 938.02(15m), Stats.

(9) "State prison" has the meaning specified in s. 302.01, Stats.

Adm 45.04 Eligibility requirements. (1) A person or household eligible to receive low-income assistance from federally funded programs specified in ss. 16.385 and 16.39, Stats., shall be eligible for low-income assistance through a low income public benefits program.

(2) The following are not eligible for low-income assistance under a low-income public benefits program:

(a) A person or household eligible to receive low-income assistance from a municipal utility or retail electric cooperative that elects to operate a commitment to community program as specified in s. 16.957(5)(d) 2.b. or 3.a., Stats.

(b) A person who is imprisoned in a state prison or a person placed at a secure correctional facility or a secured child caring institution.

Adm 45.05 Application requirements. An eligible household may apply for a benefit from a low-income public benefits program by completing an application on forms prescribed by the department. An application shall be submitted to the department or a contractor as directed on the form. All applications must be executed by at least one individual from the eligible household.

Notice of Hearing

Commerce

(Elevator Code, Ch. Comm 18) [CR 00-86]

Notice is hereby given that pursuant to ss. 101.02 (1) and (15) and 101.17, Stats., the Department of Commerce announces that it will hold a public hearing on proposed rules relating to chapter Comm 18, relating to the inspection and issuance of permits to operate of elevators and other mechanical lifting devices.

Hearing Information

June 27, 2000
Tuesday
10:00 a.m.

Third Floor
Conference Room #3C
Tommy G. Thompson
Commerce Center
201 W. Washington Ave.
Madison, WI

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **July 11, 2000**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

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

Copies of Rules

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

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1) and (15), 101.13 and 101.17

Statute Interpreted: s. 101.17

The Department of Commerce is responsible for adopting standards to protect the safety and health of employes and frequenters in places of employment and public buildings who use elevators and other mechanical lifting devices.

The purpose of chapter Comm 18, Elevator Code, is to establish safety requirements for elevators and other mechanical lifting devices installed in or at public buildings and places of employment. Chapter Comm 18 is being revised to address inspection and permit to operate issues. The following changes are being proposed:

- Clarify that it is the owner's responsibility to maintain a valid permit to operate for any equipment covered by Comm 18.
- Clarify that routine and periodic inspections may be performed by individuals holding a valid credential as a certified elevator inspector as specified in chapter Comm 5, Credential Code or they may be performed by the Department.
- Identify timeframes for reporting inspections performed by certified elevator inspectors.

Initial Regulatory Flexibility Analysis

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

Individuals holding a valid credential as a certified elevator inspector as specified in chapter Comm 5 will be afforded an opportunity to contract directly with owners of equipment covered by this chapter to perform routine or periodic inspections. This code change proposal may encourage people certified as an elevator inspector to form a small inspection business.

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

Certified elevator inspectors will need to notify the Department within 30 calendar days after elevator inspection service on equipment covered by Comm 18 is started or discontinued. Certified elevator inspectors must use Department forms to verify the existing equipment complies with the safety requirements specified in Comm 18, Elevator Code. After the Department

receives compliance verification for the covered equipment, a permit to operate will be issued to the owner.

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

Individual holds a valid elevator inspector credential as specified in chapter Comm 5.

Environmental Analysis

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter Comm 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Fiscal Estimate

Currently, the Department performs all inspections for new installations covered by chapter Comm 18, Elevator Code, except for installations in first class cities. The Department has also contracted with an independent inspection company to perform periodic and routine inspections on existing elevators. The proposed rule change will clarify that in accordance with s. 101.17, Stats., it is the owner's responsibility to maintain a valid permit to operate. The rules will also clarify that routine and periodic inspections may be performed by any individual holding a valid credential as a certified elevator inspector as specified in chapter Comm 5, Credential Code.

Notice of Hearing

Health & Family Services

(Community Services, Chs. HFS 30-)

Notice is hereby given that, pursuant to ss. 46.27 (7) (c) 3. b., (11) (c) 5n. b., 46.277 (5) (d) 1n. b. and 227.11 (2) (a), Stats., the Department of Health and Family Services will hold a public hearing to consider the proposed amendment of ss. HFS 73.01 and 73.10 (1) and the creation of s. HFS 73.11, Wis. Adm. Code, relating to eliminating the 25% limit on spending long-term support funds in Community-Based Residential Facilities (CBRFs) and establishing the criteria for determining infeasibility of in-home services as a condition for the use of program funds to pay for persons who reside in CBRFs.

Hearing Information

June 27, 2000
Tuesday
from 1:00 p.m. to 3:00 p.m.

Room B139
State Office Bldg.
1 West Wilson St.
MADISON, WI

The hearing site is fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

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 Wisconsin 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 administrative rules.

The rulemaking order that is the subject of this public hearing 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 rulemaking order also amends s. HFS 73.10 to delete the 25% limit on spending for services to program participants who live in CBRFs. 1997 Wisconsin Act 27 deleted that limit from the program statutes.

Contact Person

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

Susan Veleke
Long Term Support Section
Bureau of Aging and Long Term Care Resources
P. O. Box 7851
Madison, WI 53707-7851

608/267-7285 or,
if you are hearing impaired,
FAX 608/267-3203
e-mail: veleksj@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 by mail, fax, or e-mail at the above address no later than **4:00 p.m. on June 27, 2000** will receive the same consideration as testimony presented at the hearing.

Fiscal Estimate

These rules add specificity to the statutory requirement enacted by the Legislature and do not create new requirements that would affect expenditures or revenues of state government or local governments. Local governments are provided state and federal funds to implement COP, COP-W, and CIP II programs. These rules provide detail as to conditions for allowable uses of funds under those programs. A copy of the full fiscal estimate may be obtained from Susan Veleke, who may be contacted via the contact information provided in this notice.

Initial Regulatory Flexibility Analysis

The rules will affect local agencies that expend funds under the COP, COP-W, and CIP II programs. As part of the existing care planning process for eligible individuals, county agencies will have to determine if home care is infeasible in accordance with this rule before authorizing COP, COP-W, or CIP II funding as payment for services for persons residing in a CBRF. No new professional skills are necessary to comply with the new rule and no small businesses as defined under s. 227.114, Stats., are affected by this rule.

Notice of Hearings

Health & Family Services

(Medical Assistance, Chs. HFS 101-)
[CR 00-84]

Notice is hereby given that, pursuant to ss. 49.45 (10) and 49.472 (3) (h), (4) (a) (intro.) and 2. a., Stats., as created by 1999 Wis. Act

9, and ss. 227.11 (2) and 227.24 (1), Stats., the Department of Health and Family Services will hold public hearings to consider proposed amendments to amend and create chs. HFS 101-103 and 108 relating to the operation of the Medicaid Purchase Plan health insurance program, and emergency rules published on **March 15, 2000** on the same subject.

Hearing Information

June 15, 2000
Thursday
Beginning at 11:00 a.m.

Room 152-A
State Office Building
200 N. Jefferson Street
GREEN BAY, WI

June 16, 2000
Friday
Beginning at 11:00 a.m.

Room 40
State Office Building
819 N. 6th Street
MILWAUKEE, WI

June 19, 2000
Monday
Beginning at 11:00 a.m.

Room 751
State Office Bldg.
1 W. Wilson Street
MADISON, WI

June 20, 2000
Tuesday
Beginning at 11:00 a.m.

Room 123
State Office Bldg.
610 Gibson Street
EAU CLAIRE, WI

All hearing sites are fully accessible to people with disabilities. For the Madison hearing, parking for people with disabilities is available in the parking lot behind the building or in the Doty Street Parking Ramp. Disabled persons may enter directly from the parking lot behind the west side of the building or from Wilson Street through the side entrance at the eastern entrance to the building.

Analysis Prepared by the Department of Health and Family Services

The order that creates the rules for which the hearing is being held specify the manner in which a new program called the Medicaid Purchase Plan, established under s. 49.472, Stats., as created by 1999 Wisconsin Act 9, will operate. Under the Medicaid Purchase Plan, working adults with disabilities whose family net income is less than 250% of the poverty line are eligible to purchase Medicaid, the name given to Medical Assistance in Wisconsin, on a sliding-fee scale. The order incorporates the rules for operation of the Medicaid Purchase Plan into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the Medical Assistance program.

The Medicaid Purchase Plan is projected to provide health care coverage to 1,200 Wisconsin residents with disabilities by the end of Fiscal Year 2001.

Health care coverage under the Medicaid Purchase Plan is identical to the comprehensive package of services provided by Medical Assistance. Persons enrolled in the Medicaid Purchase Plan would also be eligible for Wisconsin's home and community-based waivers under s. 46.27, Stats., provided they meet the functional criteria for these waivers.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate the Medicaid Purchase Plan and in the process provide more specificity than s. 49.472, Stats., as created by Act 9, regarding the non-financial and financial conditions of eligibility for persons under the Medicaid Purchase Plan; define whose income is used when determining eligibility and the monthly premium amount; explain statutory conditions for continuing eligibility; explain how the monthly premium amount is calculated; describe the processes associated with the independence account; and set forth how the Department, in addition to providing Medical Assistance coverage, is to purchase group health coverage offered by the employer of an eligible person or an ineligible family member of an eligible member for the Medicaid Purchase Plan if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

The Department obtained approval for the Medicaid Purchase Plan from the federal Health Care Financing Administration (HCFA) on October 27, 1999 effective March 15, 2000, and on March 15, 2000, the Department published emergency rules for the operation of the Medicaid Purchase Plan.

Contact Person

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

Melissa Wittman
Center for Delivery Systems Development
Office of Strategic Finance
P.O. Box 1379
1 South Pinckney Street
Room 340
Madison, WI 53701-1379

608-264-9964 or,
if you are hearing impaired,
608-266-1511 (TDD)

If you are hearing or visually impaired, do not speak English, or have circumstances that might make communication at a 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 shown above. Persons requesting a non-English or sign language interpreter should contact the person at the address or phone number given above 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 **June 30, 2000** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

This order creates rules that specify how the Medicaid Purchase Plan, established under s. 49.472 Stats., will work. The Medicaid Purchase Plan makes eligible working adults with disabilities and net family incomes less than 250% of the federal poverty level to purchase Medical Assistance (MA) on a sliding-fee scale.

These rules will not affect the expenditures or revenues of state government or local governments. Costs of implementing the Medicaid Purchase Plan were taken into consideration by the Legislature during the development of the 1999-01 biennial budget.

A copy of the full fiscal estimate may be obtained from Melissa Wittman who may be contacted via the contact information in this notice.

Initial Regulatory Flexibility Analysis

The rules for the Medicaid Purchase Plan apply to the Department, individuals that are applicants or recipients of the health care coverage provided by the Medicaid Purchase Plan and to county social service or human service departments that take applications and determine eligibility for the Medicaid Purchase Plan. The rules do not directly affect small businesses as a "small business" is defined in s. 227.114 (1) (a), Stats.

Notice of Hearings

Health & Family Services
(Health, Chs. HFS 110-)
[CR 00-91 & 00-92]

Notice is hereby given that pursuant to ss. 146.50 (6m), (13) (b) and (c) and 227.11 (2) (a), Stats., the Department of Health and Family Services will hold public hearings to consider the repeal and recreation of chs. HFS 110 and HFS 112, Wis. Adm. Code, relating to the licensing of ambulance service providers, licensing of

emergency medical technicians-basic, and licensing of emergency medical technicians-paramedics.

Hearing Information

June 22, 2000
Thursday
12:30 - 4:30 p.m.
Room B139
State Office Building
1 W. Wilson Street
MADISON, WI

June 23, 2000
Friday
9:00 a.m. - 1:00 p.m.
Room 40
State Office Building
819 N. 6th Street
MILWAUKEE, WI

June 27, 2000
Tuesday
12:30 - 4:30 p.m.
Room 123
State Office Building
610 Gibson Street
EAU CLAIRE, WI

June 28, 2000
Wednesday
5:00 - 8:30 p.m.
Auditorium
Wausau Public Library
North 1st Street
WAUSAU, WI

June 29, 2000
Thursday
1:00 - 4:30 p.m.
Room 152A
State Office Building
200 N. Jefferson Street
GREEN BAY, WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

The proposed rules that are the subjects of these hearings generally update chs. HFS 110 and HFS 112, rules for licensing ambulance service providers, emergency medical technicians-basic (EMTs-basic) and emergency medical technicians-paramedic. The updating is being done on the recommendation of the Emergency Medical Services (EMS) Board under s. 146.58, Stats., which is advisory to the Department. The rules are amended to incorporate current medical practices and update training requirements and to clarify, correct and improve rule language based on experience with the rules in effect since 1996.

The updating of ch. HFS 110 has involved modifying some current definitions and creating new definitions to reflect current practice; merging defibrillation and non-visualized advanced airways language, currently in separate sections of ch. HFS 110, into the body of the chapter; deleting or modifying some language based on experience in implementing the current rules; and renumbering some of the rules to accommodate the changes and to organize this chapter in a way similar to the other chapters of Emergency Medical Services Program rules. The updating also deletes the option of someone trained in first aid being eligible for an EMT-basic training permit and adds renewal requirements for instructor-coordinators. The entire subsection on defibrillation equipment in the current rules has been deleted because defibrillators are no longer such novelties that they need to be described in such detail.

The proposed ch. HFS 112 rulemaking order modifies ch. HFS 112, Wis. Adm. Code, to reflect changes in the practice of emergency medical services since the chapter was last revised. These changes result from extensive discussions with EMS advisory bodies and other interested parties. Significant changes to the chapter include use of the term "interfacility" to distinguish between facilities and prehospital 911 care; clarification regarding the term "medical director;" raising the minimum number of hours required for EMT-paramedic coursework from 750 to 1000; and the addition of flexibility for using fewer than 2 paramedics in certain circumstances. The updating also adds renewal requirements for instructor-coordinators and increases authority for a medical director to remove medical authority for an EMT to practice if there are concerns about the EMT's training, skills, ability or judgment.

Contact Person

To find out more about the hearings or to request a copy of either proposed rulemaking order, write or call:

Bev Jensen
Division of Public Health
Bureau of EMS and Injury Prevention
P.O. Box 2659
Madison, WI 53701-2659

(608) 266-1568 or,
if you are hearing impaired,
(608) 266-1511 (TDD)

If you are hearing or visually impaired, do not speak English, or have circumstances which might make communication at a 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 a hearing. With less than 10 days notice, an interpreter may not be available.

Written comments on either proposed rulemaking order received at the above address no later than **July 7, 2000** will receive the same consideration as testimony presented at a hearing.

Fiscal Estimate

There are no additional funds associated with the rule changes. A copy of the full fiscal estimate may be obtained from Bev Jensen who may be contacted via the contact information provided in this notice.

Initial Regulatory Flexibility Analysis

These rules will affect about 25 ambulance services that may be classified as "small businesses" as defined in s. 227.114 (1) (a), Stats. None of the rule changes require the acquisition of additional equipment or result in additional personnel expenses.

Notice of Hearings**Health & Family Services****(Health, Chs. HFS 110-)****[CR 00-95]**

Notice is hereby given that pursuant to ss. 153.75 (1) and 227.11 (2) (a), Stats., the Department of Health and Family Services will hold public hearings to consider the proposed repeal and recreation of ch. HFS 120, relating to the collection, analysis and dissemination of health care information.

Hearing Information

June 16, 2000 Friday Beginning at 9 a.m.	Lower Level Meeting Room Brown County Library 515 Pine Street GREEN BAY, WI
June 19, 2000 Monday Beginning at 9 a.m.	Bascom Room Best Western-Inntowner 2424 University Avenue MADISON, WI
June 22, 2000 Thursday Beginning at 9 a.m.	Room 120 State Office Building 141 NW Barstow Street WAUKESHA, WI

June 23, 2000
Friday
Beginning at 9 a.m.

City Council Chambers
La Crosse City Hall
400 La Crosse Street
LA CROSSE, WI

The hearing sites are accessible to people with disabilities.

Analysis Prepared by the Department of Health & Family Services

The Department of Health and Family Services is responsible for collecting, analyzing and disseminating a variety of health care data pursuant to ch. 153, Stats. 1997 Wis. Act 231 and 1999 Wis. Act 9 substantially modified ch. 153, Stats. Consequently, the Department is proposing to revise ch. HFS 120 to those recent statutory changes.

Chapter HFS 120, as it currently exists, primarily addresses the collection and analysis of data from hospitals and ambulatory surgery centers. 1997 Wis. Act 231 directed the Department to collect claims data and other health care information from health care providers besides hospitals and freestanding ambulatory surgery centers, including from physicians in their offices and clinics. In response to the statutory changes, the proposed rules specify the other providers from whom data will be collected, the data elements to be collected and the manner in which data will be disseminated, and extend to these other providers instructions for data verification and review and comment that apply now only to hospitals and freestanding ambulatory service centers. The rules also provide for assessing a fee from the other providers from whom data are collected for the costs of collection, database development and maintenance, generation of data files and standard reports, orientation and training and the expenses of the Board of Health Care Information.

Other changes that are being proposed for ch. HFS 120 to implement the Act 231 changes to ch. 153, Stats., include the following:

- A waiver process and standards by which a health care provider could, upon request, obtain an exemption from data submission requirements that are burdensome.
- A manner of assessing a fee on health care plans that voluntarily supply health care data to the Department is specified. The assessment fee covers the costs of collection, database development and maintenance and generation of public use data files and standard reports for the health care plans.
- Rules have been added to govern the release of all health care provider-specific and employer-specific information collected. The current rules have only a procedure for releasing physician-specific data.
- Methods have been specified for adjusting health care information for case mix and severity.

Several provisions have been repealed, including definitions of uniform patient billing form, charge element and uncompensated health care services; the requirement that hospitals and freestanding ambulatory surgery centers use uniform patient billing forms; the requirement that hospitals submit financial data; Board responsibility to determine whether to contract for provision of data processing services for the Department; the requirement that a hospital hold a public hearing before raising its rates; the production by the Department of quarterly and annual reports for the public; certain procedures for data review and verification; and assessment language specific to free standing ambulatory surgery centers.

1999 Wis. Act 9, the biennial Budget Bill, further modified ch. 153, Stats., insofar as it:

- Established additional constraints on the type of physician data that can be released in public use data files.
- Established additional required means of masking the identification of specific patients, employers and health care providers.
- Established the requirement that compilation and release of custom-designed reports with nonaggregated age, zip code or physician identifiers based on physician data be subject to the review and approval of the independent review board.

- Prohibited the Department's sale or distribution of physician data that can be linked with public use data files without the approval of the independent review board.
- Established a separate set of data elements collected from physicians that constitutes "patient-identifiable data."
- Requires the Department to develop and use a data use agreement.
- Requires that purchasers of data sign and have notarized Department data use agreements.
- Prohibits employers from requesting the release of or access to patient-identifiable data.
- Prohibits the Department from requiring physicians to submit uniform patient billing forms.
- Prohibits physicians from submitting a variety of data to the Department.
- Establishes immunity from civil liability for health care providers that mistakenly submit data to the Department in a manner that results in the release of prohibited data elements.
- Increases by 30–50% the penalties for violation of selected statutory provisions related to confidential data.

The rule-making order that is the subject of these public hearings proposes to revise ch. HFS 120 to respond to these major changes to ch. 153, Stats., made by 1997 Wis. Act 231 and 1999 Wis. Act 9.

Contact Person

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

Gary L. Radloff
Bureau of Health Information
Division of Health Care Financing
P.O. Box 7984
Madison, Wisconsin 53707-7984

(608) 267-0245 or,
if you are hearing impaired,
(608) 261-7798 (TDD)

If you are hearing or visually impaired, do not speak English, or have circumstances which might make communication at a 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 shown above. A person requesting a non-English or sign language interpreter should contact the person at the address or phone number given above 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 **June 30, 2000** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

The Department is responsible for collecting, analyzing and disseminating a variety of health care data pursuant to ch. 153, Stats. Chapter HFS 120 is being modified to implement the statutory changes included in 1997 Wis. Act 231, which grants the Department authority to assess physicians and collect data for reports, and 1999 Wis. Act 9 which provided the Department with 8.0 FTE PRO positions and \$870,000 PRO in annual expenditure authority. These changes detail the requirements for collecting health care information from physicians in their offices and clinics. The rules provide for assessing health care providers from whom data are collected for the costs of collection, database development and maintenance, generation of data files and standard reports, orientation and training and the expenses of the Board of Health Care Information. In addition, changes required under 1999 Wis. Act 9 relative to the release of physician data include the creation of an independent review board. The board will review custom-designed reports based on physician data and other data materials.

Under the revised rules, BHI increases operating costs by \$500,000 for 3.5 positions and information technology related to the outpatient data collection. For other patient encounter data collection costs increase by \$70,000 for 1 position and information technology. A physician survey will be completed at a cost of \$63,000. The staff support and meeting costs for the independent review board will be \$37,000. Initial costs for collection of the physician assessment will be \$37,000. This is based on the assumption of 14,000 physicians receiving the assessment. In future years, the Department of Regulation and Licensing may collect the assessment as a part of the physician licensure. Revenue projections use the assumption that 14,000 physicians will receive and pay the assessment of \$65. Total operational costs over the biennial budget period of \$1,064,000 are built into the one-year physician assessment. Future assessments may vary in costs as other revenues increase from the sale of data.

The annualized fiscal impact of the administrative rules is estimated at \$707,000. There are no local government costs. A copy of the full fiscal estimate may be obtained from Gary Radloff who may be contacted via the contact information provided in this notice.

Initial Regulatory Flexibility Analysis

The proposed rules affect hospitals, freestanding ambulatory surgery centers, physicians and other health care professionals. Six hospitals meet the s. 227.114 (1), Stats., definition of a "small business." In addition, the Department estimates that approximately 2,400 to 2,800 physician practices that would be required to submit data under these proposed rules have fewer than 25 employees. The Department does not have data from ambulatory surgery centers that allow an estimate of which centers may be characterized as "small businesses." Many centers are located at a medical clinic or hospital.

To accommodate entities that can meet the s. 227.114 (1), Stats., definition of a "small business," the rules propose applying a less stringent standard for a physician who does not currently submit electronic claims. In addition, the rule proposes that the Department may grant an exception to the data submission requirements for a physician who submits an affidavit of financial hardship and supporting evidence demonstrating financial inability to comply with the requirements of the rules.

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

Notice is hereby given that pursuant to ss. 29.014, 29.197, 227.11(2)(a) and 227.24, Stats., interpreting ss. 29.014, 29.177, 19.197 and 29.181, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM-15-00(E) pertaining to deer hunting in deer management units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 24, 28, 29A, 29B, 30, 31, 34, 35, 36, 37, 38, 44, 49B, 50, 52, 52A, 53, 55, 56, and 78. This emergency order was published on May 15, 2000 and will take effect on August 4, 2000. The emergency rule includes a 9-day either-sex gun hunt, two 4-day antlerless-only gun hunts on October 26–29 and December 7–10, free antlerless tags, and 4 additional archery season days. State parks included in the 38 deer management units will not participate in the October or December hunts.

Hearing Information

June 12, 2000
Monday
at 1:00 p.m.

Room 027, GEF #2, ,
101 South Webster Street
Madison, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Larry Konopacki at (608) 261-7589 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the emergency rule may be submitted to M. Larry Konopacki, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than **June 16, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [WM-15-00(E)] may be obtained from Mr. Konopacki.

Fiscal Estimate

Fiscal Impact – Forest Zone T Units

Revenue Reduction:

One expected financial impact of this order is the loss of revenue from the \$3.00 application fee for hunter's choice and bonus permits, which will not be collected for Zone T deer management units. The reduction in revenue from permit application fees is estimated to be \$280,230 (93,410 applications submitted for these units in 1999 at \$3 each = \$280,230).

Another expected financial impact will be the loss of revenue from bonus sales in these units. The reduction in revenue from lost bonus permit sales is estimated to be \$1,691,152 (8,456 non-resident bonus permits at \$20 each = \$169,120, and 126,836 resident permits at \$12 each = \$1,522,032). These fees will not be collected because of the issuance of special free antlerless permits or these units. Bonus antlerless permits will be available for sale in the Zone T units after a hunter has received his/her allotted number of free permits. We expect this option to be used very rarely, and so have estimated the loss of revenue to include all bonus sales in Zone T units in 1999.

Revenue Increase:

Over the last decade, there has been a pattern of increased license sales in years with high antlerless permit availability. In years when antlerless permits increased substantially over the previous year, there were increases in deer-related license sales of between 4% and 5% (1998-1999 and 1989-1990). The proposed Zone T permit issuance procedure will include a marked increase over 1999 in the total number of antlerless permits available to hunters. A 4% increase in license sales would result in the sale of 37,700 more licenses than in 1999. At a minimum of \$20 per license, these extra 37,700 total licenses would bring in at least \$754,000 statewide. 38% of the proposed 2000 Zone T units are in the forest region of the state. The portion of this estimated increase in revenue in the Zone T forest units, equal to 38% of the above total, is \$286,520.

Cost Increase:

Increased cost expected to be accrued from implementing the Zone T permit issuance procedure is \$483,578 statewide. This total includes the following estimates:

- Zone T antlerless permit distribution by mail to those who purchase deer-related licenses before May 1: \$77,810
- cost of permit stock of Zone T antlerless permits issued at the point of sale, equal to \$10 per Zone T permit issued: \$169,400
- agent commission, equal to \$25 per deer-related license sold after May 1 at ALIS outlets that are not DNR offices: \$192,738
- ALIS and database management consultation and programming costs: \$22,350
- postcard mailing to license holders that purchase before May 1: \$21,280

62% of the proposed 2000 Zone T units are in the farmland region of the state. The portion of these increased costs in the Zone T farmland units, equal to 62% of the above costs, is \$183,759.64.

The primary impact of this proposal on law enforcement operations will stem from the two 4-day firearm herd control hunts. We assume that the deer herd control hunts will bring with them typical firearm deer season complaints from landowners, hunters and other enforcement agencies, accidents and the need for an active enforcement presence. These hunts will impact no less than 80 wardens that work in management units open during these firearm seasons. These periods are not usually major openings. Therefore, the opening will conflict with work schedules in approximately 25% of the wardens affected. To provide satisfactory coverage to the affected areas, an additional 1,600 hours of enforcement will be

required (120 wardens X 25% X 8 days X 10 hours per day). An additional 1,200 hours of special conservation warden time will be expended during these periods. The cost for the additional coverage above what is normally present during these 4 day periods will include: \$31,218 in permanent salary and fringe, \$12,000 in special warden LTE costs, and \$8,640 in travel expenses. No estimate was made of costs associated with spill-over enforcement problems in adjacent management units during the deer herd control hunts.

Cost Reduction:

For fiscal year 2000, The Bureau of Customer Service and Licensing has spent \$245,900 on the hunter's choice and bonus application and mail-allocation process costs associated with printing, postage, freight, supplies and services and employee wages and fringes. Expenditures in this program for 2000 are expected to be only 45% of the FY 2000 total, because 75% of the state's deer management units are proposed for inclusion in Zone T, which will reduce the volume of work processed through this system. Savings in the hunter's choice and bonus programs in FY 2001 are expected to be \$135,245 statewide.

The cost of materials used to issue bonus permits at ALIS outlets for the proposed Zone T units in 1999 will also be saved. At \$.10 per permit issued, expected savings from not issuing these 205,352 permits is \$20,535.20 statewide.

38% of the proposed 2000 Zone T units are in the forest region of the state. The portion of these savings in the Zone T forest units, equal to 38% of the two above costs, is \$59,196.60.

Estimated Revenue Loss (based on 1999):

Hunters Choice/Bonus application fee:

93,410 x \$3.00 = \$280,230.00

Bonus deer permits:

Residents: 126,836 x \$12 = \$1,522,032.00

Non-residents: 8,456 x \$20 = \$169,120.00

Total 1999 Bonus Revenue = \$1,691,152.00

Estimated Revenue Increase:

14,326 licenses (4% growth) x \$20 = \$286,520.00

Estimated Cost Increase:

Permit Issuance = \$183,759.64

Law Enforcement cost: = \$51,858.00

Estimated Cost Decrease:

HC/Bonus program and point of sale Bonus issuance = \$59,196.60

FISCAL IMPACTS BY ACCOUNT:

The above estimated fiscal effects of the proposed Zone T season can be broken down into two accounts. Revenue received from the sale of bonus permits "applied to the Wildlife Damage Abatement and Claims Program, except for \$50 from each permit, which is applied to the Fish and Wildlife Seg. account administrative costs. The rest of the cost estimates above are applied to the Fish and Wildlife Seg. account.

Fish and Wildlife Seg.: \$237,777.04

Wildlife Damage Abatement and Claims Account: \$1,623,506.00

Notice of Hearings

Natural Resources

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

[CR 00-88]

Notice is hereby given that pursuant to s. 227.11(2)(a), Stats., interpreting s. 29.038, Stats., the Department of Natural Resources will hold public hearings on the creation of s. NR 19.40, Wis. Adm. Code, relating to implementation of the department's authority to void local hunting, fishing and trapping ordinances. With the creation of s. 29.038, Stats., by 1997 Act 170, the Department of Natural Resources was given the authority to declare local ordinances void which have more than an incidental impact on hunting, fishing, or trapping, or do not have public health and safety as a primary purpose. This rule provides guidance to the department

in determining which ordinances exceed the local governmental unit's authority. The standards for determination are not weighted and do not appear in order of importance. The rule also provides the procedures by which the department will hold the hearings and make the determinations required by s. 29.038(4), Stats.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

June 19, 2000 Monday at 6:30 p.m.	Room 201 Business Occupations Bldg. Waukesha Co. Tech. College 800 Main Street Pewaukee, WI
June 26, 2000 Monday at 2:00 p.m.	Room 027, GEF #2 101 S. Webster St. Madison, WI
June 27, 2000 Tuesday at 5:00 p.m.	Library 225 N. Oneida Street Appleton, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Carol Turner at (608) 266-1959 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Mr. Michael Lutz, Bureau of Legal Services, P.O. Box 7921, Madison, WI 53707 no later than **July 14, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [LE-14-00] and fiscal estimate may be obtained from Mr. Lutz.

Fiscal Estimate

The fiscal estimate for the legislation which created s. 29.038, Stats., showed a potential impact of \$35,200 per year in legal expenses alone if the legislation was fully implemented. This did not include the costs of local DNR staff time. These costs will result regardless of whether the proposed rule is enacted. The proposed rule merely implements existing legislative requirements and has no fiscal impact.

Notice of Hearing

Natural Resources

(Environmental Protection— General, Chs. NR 100—) [CR 00-87]

Notice is hereby given that pursuant to ss. 299.15 and 227.11(2), Stats., interpreting s. 299.15, Stats., the Department of Natural Resources will hold a public hearing on revisions to ss. NR 101.03 and 101.13, Wis. Adm. Code, relating to the wastewater fee

program. 1999 Wis. Act 9 required that the wastewater fee program implement a performance-based system for calendar year 2000 and beyond and that fees be based on a 5-year rolling average of discharge data.

The proposed rule language contains two options for meeting the rolling average requirement. The first initiates the rolling average in calendar year 2000 but would not have five years of data until calendar year 2004. The second would use 1996 to 2000 data in calendar year 2000. One option will be selected following the public hearing. The annual adjustment factor has been fixed at the 1999 value which will result in a performance-based fee system. Increases in discharges will result in higher fees, while decreases in discharges will result in lower fees.

In addition, the department has proposed a fee rate for phosphorus that more accurately addresses its environmental impact. This rate will apply to all facilities whose WPDES permit contains phosphorus limits in calendar year 2000.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses affected: The wastewater fee program, in general, impacts all wastewater dischargers that hold WPDES permits. Discharges regulated by general permits are not included in the wastewater fee program.
- b. 2. Description of reporting and bookkeeping procedures required: The proposed changes do not require additional bookkeeping nor reporting.
- c. Description of professional skills required: The professional skills requirements do not change under the proposed changes.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

June 13, 2000 Tuesday at 1:30 p.m.	Room 027, GEF #2 101 South Webster Street Madison, WI
---	--

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Gail Mills at (608) 266-1387 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Ms. Gail Mills, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 no later than **June 23, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WT-24-00] and fiscal estimate may be obtained from Ms. Mills.

Fiscal Estimate

FISCAL IMPACT – The fiscal impact associated with going to a performance-based system is that the actual revenue collected will fluctuate based on the amount of pollutants discharged and WPDES limits. Historically, the Department has seen a consistent reduction in the total amount of pollutants discharged, both from industries and from municipalities. The amount of decline is roughly 26% for municipalities and 34% for industries between 1994 and 1998. Should this trend continue, over time the amount of fee revenue

generated would decline accordingly, although, as discussed below, there may be some temporary fluctuations in fee revenue through 2003, depending on which five-year averaging method is chosen.

In this rule package, the Department is proposing two different solutions for the public hearing phase for Act 9's five-year rolling averaging requirement. One proposed solution would start the averaging in the year 2000 and would use calendar year 1996 through 2000. The second would build up to a five year average by 2004 where calendar year 2001 would be a two year average, 2002 a three year average, 2003 a four year average, and 2004 a five year average. In both cases the rule would average available data for the period of time that such data are available. For example, most facilities will have BOD and TSS data available for the fill five years, but may have received a revised permit only two years ago that includes a phosphorus limit – thus the BOD and TSS would be averaged over five years and the phosphorus averaged over two years. Phosphorus will be included in the fee program for fees assessed on calendar year 1999 discharges. Even under the proposed flat rate for phosphorus, this pollutant has a significant impact on the fee base. For 1999 this effect is dampened out by the adjustment factors, but the impact on the five year rolling average aspect becomes important.

The fiscal impact of the five-year rolling average is that year to year fluctuations will be smoothed out on a facility by facility basis. The difference between the two options presented in this rule package is that the revenue collected in the first option, where the calendar year 2000 fees are based on averages from 1996–2000, is initially higher than the second option, where calendar year 2000 represents year one of the averaged period. In fact, given the assumption that total discharges will continue to decline, revenue related to calendar years 2000 and 2001 discharges may be greater than the current revenue, before declining in 2002. This is because discharge levels were generally higher in the period 1996–1998. In calendar year 2004 the revenue levels would be the same since both options would use calendar years 2000–2004 for the averaging period. Overall, regardless of which 5-year averaging method is chosen, assuming that the trend toward decreased discharges continues, the Department projects that fees related to calendar year 2004 discharges—and thus revenue to the state's general fund—will be less than the fee revenue generated under the current system.

Notice of Hearings

Natural Resources

(Environmental Protection— General, Chs. NR 100—) [CR 00–89]

Notice is hereby given that pursuant to ss. 281.58 and 227.11(2), Stats., interpreting ss. 281.58 and 281.59, Stats., the Department of Natural Resources will hold public hearings on the repeal of chs. NR 161 and 163 and the repeal and recreation of ch. NR 162, Wis. Adm. Code, relating to the clean water fund financial assistance program.

The rule is being proposed to comply with 1999 Wis. Act 9 and to allow funding for nonpoint source pollution and urban stormwater runoff abatement projects as required by law. Specifically, language related to capital cost loans and related to projects only for planning and design is being deleted. Also, pursuant to 40 CFR Part 35 and s. 281.58, Stats., projects for the treatment of nonpoint source pollution and urban stormwater runoff are eligible for financial assistance. The proposed changes to ch. NR 162 allow these projects to be ranked with other treatment works projects and to be considered for funding under the Clean Water Fund program.

Currently, ch. NR 162 is the basis for implementing the Clean Water Fund program, ch. NR 161 is the basis for scoring projects to establish a priority funding list, and ch. NR 163 is the basis for determining and implementing hardship financial assistance for eligible Clean Water Fund program applicants. Combining these three into one administrative rule enhances clarity and convenience in locating provisions of text dealing with the same program.

Subchapters are used to distinguish the general provisions from the priority scoring system and the hardship financial assistance provisions. Other changes have also been proposed to clarify existing policies and procedures and to establish new procedures for amendment requests.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Hearing Information

**June 19, 2000
Monday
at 9:00 a.m.**

**Schmeckle Reserve
Meeting Room
2419 Northpoint Dr.
Stevens Point**

**June 21, 2000
Wednesday
at 9:00 a.m.**

**Room 120
State Office Bldg.
141 Northwest Barstow
Waukesha**

**June 22, 2000
Thursday
at 9:00 a.m.**

**Room 027, GEF #2
101 South Webster Street
Madison**

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Cynthia Hoffland at (608) 267-7758 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule may be submitted to Ms. Cynthia Hoffland, Bureau of Community Financial Assistance, P.O. Box 7921, Madison, WI 53707 no later than **June 30, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [CF-18-00] and fiscal estimate may be obtained from Ms. Hoffland.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

Natural Resources

(Environmental Protection— General, Chs. NR 100—) [CR 00–93]

Notice is hereby given that pursuant to ss. 227.11(2)(a) and 292.75, Stats., interpreting s. 292.75, Stats., the Department of Natural Resources will hold public hearings on the creation of ch. NR 168, Wis. Adm. Code, relating to the brownfield site assessment grant program. The proposed rule allows the Department to award grants to local governmental units to carry out assessments and other specific preliminary activities on eligible sites or facilities. Local governmental units eligible to apply for funding from the brownfield site assessment grant program include cities, villages, towns, counties, tribes, redevelopment authorities, community development authorities and housing authorities. Grants for the program must be awarded prior to July 1, 2001.

The proposed rules establish the framework for participation in the program and include a system of fund allocation, eligible activities, a scoring system for ranking applications, and costs that are eligible to be used as local match. The rule further establishes two categories of grants: small and large. Small grants are those for dollar amounts of \$2,000 to \$30,000, and large grants are those for dollar amounts of \$30,000 to \$100,000. Seventy percent of the funds available will be designated to fund small grants and 30% shall be allocated to fund large grants. Successful applicants must furnish a match of at least 20% of the amount of the grant as cash or in-kind services or both, during the 12 months of the project. An applicant that has more than one eligible site or facility may submit a grant application for each eligible site or facility; the statute, however, limits the total amount of grant funds that one applicant may be awarded to 15% of the available funds for the fiscal year.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Notice is hereby further given that pursuant to ss. 227.11(2)(a), 227.24 and 292.75, Stats., interpreting s. 292.75, Stats., the Department of Natural Resources will hold public hearings on Natural Resources Board Emergency Order No. CF-29-00(E) creating ch. NR 168, Wis. Adm. Code, relating to the brownfield site assessment grant program.

Hearing Information

June 12, 2000 Monday at 1:00 p.m.	Room 158 West Central Region Hdqrs. 1300 W. Clairemont Eau Claire
June 13, 2000 Tuesday at 10:00 a.m.	Conference Room A Courthouse Annex 1462 Strong Street Stevens Point
June 15, 2000 Thursday at 10:00 a.m.	Public Library 106 Washington Avenue Oshkosh

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Valerie Thomas at (608) 267-7153 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written comments on the proposed rule and the emergency rule may be submitted to Ms. Valerie Thomas, Bureau of Community Financial Assistance, P.O. Box 7921, Madison, WI 53707 no later than **June 26, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [CF-30-00], emergency rule and fiscal estimate may be obtained from Ms. Thomas.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

Natural Resources

(Environmental Protection– Air Pollution Control, Chs. NR 400–) [CR 00–96]

Notice is hereby given that pursuant to ss. 227.11(2)(a) and 285.11(1), Stats., interpreting s. 285.11(6), Stats., and revising the State Implementation Plan developed under that section, the Department of Natural Resources will hold public hearings on proposed revisions to chs. NR 400, 410, 423, 428, 439 and 485, Wis. Adm. Code, relating to an one-hour ozone air quality standard attainment plan. These revisions include nitrogen oxide (NO_x) and volatile organic compound (VOC) emission controls focused on meeting federal requirements for reasonable further progress, reasonably available control technology (RACT) VOC emission limits for industrial clean-up, and, an excess VOC emissions fee. This Ozone SIP plan revision includes a modeled attainment of the ozone standard in all areas of Wisconsin by the Clean Air Act's 2007 attainment date.

The ozone formation ("photochemical") modeling demonstration shows attainment by 2007 under the assumption that upwind states that have been shown by EPA to contribute significantly to Wisconsin's ozone problem comply with the NO_x reduction objectives of EPA's NO_x SIP call by the 2005 ozone season. The demonstration also assumes that existing federal rules and actions controlling emissions from mobile sources achieve their projected benefits.

To address rate-of-progress and attainment requirements, the proposed rules establish a program of NO_x emission reductions focused on large combustion sources such as power plants, industrial boilers and other stationary sources. The rules involve a series of minimum emission performance standards for various new and existing NO_x sources by size and type. The rules establish Primary and Secondary Ozone Control Regions to define where and when NO_x emission limitations apply. The rules establish a corporate system-average emission rate for the largest coal boilers starting in May, 2002 with downward adjustment to the maximum allowed average NO_x emission rate in 2005 and 2007. In the proposed rules, the emission limits and system-average emission rate limits only apply to a 9-county Primary Ozone Control Region. To further address attainment of the 1-hour standard, the agency is proposing to depend on voluntary NO_x emission reduction commitments from large NO_x sources in the 21 county Secondary Control Region that are shown to impact the 1-hour ozone concentrations in the Wisconsin nonattainment and maintenance areas during ozone episodes.

The proposed rules establish a NO_x emissions offset requirement for new sources for a 30 county portion of the state that includes the Primary and Secondary Ozone Control Regions. The rules establish compliance, monitoring, recordkeeping and reporting requirements associated with the NO_x emissions performance, and burner tune-up/combustion optimization requirements.

In addition to establishing NO_x emission limitations for stationary sources, the proposed plan revisions include optional approaches to rate-of-progress plans for 2002, 2005 and 2007. These options address emission reductions from instituting pass/fail cutpoints for NO_x in the state's vehicle emissions testing program starting in May, 2001 and from applying the proposed NO_x emissions performance limits and tune-up/optimization requirements to only a smaller set of the larger electric utility sources. The emissions projections associated with these attainment revisions establish mobile sector VOC and NO_x emissions budgets for the purposes of future transportation plan conformity determinations.

The plan includes a required Reasonably Available Control Technology (RACT) rule for the control of VOC from industrial clean-up solvent activities at major sources in the 9 county Primary Ozone Control Region. The plan also includes a rule for an excess emissions fee for a portion of VOC emitted by major sources in the six severe ozone counties of southeastern Wisconsin that would

apply starting in 2008 if the counties do not attain the 1-hour ozone standard in 2007.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

Environmental Assessment

Notice is hereby further given that the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

Informational Meetings

Notice is hereby further given that the Department will conduct 2 informational meetings in order to provide additional background on the proposed plan and proposed rule revisions and to answer technical questions prior to the public hearings on the proposed revisions. The informational meetings will be held on:

June 14, 2000
Wednesday
at 1:30 p.m.

Natural Resources Bldg. (GEF 2)
Room 027
101 South Webster St
Madison, WI

June 16, 2000
Friday
at 10:00 a.m.

DNR Southeast Region
Headquarters
Room 140-141
2300 N. Dr. Martin Luther
King Jr. Blvd
Milwaukee, WI

Hearing Information

Notice is hereby further given that the public hearings on the proposed rule revisions will be held on:

June 27, 2000
Tuesday
at 1:00 p.m.

Kenosha County Center
Hearing Room
Jct. Highways 45 and 50
Kenosha, WI

June 28, 2000
Wednesday
at 1:00 p.m.

Havenwoods State Forest
Auditorium
6141 N. Hopkins St
Milwaukee, WI

June 29, 2000
Thursday
at 1:00 p.m.

Appleton Public Library
Auditorium
225 N. Oneida St
Appleton, WI

Additional technical materials supporting the proposed attainment plan, its technical assumptions regarding modeling and emissions and these proposed rule revisions are available from the Department. Please call Robert Lopez at (608) 267-5284 regarding these materials, or visit the Bureau of Air Management, Wisconsin DNR website, which is located at the following Internet address: http://www.dnr.state.wi.us/org/aw/air/hot/1hrsip_p3.htm.

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request.

Please call Robert Lopez at (608) 267-5284 with specific information on your request at least 10 days before the date of the scheduled public hearing.

Written comments on the proposed rule revisions may be submitted to Mr. Robert Lopez, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **July 14, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings.

Copies of Rules and Fiscal Estimate

A copy of proposed AM-27-00 and its fiscal estimate may be obtained from:

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707
Phone:(608) 266-7718
FAX: (608) 267-0560

Fiscal Estimate

FISCAL IMPACT – The Department of Natural Resources is not expected to incur additional cost for administering the proposed rule. It is part of the Bureau of Air Management's ongoing responsibilities to achieve the 1-hour ozone standard and to issue permits connected with that objective.

The proposed rule potentially affects six heating and cooling boilers at University of Wisconsin facilities operated by the Department of Administration (DOA). These facilities are required to meet combustion optimization or tune-up requirements to operate in a low NO_x combustion profile. This may require the installation of monitoring equipment to maintain operation in this mode, but does not require any additional control equipment. Operating in a low NO_x mode usually coincides with increased boiler efficiency and therefore savings in fuel cost. This saving is expected to offset the potential costs to yield cost savings. Under a high capital cost for continuous monitoring to insure efficiency gains the maximum net costs are expected to be in the range of under \$1,000 per year (current estimate is \$50 per year). The proposed rule also requires an emission rate limit for three large boilers at the UW-Milwaukee facility. However, the DOA is currently installing low NO_x burners as part of their regular burner replacement and expects to meet the proposed limit. Therefore, there is no additional cost assumed for this facility.

The proposed rule also affects the local government owned Manitowoc Public Utility facility. The proposed rule imposes emission rate limits on three boilers below current operating levels. Meeting these emission rates is expected to require an optimization procedure and potentially a modification of existing equipment to operate in a low NO_x combustion mode. The efficiency gains and fuel savings are expected to offset capital costs of these actions as well as the installation of appropriate monitoring equipment for annual cost savings of \$40,000. However, monitoring equipment may incur a maximum annual cost of \$30,000 to ensure the efficiency gains and low NO_x operating mode.

Fiscal Estimate –NO_x Controls at Government-Owned Facilities

Government Source	Total Annual Cost (\$)	\$/ton Reduction
Manitowoc Public Utility	under 30,000 to (-40,000)	(-200) to 140
Dept. of Administration	under 1,000 to (-10,000)	(-5,000) to 40

Notice of Hearings

Commerce

(PECEFA, Chs. Comm 46–47)

Natural Resources

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

[CR 00–90]

Notice is hereby given that, pursuant to s. 227.11 (2)(a) and 227.24, Stats., and section 9110 (3yu) (b) of 1999 Wisconsin Act 9., interpreting ss. 101.143, 101.144, 292.11 and 292.31 and ch. 160, Stats., the Department of Commerce and the Department of Natural Resources will hold joint public hearings on a joint emergency rule ch. Comm 46 and ch. NR 746, Wis. Adm. Code, with related amendments to chs. NR 700, 716, 720, 722 and 726, and the creation of permanent rules that are identical to the emergency rules, relating to sites contaminated with petroleum products from petroleum storage tanks.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the emergency rules or the proposed permanent rules will have any negative economic impact on small businesses.

Environmental Assessment

Notice is hereby further given that the Department of Commerce and the Department of Natural Resources have each made a preliminary determination that the creation of ch. Comm 46 and ch. NR 746 and the related changes to chs. NR 700, 716, 720, 722 and 726 do not involve significant adverse environmental effects and do not need an environmental analysis under ch. Comm 107, or NR 150, Wis. Adm. Code, respectively. However, based on the comments received, the Department of Commerce and the Department of Natural Resources may prepare an environmental analysis. This environmental review document would summarize the Department’s consideration of the impacts of the emergency rule and reasonable alternatives.

Hearing Information

June 15, 2000 Thursday at 1:00 pm	Room 511 in General Executive Facility 2 (GEF 2) 101 S. Webster Street, 5th Floor Madison, Wisconsin
July 10, 2000 Monday at 10:00 am	Classroom in Havenwoods Center (Havenwoods State Forest) 6141 N. Hopkins Milwaukee, Wisconsin
July 12, 2000 Wednesday at 11:00 am	Room 2 at UW Extension 212 River Drive Wausau, Wisconsin

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Theresa Evanson at (608) 266–0941 with specific information on your request at least 5 business days before the date of the scheduled hearing.

Written comments on the emergency rule ch. Comm 46 and ch. NR 746, with related changes to chs. NR 700, 716, 720, 722 and 726, adopted by the Department of Commerce and the Department of Natural Resources, and the proposed permanent rules may be submitted to Richard Meyer, Department of Commerce, 201 W. Washington Avenue, 4th Floor, PO Box 2689, Madison, WI 53707–2689, or Theresa Evanson, Bureau for Remediation and Redevelopment, DNR, 101 S. Webster Street, P.O. Box 7921,

Madison, WI 53707–7921, no later than **June 30, 2000**. Written comments that are mailed to either Department will be given the same weight and effect as oral statements presented at the hearings.

Copies of Rules and Fiscal Estimates

A copy of emergency rule [RR–22–00 (E) & RR–23–00] ch. Comm 46 and ch. NR 746, related changes to chs. NR 700, 716, 720, 722 and 726, and the corresponding fiscal estimates, may be obtained from Richard Meyer at (608) 266–3080 and Theresa Evanson at (608) 266–0941.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearing

Pharmacy Examining Board

[CR 00–47]

Notice is hereby given that pursuant to authority vested in the Pharmacy Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 450.02 (3) (a) 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 7.01 (1) (e), relating to delivery of prescriptions.

Hearing Information

The hearing will be held as follows:

<u>Date and Time</u>	<u>Location</u>
June 14, 2000 Wednesday 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 **Wednesday, July 5, 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. 450.02 (3) (a) and (e)

Rules of the Pharmacy Examining Board identify in s. Phar 7.01 (1) (e) that prescription drugs may be delivered by an agent of the pharmacist to a patient’s residence where the delivery is accompanied by appropriate directions and an offer that consultation is available by contacting the pharmacist. The rule amendment proposed will expand the patient’s options for choice in designating a location of delivery.

Section Phar 7.01 (1) (e) is amended to expand the exception for delivery of prescription drugs and will allow the patient to designate other locations for delivery in addition to the patient’s residence. In the case of delivery to a location other than the patient’s residence, the requirement to offer consultation is expanded to apply to any other location designated by the patient.

Text of Rule

SECTION 1. Phar 7.01 (1) (e) is amended to read:

Phar 7.01 (1) (e) Give the patient or agent appropriate consultation relative to the prescription except that prescriptions may be delivered by an agent of the pharmacist to a patient’s

residence or other locations designated by the patient if the delivery is accompanied by appropriate directions and an indication that consultation is available by contacting the pharmacist. The consultation requirement applies to original and renewal prescription orders and, except when prescriptions are delivered to a patient's residence or other location designated by the patient, is not satisfied by only offering to provide consultation.

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 will have no significant 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
Telephone (608) 266-0495
Dept. of Regulation and Licensing
Office of Administrative Rules
1400 East Washington Ave., Room 171
P.O. Box 8935
Madison, WI 53708

Notice of Hearing

Pharmacy Examining Board

[CR 00-48]

Notice is hereby given that pursuant to authority vested in the Pharmacy Examining Board in ss. 15.08 (5) (b), 227.11 (2), 450.02 (2), (3) (a) and (d) and 450.11 (3), Stats., and interpreting s. 450.02 (3) (a), (b), (d) and (e), Stats., the Pharmacy Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. Phar 7.015, relating to delegation of duties by a pharmacist.

Hearing Information

The hearing will be held as follows:

Date and Time	Location
June 14, 2000 Wednesday 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 **Wednesday, July 5, 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), 450.02 (2), (3) (a) and (d) and 450.11 (3)

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

Rules of the Pharmacy Examining Board identify in s. Phar 7.01 that non-pharmacist employees may be assigned duties by a pharmacist relating to receiving prescriptions, preparing and dispensing drugs. The rules proposed will more specifically define the responsibilities of a pharmacist who delegates duties and describe the types of duties related to compounding and delivering drugs that may be delegated.

Section Phar 7.015 is created to define a pharmacy technician as a non-pharmacist or non-pharmacist intern, who is under the immediate and direct supervision of the pharmacist. The functions of the pharmacy technician are technical and nonjudgmental. The technical dispensing functions which may be delegated to a pharmacy technician are listed, as well as those dispensing functions which may not be delegated to a pharmacy technician. The delegation of approved dispensing functions to a pharmacy technician by the pharmacist does not relieve the pharmacist of responsibility for the proper filling of the prescription order.

Text of Rule

SECTION 1. Phar 7.015 is created to read:

Phar 7.015 Pharmacy technicians. (1) As used in this section, "pharmacy technician" means a non-pharmacist or non-pharmacist intern who, under the immediate and direct supervision of the pharmacist, assists the pharmacist in the technical and nonjudgmental functions related to the practice of pharmacy in the processing of prescription orders and inventory management. "Pharmacy technician" does not include ancillary persons which include, but are not limited to, clerks, secretaries, cashiers or delivery persons, who may be present in the pharmacy.

(2) A pharmacist may delegate technical dispensing functions to a pharmacy technician, but only if the pharmacist is on site where delegated functions are performed. Technical dispensing functions include:

- (a) Accepting written or electronic prescription orders of the prescribing practitioner or from the prescribing practitioner's agent.
- (b) Accepting original oral prescription orders from the prescribing practitioner or prescribing practitioner's agent, if the conversation is recorded and listened to and verified by the pharmacist prior to dispensing.
- (c) Requesting authorization for a refill from the prescribing practitioner.
- (d) Accepting oral authorization for a refill from the prescribing practitioner or prescribing practitioner's agent, provided there are no changes to the original prescription order.
- (e) Accepting a request from a patient to refill a prescription.
- (f) Obtaining and entering patient or prescription data into the patient information system.
- (g) Preparing a prescription label.
- (h) Retrieving medication from stock, counting or measuring medication, and placing the medication in its final container.
- (i) Reconstituting prefabricated dosage forms.
- (j) Compounding pharmaceuticals pursuant to written policies and procedures.
- (k) Affixing a prescription label to its final container.
- (L) Placing ancillary information on the prescription label.
- (m) Possessing drug orders to suppliers for pharmaceuticals, receiving and checking orders.
- (n) Prepackaging and labeling drugs for dispensing by a pharmacist.
- (o) Preparing unit dose carts for final review by a pharmacist.

(p) Retrieving and transporting stock medication to and from approved areas.

(q) Other technical functions that do not require the professional judgment of a pharmacist.

(3) A pharmacy technician shall not do any of the following:

(a) Provide the final verification for the accuracy, validity, completeness, or appropriateness of a filled prescription or medication order.

(b) Perform any of the following tasks:

1. Participate in final drug utilization reviews.
2. Make independent therapeutic alternate drug selections.
3. Participate in final drug regimen screening, including screening for therapeutic duplication, drug-to-drug interactions, incorrect dosage, incorrect duration of treatment, drug allergy reactions and clinical abuse or misuse.
4. Perform any act necessary to be a managing pharmacist.
5. Administer any prescribed drug products, devices or vaccines.

(c) Provide patient counseling, consultation, or patient specific judgment such as interpreting or applying information, including advice relating to therapeutic values, potential hazards and uses.

(4) The pharmacist shall provide the final verification for the accuracy, validity, completeness, and appropriateness of the patient's prescription prior to the delivery of the prescription to the patient or the patient's representative.

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 will have no significant economic impact on 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
Telephone (608) 266-0495
Department of Regulation and Licensing
Office of Administrative Rules
1400 East Washington Ave., Room 171
P.O. Box 8935
Madison, WI 53708

Notice of Hearing

Public Instruction

[CR 00-83]

Notice is hereby given that pursuant to ss. 120.14 (4) and 227.11 (2) (a), Stats., and interpreting ss. 120.14 and 115.28 (18), Stats., the Department of Public Instruction will hold a public hearing as follows to consider the amending of ch. PI 14, relating to school district audits.

Hearing Information

The hearing will be held as follows:

Date and Time	Location
June 15, 2000 Thursday 3:00 – 4:30 p.m.	Room 041 GEF 3 Building 125 South Webster St. MADISON, WI

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call David Carlson, Director, School Financial Services, at (608) 266-6968 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Information

The administrative rule is available on the internet at http://www.dpi.state.wi.us/dpi/dfm/sfms/audit_1.html. A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to lori.slauson@dpi.state.wi.us or by writing to:

Lori Slauson
Administrative Rules and Federal Grants Coordinator
Dept. of Public Instruction
125 South Webster St.
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **Thursday, June 22, 2000**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

Analysis by the Dept. of Public Instruction

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 (GAAP) as promulgated by the Governmental Accounting Standards Board (GASB) and American Institute of Certified Public Accountants (AICPA). For example:

- Under s. PI 14.03 (1) (b), the rules eliminate the definition of “defalcation” because defalcation or “fraud” is covered under the AICAP audit standards. Other provisions relating to defalcation have been deleted because the rule provisions are inconsistent with the AICAP audit standards.
- Under s. PI 14.03 (2) (d) 1. and the appendix, the rules now refer to financial statements prepared according to GASB standards. Again, current provisions relating to financial statements must be modified because they are inconsistent with GASB standards.

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

- Under s. PI 14.03 (2) (a) and the appendix, “account groups” is a term no longer used under GASB.
- Under s. PI 14.03 (2) (a) 2. a., the audit guide referred to no longer exists.
- Under s. PI 14.03 (2) (a) 2. c. and the appendix, the references to circular A-128 and the Single Audit Act of 1984 have been updated.

- Under s. PI 14.03 (2) (d) 4., the note following par. (2), and the appendix, the reference to a federal program audit statement is no longer necessary because such statements no longer exist. Also, under the note following par. (2) and (4), the reference to the Division for School Financial Resources and Management Services has been updated.
- Under the note following s. PI 14.03 (4) and the appendix, the reference to the *Wisconsin School District Audit Guide* has been deleted since the guide no longer exists.

Fiscal Estimate

These rule modifications are being made in order to be consistent with Generally Accepted Accounting Principles as promulgated by the Governmental Accounting Standards Board and American Institute of Certified Public Accountants. In addition, the rule modifications will update or eliminate terminology and references to documents that are no longer used in school district audits.

The rules are considered technical and will have no fiscal effect on local government, state government, and small business.

Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Notice of Proposed Rule

Transportation **[CR 00-94]**

Notice is hereby given that pursuant to the authority of s. 341.14 (6r) (fm) 6., and 227.11, Stats., and according to the procedure set forth in s. 227.16 (2) (e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending s. Trans 134.06 (1) (d), Wis. Adm. Code, relating to license plates for authorized special groups, without public hearing unless, within 30 days after publication of this notice on **June 1, 2000**, the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Contact Information

Questions about this rule and any petition for public hearing may be addressed to:

Philip Thomas, Division of Motor Vehicles
Telephone (608) 267-1857
Bureau of Vehicle Services, Room 201
P. O. Box 7911
Madison, WI 53707-7911

Analysis Prepared by the Wis. Dept. of Transportation

Statutory authority: s. 341.14 (6r) (fm) 6.

Statutes interpreted: ss. 341.14 (6r) and 341.145

General Summary of Proposed Rule. This rule-making will amend ch. Trans 134, relating to the administrative procedure for

designating authorized special groups and issuing special group license plates. Currently, ch. Trans 134 prohibits a group from receiving a plate which is restricted to members of the group. The Department had prohibited restricted plates because of the administrative burden to the Division of Motor Vehicles (DMV). However, DMV has reconsidered this policy, and has developed a procedure that would allow restricted plates with a minimal administrative burden to DMV. The proposed amendment would establish this policy and procedure.

Text of Proposed Rule

Under the authority vested in the state of Wisconsin Department of Transportation by s. 341.14 (6r) (fm) 6., Stats., the Department of Transportation hereby proposes to amend a rule interpreting ss. 341.14 (6r) and 341.145, Stats., relating to authorized special groups.

SECTION 1. Trans 134.06 (1) (d) is repealed and recreated to read:

Trans 134.06 (1) (d) If the authorized special group applies to have restricted license plates, all of the following shall apply:

1. The authorized special group shall certify eligibility of license plate applicants.
2. The group shall collect license plate applications and submit the applications with all required fees to the Department.
3. The group shall include in its application for designation as an authorized special group the criteria it proposes for eligibility for the restricted special license plate.

4. As provided in s. 341.14 (6r) (fm) 5., Stats., the authorized special group may not charge any fees, administrative or otherwise, and may not require or request any contribution from a license plate applicant to obtain eligibility certification for a special plate.

5. The authorized special group shall determine eligibility of the license plate applicant for initial issuance of the special group plate. After the Department has issued the license plate, the Department will not cancel the license plate if at some later time the license plate applicant no longer is eligible for initial issuance of the special license plate according to the authorized special group criteria.

Fiscal Estimate

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis

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

Copies of Proposed Rule

Copies of the proposed rule can be obtained upon request, without cost, by writing to or by calling:

Philip Thomas, Division of Motor Vehicles
Telephone (608) 267-1857
Bureau of Vehicle Services, Room 201
P. O. Box 7911
Madison, WI 53707-7911

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

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

Health and Family Services (CR 99-161):

Ch. HFS 50 – Relating to the adoption assistance program for families that adopt children with special needs.

Insurance, Commissioner of (CR 00-61):

SS. Ins 17.01 and 17.28 – Relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2000.

Natural Resources (CR 00-32):

SS. NR 10.12, 10.145, 10.27, 10.40 and 15.13 – Relating to hunting, trapping and wildlife research.

Revenue (CR 00-23):

S. Tax 2.32 – Relating to defining the term “gross receipts” for the recycling surcharge.

Revenue (CR 00-53):

SS. Tax 18.05 and 18.08 – Relating to assessment of agricultural land.

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.

Chiropractic Examining Board (CR 98-190):

An order creating s. Chir 6.03, relating to the duty to evaluate and inform patients of their presenting conditions.
Effective 07-01-00.

Insurance, Commissioner of (CR 99-170):

An order amending s. Ins 6.57 (4), relating to listing fees for resident agents.
Effective 07-01-00.

Tourism, Dept. of (CR 00-37):

An order amending s. Tour 1.03 (3) (a), relating to the Joint Effort Marketing Program.
Effective 07-01-00.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **May 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.

Administration (CR 99-154):

An order repealing and recreating ch. Adm 47, relating to the Wisconsin Land Information Program grants-in-aid to local government.

Effective 06-01-00.

Agriculture, Trade and Consumer Protection (CR 99-5):

An order affecting chs. ATPC 29 and 40, relating to agricultural chemical cleanup surcharge fees.

Effective 06-01-00.

Financial Institutions—Credit Unions (CR 99-145):

An order repealing ch. DFI-CU 52, relating to credit union examinations.

Effective 06-01-00.

Financial Institutions—Credit Unions (CR 99-146):

An order repealing ch. DFI-CU 64, relating to procedures for the public inspection and copying of public records of the Office of Credit Unions.

Effective 06-01-00.

Financial Institutions—Securities (CR 00-17):

An order amending s. DFI-Sec 5.01 (4) (b) and (e), relating to investment adviser representative competency examination grandfathering provisions.

Effective 06-01-00.

Health and Family Services (CR 99-55):

An order creating ch. HFS 181, relating to reporting of blood lead test results.

Effective 06-01-00.

Kickapoo Reserve Management Board (CR 99-124):

An order creating ch. KB 1, relating to the use of the land, water and facilities in the Kickapoo Valley Reserve.

Effective 06-01-00.

Natural Resources (CR 99-22):

An order repealing s. NR 150.03 (8) (a) 1. and ch. NR 170, relating to power plant siting.

Effective 06-01-00.

Natural Resources (CR 99-43):

An order affecting ss. NR 10.02, 19.26 and 19.27, relating to regulating the harvest, possession and sale of native amphibians and reptiles.

Effective 06-01-00.

Natural Resources (CR 99-95):

An order amending s. NR 812.05, relating to disposal of pollutants, injection prohibition.

Effective 06-01-00.

Natural Resources (CR 99-155):

An order affecting ss. NR 10.01, 10.27 and 10.28, relating to deer hunting in Council Grounds State Park.

Effective 06-01-00.

Psychology Examining Board (CR 99-149):

An order amending ss. Psy 2.08 and 3.10, relating to reexaminations.

Effective 06-01-00.

Public Instruction (CR 98-139):

An order affecting ss. PI 11.02, 11.07 and 11.14, relating to transfer pupils with disabilities and surrogate parents.

Effective 06-01-00.

Public Instruction (CR 99-73):

An order affecting ss. PI 19.03, 19.05 and 19.06, relating to education for school-age parents.

Effective 06-01-00.

Public Instruction (CR 99-103):

An order creating ch. PI 17, relating to summer school programs.

Effective 06-01-00.

Public Instruction (CR 99-118):

An order amending s. PI 11.24, relating to occupational therapy.

Effective 06-01-00.

Public Instruction (CR 99-129):

An order affecting s. PI 6.03, relating to public librarian certification.

Effective 06-01-00.

Public Instruction (CR 99-130):

An order creating ch. PI 37, relating to grants for national teacher certification.

Effective 06-01-00.

Transportation (CR 99-152):

An order creating ch. Trans 320, relating to calculation of fees for special events, security, traffic enforcement and escort services.

Effective 06-01-00.

Veterans Affairs (CR 99-160):

An order repealing and recreating ch. VA 4, relating to the primary mortgage loan program.

Effective 06-01-00.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

The following administrative rule revisions and corrections have taken place in May 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

Administration:

Ch. Adm 47 (entire chapter)

Agriculture, Trade and Consumer Protection:

Ch. ATCP 29

- S. ATCP 29.11 (3) (intro.)
- S. ATCP 29.15 (4) (b)
- S. ATCP 29.20 (6) (b)
- S. ATCP 29.25 (5) (a)

Ch. ATCP 40

- S. ATCP 40.015 (entire section)
- S. ATCP 40.06 (3)

Financial Institutions—Credit Unions:

Ch. DFI—CU 52 (entire chapter)

Ch. DFI—CU 64 (entire chapter)

Financial Institutions—Securities:

Ch. DFI—Sec 5

- S. DFI—Sec 5.01 (4) (b) and (e)

Health and Family Services:

Ch. HFS 181 (entire chapter)

Kickapoo Reserve Management Board:

Ch. KB 1 (entire chapter)

Natural Resources:

(Fish, Game, etc., Chs. NR 1—)

Ch. NR 10

- S. NR 10.01 (3) (e)
- S. NR 10.02 (10)
- S. NR 10.27 (8)
- S. NR 10.28 (1)

Ch. NR 19

- S. NR 19.26 (entire section)
- S. NR 19.27 (intro.), (2) and (4) (b)

*(Environmental Protection—General,
Chs. NR 100—)*

Ch. NR 150

- S. NR 150.03 (8) (a)

Ch. NR 170 (entire chapter)

*(Environmental Protection—Water Supply,
Chs. NR 800—)*

Ch. NR 812

- S. NR 812.05 (entire section)

Psychology Examining Board

Ch. Psy 2

- S. Psy 2.08 (entire section)

Ch. Psy 3

- S. Psy 3.10 (entire section)

Public Instruction:

Ch. PI 6

- S. PI 6.03 (2), (3) (a), (b), (c) and (d), (4), (5), (6) and (7)

Ch. PI 11

- S. PI 11.02 (5m)
- S. PI 11.07 (entire section)
- S. PI 11.14 (entire section)
- S. PI 11.24 (9) (c)

Ch. PI 17 (entire chapter)

Ch. PI 19

- S. PI 19.03 (3), (6) (b) and (f), (8) and (9)
- S. PI 19.05 (intro.), (1) and (2)
- S. PI 19.06 (entire section)

Ch. PI 37 (entire chapter)

Transportation:

Ch. Trans 320 (entire chapter)

Veterans Affairs:

Ch. VA 4 (entire chapter)

EDITORIAL CORRECTIONS

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

Natural Resources:

***(Environmental Protection—General,
Chs. NR 100—)***

Ch. NR 128

- S. NR 128.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.03 (7m) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.09 (4) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.10 (2) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.12 (2) and (14) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.13 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.17 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.24 (1) (g) and (2) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.26 (3) (intro.) had a correction made under s. 13.93 (2m) (b) 6., Stats.
- S. NR 128.30 (1), (2) (d), (4), (5) (intro.) and (h), (6) (d), (8) (b) and (9) (a), (b), (c), (f) and (g) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.
- S. NR 128.35 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.36 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

- S. NR 128.37 (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.39 (1) and (2) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.40 (1) (a) and (2) (b) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.
- S. NR 128.41 (1) and (2) (b) had corrections made under s. 13.93 (2m) (b) 6. and 7., Stats.
- S. NR 128.45 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 128.50 (5) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. NR 150 (entire chapter) had corrections made under s. 13.93 (2m) (b) 7., Stats.

***(Environmental Protection—Water Supply,
Chs. NR 800—)***

Ch. NR 812

- S. NR 812.22 (2) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 812.36 (2) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.
- S. NR 812.37 (2) (a) and (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Public Instruction:

Ch. PI 11

- S. PI 11.35 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Administration (CR 99–154)

Ch. Adm 47 – Wisconsin land information program grants-in-aid to local government.

Summary of Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., ch. Adm 47 is not expected to negatively impact on small businesses.

Summary of Comments:

No comments reported.

2. Agriculture, Trade & Consumer Protection (CR 99–5)

Chs. ATCP 29 & 40 – Agricultural chemical cleanup surcharge fees.

Summary of Final Regulatory Flexibility Analysis:

The proposed changes to ATCP 29 and ATCP 40, Wis. Adm. Code will have minor but positive effects on small businesses that sell or use fertilizers or pesticides in Wisconsin.

Businesses Affected:

Currently all manufacturers and labelers of pesticides used in agricultural crop production must register those pesticides and pay certain fees for those pesticides, with the fees based on the value of Wisconsin sales. Likewise, manufacturers and labelers of fertilizers must be licensed and pay fees for each ton of fertilizer distributed in this state. Agricultural coops and farm centers that blend fertilizer or sell or apply pesticides must be licensed to do these activities. A portion of these fees are used to clean up sites that have been contaminated by spills of pesticides and fertilizers. Most of these fees are passed to farmers through distributor imposed surcharges on the products.

Starting with state fiscal year 1998/1999, and continuing for two years, the product and license fees have been reduced because the balance of funds currently available exceeds the anticipated costs of cleaning up contaminated sites. The fees are set to resume during state fiscal year 2000/2001. This proposed rule will delay resumption of these surcharge fees for agricultural chemical cleanups for two additional years.

Most manufacturers of pesticides and many manufacturers of fertilizers, as well as many agricultural coops and farm centers are not small businesses. Some smaller coops and farm centers are small businesses. Since most of these fees are passed on to farmers, the greatest savings should be at the farm level, most of which are small businesses.

Anticipated Impacts:

The department estimates cost savings of \$2,800,000 per year for two years. Based on 30,000 farms, the department anticipates average per farm savings of about \$200 over the two years during which this rule extends the fee reduction, with the savings directly proportional to purchased fertilizer and pesticide inputs.

There are no anticipated changes in recordkeeping, reporting or other practices as a result of this rule.

Summary of Comments:

On August 10, 1999, this department transmitted the above rule for legislative committee review. The rule was assigned to the Assembly Committee on Agriculture and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. The review period for the Assembly Committee on Agriculture ended without comment on September 19, 1999. The Senate Committee requested an extended review period pending final action on the biennial budget. The extended review ended without comment on January 11, 2000.

3. Department of Financial Institutions–Credit Unions (CR 99–145)

Ch. DFI–CU 52 – Credit Union examinations.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

4. Department of Financial Institutions–Credit Unions (CR 99–146)

Ch. DFI–CU 64 – Public inspection and copying of records of the Office of Credit Unions.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

5. Department of Financial Institutions–Securities (CR 00–17)

S. DFI–Sec 5.01 (4)(e) – Investment adviser representative competency examination grandfather provisions.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

6. Health and Family Services (CR 99–55)

Ch. HFS 181 – Relating to reporting of blood lead test results.

Summary of Final Regulatory Flexibility Analysis:

About half of the 31 or so non–public laboratories that do blood lead testing for Wisconsin health care providers are small businesses as “small business” is defined in s. 227.114 (1) (a), Stats., as are many of the health care providers, in particular, physicians and nurses working independently or in a group practice, who may obtain a blood sample or order that a blood sample be taken in order to obtain a laboratory’s analysis of the concentration of lead in the person’s blood.

The rules specify the information that a laboratory must report to the Department with the results of a blood lead test and include timetables for reporting that information that depend on the results. A health care provider submitting a blood sample to a clinical laboratory for analysis to determine concentration of lead in the blood must submit with the sample part of the information required for the report. The laboratory adds the rest of the required information.

None of the 5 methods set out in s. 227.114 (2), Stats., for reducing the impact of the rules on small businesses have been included in the rules.

Reporting to the Department or a local health officer the results of blood lead tests has been taking place under s. 254.13, Stat., for several years. It has not always been clear who is responsible for reporting, whether the health care provider or the clinical laboratory, and it has sometimes been difficult to get laboratories in particular to report everything that the Department wants reported. The rules make clear that the reporting responsibility is with the laboratories, unless a laboratory is out of state or the health care provider and the laboratory agree in writing that the health care provider will report, and the rules make clear also what must be reported, by when and how.

Comments were received during public review of the rules that the Department was requiring too much information in a report, that blood lead level test results of under 10 ug/dL should not be reportable and that the time limits for submitting reports following completion of laboratory analyses were too short.

The Department needs all of the information specified, including the reporting of test results under 10 ug/dL, in order to carry out its statutory responsibilities to evaluate occupational and environmental health hazards and to establish surveillance systems and follow–up programs, and the Department requires the information to be reported by the times specified in order to comply with a statutory requirement that lead poisoning or lead exposure be reported within 48 hours and to facilitate rapid public health agency response to lead hazards.

Summary of Comments of Legislative Standing Committees:

The Department did not receive comments from the standing committees.

7. Kickapoo Valley Reserve (CR 99–124)

Ch. KB 1 – The use of land, water and facilities in the Kickapoo Valley Reserve.

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.

8. Natural Resources (CR 99–95)

S. NR 812.05 – Disposal of pollutants; injection prohibition.

Summary of Final Regulatory Flexibility Analysis

The proposed amendment will not directly affect environmental quality and the expected financial impact of the proposed rule change upon small businesses is negligible as the cement, bentonite grout or other approved materials presently used by the building trades would not require additional environmental monitoring or impose new regulatory requirements.

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.

9. Natural Resources (CR 99–43)

S. NR 19.26 – Harvest, possession and sale of native amphibians, lizards and snakes.

Summary of Final Regulatory Flexibility Analysis:

Two biological supply businesses will be minimally impacted by the loss of some sales of native reptiles for pets. This is not considered to be a hardship since we are continuing to allow the sale of the primary native herptile species in which they deal. A large percentage of their business is generated by the sale of non–native species that are not impacted by these rules. The few pet stores that sell native herptiles should experience minimal losses since the vast majority of their herptile sales comprise non–native species.

Summary of Comments by Legislative Review Committees:

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

10. Natural Resources (CR 99–22)

S. NR 150.03 and ch. NR 170 – Power plant siting.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments by Legislative Review Committees:

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

11. Natural Resources (CR 99–155)

Ch. NR 10 – Deer hunting in Council Grounds state park.

Summary of Final Regulatory Flexibility Analysis:

Because the proposed rule regulates individual hunters, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

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

12. Psychology Examining Board (CR 99–149)

SS. Psy 2.08 & 3.10 – Reexaminations.

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.

13. Public Instruction (CR 98–139)

Ch. PI 11 – Transfer pupils with disabilities and surrogate parents.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

14. Public Instruction (CR 99–73)

Ch. PI 19 – Education for school age parents.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

15. Public Instruction (CR 99–103)

Ch. PI 17 – Summer school programs.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

16. Public Instruction (CR 99–118)

S. PI 11.24 (9)(c) – Occupational therapy.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

17. Public Instruction (CR 99–129)

Ch. PI 6 – Public librarian certification.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

18. Public Instruction (CR 99–130)

Ch. PI 37 – Grants for national teacher certification.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

19. Transportation (CR 99–152)

Ch. Trans 320 – Calculation of fees for special events, security, traffic enforcement and escort services.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

20. Veterans Affairs (CR 99–160)

Ch. VA 4 – Primary mortgage loan program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

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

Executive Order 391. Relating to the Creation of the South Central Wisconsin Regional Planning Commission Study Committee.

Executive Order 393. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for Peace Officers Who Have Given Their Lives in the Line of Duty.

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!