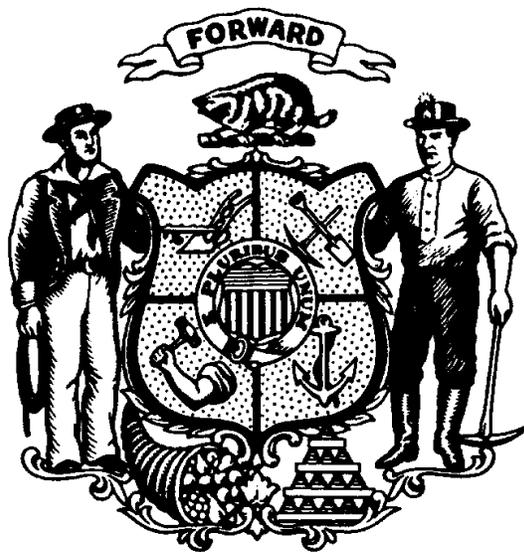


WISCONSIN ADMINISTRATIVE REGISTER

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EMERGENCY RULES NOW IN EFFECT

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

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

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

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

EMERGENCY RULES NOW IN EFFECT

Agriculture, Trade & Consumer Protection

Rules adopted revising **s. ATCP 11.20** and creating **ss. ATCP 11.01(11m) and 11.73**, relating to swine import and required tests.

Finding of Emergency

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

- Pseudorabies is a highly contagious disease of swine and other livestock. Wisconsin initiated its pseudorabies program in 1976. Since that time, the department has worked diligently, pork producers have sacrificed significantly and the state has paid substantial costs to eradicate the disease. In 1997, the National Pseudorabies Control Board recognized Wisconsin as a pseudorabies stage IV state. If there are no incidents of pseudorabies in the state before October, 2000, the state will be classified as a pseudorabies stage V state (free of the disease) at that time. Classification as a pseudorabies stage IV or V state creates significant benefits in the swine export market.

- There has been a significant increase in pseudorabies cases reported in several pseudorabies stage II and III states. In the past, Wisconsin pork producers have imported many swine from the pseudorabies stage II and III states which are now experiencing an increase in pseudorabies.

- If pseudorabies spreads to Wisconsin, the Wisconsin pork industry will be hampered in its ability to produce and export swine and pork products.

- The increased prevalence of pseudorabies in states from which Wisconsin import shipments originate creates a substantial threat to

the pork industry in Wisconsin. The department finds that an emergency rule is needed to minimize the threat of pseudorabies.

Publication Date: May 25, 2000
Effective Date: May 25, 2000
Expiration Date: October 22, 2000
Hearing Date: June 29, 2000

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

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

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: July 31, 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

EMERGENCY RULES NOW IN EFFECT

Insurance

Rules were adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2000.

Finding of Emergency

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

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2000.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 00-061, will be filed with the secretary of state in time to take effect September 1, 2000. Because the fund fee provisions of this rule first apply on July 1, 2000, it is necessary to promulgate the rule on an

emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 5, 2000.

Publication Date: May 22, 2000
Effective Date: July 1, 2000
Expiration Date: November 28, 2000

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

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
Hearing Date: April 4, 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
Hearing Dates: March 6 and 8, 2000

EMERGENCY RULES NOW IN EFFECT

Public Service Commission

Rules adopted amending **s. PSC 116.03(4)** and creating **s. PSC 116.04(6)**, relating to the definition of fuel and permissible fuel costs.

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend ch. PSC 116 Wis. Adm. Code. Amending the definition of

“fuel” in s. PSC 116.03(4) and creating s. PSC 116.04(6) would allow investor-owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the summer of 2000 and beyond. This change would assist in implementing the requirement of 1999 Wis. Act 9, s. 196.192(2)(a), Stats.

Publication Date: June 5, 2000
Effective Date: June 5, 2000
Expiration Date: November 2, 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: July 1, 2000
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: August 20, 2000
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

Commerce

(Public Employee Safety and Health, Ch. Comm 32)

Subject:

Ch. Comm 32 – Relating to public employee safety and health.

Description of policy issues:

Description of the objective of the rule:

The objective of the rule is to update the provisions of the Department's administrative rules relating to occupational safety and health standards for public employees. This update will include adoption by reference of the current applicable federal standards. This update will include the formation of a special technical subcommittee to review the recommendations of the American Conference of Governmental Industrial Hygienists, prior to the policy level advisory council meetings.

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

Section 101.055, Stats., requires the Department to provide public sector employees with safety and health protection at least equivalent to that afforded to private sector employees under standards adopted by the federal Occupational Safety and Health Administration (OSHA). Currently, ch. Comm 32 adopts the 1999 edition of the federal OSHA safety and health standards. The proposed rule would adopt the 2000 edition of the federal OSHA safety and health standards. The alternative of not updating ch. Comm 32 would result in public employees not being provided with safety and health protection equivalent to that afforded to private sector employees.

Statutory authority for the rule:

Section 101.055 (3), Stats.

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

The Department estimates that it will take approximately 400 hours to develop this rule. This time includes forming and meeting with a special technical subcommittee and with a policy level advisory council, then drafting the rule and processing the rule through public hearings and legislative review. The Department will assign existing staff to develop the rule. There are no other resources necessary to develop the rule.

Insurance, Commissioner of

Subject:

Ch. Ins 18 – Relating to independent review organizations.

Description of policy issues:

a) A statement of the objective of the proposed rule:

Creation of ch. Ins 18 is necessary in order to comply with, and implement, 1999 Wis. Act 155 and its requirement that independent review appeal processes be established. In addition, 1999 Wis. Act 155 revised internal review provisions that will be reflected within ch. Ins 18.

b) A description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives:

The purpose of the proposed rule is to provide definitions, standards and reporting requirements pertaining to independent review organizations, the independent review process, and internal review processes.

A statement of the statutory authority for the rule:

1999 Wis. Act 155 and sections 601.41, 628.34 (12) and 632.835 (5), Stats.

An estimate of the amount of time state employees will spend to develop the rule and a description of other resources necessary to develop the rule:

A work group within the agency will review the Act and create the necessary rules. It is estimated that this process will require approximately 1000 hours.

Natural Resources

(Environmental Protection--Water Supply, Chs. NR 800--)

Subject:

Ch. NR 809 – Relating to safe drinking water.

Description of policy issues:

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

The DNR needs to begin work to add two new federal regulations to the State Safe Drinking Water Code. The regulations are:

1. Lead and Copper Rule Minor Revisions.
2. Public Notice Rule Revisions.

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

Explain the facts that necessitate the proposed change:

USEPA has issued revisions to existing Lead and Copper regulations and Public Notice regulations. The Department must adopt these revisions to maintain primacy for implementation of the Safe Drinking Water regulations in Wisconsin.

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

It is an adoption of federal requirements that do not include or allow for pollution prevention.

Authority for the proposed rule/Board action:

40 CFR Parts 141, 142 and 143 and sections 227.11 and 281.17 (8), Stats.

Anticipated time commitment:

The anticipated time commitment is 346 hours. Five public hearings will be held in February 2001 (or later), one in each DNR region.

Optometry Examining Board

Subject:

Opt Code – Relating to requirements relating to the use of laser procedures by optometrists.

Description of policy issues:

Objective of the rule:

The objective of the rule is to create rules setting forth the following in reference to the use of laser procedures:

- 1) Define what constitutes "laser procedures";

2) Establish the qualifications that optometrists must obtain in order to use laser procedures;

3) Determine the conditions and restrictions, if any, that the Board will impose in reference to the use of laser procedures; and

4) Define what constitutes unprofessional conduct in reference to the use of laser procedures.

Policy analysis:

The existing rules do not address policies relating to the use of laser procedures. The proposed rules would permit the use of laser procedures by optometrists who meet the qualifications established by the Board, including, but not limited to: education, training and supervised experience. There are no viable policy alternatives.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2), 449.01 (1), 449.07 and 449.08, Stats.

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

100 hours.

Transportation

Subject:

Ch. Trans 203 – Relating to setting forth provisions regarding the method counties and municipalities will use to assess the physical condition of highways.

Description of policy issues:

Description of the objective of the rule:

This rule-making creates ch. Trans 203, which will implement 1999 Wis. Act 9, Section 1870. The Act requires each county and municipality to assess the physical condition of highways under its jurisdiction using a Department-approved pavement rating system and report the results to the Department. Chapter Trans 203 will set forth provisions regarding the method counties and municipalities will use to assess the physical condition of highways, the method the Department will use to assess the accuracy of data, and the manner in which the Department will cooperate and provide assistance to local units of government in their mileage determination efforts.

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

Collection of pavement rating data is required to populate the new local roads database known as the Wisconsin Information System for Local Roads (WISLR). Currently, counties and municipalities (locals) are not required to collect pavement rating data. Pursuant to 1999 Wis. Act 9, section 1870, the deadline for locals to collect and report pavement rating data will be **December 15, 2001**, and will be required biennially thereafter. Chapter Trans 203 will define guidelines for acceptable pavement rating systems, including a specification of exact data elements that the locals must report, and the manner in which locals should report data back to the Department.

The Department faces two policy alternatives in developing a pavement rating system. It may develop a list of acceptable pavement rating software systems or it may define criteria and create a process for Department approval of pavement rating software systems. The second alternative would better accommodate technological innovation, but it may require more initial work in terms of creating the criteria and process for approval.

More complex rating systems require more time to rate the roads. This raises the issue of aging data as time lapses while locals continue their efforts to rate all highways in their jurisdiction. The rule will address this problem by defining the age of acceptable data for systems of varying complexity.

Under the current policy, local governments can submit their data in several forms for the initial load of data into WISLR. These forms include paper copy, floppy disk, electronic mail and web interface. One policy approach would be to continue accepting a wide variety of formats in an effort to gather a maximum amount of data from locals. However, the drawback to this approach is that it creates more work in collating data once the data reaches the Department. An alternative to minimize this problem would be to develop and provide specific formats for the various forms of data submittal. Although this may reduce flexibility for locals, it will ultimately reduce the amount of work required from the Department when the local data arrives.

1999 Wis. Act 9, s. 86.302 (2), Stats., replaces the previous s. 86.302 (2) which stated, "The Department shall inventory and verify all road mileage in a county or municipality once every 10 years." Pursuant to that version of the statute, the Department assesses the accuracy of data for local road mileage certification. Under the amended statute, the Department will no longer perform this 10-year inventory and verification. Instead, ch. Trans 203 will develop a method for the Department to use for assessing physical condition data in a manner similar to the method it had utilized for the assessment of mileage data under the prior version of s. 86.302 (2), Stats. In addition, a framework for defining a valid random sample will be developed.

The extent to which the Department will provide assistance to local governments in their jurisdictional mileage determination efforts will also be defined. Optimally, ch. Trans 203 would provide guidance to local governments to enable them to accomplish the majority of the assessment process themselves, rather than being dependent upon the Department for this assistance.

Statutory authority for the rule:

Section 86.302 (2), Stats., as amended by 1999 Wis. Act 9, section 1870.

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

80 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.

Agriculture, Trade and Consumer Protection

Rule Submittal Date

On June 9, 2000, the Wisconsin Department of Agriculture, Trade and Consumer Protection referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. ATPC 136, Wis. Adm. Code, relating to ozone-depleting refrigerants in mobile air conditioners.

Agency Procedure for Promulgation

A public hearing is required, and the Department will hold public hearings on this rule after the Wisconsin Legislative Council Rules Clearinghouse completes its review. The public hearings are scheduled to be held on the following dates: Wednesday, July 12, 2000 at Eau Claire; Friday, July 14, 2000 at Madison; Tuesday, July 18, 2000 at Milwaukee; Monday, July 24, 2000 at Green Bay; and Wednesday, July 26, 2000 at Wausau.

The Department's Trade and Consumer Protection Division is primarily responsible for promulgation of this rule.

Contact Information

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

Tom Stoebig
Division of Trade and Consumer Protection
Telephone: (608) 224-4944
Email: stoebtj@wheel.datcp.state.wi.us

or

Attorney Teel Haas
Telephone: (608) 224-5032
Email: haastd@wheel.datcp.state.wi.us

Natural Resources

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

Rule Submittal Date

On June 8, 2000, the Wisconsin Department of Natural Resources referred a proposed rule [Board Order No. WM-20-00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 10, Wis. Adm. Code, relating to the 2000 migratory game bird hunting season.

Agency Procedure for Promulgation

A public hearing is required, and the Department will hold public hearings on this rule on August 7, 8, 9 and 10, 2000.

Contact Information

If you have questions regarding this rule, please contact:

Jon Bergquist
Bureau of Wildlife Management
Telephone: (608) 266-8841
Email: bergqj@dnr.state.wi.us

Natural Resources

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

Rule Submittal Date

On June 8, 2000, the Wisconsin Department of Natural Resources referred a proposed rule [Board Order No. FH-26-00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 25, Wis. Adm. Code, relating to commercial fishing for chubs on Lake Michigan.

Agency Procedure for Promulgation

A public hearing is required, and the Department will hold two public hearings on this rule on Friday, July 14, 2000.

Contact Information

If you have questions regarding this rule, please contact:

William Horns
Bureau of Fisheries Management & Habitat Protection
Telephone: (608) 266-8782
Email: hornsw@dnr.state.wi.us

Natural Resources

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

Rule Submittal Date

On June 8, 2000, the Wisconsin Department of Natural Resources referred a proposed rule [Board Order No. AM-28-00] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 406, 407, 419, 422 and 484, Wis. Adm. Code, relating to control of organic compound emissions from autobody refinishing operations.

Agency Procedure for Promulgation

A public hearing is required, and the Department will hold public hearings on this rule on August 1 and 2, 2000.

Contact Information

If you have questions regarding this rule, please contact:

Joe Brehm
Bureau of Air Management
Telephone: (608) 267-7541
Email: brehmj@dnr.state.wi.us

Pharmacy Examining Board**Rule Submittal Date**

On June 13, 2000, the Pharmacy Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

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

The proposed rule-making order affects s. Phar 8.05, relating to the dispensing of controlled substances.

Agency Procedure for Promulgation

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

Contact Information

Pamela Haack
Administrative Rules Coordinator
Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us

Regulation and Licensing**Rule Submittal Date**

On June 9, 2000, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 227.11 (2), 440.06 and 480.08 (7), Stats.

The proposed rule-making order affects ss. RL 121.025, 125.03, 126.02 and 126.03, relating to the regulation of auctioneers and auction companies.

Agency Procedure for Promulgation

A public hearing is required and will be held on Monday, July 24, 2000 at 9:15 a.m. in Room 180 at 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

Pamela Haack
Administrative Rules Coordinator
Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us

Regulation and Licensing**Rule Submittal Date**

On June 9, 2000, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 227.11 (2), 452.04, 452.05 and 452.07, Stats.

The proposed rule-making order affects chs. RL 17 and 24 and s. RL 25.05, relating to real estate education requirements.

Agency Procedure for Promulgation

A public hearing is required and will be held on Thursday, July 27, 2000 at 10:15 a.m. in Room 180 at 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

Pamela Haack
Administrative Rules Coordinator
Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us

Regulation and Licensing**Rule Submittal Date**

On June 1, 2000, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 227.11 (2), 440.26 (1) (b), (2) (c), (3m) and (6) and 440.974 (2), Stats.

The proposed rule-making order affects chs. RL 30 to 35, relating to peace officers, causes for denial, firearms permits, and firearms proficiency certifiers.

Agency Procedure for Promulgation

A public hearing is required and will be held on Friday, July 7, 2000 at 10:00 a.m. in Room 133 at 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

Pamela Haack
Administrative Rules Coordinator
Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us

NOTICE SECTION

Notice of Hearings

Agriculture, Trade & Consumer Protection

[CR 00-141]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on proposed rule changes to Chapter ATCP 136, Wis. Adm. Code. The hearings will be held at the times and places shown below. The public is invited to attend and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **August 15, 2000** for submittal of additional written comments. Please submit written comments to the attention of Eileen Pierce, Division of Trade and Consumer Protection, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708-8911.

A copy of the proposed rule may be obtained free of charge from DATCP, Division of Trade and Consumer Protection, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708 or by calling 608-224-4944. Copies will also be available at the public hearing.

Handicap access is available at all hearing locations. An interpreter for the hearing impaired will be available on request for the hearing. Please make reservations for a hearing interpreter at least ten days prior to the hearing date by writing Holly Heggestad, 2811 Agriculture Drive, PO Box 8911, Madison, WI 53708 or by contacting the message relay system (TDD) at 608-224-5058.

Hearing Information

•Eau Claire area

July 12, 2000
Wednesday
1:00 – 3:00 p.m. and
6:00 – 8:00 p.m.

DATCP Regional Office
1st Floor Conference Room
3610 Oakwood Hills Pkwy.
Eau Claire, Wisconsin

•Madison area

July 14, 2000
Friday
10:00 a.m. – 12:00 p.m. and
2:00 – 4:30 p.m.

Prairie Oak State Office Bldg.
DATCP Board Room
2811 Agriculture Drive
Madison, Wisconsin

•Milwaukee area

July 18, 2000
Tuesday
10:00 a.m. – 12:00 p.m. and
2:00 – 4:30 p.m.

Milwaukee Regional DATCP
Office
1st Floor Conference Room
10930 W. Potter Road
Suite C
Milwaukee, Wisconsin

•Green Bay area

July 24, 2000
Monday
1:00 – 3:00 p.m. and
6:00 – 8:00 p.m.

Northeast Wisconsin
Technical College
Room 6201
2740 West Mason Street
Green Bay, Wisconsin

•Wausau area

July 26, 2000
Wednesday
1:00 – 3:00 p.m. and
6:00 – 8:00 p.m.

Marathon Public Library
Wausau Room (3rd Floor)
300 First Street
Wausau, Wisconsin

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

Statutory Authority: ss. 93.07(1), 100.20(2) and 100.45(5) and (5e)

Statutes Intepreted: ss. 100.20(2) and 100.45

Background: Current Rules

In 1990, the Wisconsin legislature enacted comprehensive legislation regulating the sale, handling and use of ozone-depleting refrigerants. The legislature has adopted several amendments since 1990. Current law is based, in part, on federal regulations adopted by the U.S. environmental protection agency under Title VI of the federal clean air act amendments of 1990. Among other things, this legislation created s. 100.45, Stats., which directs DATCP to adopt rules regulating the servicing of mobile air conditioners and the sale and use of ozone-depleting refrigerants. Current law also directs DATCP to establish fees for regulated businesses to cover the cost of the program.

DATCP adopted rules related to mobile air conditioners in 1991 as ch. ATCP 136, Wis. Adm. Code. The rules were most recently revised in 1996. The current rules:

- Regulate sales of ozone-depleting refrigerants and refrigerant substitutes, and the servicing of mobile air conditioners and trailer refrigeration equipment.
- Require regulated businesses to register with DATCP. Registered businesses must have approved recovery and recycling equipment. Technicians employed by the business must also be trained, tested and certified under a DATCP-approved training program.
- Require regulated businesses to recover, recycle or reclaim refrigerants used in mobile air conditioners and trailer refrigeration equipment. Recycled refrigerants must meet industry-developed purity standards.
- Prohibit venting of refrigerants and “topping off” of leaky mobile air conditioners or trailer refrigeration equipment. Technicians must inspect for leaks, and make proper repairs, before adding refrigerant.
- Prohibit sales of refrigerant in small containers (less than 15 pounds), and restrict other refrigerant sales to certified technicians and state-licensed businesses.
- Establish annual license fees for regulated businesses.

Proposed Rule Changes

This rule increases the annual registration fee for businesses engaged in repairing and servicing mobile air conditioners and trailer refrigeration equipment. This rule increases the annual fee from \$80 to \$120. DATCP has not adjusted the fee since start-up of the program in 1991. A fee increase is needed to maintain the current level of program operations.

Current rules require on-site recovery, recycling and reuse of refrigerant for motor vehicle air conditioning systems. This rule relaxes current prohibitions against the sale or transfer of recovered

refrigerant, consistent with 1997 Wis. Act 165 and recent changes in federal regulations, by permitting auto salvagers and others to sell recovered refrigerant to DATCP-registered repair businesses for recycling and reuse.

This rule removes current obsolete references to "used refrigerant broker", including broker registration requirements.

Under current law, DATCP may regulate refrigerants used as substitutes for ozone-depleting refrigerants in mobile air conditioners and trailer refrigeration equipment. This rule more closely regulates the use of substitute refrigerants, consistent with federal EPA regulations under 40 CFR Part 82, Subpart G. The proposed changes require a person installing an EPA-accepted substitute refrigerant to completely remove the original refrigerant, install unique fittings, and meet other retrofitting requirements. These requirements are designed to prevent costly cross-contamination of refrigerant supplies and potential damage to recycling equipment and mobile air conditioning systems.

This rule prohibits deceptive advertising and sales claims for substitute refrigerants and requires sellers to disclose all use restrictions and installation requirements associated with the product.

This rule also makes the following minor changes to ch. ATCP 136, Wis. Adm. Code, by (1) clarifying training requirements for new resident technicians who were previously certified under a federal technician training program, (2) eliminating expiration dates for DATCP-approved technician training programs and clarifying DATCP's authority to audit training programs and review training materials for compliance with DATCP rules, and (3) clarifying recordkeeping requirements for persons buying and selling refrigerant to more effectively track purchases and sales.

Fiscal Estimate

The department regulates the sale and use of refrigerant used in mobile air conditioning and trailer refrigeration systems under s. 100.45, Stats. Operations which engage in repair and servicing activities are licensed and inspected by the department to ensure that technicians are trained and certified, approved refrigerant recovery and recycling equipment is properly utilized, and other required practices are followed. Both private businesses and public entities engaged in commercial repair and servicing activities are subject to current registration requirements. These include a handful of municipal and county fleet maintenance and transit operations, as well as various technical colleges in the state.

Section 100.45(5)(a), Stats., authorizes the department to adopt rules for the administration of these responsibilities, including fees to cover the costs of the program. Revenues generated by the program result from an annual business registration fee of \$80, a statutory late payment penalty of \$16 (20% of the annual registration fee), and a statutory registration fee surcharge of \$160 for operating without a valid registration.

The department registers an estimated 3,100 businesses under the mobile air conditioning program. This number fluctuates only slightly in any given year. An average of 120 late payment penalties and 25 registration fee surcharges are also collected each year. Program revenues under the current fee structure totalled \$260,000 during the 1999 licensing year. This compares to annual program expenditures of \$300,000.

Proposed revisions to ch. ATCP 136, Wis. Adm. Code, will increase the annual business registration fee from \$80 to \$120. Total revenues generated by the proposed fee increase are estimated at \$372,000. In addition, late payment penalties (which increase to \$24) and registration fee surcharges (which remain unchanged) are projected to generate an additional \$7,400. New revenue resulting from the fee increase is estimated at \$120,000.

Initial Regulatory Flexibility Analysis

Most of the businesses licensed by the department to service and repair motor vehicle air conditioners and trailer refrigeration equipment are small businesses, as defined in s. 227.114(1)(a). The

proposed changes to ch. ATCP 136, Wis. Adm. Code, will have minimal fiscal and administrative impact on these businesses.

Notice of Hearings

Natural Resources

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

[CR 00-103]

Notice is hereby given that pursuant to ss. 29.014, 29.041, 29.197 and 227.11(2)(a), Stats., interpreting ss. 29.014, 29.041 and 29.197, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 10, Wis. Adm. Code, relating to the 2000 migratory game bird season. The proposed regulations include:

Ducks – The state is divided into two zones each with 60-day seasons. The seasons begin at noon September 30 and continue through November 28. The daily bag limit in both zones is 6 ducks, including no more than 4 mallards of which only one may be a hen, one black duck, one pintail, one canvasback, 2 redheads, 2 wood ducks and 3 scaup.

Canada geese – The state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, New Auburn, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone – 68 days; Horicon Zone – 95 days; Exterior Zone – 94 days; and Mississippi River Subzone – 80 days. The Burnett County and New Auburn Subzones are closed to Canada goose hunting.

Baiting – The proposed rule repeals and recreates baiting as it is defined under U.S. Fish and Wildlife Service migratory game bird hunting prohibited methods.

Non-toxic shot – The proposed rule amends the rule to be consistent with U.S. Fish and Wildlife Service non-toxic shot requirements in both shotshells and loose shot for muzzle-loaders.

Tagging – The proposed rule allows goose hunters to attach goose kill permits to the neck or leg of a harvested goose.

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

August 7, 2000 Monday at 7:00 p.m.	County Admin. Center 400 N. 4th Street La Crosse
August 8, 2000 Tuesday at 7:00 p.m.	Conference Room 1 DNR Service Center 107 Sutliff Ave. Rhineland
August 9, 2000 Thursday at 7:00 p.m.	Room 310 City Hall 100 North Jefferson St. Green Bay
August 10, 2000 Thursday at 7:00 p.m.	Comfort Suites Hwy. J and I-94 Pewaukee

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 Jon Bergquist at (608) 266-8841 with specific information on your request at least 10 days before the date of the scheduled hearing.

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.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Jon Bergquist, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than **August 11, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WM-20-00] and fiscal estimate may be obtained from Mr. Bergquist.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

Natural Resources

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

[CR 00-102]

Notice is hereby given that pursuant to ss. 29.041, 29.014(1), 29.519(1)(b) and 227.11(2)(a), Stats., interpreting ss. 29.041, 29.014(1) and 29.519(1)(b), Stats., the Department of Natural Resources will hold public hearings on revisions to ss. NR 25.02 and 25.05, Wis. Adm. Code, relating to commercial fishing for chubs in Lake Michigan. The amendment to s. NR 25.02(25) expands the area of Lake Michigan designated the southern chub fishing zone. The proposed rule allows chub fishing during the winter periods in water 60 fathoms deep or deeper north of the current southern chub fishing zone but south of a line extending east of the entrance of Algoma harbor. The amendment of s. NR 25.05(1)(d) permanently opens waters of the northern chub fishing zone shallower than 60 fathoms but deeper than 55 fathoms to chub fishing during the winter period.

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

July 14, 2000
Friday
at 1:00 p.m.

Room A150
Door County Courthouse
421 Nebraska Street
Sturgeon Bay

July 14, 2000
Friday
at 4:00 p.m.

Public Conference Room
Public Library
710 N. 8th Street
Sheboygan

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 Bill Horns at (608) 266-8782 with specific information on your request at least 10 days before the date of the scheduled hearing.

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:

- Types of small businesses affected: Lake Michigan commercial chub fishers
- Description of reporting and bookkeeping procedures required: No new procedures
- Description of professional skills required: No new skills

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Bill Horns, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than **July 24, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FH-26-00] and fiscal estimate may be obtained from Mr. Horns.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

Natural Resources

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

[CR 00-101]

Notice is hereby given that pursuant to ss. 227.11(2)(a) and 285.11(1), Stats., interpreting s. 285.11(6), Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 406, 407, 419, 422 and 484, Wis. Adm. Code, relating to the control of volatile organic compound emissions from auto body refinishing operations. The proposed rules incorporate national limitations on the VOC content of coatings and coating components into the administrative code. The proposed rule also repeals a section of the current code requiring low VOC cleanup solvents for non-plastic parts. The proposed rule would also exempt auto body refinishing operations if the emissions of VOCs, prior to any pollution control equipment, are less than 1666 pounds per month. This limitation is consistent with the general exemption for other facilities. This is a statewide exemption.

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

August 1, 2000
Tuesday
at 1:00 p.m.

Room 611A
GEF #2
101 South Webster St.
Madison

August 2, 2000
Wednesday
at 10:00 a.m.

Room 141
SE Region Hdqrs.
2300 N. Martin Luther King Blvd.
Milwaukee

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 Joe Brehm at (608) 267-7541 with specific information on your request at least 10 days before the date of the scheduled hearing.

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: Auto body refinishers
- b. Description of reporting and bookkeeping procedures required: No new procedures
- c. Description of professional skills required: No new skills

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Joe Brehm, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **August 16, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings.

Copies of Rule

A copy of proposed rule [AM-28-00] 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) 267-0660

Fiscal Estimate

There is no fiscal effect.

Notice of Hearing

Pharmacy Examining Board

[CR 00-107]

Notice is hereby given that pursuant to authority vested in the Pharmacy Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 450.02 (3) (a), Stats., and interpreting ss. 450.02 (3) (a) and (e), and 961.31, Stats., the Pharmacy Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal s. Phar 8.05 (6); and to amend s. Phar 8.05 (1) and (7), relating to the dispensing of controlled substances.

Hearing Information

The hearing will be held as follows:

Date and Time	Location
July 11, 2000 Tuesday 9:15 a.m.	Room 179A 1400 East Washington Ave. MADISON, WI

Written Comments

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

received by **Tuesday, July 25, 2000** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

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

Statutes interpreted: ss. 450.02 (3) (a) and (e), and 961.31, Stats.

The objective of amending s. Phar 8.05 (1) and (7), and repealing s. Phar 8.05 (6), is to conform with the federal controlled substances prescription rules codified at 21 CFR 1306.05. The amended rules will allow the pharmacist, after consultation with the prescriber or the patient, to add, modify or clarify certain required elements necessary for a valid controlled substances prescription order. The rule would also modify the terminology for the required elements to correspond with their federal rule counterparts.

Section 1 amends the provision to define the required elements for a valid prescription order for a controlled substance to correspond with the federal rule counterparts.

Section 2 repeals a provision that is no longer required.

Section 3 amends a provision to delineate the required elements that may be supplied to a prescription order for controlled substances and the permitted means of obtaining the information required for those elements.

Text of Rule

SECTION 1. Phar 8.05 (1) is amended to read:

Phar 8.05 (1) All controlled substance prescription orders shall be dated as of, and signed on, the day issued and shall contain the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address and registration number of the practitioner, ~~the name and quantity of the drug prescribed, and the directions for use.~~ Prescription orders shall be written with ink or indelible pencil or be typewritten and shall be signed by the practitioner. Orders for controlled substances may be issued only by individual practitioners who are authorized to prescribe controlled substances by the jurisdiction in which he or she is licensed to practice and registered or exempt from registration under the federal controlled substances act.

SECTION 2. Phar 8.05 (6) is repealed.

SECTION 3. Phar 8.05 (7) is amended to read:

Phar 8.05 (7) ~~Except as provided in this subsection, a A~~ prescription order for a controlled substance may not be dispensed unless the prescription order contains all of the information required in sub. (1). ~~A~~ After consultation with the prescribing practitioner, a pharmacist may supply any information missing from a prescription order add, modify or clarify the strength, dosage form, quantity prescribed and directions for use for a schedule II, III, IV or V controlled substance ~~that is verifiable and retrievable from information maintained by the pharmacist or that is obtained through consultation with a practitioner, with the exception of the patient's name, the controlled substance prescribed, except for generic substitution as permitted by law, and the prescribing practitioner's signature. A pharmacist may supply the address of the patient and the registration number of the practitioner missing from a prescription order for a schedule II controlled substance~~ add, modify or clarify any other information required in sub. (1) if that information is verifiable and retrievable from information maintained by the pharmacist or is obtained through consultation with the practitioner or the patient. The prescription order shall be initialed and dated by the pharmacist and shall indicate the addition, modification or clarification of information and the manner by which the pharmacist obtained that information.

Fiscal Estimate

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

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

Telephone (608) 266-0495
Email: pamela.haack@drl.state.wi.us

Notice of Hearing

Regulation and Licensing

[CR 00-105]

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 452.04, 452.05 and 452.07, Stats., and interpreting ss. 452.025, 452.10, 452.12, 452.133, 452.135 and 452.14, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to repeal ss. RL 17.02 (3) and 17.09; to renumber and amend ss. RL 24.05 (5) and 24.12; to amend ss. RL 17.02 (3) and (5), 17.03 (title), (2), (3) and (4), 17.04, 17.05 (1) and (2), 17.06, 17.08 (1), 17.12 (1), the Note following s. RL 24.03 (1), 24.04 (2) (a) and (b), 24.07 (8) (a) 2. (intro.), a. and c., and 24.13 (3) (b), (5) (title) and (5); and to create ss. RL 17.02 (3g) and (3k), 25.05 (5) (a) 1., 2., 3., (b), 24.12 (2), and the Note following s. RL 24.13 (5), relating to real estate education requirements.

Hearing Information

The hearing will be held as follows:

Date and Time	Location
July 27, 2000 Thursday 10:15 a.m.	Room 180 1400 East Washington Ave. MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **Monday, August 14, 2000**, to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 227.11 (2), 452.04, 452.05 and 452.07

Statutes interpreted: ss. 452.025, 452.10, 452.12, 452.133, 452.135 and 452.14

This proposed rule-making order was prepared with the assistance, review and recommendations of the Real Estate Board.

This rule proposal amends, creates and repeals certain definitions in ch. RL 17.

The proposal ascertains that provisions in ch. RL 17 that are applicable to time-share salespersons clearly indicate time-share salespersons, not just brokers and salespersons who are employed by a broker.

The proposal amends s. RL 24.04, relating to advertising requirements. The proposal clarifies an issue that has been unclear, that is, the fact that a licensee renting his or her own property is not required to disclose his, her or its name. When a licensee rents a property owned by the licensee, the licensee is not acting under a real estate license held by the licensee.

The proposal retains the general principle of confidentiality of offers to purchase; however, it amends s. RL 24.12 to require licensees to disclose to all persons seeking to acquire an interest subject to the right of first refusal the fact that there is a right of first refusal.

The proposal amends s. RL 24.13 (5), a current rule that requires licensees to negotiate, submit offers and submit leases to a seller through the seller's listing broker, and extends this same type of requirement to a buyer's broker. All negotiations, offers and leases must be channeled through the buyer's broker. A few exceptions remain in the current rule.

Text of Rule

SECTION 1. RL 17.02 (3) is amended to read:

RL 17.02 (3) "Broker-employer" means a sole proprietor or business entity that employs another ~~broker or salesperson~~ licensee to provide services to the broker.

SECTION 2. RL 17.02 (3g) and (3k) are created to read:

RL 17.02 (3g) "Immediate family" means any of the following:

(a) Parents, stepparents, grandparents, foster parents, children, stepchildren, grandchildren, foster children, brothers and their spouses, sisters and their spouses, of a licensee or a licensee's spouse.

(b) The spouse of a licensee.

(c) Aunts and uncles, sons-in law or daughters-in-law of a licensee or a licensee's spouse.

(3k) "Licensee" has the meaning under s. 452.01 (5), Stats.

SECTION 3. RL 17.02 (5) is amended to read:

RL 17.02 (5) "Unlicensed personal assistant" means a person not licensed under ch. 452, Stats., or a person who is licensed but not employed for the purpose of providing services for which a licensee is required under ch. 452, Stats., who on behalf of and under the direction of a licensee, provides the licensee with administrative, clerical or personal services for which a license under sh. 452, Stats., is not required.

SECTION 4. RL 17.03 (title), (2), (3) and (4) are amended to read:

RL 17.03 Limitations on ~~broker and salesperson~~ employees of a broker.

(2) A ~~broker or salesperson~~ licensee who is employed by a broker-employer may personally employ licensed persons only as unlicensed personal assistants within the meaning of s. RL 17.02 (5), subject to the provisions in s. RL 17.12.

(3) A ~~broker or salesperson~~ licensee may be employed by only one broker-employer at any time.

(4) A salesperson or time-share salesperson may engage in real estate practice only when employed by a broker.

SECTION 5. RL 17.04 is amended to read:

RL 17.04 Notice of employment. A ~~broker or salesperson~~ licensee who wishes to engage in real estate practice as an employee of a broker-employer shall notify the department of the name of the broker-employer on forms prescribed by the department. If this notice is provided at the time of application for original licensure, the department may not charge a fee in addition to the fee specified in s. 440.05 (1), Stats. If the notice is provided other than at the time of application for original licensure, the licensee shall pay the fee specified in s. 440.05 (7), Stats.

SECTION 6. RL 17.05 (1) and (2) are amended to read:

RL 17.05 (1) A ~~broker or salesperson licensee~~ who wishes to transfer employment from one broker-employer to another shall submit to the department a transfer application accompanied by the fee specified in s. 440.05 (7), Stats.

(2) A ~~broker or salesperson licensee~~ who transfers employment to another broker-employer may not engage in real estate practice for the new employer until the ~~broker or salesperson licensee~~ has delivered or mailed a completed transfer application and the required fee to the department.

SECTION 7. RL 17.06 is amended to read:

RL 17.06 Termination of employment. A ~~broker or salesperson licensee~~ who terminates employment with a broker-employer shall send written notice to the department within 10 days after the termination.

SECTION 8. RL 17.08 (1) is amended to read:

RL 17.08 (1) A broker-employer shall supervise the activities of any ~~broker or salesperson licensee~~ employed by the broker-employer. Supervision includes, but is not limited, to reviewing all listing contracts, offers to purchase, trust account records and other documents related to transactions. A broker-employer may delegate this responsibility to other brokers. Broker-employers shall provide all licensed employees with a written statement of procedures under which the office and employees shall operate with respect to handling leases, listing contracts, offers to purchase and other documents relating to transactions.

SECTION 9. RL 17.12 (1) is amended to read:

RL 17.12 (1) A ~~real estate salesperson or broker-employee licensed employe~~, prior to employing an unlicensed personal assistant, shall enter into a written agreement with his or her broker-employer, setting forth the duties of the unlicensed personal assistant, the manner in which the personal assistant will be compensated for his or her services and the responsibilities between the ~~salesperson or broker-employee licensed employe~~ and broker-employer for supervision of the personal assistant's activities.

SECTION 10. The Note following s. RL 24.03 (1) is amended to read:

Note: The primary references for federal and state fair housing laws are the 1988 amendments to the Federal Housing Act (Title VII of the Civil Rights Act of 1968) and 1991 Wis. Act 295 Chapter 106, Subchapter II, Stats.

SECTION 11. RL 24.04 (2) (a) and (b) are amended to read:

RL 24.04 (2) (a) ~~A Except for advertisements for the rental of real estate owned by the broker, a broker shall in all advertising disclose the broker's name exactly as printed on the broker's license or disclose a trade name previously filed with the department, as required by s. RL 23.03, and in either case clearly indicate that the broker is a business concern and not a private party.~~

(b) ~~A broker or salesperson Except for advertisements for the rental of real estate owned by the licensee, a licensee employed by a broker shall advertise under the supervision of and in the name of the employing broker.~~

SECTION 12. RL 24.05 (5) is renumbered RL 25.05 (5) (a) (intro.) and amended to read:

RL 24.05 Disclosure of licensure. (5) (a) A licensee acting as a principal in a real estate or business opportunity transaction shall disclose his, her, or its license status ~~prior to entering into a binding purchase agreement, option, exchange agreement, lease or other contract creating an interest in the real estate or business opportunity, and intent to act in the transaction as a principal at the earlier of all of the following:~~

SECTION 13. RL 25.05 (5) (a) 1., 2., 3. and (b) are created to read:

RL 25.05 (5) (a) 1. The first contact with the other party or an agent representing the other party where information regarding the other party or the transaction is being exchanged.

2. A showing of the property.

3. Any other negotiation with the seller or the listing broker.

(b) The disclosure under this section shall be made to the other party in a transaction or to an agent representing the other party.

SECTION 14. RL 24.07 (8) (a) 2. (intro.), a. and c. are amended to read:

RL 24.07 (8) (a) 2. Licensees acting as agents of potential buyers of real estate used or intended to be used principally for one to 4 family residential purposes, who are negotiating directly with the seller or who are aware that the owner of the real estate has granted another licensee the exclusive right to sell, shall notify the seller or the listing broker, as applicable, of the licensee's buyer agency relationship at the earlier of all of the following:

a. The first contact with the seller or the listing broker where information regarding the seller or transaction is being exchanged.

c. Any other negotiation with the seller or the listing broker.

SECTION 15. RL 24.12 is renumbered RL 24.12 (1) and amended to read:

RL 24.12 Confidentiality of offers. (1) A Except as provided in sub. (2), a licensee acting as a principal or an agent in a real estate or business opportunity transaction shall not disclose any of the terms of one prospective buyer's offer to purchase, exchange agreement or option contract proposal to any other prospective buyer or to any person with the intent that this information be disclosed to any other prospective buyer. Licensees shall encourage all prospective buyers to submit their best offers. A licensee may, but is not required to, disclose information known by the licensee regarding the existence of other offers on the property, the fact that a seller has accepted an offer, that the offer is subject to contingencies and that the offer is subject to a clause requiring removal of certain contingencies upon the occurrence of an event such as receipt, acceptance or conditional acceptance of another offer.

SECTION 16. RL 24.12 (2) is created to read:

RL 24.12 (2) As used in this subsection, "right of first refusal" means the right of a person to have the first opportunity to purchase or lease real property. "Right of first refusal" does not mean a so-called "bump clause" which is a contingency provision in a purchase agreement that requires the prospective buyer to remove certain contingencies in the buyer's purchase agreement or to relinquish the buyer's primary status to a secondary offer. If a licensee is providing brokerage services in a transaction and the licensee has knowledge that the property is subject to a right of first refusal, the licensee shall disclose the right of first refusal, in writing and in a timely manner, to all persons seeking to acquire an interest subject to the right of first refusal. After disclosure of the right of first refusal to a party seeking to acquire an interest in the property, the licensee may deliver a copy of that party's subsequent offer to purchase, exchange agreement, option contract or lease proposal to the party holding the right of first refusal.

SECTION 17. RL 24.13 (3) (b), (5) (title) and (5) are amended to read:

RL 24.13 (3) (b) A listing broker or the listing broker's employe may not submit his or her own offer to purchase a property which the broker has listed if the broker or broker's employe has knowledge of the terms of any pending offer, except that a broker may arrange for a guaranteed sale at the time of listing.

(5) **NEGOTIATION THROUGH LISTING BROKER.** Licensees shall may not negotiate a sale or lease of real estate directly with an owner a party if the licensee knows that such owner has an unexpired written contract in connection with such property which grants to another licensee an exclusive right to sell, lease or negotiate. All negotiations shall be conducted with the listing broker holding the exclusive right to sell, and not with the owner party, except with the consent of the listing broker or where the absence of the listing broker, or other similar circumstances,

reasonably compels direct negotiation with the owner. A listing broker has no duty to investigate whether a buyer has granted a buyer's agent an exclusive right to negotiate.

Fiscal Estimate

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

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

Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us

Notice of Hearing

Regulation and Licensing

[CR 00-106]

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 480.06 and 480.08 (7), Stats., and interpreting ss. 480.08 (7), 480.20 and 480.24, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to amend the Note following s. RL 125.03, and s. RL 126.02 (13); and to create ss. RL 121.025 and 126.03, relating to the regulation of auctioneers and auction companies.

Hearing Information

The hearing will be held as follows:

Date and Time	Location
July 24, 2000 Monday 9:15 a.m.	Room 180 1400 East Washington Ave. MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **Monday, August 7, 2000**, to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 227.11 (2), 480.06 and 480.08 (7)

Statutes interpreted: ss. 480.08 (7), 480.20 and 480.24

This proposed rule-making order of the Department of Regulation and Licensing amends rules relating to the regulation of auctioneers and auction companies. A new rule section is created in ch. RL 126, to describe the effect of a suspension or revocation.

The Note following s. RL 125.03 is amended to correct a citation.

Section RL 126.02 (13) is amended to correct an error. The term "buyer's fee or surcharge" is substituted for "buyer's premium or surcharge." The term "buyer's fee or surcharge" is defined in s. RL 120.02 (4).

The Wisconsin Statutes require in s. 480.08 (7), Stats., that a temporary registration certificate shall be valid for a period designated by the Department, not to exceed one year. Section RL 121.025 is created to specify that a temporary registration certificate is valid for 60 days.

Section RL 126.03 is created to describe the auctioneer-related activities that may not be performed by a person whose registration as an auctioneer or auction company has been suspended or revoked. Under the rule, a suspended or revoked auctioneer or auction company must notify all persons with whom the auctioneer or auction company has a contract for auctioneer services of the suspension or revocation. The rule also describes specific activities that may not be performed by a suspended or revoked auctioneer or auction company.

Text of Rule

SECTION 1. RL 121.025 is created to read:

RL 121.025 Temporary registration. A temporary registration certificate issued under s. 480.08 (7), Stats., shall be valid for no more than 60 days after the date that the applicant has filed an application for registration as an auctioneer with the department.

SECTION 2. The Note following s. RL 125.03 is amended to read:

Note: This provision applies only to registrants not required to maintain a trust account. Registrants for whom a trust account is required must use the trust account bookkeeping system described in s. RL ~~125.11~~ 125.12.

SECTION 3. RL 126.02 (13) is amended to read:

RL 126.02 (13) If a buyer's fee or surcharge is a condition of sale, failing to post written notice at the location where the auction is to be conducted, prior to the commencement of an auction, of the percentage or other amount of the buyer's premium fee or surcharge.

SECTION 4. RL 126.03 is created to read:

RL 126.03 Effect of suspension or revocation on registrant.

(1) An auctioneer or auction company whose registration has been suspended or revoked shall notify all persons with whom the auctioneer or auction company has a contract for services to be performed during the period of suspension or following revocation. The notice shall be in writing, state that the registration of the auctioneer or auction company has been suspended or revoked, and describe the terms of the suspension or revocation.

(2) An auctioneer or auction company whose registration has been suspended or revoked by the board may not engage in the following activities during the term of the suspension or revocation:

- (a) Call an auction by calling for, recognizing, or accepting offers for the purchase of goods or real estate at an auction.
- (b) Advertise, represent or otherwise hold out as being available to call or manage an auction.
- (c) Advertise, represent or otherwise hold out as being an auctioneer or auction company or use the title "auctioneer," "registered auctioneer," "certified auctioneer," "licensed auctioneer," "auction company," "auction sales staff," "auction team member" or any similar title.

(d) Solicit, negotiate or enter into any auction contract, auction listing, auction consignment, or related auction agreement,

including assisting or aiding another registrant to perform auction-related duties.

(e) Perform, manage or supervise any of the following:

1. Call for bids at any type of auction, including auctions under s. 480.02 (2) (a) to (h), Stats.

2. Work as, or perform duties related to, an auction cashier, an auction clerk, or an auction ring person or grounds person, including bid-relaying or spotting, merchandise displaying, or assisting the auctioneer or auction staff before, during or after the conducting of an auction.

3. Oversee, in any manner, the conducting of any auction.

4. Accept any form of referral fee, finder's fee, commission, commission sharing or splitting, or related compensation from any auctioneer, auction company, or auctioneer-related professional.

5. Participate in any form of auctioneer-related bid-calling, bid calling contests or competitions, either as a contestant, judge, master of ceremonies or in any other capacity.

6. Suggest or imply to the public, privately or through advertising, that he or she is able to perform any of the activities in subds. 1. to 5.

(3) An auctioneer or auction company may not employ, retain or otherwise utilize an auctioneer or auction company whose registration has been suspended or revoked to perform any auction-related activity described in sub. (2). This section does not prohibit an auctioneer or auction company from contracting to perform services that an auctioneer or auction company is unable to perform because of a registration suspension or revocation and which the auctioneer or auction company contracted to perform prior to the license suspension or revocation.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

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

Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us

*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.

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board (CR 00-50):

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

Commerce (CR 00-38):

Ch. Comm 43 – Relating to anhydrous ammonia.

Professional Geologists, Hydrologists and Soil Scientists Examining Board (CR 00-64):

SS. GHSS 2.06, 3.05 and 4.05 – Relating to experience requirements prior to sitting for the fundamentals examination.

Health and Family Services (CR 00-52):

Ch. HFS 12 – Relating to uniform procedures for caregiver background checks.

Health and Family Services (CR 00-55):

Chs. HFS 10, 68, 82, 83, 88, 89, 105, 107, 124, 132 and 134 – Relating to eligibility and entitlement for the family care benefit, application for the benefit, cost-sharing requirements, standards for aging and disability resource centers and for care management organizations, protections of the rights of family care applicants and enrollees, recovery of correctly- and incorrectly-paid family care benefits, and requirements for hospitals, nursing homes, community-based residential facilities (CBRFs), residential care apartment complexes, and adult family homes to provide information to certain patients, residents and prospective residents and to refer them to aging and disability resource centers.

Insurance, Commissioner of (CR 00-40):

S. Ins 6.59 – Relating to the exemption of attorneys seeking licensure for title insurance from certain testing requirements.

Pharmacy Examining Board (CR 00-49):

S. Phar 7.05 – Relating to transfer of prescription orders.

Transportation (CR 00-15):

Chs. Trans 4 and 8 – Relating to the state public transit operating assistance program; to the use of fully-allocated costs in the competitive bid process; and to allocation of federal public transit assistance program funds to urbanized areas under 200,000 population.

Transportation (CR 00-72):

SS. Trans 327.03 and 327.09 – Relating to motor carrier safety requirements.

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.

Controlled Substances Board (CR 99-125):

An order creating s. CSB 2.25, relating to the scheduling of certain drugs under ch. 961, Stats., the Uniform Controlled Substances Act.

Effective 08-01-00.

Corrections (CR 97-13):

An order affecting ss. DOC 303.75, 303.76 and 303.81, relating to notices of disciplinary hearings to inmates.

Part effective 08-01-00.

Employe Trust Funds (CR 99-156):

An order affecting s. ETF 10.63, relating to due dates for ETF programs.

Effective 08-01-00.

Employment Relations--Merit Recruitment and Selection (CR 99-167):

An order affecting ss. ER-MRS 6.08 and 11.04, relating to release of examination information and removal of names from employment registers.

Effective 08-01-00.

Health and Family Services (CR 99-28):

An order affecting chs. HFS 61, 62 and 75, relating to standards for community substance abuse services.

Effective 08-01-00.

Health and Family Services (CR 99-161):

An order affecting ch. HFS 50, relating to the adoption assistance program for families that adopt children with special needs.

Effective 08-01-00.

Insurance, Commissioner of (CR 00-6):

An order affecting s. Ins 3.09 (19), relating to mortgage guaranty insurance.

Effective 08-01-00.

Revenue (CR 00-16):

An order affecting ch. Tax 14, relating to homestead credit administrative provisions; qualification for credit; household income and income; property taxes accrued; gross rent and rent constituting property taxes accrued; and marriage, separation or divorce during a claim year.

Effective 08-01-00.

Workforce Development (CR 99-164):

An order affecting chs. DWD 290 and 294, relating to prevailing wage rates.

Effective 08-01-00.

Workforce Development (CR 99-165):

An order affecting ss. DWD 12.03, 12.21 and 12.27, relating to two-parent families under the Wisconsin Works (W-2) program.

Effective 08-01-00.

Workforce Development (CR 00-24):

An order affecting 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.

Effective 08-01-00.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **June 30, 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.

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.

Commerce (CR 99-139):

An order affecting ss. Comm 32.24, 32.33 and 32.50, relating to public employe safety and health. Effective 07-01-00.

Corrections (CR 97-14):

An order affecting ch. DOC 309, relating to inmate visitation. Effective 07-01-00.

Corrections (CR 97-158):

An order creating chs. DOC 371, 373, 374, 375, 376, 379, 380, 381, 383, 392, 393, 394, 396, 397, 398 and 399, relating to:

- 1) Identifying a youth's program needs; establishing a case management plan; and making appropriate decisions regarding extension, release, transfer and discharge of a youth;
- 2) Conduct of juveniles placed under the supervision of the Department of Corrections in a type 1 secured correctional facility;
- 3) Administrative confinement for youth in juvenile secured correctional facilities;
- 4) Observation status for youth in type 1 secured correctional facilities;
- 5) Security issues for a youth placed under the supervision of the Department of Corrections in a type 1 secured correctional facility;
- 6) Resources for a youth placed under the supervision of the Department of Corrections in a type 1 secured correctional facility;
- 7) A complaint procedure for youth in type 1 secured correctional facilities;
- 8) Furloughs and off-grounds and trial visits for youth in type 1 secured correctional facilities;
- 9) Use of psychotropic medication for youth in type 1 juvenile secured correctional facilities;
- 10) Conduct of drug testing by the Department and county departments of youth adjudicated delinquents;
- 11) Conduct of youth placed on juvenile parole following release from secured correctional services and revocation of a youth's juvenile parole for violation of a condition of parole;
- 12) Designation of certain child-caring institutions as type 2 child-caring institutions and to treatment of youth who are placed in type 2 child-caring institutions by the courts;

13) Youth who are in type 2 secured correctional facility status through placement in the corrective sanctions program, the community phase of the serious juvenile offender program or a type 2 secured correctional facility operated by a child welfare agency;

14) Supervision programs for delinquent youth;

15) County intensive supervision program for delinquent youth; and

16) Training of juvenile court intake workers.

Effective 07-01-00.

Crime Victims Rights Board (CR 99-153):

An order creating ch. CVRB 1, relating to the review of complaints alleging violations of the rights of crime victims. Effective 07-01-00.

Elections Board (CR 99-137):

An order creating ch. El Bd 7, relating to approval of electronic voting equipment. Effective 07-01-00.

Employe Trust Funds (CR 98-169):

An order creating s. ETF 10.55, relating to the proper reporting of creditable service, earnings and participating employes of instrumentalities of two or more units of government when the joint instrumentality does not qualify as a separate employer for Wisconsin Retirement System (WRS) purposes. 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.

Public Service Commission (CR 99-131):

An order repealing and recreating ch. PSC 111, relating to the replacement of advance plans with strategic energy assessments (SEA's) and revision of requirements for Certificates of Public Convenience and Necessity (CPCN's). Effective 07-01-00.

Public Service Commission (CR 99-140):

An order affecting ch. PSC 4, relating to implementing the Wisconsin Environmental Policy Act (WEPA), concerning the environmental analysis (EA) procedures for proposed actions before the Public Service Commission. 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.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

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

Chiropractic Examining Board:

Ch. Chir 6

S. Chir 6.03 (entire section)

Commerce:

*(Public Employee Safety and Health,
Ch. Comm 32)*

Ch. Comm 32

S. Comm 32.24 (2), (4) (c), (5) (a), (c) and (d) and
(6) and Figure 32.24

S. Comm 32.33 (4) and (5)

S. Comm 32.50 Tables 32.50-1 and 32.50-2

Corrections:

Ch. DOC 309

S. DOC 309.06 to 309.15 (entire sections)

S. DOC 309.16 to 309.18 (entire sections)

Ch. DOC 371 (entire chapter)

Ch. DOC 373 (entire chapter)

Ch. DOC 374 (entire chapter)

Ch. DOC 375 (entire chapter)

Ch. DOC 376 (entire chapter)

Ch. DOC 379 (entire chapter)

Ch. DOC 380 (entire chapter)

Ch. DOC 381 (entire chapter)

Ch. DOC 383 (entire chapter)

Ch. DOC 392 (entire chapter)

Ch. DOC 393 (entire chapter)

Ch. DOC 394 (entire chapter)

Ch. DOC 396 (entire chapter)

Ch. DOC 397 (entire chapter)

Ch. DOC 398 (entire chapter)

Ch. DOC 399 (entire chapter)

Crime Victims Rights Board:

Ch. CVRB 1 (entire chapter)

Elections Board:

Ch. ElBd 7 (entire chapter)

Employe Trust Funds:

Ch. ETF 10

S. ETF 10.55 (entire section)

Insurance, Commissioner of:

Ch. Ins 6

S. Ins 6.57 (4)

Public Instruction:

Ch. PI 4 (entire chapter)

Public Service Commission:

Ch. PSC 4

S. PSC 4.05 (1), (2m), (6), (9), (13) and (15)

S. PSC 4.10 (1) to (3) and (5)

S. PSC 4.20 (1), (1m), (2) (d) and (g), (3) and (4)

S. PSC 4.35 (entire section)

S. PSC 4.50 (3)

S. PSC 4.60 (2) and (4) (a)

S. PSC 4.70 (1) (intro.) and (d) and (2) (a),

(b) (intro.) and (c)

S. PSC 4.80 (1) (g)

Ch. PSC 111 (entire chapter)

Tourism:

Ch. Tour 1

S. Tour 1.03 (3) (a)

EDITORIAL CORRECTIONS

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

Commerce:

*(Public Employee Safety and Health,
Ch. Comm 32)*

Ch. Comm 32

S. Comm 32.16 (entire section) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Corrections:

Ch. DOC 309

S. DOC 309.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DOC 371

S. DOC 371.14 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DOC 373

S. DOC 373.10 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DOC 373.29 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DOC 376

S. DOC 376.10 (1) (L) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DOC 376.21 (1) (intro.) and (6) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. DOC 379

S. DOC 379.04 (4) (b) and (6) (intro.) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. DOC 380

S. DOC 380.02 (1) (f) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DOC 380.07 (3) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DOC 394

S. DOC 394.06 (3) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DOC 396

S. DOC 396.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DOC 396.03 (42) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Financial Institutions—Credit Unions:

Ch. DFI—CU 56

S. DFI—CU 56.03 (entire section) had a correction made under s. 13.93 (2m) (b) 6., Stats.

Ch. DFI—CU 60

S. DFI—CU 60.06 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DFI—CU 62

S. DFI—CU 62.01 (1) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DFI—CU 63

S. DFI—CU 63.02 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DFI—CU 67

S. DFI—CU 67.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DFI—CU 67.04 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DFI—CU 67.06 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Health and Family Services:

(Health, Chs. HFS 110—)

Ch. HFS 182

S. HFS 182.06 (3) had a correction made under s. 13.93 (2m) (b) 6., Stats.

Industry, Labor and Human Relations:

(Environmental Policy Act, Ch. ILHR 1)

Ch. ILHR 1 (entire chapter) was removed under s. 13.93 (2m) (b) 15., Stats.

Regulation and Licensing:

Ch. RL 18

S. RL 18.12 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Chiropractic Examining Board (CR 98–190)

Ch. Chir 6 – The duty to evaluate and inform patients of their presenting conditions.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

2. Commerce (CR 99–139)

Ch. Comm 32 – Public Employee Safety and Health.

Summary of Final Regulatory Flexibility Analysis:

The rules affect public sector employees and do not affect small business as defined in section 227.114 (1)(a), Stats. Also, there should be no significant fiscal effect. Some of the new requirements may result in additional costs in time and equipment for local government; however, these costs should be minimal.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Labor and Employment and the Senate Committee on Labor Committee.

On February 1, 2000, the Senate Labor Committee filed an objection to the rules with the Department. On February 24, 2000, the Joint Committee for Review of Administrative Rules (JCRAR) filed a motion with the Department that unless the Department was willing to modify the rule development process, the JCRAR would concur with the Senate Committee's objection. In a February 28, 2000 letter to the JCRAR, the Department agreed to expand the Comm 32 Advisory Committee to include more public labor organizations, agreed to review the guidelines of the American Conference of Governmental Industrial Hygienists during the next code review cycle, and asked the JCRAR to withdraw their objection. On March 16, 2000, the JCRAR withdrew the motion of objection to the rules.

3. Corrections (CR 97–14)

Ch. DOC 309 – Inmate visitation.

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. Corrections (CR 97–158)

Chs. DOC 371–399 – Youth program needs.

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. Crime Victims Rights Board (CR 99–153)

Ch. CVRB 1 – Review of complaints alleging violations of the rights of crime victims.

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.

6. Elections Board (CR 99–137)

Ch. ElBd 7 – Electronic voting.

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.

7. Employe Trust Funds (CR 98–169)

Ch. ETF 10 – Proper reporting of creditable service, earnings and participating employes of instrumentalities of two or more units of government when the joint instrumentality does not qualify as a separate employer for WRS purposes.

Summary of Final Regulatory Flexibility Analysis:

This rule concerns a retirement program open exclusively to qualifying employes of the state, counties (except Milwaukee County) and municipalities which have elected to participate in the Wisconsin Retirement System, as provided in Wis. Stat., s. 40.21. This rule affects only the participating governmental units which additionally create a joint instrumentality which is not sufficiently independent to qualify as an employer in its own right, and the employes of these joint instrumentalities. The Department therefore anticipates that the provisions of this proposed rule will have no direct adverse impact on small businesses.

Summary of Comments:

No comments were reported.

8. Insurance (CR 99–170)

S. Ins 6.57 (4) – Listing fees for resident agents.

Summary of Final Regulatory Flexibility Analysis:

The Office of the Commissioner of Insurance has determined that this rule will not have a significant economic impact on a substantial number of small businesses and therefore a final regulatory flexibility analysis is not required.

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

9. Public Service Commission (CR 99–131)

Ch. PSC 111 – Replacement of advance plans with strategic assessments and revision of requirements for certificates of public convenience and necessity.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules would apply to any entity that has or expects to have generation in Wisconsin greater than 5 MW, or that provides electric service to ultimate end users in Wisconsin, including self-providers and any entity providing transmission service in Wisconsin. Based on the Commission's investigation, it is unlikely that any such providers would be a small business as defined in s. 227.114, Stats. The proposed rules are therefore not expected to affect small businesses as defined in s. 227.114, Stats.

Summary of Comments:

No comments were reported.

10. Public Service Commission (CR 99–140)

Ch. PSC 4 – Implementing the Wisconsin environmental policy act.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules are not expected to affect small businesses. The changes in classification of projects will not increase the compliance or reporting requirements for project applicants. In addition, it is unlikely that applicants for Commission approval of these projects would be small businesses.

Summary of Comments:

No comments were reported.

11. Tourism (CR 00–37)

Ch. Tour 1 – Joint effort marketing 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 394. Relating to a Proclamation of a State of Emergency.

Executive Order 395. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff on Memorial Day.

Executive Order 396. Relating to Issuance of General Obligation Bonds for the Veterans Home Loan Program and Appointment of Hearing Officer.

Executive Order 397. 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 the Late Deputy Sheriff Edward Hoffman of the Marinette County Sheriff's Office.

Executive Order 398. Relating to a State of Emergency.

PUBLIC NOTICES

Public Notice *Dept. of Health and Family Services*

(Medicaid Reimbursement of Hospitals)

The State of Wisconsin reimburses hospitals for medical services provided to low-income persons under the authority of Title XIX of the Federal Social Security Act and Chapter 49.43 to 49.47, Wisconsin Statutes. The Wisconsin Department of Health and Family Services administers this program that is called *Medicaid* or *Medical Assistance* (MA). Federal statutes and regulations require state plans, one for outpatient services and one for inpatient services, that provide the methods and standards for paying for hospital outpatient and inpatient services.

State plans are now in effect for the reimbursement of outpatient hospital services and inpatient hospital services. The Department is proposing to make changes to the rate provisions contained in the outpatient hospital services plan, effective **July 1, 2000**. The updated rates would apply to Medicaid payments for hospital discharges in the state fiscal year beginning July 1, 2000 and ending June 30, 2001.

As required by federal statute and regulations, the proposed payment rates are restricted by the federal Medicare upper limit requirement and target a share of funding to hospitals which serve a disproportionate number of low-income patients.

Outpatient Hospital Services

Proposed changes in the state plan for reimbursement for outpatient hospital services may include:

1. Adjustments to the outpatient hospital rate per visit to reflect a one (1) percent increase in outpatient hospital payments to implement a provision of the 1999–2001 budget act.
2. Establishment of qualifying criteria and a distribution methodology for a supplemental payment to certain hospitals to implement a provision of the 1999–2001 budget act. A hospital must be an acute care hospital located in Wisconsin and have Medicaid allowable charges equal to at least 8% of the hospital's total gross revenue in the most recent fiscal year in order to qualify for the supplement.
3. Revision of the rural hospital adjustment percentages to ensure that payments do not exceed authorized funds. The amount paid for this adjustment would not change. However, this modification would cause a redistribution of the funds among qualifying hospitals.
4. Modification of supplemental payments to essential access city hospitals (EACH) to maintain compliance with federal payment limits. This modification would not change the total amount paid. It would, however, adjust the amount paid through outpatient payments versus inpatient payments.
5. For the indigent care allowance, adjustment of the maximum available funding, modification of the criteria for a hospital to qualify for an allowance, and modification of the methodology for distributing the available funds to qualifying hospitals in order to carry out provisions of the 1999–2001 budget act and to maintain compliance with federal payment limits.

Inpatient Hospital Services

Proposed changes in the state plan for reimbursement for inpatient hospital services may include:

1. For the payment system based on diagnosis-related groups (DRGs), adjustment of DRG weighting factors, modification of the peer group structure for psychiatric DRG weights and the standard DRG base rates and area wage indices.
2. Use of a more current three-year period of hospital claims in the annual recalibration of reimbursement weighting factors for diagnosis related groups (DRGs) in order to enhance administrative efficiency and utilize more recent cost data.
3. Delete provisions that established a length of stay adjustment for hospitals that are institutions for mental disease (IMD). This adjustment applied only for the rate year beginning July 1, 1999.
4. Revision of the rural hospital adjustment percentages to ensure that payments do not exceed authorized funds. The total amount paid for this adjustment would not change. However, this modification would cause a redistribution of the funds among qualifying hospitals.

5. Updating of the disproportionate share adjustment parameters to recognize a more current proportion of services provided by hospitals to Medicaid recipients.
6. Modification of supplemental payments to essential access city hospitals (EACH) to maintain compliance with federal payment limits. This modification would not change the total amount paid. It would, however, adjust the amount paid through inpatient payments versus outpatient payments.
7. For the indigent care allowance, adjustment of the maximum available funding, modification of the criteria for a hospital to qualify for an allowance, and modification of the methodology for distributing the available funds to qualifying hospitals in order to carry out provisions of the 1999–2001 budget act and to maintain compliance with federal payment limits.
8. For the general assistance disproportionate share supplement, adjustment of the maximum available funding, modification of the criteria for a hospital to qualify for the supplement, and modification of the methodology for distributing the available funds to qualifying hospitals in order to carry out provisions of the 1999–2001 budget act and to maintain compliance with federal payment limits.

Payments for these adjustments would maintain compliance with federal payment limits. Implementation of the above changes to the State Plan for inpatient and outpatient services is expected to change the annual expenditures of the Wisconsin Medicaid program by \$2.8 million for state fiscal year 2000–2001.

Copies of Proposed Changes and Proposed Payment Rates

Copies of the proposed changes will be sent to every county social services or human service department main office where they will be available for public review. For more information, interested persons may fax or write to:

Hospitals, Physicians and Clinics Unit
Division of Health Care Financing
P. O. Box 309
Madison, WI 53701–0309

Fax: (608) 266–1096

Written Comments

Written comments on the proposed changes are welcome and should be sent to the above address. The comments received on the changes will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily at:

Division of Health Care Financing
Room 350, State Office Building
One West Wilson Street
Madison, WI

Public Notice

Dept. of Health and Family Services

(Medical Assistance Reimbursement for Personal Care Services)

The State of Wisconsin reimburses agencies for workers providing in-home personal care services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. The program through which this is done is called Medical Assistance (MA) or Medicaid, and is administered by the State's Department of Health and Family Services (the Department). Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect. The section entitled "Methods and standards for establishing non-institutional reimbursement rates" indicates that "In general, the department will pay the lesser of a provider's usual and customary charge or a maximum fee established by the department."

The Department is proposing to modify the methods by which it calculates the maximum fee that the Department will use to reimburse workers providing in-home personal care services. The Department's proposal involves an increase in funds available to providers of these services. The MA benefits offered under the in-home personal care services will remain the same.

The Department is changing its methods and standards in this manner because of the enactment of 1999 Wisconsin Act 187. The state's estimate of any expected increase or decrease in annual aggregate Medicaid expenditures shows

an increase of \$23,500,000 (Federal Financial Participation—FFP \$13,900,000) in state fiscal year (SFY) 2000–01. The legislation initiating this action appropriates \$9.6 million state general purpose revenue (GPR) in FY 2000–01.

Proposed Change

The proposed change is to increase the hourly medical assistance reimbursement rates to agencies for providing in-home personal care services by \$3.25, effective July 1, 2000. The Legislature has appropriated \$9.6 million GPR for that purpose in the FY 2000–01.

Copies of the Proposed Change

A copy of the proposed change may be obtained free of charge by calling or writing as follows:

Regular Mail:

Attention: State Plan Coordinator
Division of Health Care Financing
P.O. Box 309
Madison, WI 53701–0309

Telephone:

Mary Laughlin, Budget Unit
(608) 261–7833

FAX:

(608) 266–1096
Attention: State Plan Coordinator

E-Mail:

matana@dhfs.state.wi.us

Copies of the proposed change are available for review at the main office of any county department of social services or human services.

Written Comments

Written comments are welcome. Written comments on the proposed changes may be sent by FAX, e-mail, or regular mail to the Division of Health Care Financing. The FAX number is (608) 266–1096. The e-mail address is matana@dhfs.state.wi.us. Regular mail may be sent to the above address. All written comments will be reviewed and considered.

The written comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 350 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

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