

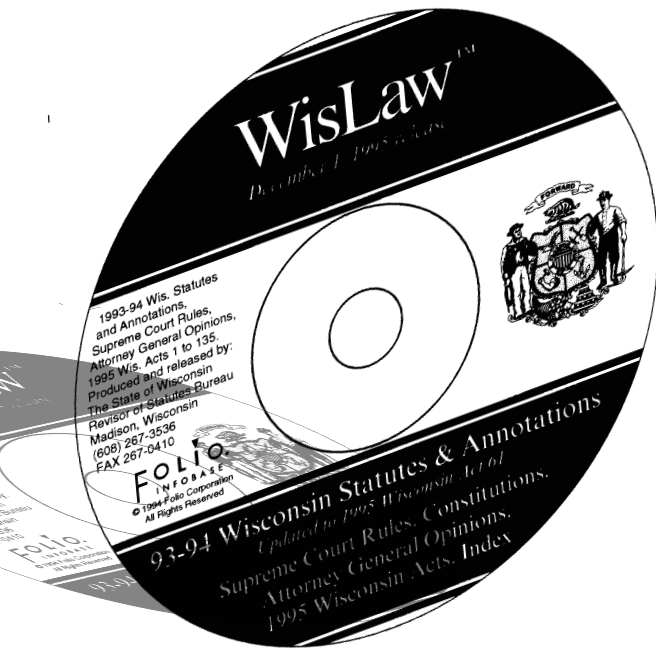
# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 484**



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



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## NOTICE SECTION

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### *Notice of Proposed Rule Administration*

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Notice is hereby given that pursuant to ss. 16.004 (1), 16.971 (5) (g), and 227.11 (2), Stats., and interpreting s. 16.971 (5), Stats., and according to the procedures set forth in s. 227.16 (2) (e), Stats., the Department of Administration will adopt the following rule as proposed in this notice without public hearing unless, within 30 days after publication of this notice on **May 1, 1996**, the Department of Administration is petitioned for a public hearing by 25 persons who will be affected by the rule, a municipality which will be affected by the rule; or by an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

#### **Proposed Order of the Department of Administration**

The Wisconsin Department of Administration proposes an order to create ch. Adm 25.

#### **Analysis Prepared by the Department of Administration**

*Statutory Authority:* ss. 16.004 (1), 16.971 (5) (g), and 227.11 (2)

*Statute Interpreted:* s. 16.971 (5)

Section 16.971 (5), Stats., created in 1995 Wis. Act 27, authorizes the Department of Administration to distribute grants to agencies from the Information Technology Investment fund under s. 20.870 (1) (q), Stats., to be used for information technology development projects. The proposed rule establishes the criteria to be used by the Department for distributing the grants. In September, 1995, the Department submitted the criteria as stated in s. Adm 25.04 to the Joint Committee on Information Policy pursuant to s. 16.971 (5) (b), Stats. The Committee on Information Policy unanimously approved this criteria on February 20, 1996. Because s. 16.971 (5), Stats., specifically states the procedure for administering this statute, the Department has determined that it is not necessary to repeat that information in an administrative rule.

#### **Text of Rule**

**SECTION 1.** Chapter Adm 25 is created to read:

##### **Chapter Adm 25 INFORMATION TECHNOLOGY INVESTMENT FUND**

**Adm 25.01 Authority.** This chapter is promulgated under the authority of ss. 16.004 (1), 16.971 (5) (g), and 227.11 (2), Stats.

**Adm 25.02 Purpose.** The purpose of this chapter is to establish the criteria used by the department to award grants to agencies for information technology development projects pursuant to s. 16.971 (5) (a), Stats.

**Adm 25.03 Definitions.** In this chapter:

- (1) "Agency" or "Agencies" has the meaning given in s. 16.70 (1), Stats.
- (2) "Base funding" means the funding that remains in an agency's budget appropriation(s) year after year unless removed through an explicit act of the legislature.
- (3) "Basic standard infrastructure" includes desktop personal computer hardware and software, printer, local area network hardware and software, enterprise electronic mail and support and training.

**Adm 25.04 Grant award and criteria.** When making an award under s. 16.971 (5), Stats., the department shall use all of the following criteria:

(1) The extent to which the agency has base funding available to meet its information technology needs.

(2) The extent to which the request seeks to provide basic, standard infrastructure for the agency.

(3) The extent to which the completion of the project will serve to reduce agency base funding needs or avoid additional legitimate costs or cost increases in the future.

(4) The extent to which the project provides a new service, improves delivery of an existing service, or in some other way, provides additional value for the state. Additional value for the state includes the ability to deliver services, maintain operations or administer state programs more efficiently, effectively or economically.

#### **Initial Regulatory Flexibility Analysis**

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

#### **Fiscal Estimate**

There is no fiscal effect.

#### **Contact Person**

Donna Sorenson, (608) 266-2887  
Department of Administration  
101 E. Wilson St., 10th Floor  
Madison, WI 53702

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### *Notice of Hearings Agriculture, Trade & Consumer Protection*

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The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed Department rule, relating to animal health, specifically farm-raised deer, tuberculosis control and poultry disease reporting requirements (proposed chs. ATCP 10, 11 and 12, Wis. Adm. Code).

#### **Written Comments**

The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. Following the public hearings, the hearing record will remain open until **May 28, 1996**, for additional written comments. An interpreter for the hearing-impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **May 6, 1996** either by writing to Lynn Jarzombek, P.O. Box 8911, Madison, WI 53708-8911, or by calling (608) 224-4883. TTY users call (608) 224-5058.

#### **Hearing Information**

Four hearings are scheduled:

**May 14, 1996  
Tuesday  
Commencing  
at 6:00 p.m.**

**Board Room  
Dept. of ATCP  
2811 Agriculture Dr.  
MADISON, WI  
*Handicapped accessible***

**May 15, 1996  
Wednesday  
Commencing  
at 10:00 a.m.**

**Room 135  
Mid-State Tech. College  
933 Michigan Ave.  
STEVENS POINT, WI  
*Handicapped accessible***

**May 15, 1996**  
**Wednesday**  
**Commencing**  
**at 6:00 p.m.**

**Dept. of ATCP**  
**927 Loring Ave.**  
**ALTOONA, WI**  
*Handicapped accessible*

**May 16, 1996**  
**Thursday**  
**Commencing**  
**at 6:00 p.m.**

**Room E106**  
**Univ. of Wis. Ctr.-Manitowoc**  
**705 Viebahn St.**  
**MANITOWOC, WI**  
*Handicapped accessible*

Written comments will be accepted until **May 28, 1996**.

### **Analysis Prepared by the Wis. Dept. of Agriculture, Trade & Consumer Protection**

*Statutory Authority:* ss. 93.07 (1) and (2), 93.21 (5), 95.55 (3), 95.68 (8), 95.69 (8), and 95.71 (8)

*Statutes Interpreted:* ss. 93.07 (10), 93.21 (5), 95.25 (2m) and (4m), 95.55, 95.68, 95.69 and 95.71

This rule modifies current animal health rules under chs. ATCP 10–12, Wis. Adm. Code. Among other things, this rule does the following:

- Interprets and implements 1995 Wis. Act 79, which regulates keepers of “farm-raised deer.” Act 79 transfers regulatory authority from the Department of Natural Resources (DNR) to the Department of Agriculture, Trade and Consumer Protection, and requires keepers of “farm-raised deer” to register with the Department.

- Modifies current procedures under the Department’s tuberculosis control program. The rule incorporates new USDA regulations related to branding and slaughter shipment of bovine tuberculosis reactors. Pursuant to 1995 Wis. Act 79, it also requires owners of tested animals to provide adequate restraints for safe testing.

- Requires veterinarians to report certain poultry diseases to the Department. This will strengthen poultry disease controls and make it possible for Wisconsin producers to export poultry meat to Russia, under an agreement between Russia and the U.S. government.

#### **BOVINE TUBERCULOSIS CONTROL**

##### *Tuberculosis Testing; Bovine Animals*

Under 1995 Wis. Act 79, a person who owns or possesses bovine animals must provide animal handling facilities to ensure the safety of animals tested for bovine tuberculosis, and to ensure the safety of persons conducting the tests. This rule incorporates this new statutory requirement.

##### *Bovine Tuberculosis Reactors; Branding and Slaughter*

In September, 1995, the United States Department of Agriculture, Animal and Plant Health Inspection Service (federal bureau), changed its regulations related to branding and slaughter shipment of bovine animals identified as “reactors” on bovine tuberculosis tests. This rule amends current state rules to make them consistent with the new federal regulations.

Under current state rules, a reactor must be branded on the left jaw with the letter “T” unless it is shipped directly to slaughter in a vehicle that is sealed by the Department. Under this rule, a reactor must be branded on the hip (not the jaw), near the tailhead, with the letter “T.” A reactor need not be branded if all of the following apply:

- Its left ear is spray painted yellow and tattooed with the letters “TB.”
- A state or federal veterinarian accompanies the reactor as it is shipped to slaughter, or the reactor is shipped to slaughter in a vehicle sealed by the Department or the federal bureau. If the animal is shipped in a sealed vehicle, the seal may only be removed by the Department or the federal bureau.

#### **“FARM-RAISED DEER” AND OTHER CERVIDAE**

##### *Persons Keeping “Farm-Raised Deer;” Registration*

Under 1995 Wis. Act 79, persons keeping “farm-raised deer” in this state must register with the Department. This rule implements the new registration requirement.

This rule, like 1995 Wis. Act 79, defines “farm-raised deer” to include farm-raised fallow deer, caribou, reindeer, sambar, sunda sambar, Philippine sambar, visayan deer, barasingha, Schomburgk’s deer, thamin or brow antlered deer, sika deer, Thorold’s deer, red deer, wapiti and elk. “Farm-raised deer” do not include north american moose, white-tail deer or mule deer.

Under this rule, a person who “keeps farm-raised deer” must obtain a registration certificate from the Department. This includes any person who owns, rents, leases or serves as the custodian of “farm-raised deer.” A registration application must identify both the owner and the custodian of the “farm-raised deer.” Thus, if the owner and custodian are different persons, they need only complete one registration between them.

Under this rule, a person keeping “farm-raised deer” at more than one location may do either of the following:

- Obtain a separate registration certificate, and pay a separate registration fee, for each location. A keeper may not move “farm-raised deer” between separately-registered locations without an interstate health certificate or certificate of veterinary inspection, unless the deer are exempt under current exemptions to the requirements for intra-state movement. If disease is detected at one location, animals at other locations will not be considered part of the same herd, and will not be treated as exposed animals unless a traceback shows that suspect or reactor animals have actually moved between the locations.

- Register multiple locations under one registration certificate, and pay only one registration fee. If a keeper registers multiple locations under one registration, the keeper may freely move “farm-raised deer” between those locations without an interstate health certificate or certificate of veterinary inspection. But if disease is detected at one location, all of the “farm-raised deer” at all of the locations are automatically considered to be part of a single exposed herd.

A registration certificate expires on December 31 annually; however, there is no requirement for annual renewal after December 31, 1998.

This rule establishes an annual registration fee of \$50 for persons who keep 15 or fewer “farm-raised deer,” and \$100 for persons who keep more than 15 “farm-raised deer.” If the Department certifies a herd as an accredited tuberculosis-free herd, the keeper of that herd must register but is not required to pay a fee. The annual registration fee does not apply after December 31, 1998.

To register with the Department, a keeper of “farm-raised deer” must submit a registration application on a form provided by the Department. The application must include all of the following information:

- The name, address and telephone number of the owner of the “farm-raised deer.”
- The name, address and telephone number of the custodian of the “farm-raised deer,” if the custodian is anyone other than the owner.
- The location at which the “farm-raised deer” will be kept, including the county, township, section and fire number assigned to the location.
- The number of “farm-raised deer” being kept.
- The species, age and sex of the “farm-raised deer” being kept. Age may be specified as fawn, yearling or adult.
- If the herd is certified by the Department as an accredited tuberculosis-free herd, the accreditation number assigned to the herd.

Under this rule, the Department must grant or deny a registration application within 30 days after the Department receives a complete application. The Department may deny, suspend or revoke a registration for cause, including any of the following:

- Violations of applicable requirements under ch. 95, Stats. (animal health), or chs. ATCP 10–12, Wis. Adm. Code.
- Preventing a Department employe from performing his or her official duties, or interfering with the lawful performance of his or her duties.
- Physically assaulting a Department employe while the employe is performing his or her official duties.
- Refusing or failing, without just cause, to produce records or respond to a Department subpoena.
- Paying a registration fee with a worthless check.

Under this rule, a person who keeps “farm-raised deer” must keep a record of all of the following, and must retain that record for at least 2 years:

- The name and address of each person from whom that keeper purchases or receives “farm-raised deer.”
- The name and address of each person to whom the keeper sells or delivers “farm-raised deer.”
- The official identification of every “farm-raised deer” which the keeper purchases, receives, sells or delivers.
- The date on which the keeper receives or delivers each “farm-raised deer.”



- The location at which the keeper receives each “farm-raised deer,” or to which the keeper delivers each “farm-raised deer.”

A person keeping “farm-raised deer” must make these records available to the Department for inspection and copying by the Department upon request.

*“Farm-Raised Deer” and Other Cervidae; Disease Control*

Current rules spell out tuberculosis testing requirements, import requirements, intrastate movement requirements and herd certification requirements related to tuberculosis in “cervidae.” In the current rules, “cervidae” are defined as members of the family of animals which includes deer, elk, moose, caribou, reindeer and the sub-family musk deer.

The current definition of “cervidae” is different from the new statutory definition of “farm-raised deer.” This rule amends the definition of “cervidae” to include all “farm-raised deer.” Rules which currently apply to cervidae will also apply to “farm-raised deer” except where this rule creates a specific exemption for “farm-raised deer.”

Under this rule, whenever a veterinarian issues an interstate health certificate or certificate of veterinary inspection for farm-raised deer shipped from a location in this state, the certificate must include the registration number of the person who is registered to keep those deer at that location.

*Cervidae; Tuberculosis Testing*

This rule requires the owner or custodian of a cervid to restrain the cervid for tuberculosis testing by one of the following means:

- Providing animal handling facilities that will safely restrain the cervid and protect the safety of the person conducting the test. The rule spells out minimum standards for animal handling facilities.

- Adequately tranquilizing the cervid to permit safe testing. The tranquilizer must be administered at the owner’s expense. Department staff will not administer the tranquilizer. A person authorized to conduct a TB test may determine that a cervid is not adequately tranquilized, and may require additional tranquilization before conducting the test.

- Transporting the cervid, under a permit issued by the Department, directly to an approved isolation and testing facility. Once a cervid is transported to an approved isolation and testing facility, it may not be removed until it tests negative for bovine tuberculosis and the owner or custodian obtains an interstate health certificate or certificate of veterinary inspection. If the cervid tests positive on the bovine tuberculosis test, it may not be moved except to slaughter.

*Tuberculosis Reactors; Identification and Slaughter*

Under current state rules, a cervid classified as a tuberculosis reactor must be branded on the left jaw with the letter “T” unless it is shipped directly to slaughter in a vehicle that is sealed by the Department. Under this rule, a reactor must be branded on the hip (not the jaw), near the tailhead, with the letter “T.” A reactor need not be branded if all of the following apply:

- Its left ear is spray painted yellow and tattooed with the letters “TB.”
- A state or federal veterinarian accompanies the reactor as it is shipped to slaughter, or the reactor is shipped to slaughter in a vehicle sealed by the Department or the federal bureau. If the animal is shipped in a sealed vehicle, the seal may only be removed by the Department or the federal bureau.

*Livestock Markets, Dealers and Truckers*

Under ch. 95, Stats., and current rules, livestock market operators, dealers and truckers must be licensed by the Department, and must comply with Department rules. Pursuant to 1995 Wis. Act 79, this rule defines “livestock” to include “farm-raised deer.”

Under this rule, a person who handles “farm raised deer” as a market operator, dealer or trucker must be licensed as a livestock market operator, dealer or trucker, and must comply with Department rules related to livestock markets, dealers and truckers. Among other things, a livestock market operator, dealer or trucker must record the receipt and disposition of all “farm-raised deer” handled by that market operator, dealer or trucker.

*Identifying Cervidae and “Farm-Raised Deer”*

Under this rule, a veterinarian who does any of the following to a cervid must identify that cervid with an official eartag unless the cervid already bears an official individual identification:

- Vaccinates, identifies or tests a cervid in order to complete an interstate health certificate, certificate of veterinary inspection, or other official document or certification related to that cervid.
- Tests a cervid for certain diseases specified in this rule.

Under this rule, a person keeping “farm-raised deer” in this state must identify, with an official eartag, each “farm-raised deer” which that person receives from or delivers to another person.

Under this rule, livestock markets and dealers receiving “farm raised deer” must identify the deer with official eartags unless the deer already bear official individual identification or are backtagged for slaughter. No livestock dealer or market operator may deliver a farm-raised deer to another person unless that deer bears an official individual identification, or unless that deer is backtagged and shipped directly to slaughter.

This rule also requires livestock markets, dealers, truckers and slaughter establishments to backtag all “farm-raised deer” which they receive for slaughter, or for sale or shipment to slaughter. Persons receiving “farm-raised deer” for slaughter, or for sale or shipment to slaughter, must record the receipt and disposition of those “farm-raised deer.”

**ANIMAL HEALTH QUARANTINES**

This rule clarifies the Department’s authority to issue animal health quarantines. Current rules provide that the Department may issue quarantines to “control” contagious, infectious or communicable diseases of domestic animals. This rule clarifies that the Department may issue quarantines to prevent, suppress, control or eradicate contagious, infectious or communicable diseases which may affect domestic or exotic animals in this state, or to prevent animals from being moved or commingled pending further testing, diagnosis or traceback related to suspected disease.

**POULTRY DISEASE REPORTING**

Under current rules, a veterinarian or diagnostic laboratory must report to the Department whenever the veterinarian or laboratory diagnoses or finds evidence of certain animal diseases. Reportable poultry diseases currently include avian influenza, *mycoplasma gallisepticum*, pullorum, salmonellosis, and any disease that is foreign or exotic to Wisconsin. This rule adds the following diseases to the current list of poultry diseases that must be reported to the Department:

- Avian infectious encephalomyelitis
- Infectious laryngotracheitis
- Ornithosis (psittacosis)
- Paramyxovirus infections of poultry other than Newcastle Disease
- Viscerotropic velogenic Newcastle Disease.

By requiring that these diseases be reported, the Department will comply with export certification requirements negotiated between the federal bureau and the Russian Federation. This will permit Wisconsin poultry meat producers to continue exporting poultry meat to Russia.

**Fiscal Estimate**

The complete fiscal note is available on request.

For purposes of this fiscal estimate, it is estimated that 150 herds consisting of 6,400 farm-raised deer (elk, reindeer, sika, fallow and red deer) exist in Wisconsin.

**Revenue:**

Per s. 95.55 (3), Stats., the Department shall specify the fee for registration of keepers of farm-raised deer. This proposal would establish an annual registration fee of \$50 for 15 or fewer farm-raised deer or \$100 for more than 15 farm-raised deer. These fees are applicable for the period June 1, 1996, through December 31, 1998. Any keeper licensed with the Department of Natural Resources for 1996 as of June 1, 1996 would be exempt from the fee for 1996. Any keeper whose farm-raised deer have been certified as an accredited tuberculosis-free herd as of January 1 of the year registering would also be exempt from the fee. It is estimated that 50% of the farm-raised deer herds consist of 15 or fewer farm-raised deer. Annualized revenue for the period 1995-96 through 1997-98 is estimated at \$10,900. Revenues from farm-raised deer registrations will be used to administer the farm-raised deer program within the Division of Animal Health.

**Expenses associated specifically with the rule follow:**

Administrative expense will be incurred by the Department with registering farm-raised deer keepers as proposed in the rule, verifying registration numbers on incoming health certificates, issuing permits for cervidae to move directly to isolation and testing facilities and employing quarantine authority to address inadequate animal handling facilities in Department tuberculosis testing situations. Investigatory and enforcement expenses, such as investigating unregistered farm-raised deer owners, owners/keepers not testing their animals per 1995 Wis. Act 79 and livestock trucker, dealer and market activities related to farm-raised deer, will be incurred. Also, it is anticipated that the inclusion of the USDA regulations

related to accompaniment to slaughter versus branding will be chosen by owners of bovine and cervidae animals, thus increasing Departmental expense.

Expenses associated with the implementation of a farm-raised deer program not specifically addressed in the rule, but resulting from statutory requirements in 1995 Wis. Act 79 follow:

The nonstatutory provisions of Act 79, requiring all keepers of farm-raised deer to test their farm-raised deer for tuberculosis, will result in increased expenses for the Department for follow-up testing performed by the Department, recording test report data and training and approving veterinarians to apply the tuberculin test to cervidae.

There will be additional expenses associated with administering the farm-raised deer program. Staff support time will be required to provide technical and educational assistance to the public by providing information and responding to questions on various aspects of the program and on statutory requirements related to deer in general and farm-raised deer in particular. Other administrative functions will include maintaining records for animal disease control purposes and liaison activities with organizations interested in farm-raised deer and cervidae agriculture.

Annualized expenses for the period 1995-96 through 1997-98 are estimated at \$28,500. Expenses will drop significantly to approximately \$12,200 a year beginning in 1998-1999 after the annual registration and required testing by keepers of farm-raised deer ceases.

## **Initial Regulatory Flexibility Analysis**

### **General Overview**

This proposed rule establishes the policies and procedures whereby the Department of Agriculture, Trade and Consumer Protection will implement 1995 Wis. Act 79 which transferred the primary authority for regulating "farm-raised deer" from the Department of Natural Resources to the Department of Agriculture, Trade and Consumer Protection. The rule incorporates recently adopted USDA regulations related to branding and shipping to slaughter cervidae and bovine animals defined as tuberculosis suspects or reactors. The rule also includes provisions responding to the recently-reached agreement with USDA/APHIS and its Russian counterparts regarding the export of poultry meat to the Russian Federation.

This proposed rule will affect small businesses in Wisconsin. It includes provisions which relate to small businesses engaged in farming specific genera of the family Cervidae defined as "farm-raised deer", cervidae in general and bovine animals, the practice of veterinary medicine and livestock trucking, livestock dealing and operating a livestock market.

### **Farm-Raised Deer**

The statute requires that any person who keeps farm-raised deer must be registered with the Department. This proposed rule defines keeping farm-raised deer as owning, renting, leasing or serving as the custodian of farm-raised deer. For those keeping farm-raised deer, the rule proposes an annual registration fee of \$50 for persons keeping 15 or fewer farm-raised deer and \$100 for persons keeping more than 15 farm-raised deer. If the Department has certified the herd as an accredited tuberculosis-free herd, the keeper is required to register, but the fee is waived. After December 31, 1998, no fee will be charged to any keeper, but all persons becoming keepers of farm-raised deer must register. In registering, keepers of farm-raised deer will need to complete a form providing owner and custodian name and address and herd information.

The rule provides options to keepers of farm-raised deer who have multiple locations. They may register as one entity and pay one fee or they may register each location separately, paying multiple fees. Registering as one entity will allow free movement of cervidae between the locations, but the Department will view the multiple locations as one premises for disease traceback and control purposes.

The rule requires keepers of farm-raised deer to maintain records for two years relating to all farm-raised deer purchased or received, sold or delivered, including the names and addresses of the parties involved, the official identification of the farm-raised deer, and the date and location of each transaction.

About 150 farms scattered across Wisconsin will be affected by the farm-raised deer requirements in this rule. These farms are presently being licensed by the Department of Natural Resources, by completing an annual license application form, paying an annual \$100 fee and submitting quarterly reports on sales, purchases and transfers. Under the Department of Agriculture, Trade and Consumer Protection, registration fees for farms with fewer than 15 deer will decrease, from \$100 to \$50 annually. The effect on

small business in the future will be a further reduction in costs as the annual registration requirement and fee both sunset. While this rule requires the keeper of farm-raised deer to maintain records of transactions, this requirement is less burdensome to the keepers than the DNR requirement of quarterly reporting.

### **Cervidae**

The statute requires owners of animals subject to bovine tuberculosis testing to provide animal handling facilities to ensure the safety of the animal being tested and the persons performing the testing. This proposed rule requires the owner or custodian of cervidae to restrain the cervidae for tuberculosis testing by:

- 1) Providing a cervidae handling facility which meets the minimum standards as outlined in the rule;
- 2) Tranquilizing sufficiently to ensure safe testing of the animal and to protect the person conducting the test; or
- 3) Utilizing a private isolation and testing facility, where the testing can be conducted, including transporting the animal to the facility.

The expense of any one of these options is to be borne by the small business. The Department has provided alternatives to constructing and maintaining a cervidae handling facility because the alternatives accomplish the same goal and provide cost and management alternatives for small businesses. The owner or custodian will be able to minimize costs by choosing the least-costly alternative.

This rule creates a requirement for owners or custodians of cervidae to obtain a Department permit in order to move a cervid to an isolation and testing facility. The requirement to obtain a Department permit prior to moving an untested cervid to an isolation and testing facility may add minimal costs for the small businessperson choosing this option, but presumably the businessperson will consider those costs when deciding which restraint option to choose. The disease control concerns outweigh the minimal cost associated with this requirement.

This rule also imposes requirements for the handling of tuberculosis suspect and reactor cervidae consistent with USDA regulations relating to branding and shipping to slaughter. The changes related to handling suspect and reactor cervidae will not add costs for the businessperson because the requirements are already in place at the federal level and this is consistent with the federal requirement.

### **Bovine Animals**

The statute includes the requirement that the owner of animals subject to bovine tuberculosis testing provide animal handling facilities to ensure the safety of the animal being tested and of the persons performing the testing. This proposed rule includes this requirement for bovine animals. Since the statute requires it, the rule does not impose additional costs on the business.

Also, this rule imposes requirements for the handling of tuberculosis suspect and reactor bovine animals consistent with USDA regulations relating to branding and shipping to slaughter. Since these requirements are already in place at the federal level, this rule provision does not add costs for the businessperson.

### **Veterinarians**

This rule requires veterinarians who prepare interstate health certificates or certificates of veterinary inspection for farm-raised deer to record on the certificate the owner's Department of Agriculture, Trade and Consumer Protection's farm-raised deer registration number. This will not result in significant time or expense, since veterinarians need only record the registration number supplied to them by the deer owner.

To better define a veterinarian's responsibility in officially identifying cervidae tested for disease purposes or vaccinated, identified or tested for purposes of health certificate documentation, provisions related to officially ear-tagging are included in the rule. These provisions correlate with existing provisions for bovine animals. These provisions do not create new responsibilities, but clarify responsibilities which are already in effect.

Also, the rule requires veterinarians that diagnose or find evidence of five poultry diseases to report to the Department the diagnosis or finding. These diseases are being added to an already existing list of diseases that are reportable to the Department; therefore, this will not result in any notable time or expense since veterinarians already have reporting procedures in place.

### **Livestock Truckers, Livestock Dealers and Livestock Markets**

The statute includes farm-raised deer in the definition of livestock as it pertains to livestock truckers, dealers and markets as of June 1, 1996. This proposed rule imposes requirements for the identification and associated

recordkeeping of farm-raised deer handled by livestock truckers, dealers and markets which are consistent with records currently required for other species of livestock. For existing livestock dealers, truckers and market operators, the costs of complying will be insignificant. There may be a few businesspeople who have previously not been required to be licensed as a livestock dealer, trucker or market operator who will now be required to license. Costs that will be incurred by those people are a result of the statutory change and not as a result of this rule.

### Notice to Dept. of Development

Notice of the proposed rule has been delivered to the Department of Development, as required by s. 227.114 (5), Stats.

### Copies of the Rule

A copy of the rule to be considered may be obtained, free of charge, from:

Animal Health Division, (608) 224-4883  
Wis. Dept of Agriculture, Trade & Consumer Protection  
P. O. Box 8911  
Madison, WI 53708-8911

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## Notice of Hearings

### Agriculture, Trade & Consumer Protection

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The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed Department emergency rule related to animal health, specifically, farm-raised deer, tuberculosis control and poultry disease reporting requirements (proposed chs. ATCP 10, 11 and 12, Wis. Adm. Code).

### Written Comments on Emergency Rule

The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. An interpreter for the hearing-impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **May 6, 1996** either by writing to Lynn Jarzombek, P.O. Box 8911, Madison, WI 53708-8911, or by calling (608) 224-4883. TTY users call (608) 224-5058.

### Hearing Information

Four hearings are scheduled:

**May 14, 1996**  
**Tuesday**  
**Commencing**  
**at 6:00 p.m.**

**Board Room**  
**Dept. of ATCP**  
**2811 Agriculture Dr.**  
**MADISON, WI**  
*Handicapped accessible*

**May 15, 1996**  
**Wednesday**  
**Commencing**  
**at 10:00 a.m.**

**Room 135**  
**Mid-State Tech. College**  
**933 Michigan Ave.**  
**STEVENS POINT, WI**  
*Handicapped accessible*

**May 15, 1996**  
**Wednesday**  
**Commencing**  
**at 6:00 p.m.**

**Dept. of ATCP**  
**927 Loring Ave.**  
**ALTOONA, WI**  
*Handicapped accessible*

**May 16, 1996**  
**Thursday**  
**Commencing**  
**at 6:00 p.m.**

**Room E106**  
**Univ. of Wis. Ctr.-Manitowoc**  
**705 Viebahn St.**  
**MANITOWOC, WI**  
*Handicapped accessible*

### Analysis Prepared by the Wis. Dept. of Agriculture, Trade & Consumer Protection

*Statutory Authority:* ss. 93.07 (1) and (2), 93.21 (5), 95.55 (3), 95.68 (8), 95.69 (8), and 95.71 (8)

*Statutes Interpreted:* ss. 93.07 (10), 93.21 (5), 95.25 (2m) and (4m), 95.55, 95.68, 95.69 and 95.71

This rule modifies current animal health rules under chs. ATCP 10-12, Wis. Adm. Code. Among other things, this rule does the following:

- Interprets and implements 1995 Wis. Act 79, which regulates keepers of "farm-raised deer." Act 79 transfers regulatory authority from the Department of Natural Resources (DNR) to the Department of Agriculture, Trade and Consumer Protection, and requires keepers of "farm-raised deer" to register with the Department.

- Modifies current procedures under the Department's tuberculosis control program. The rule incorporates new USDA regulations related to branding and slaughter shipment of bovine tuberculosis reactors. Pursuant to 1995 Wis. Act 79, it also requires owners of tested animals to provide adequate restraints for safe testing.

- Requires veterinarians to report certain poultry diseases to the Department. This will strengthen poultry disease controls and make it possible for Wisconsin producers to export poultry meat to Russia, under an agreement between Russia and the U.S. government.

#### BOVINE TUBERCULOSIS CONTROL

##### *Bovine Tuberculosis Reactors; Branding and Slaughter*

In September, 1995, the United States Department of Agriculture, Animal and Plant Health Inspection Service (federal bureau), changed its regulations related to branding and slaughter shipment of bovine animals identified as "reactors" on bovine tuberculosis tests. This rule amends current state rules to make them consistent with the new federal regulations.

Under current state rules, a reactor must be branded on the left jaw with the letter "T" unless it is shipped directly to slaughter in a vehicle that is sealed by the Department. Under this rule, a reactor must be branded on the hip (not the jaw), near the tailhead, with the letter "T." A reactor need not be branded if all of the following apply:

- Its left ear is spray painted yellow and tattooed with the letters "TB."

- A state or federal veterinarian accompanies the reactor as it is shipped to slaughter, or the reactor is shipped to slaughter in a vehicle sealed by the Department or the federal bureau. If the animal is shipped in a sealed vehicle, the seal may only be removed by the Department or the federal bureau.

#### "FARM-RAISED DEER" AND OTHER CERVIDAE

##### *Persons Keeping "Farm-Raised Deer;" Registration*

Under 1995 Wis. Act 79, persons keeping "farm-raised deer" in this state must register with the Department. This rule implements the new registration requirement.

This rule, like 1995 Wis. Act 79, defines "farm-raised deer" to include farm-raised fallow deer, caribou, reindeer, sambar, sunda sambar, Philippine sambar, visayan deer, barasingha, Schomburgk's deer, thamin or brow antlered deer, sika deer, Thorold's deer, red deer, wapiti and elk. "Farm-raised deer" do not include north american moose, white-tail deer or mule deer.

Under this rule, a person who "keeps farm-raised deer" must obtain a registration certificate from the Department. This includes any person who owns, rents, leases or serves as the custodian of "farm-raised deer." A registration application must identify both the owner and the custodian of the "farm-raised deer." Thus, if the owner and custodian are different persons, they need only complete one registration between them.

Under this rule, a person keeping "farm-raised deer" at more than one location may do either of the following:

- Obtain a separate registration certificate, and pay a separate registration fee, for each location. A keeper may not move "farm-raised deer" between separately-registered locations without an interstate health certificate or certificate of veterinary inspection, unless the deer are exempt under current exemptions to the requirements for intra-state movement. If disease is detected at one location, animals at other locations will not be considered part of the same herd, and will not be treated as exposed animals unless a traceback shows that suspect or reactor animals have actually moved between the locations.

- Register multiple locations under one registration certificate, and pay only one registration fee. If a keeper registers multiple locations under one

registration, the keeper may freely move "farm-raised deer" between those locations without an interstate health certificate or certificate of veterinary inspection. But if disease is detected at one location, all of the "farm-raised deer" at all of the locations are automatically considered to be part of a single exposed herd.

A registration certificate expires on December 31 annually.

This rule establishes an annual registration fee of \$50 for persons who keep 15 or fewer "farm-raised deer," and \$100 for persons who keep more than 15 "farm-raised deer."

To register with the Department, a keeper of "farm-raised deer" must submit a registration application on a form provided by the Department. The application must include all of the following information:

- The name, address and telephone number of the owner of the "farm-raised deer."
- The name, address and telephone number of the custodian of the "farm-raised deer," if the custodian is anyone other than the owner.
- The location at which the "farm-raised deer" will be kept, including the county, township, section and fire number assigned to the location.
- The number of "farm-raised deer" being kept.
- The species, age and sex of the "farm-raised deer" being kept. Age may be specified as fawn, yearling or adult.
- If the herd is certified by the Department as an accredited tuberculosis-free herd, the accreditation number assigned to the herd.

Under this rule, the Department must grant or deny a registration application within 30 days after the Department receives a complete application. The Department may deny, suspend or revoke a registration for cause, including any of the following:

- Violations of applicable requirements under ch. 95, Stats. (animal health), or chs. ATCP 10-12, Wis. Adm. Code.
- Preventing a Department employe from performing his or her official duties, or interfering with the lawful performance of his or her duties.
- Physically assaulting a department employe while the employe is performing his or her official duties.
- Refusing or failing, without just cause, to produce records or respond to a Department subpoena.
- Paying a registration fee with a worthless check.

Under this rule, a person who keeps "farm-raised deer" must keep a record of all of the following, and must retain that record for at least 2 years:

- The name and address of each person from whom that keeper purchases or receives "farm-raised deer."
- The name and address of each person to whom the keeper sells or delivers "farm-raised deer."
- The official identification of every "farm-raised deer" which the keeper purchases, receives, sells or delivers.
- The date on which the keeper receives or delivers each "farm-raised deer."
- The location at which the keeper receives each "farm-raised deer," or to which the keeper delivers each "farm-raised deer."

A person keeping "farm-raised deer" must make these records available to the Department for inspection and copying by the Department upon request.

#### *"Farm-Raised Deer" and Other Cervidae; Disease Control*

Current rules spell out tuberculosis testing requirements, import requirements, intrastate movement requirements and herd certification requirements related to tuberculosis in "cervidae." Rules which currently apply to cervidae will also apply to "farm-raised deer" except where this rule creates a specific exemption for "farm-raised deer."

Under this rule, whenever a veterinarian issues an interstate health certificate or certificate of veterinary inspection for farm-raised deer shipped from a location in this state, the certificate must include the registration number of the person who is registered to keep those deer at that location.

#### *Cervidae; Tuberculosis Testing*

This rule requires the owner or custodian of a cervid to restrain the cervid for tuberculosis testing by one of the following means:

- Providing animal handling facilities that will safely restrain the cervid and protect the safety of the person conducting the test. The rule spells out minimum standards for animal handling facilities.

- Adequately tranquilizing the cervid to permit safe testing. The tranquilizer must be administered at the owner's expense. Department staff will not administer the tranquilizer. A person authorized to conduct a TB test may determine that a cervid is not adequately tranquilized, and may require additional tranquilization before conducting the test.

- Transporting the cervid, under a permit issued by the Department, directly to an approved isolation and testing facility. Once a cervid is transported to an approved isolation and testing facility, it may not be removed until it tests negative for bovine tuberculosis and the owner or custodian obtains an interstate health certificate or certificate of veterinary inspection. If the cervid tests positive on the bovine tuberculosis test, it may not be moved except to slaughter.

#### *Tuberculosis Reactors; Identification and Slaughter*

Under current state rules, a cervid classified as a tuberculosis reactor must be branded on the left jaw with the letter "T" unless it is shipped directly to slaughter in a vehicle that is sealed by the Department. Under this rule, a reactor must be branded on the hip (not the jaw), near the tailhead, with the letter "T." A reactor need not be branded if all of the following apply:

- Its left ear is spray painted yellow and tattooed with the letters "TB."
- A state or federal veterinarian accompanies the reactor as it is shipped to slaughter, or the reactor is shipped to slaughter in a vehicle sealed by the Department or the federal bureau. If the animal is shipped in a sealed vehicle, the seal may only be removed by the Department or the federal bureau.

#### **Livestock Markets, Dealers and Truckers**

Under ch. 95, Stats., and current rules, livestock market operators, dealers and truckers must be licensed by the Department, and must comply with Department rules. Pursuant to 1995 Wis. Act 79, this rule defines "livestock" to include "farm-raised deer."

Under this rule, a person who handles "farm raised deer" as a market operator, dealer or trucker must be licensed as a livestock market operator, dealer or trucker, and must comply with Department rules related to livestock markets, dealers and truckers. Among other things, a livestock market operator, dealer or trucker must record the receipt and disposition of all "farm-raised deer" handled by that market operator, dealer or trucker.

#### *Identifying Cervidae and "Farm-Raised Deer"*

Under this rule, a veterinarian who does any of the following to a cervid must identify that cervid with an official eartag unless the cervid already bears an official individual identification:

- Vaccinates, identifies or tests a cervid in order to complete an interstate health certificate, certificate of veterinary inspection, or other official document or certification related to that cervid.
- Tests a cervid for certain diseases specified in this rule.

Under this rule, a person keeping "farm-raised deer" in this state must identify, with an official eartag, each "farm-raised deer" which that person receives from or delivers to another person.

Under this rule, livestock markets and dealers receiving "farm raised deer" must identify the deer with official eartags unless the deer already bear official individual identification or are backtagged for slaughter. No livestock dealer or market operator may deliver a farm-raised deer to another person unless that deer bears an official individual identification, or unless that deer is backtagged and shipped directly to slaughter.

This rule also requires livestock markets, dealers, truckers and slaughter establishments to backtag all "farm-raised deer" which they receive for slaughter, or for sale or shipment to slaughter. Persons receiving "farm-raised deer" for slaughter, or for sale or shipment to slaughter, must record the receipt and disposition of those "farm-raised deer."

#### **POULTRY DISEASE REPORTING**

Under current rules, a veterinarian or diagnostic laboratory must report to the Department whenever the veterinarian or laboratory diagnoses or finds evidence of certain animal diseases. Reportable poultry diseases currently include avian influenza, *mycoplasma gallisepticum*, pullorum, salmonellosis, and any disease that is foreign or exotic to Wisconsin. This rule adds the following diseases to the current list of poultry diseases that must be reported to the Department:

- Avian infectious encephalomyelitis
- Infectious laryngotracheitis
- Ornithosis (psittacosis)
- Paramyxovirus infections of poultry other than Newcastle Disease
- Viscerotropic velogenic Newcastle Disease.

By requiring that these diseases be reported, the Department will comply with export certification requirements negotiated between the federal bureau

and the Russian Federation. This will permit Wisconsin poultry meat producers to continue exporting poultry meat to Russia.

### **Fiscal Estimate**

The complete fiscal note is available on request.

For purposes of this fiscal estimate, it is estimated that 150 herds consisting of 6,400 farm-raised deer (elk, reindeer, sika, fallow and red deer) exist in Wisconsin.

#### **Revenue:**

Per s. 95.55 (3), Stats., the Department shall specify the fee for registration of keepers of farm-raised deer. This proposal would establish an annual registration fee of \$50 for 15 or fewer farm-raised deer or \$100 for more than 15 farm-raised deer. These fees are applicable as of June 1, 1996. Any keeper licensed with the Department of Natural Resources for 1996 as of June 1, 1996 would be exempt from the fee for 1996. Revenue for the period June 3, 1996, through October 30, 1996, is estimated at \$8,900. Revenues from farm-raised deer registrations will be used to administer the farm-raised deer program within the Division of Animal Health.

#### **Expenses associated specifically with the rule follow:**

Administrative expense will be incurred by the Department with registering farm-raised deer keepers, verifying registration numbers on incoming health certificates, issuing permits for cervidae to move directly to isolation and testing facilities and employing quarantine authority to address inadequate animal handling facilities in Department tuberculosis testing situations. It is anticipated that the farm-raised deer program will create the need for additional Department-conducted tuberculosis testing. Investigatory and enforcement expenses, such as investigating unregistered farm-raised deer owners and livestock trucker, dealer and market activities related to farm-raised deer, will be incurred.

There may be some additional expense incurred for Department veterinarians to accompany tuberculosis suspect or reactor animals to slaughter.

Expenses for the period June 3, 1996, through October 30, 1996, are estimated at \$25,900.

### **Initial Regulatory Flexibility Analysis**

#### **General Overview**

Pending adoption of a permanent rule, this emergency rule establishes policies and procedures for the Department of Agriculture, Trade and Consumer Protection to implement 1995 Wis. Act 79 which transferred the primary authority for regulating "farm-raised deer" from the Department of Natural Resources to the Department of Agriculture, Trade and Consumer Protection. The emergency rule incorporates recently adopted USDA regulations related to branding and shipping to slaughter cervidae and bovine animals classified as tuberculosis suspects or reactors. The rule also includes provisions requiring veterinarians to report the existence of 5 specific poultry diseases to the Department.

This rule will affect small businesses in Wisconsin. It includes provisions which relate to small businesses engaged in farming specific genera of the family Cervidae defined as "farm-raised deer", cervidae in general and bovine animals, the practice of veterinary medicine and livestock trucking, livestock dealing and operating a livestock market.

#### **Farm-Raised Deer**

The statute requires that any person who keeps farm-raised deer must be registered with the Department. This emergency rule defines keeping farm-raised deer as owning, renting, leasing or serving as the custodian of farm-raised deer. For those keeping farm-raised deer, the rule proposes an annual registration fee of \$50 for persons keeping 15 or fewer farm-raised deer and \$100 for persons keeping more than 15 farm-raised deer. Since licenses issued by DNR between January 1, 1996, and May 31, 1996, will be converted to registrations with DATCP on June 1, 1996, the fees established by the emergency rule will only apply to farm-raised deer keepers who first register during the effective period of the emergency rule. In registering, keepers of farm-raised deer will need to complete a form providing owner and custodian name and address and herd information.

The rule provides options to keepers of farm-raised deer who have multiple locations. They may register as one entity and pay one fee or they may register each location separately, paying multiple fees. Registering as one entity will allow free movement of cervidae between the locations, but the Department will view the multiple locations as one premises for disease traceback and control purposes.

The rule requires keepers of farm-raised deer to maintain records for two years relating to all farm-raised deer purchased or received, sold or delivered, including the names and addresses of the parties involved, the official identification of the farm-raised deer, and the date and location of each transaction.

#### **Cervidae**

The statute requires owners of animals subject to bovine tuberculosis testing to provide animal handling facilities to ensure the safety of the animal being tested and the persons performing the testing. This emergency rule requires the owner or custodian of cervidae to restrain the cervidae for tuberculosis testing by:

- 1) Providing a cervidae handling facility which meets the minimum standards as outlined in the rule;
- 2) Tranquilizing sufficiently to ensure safe testing of the animal and to protect the person conducting the test; or
- 3) Transporting the animal to a private isolation and testing facility for the test.

The expense of any one of these options is to be borne by the small business. The Department has provided alternatives to constructing and maintaining a cervidae handling facility because the alternatives accomplish the same goal and provide cost and management alternatives for small businesses. The owner or custodian will be able to minimize costs by choosing the least-costly alternative.

This rule creates a requirement for owners or custodians of cervidae to obtain a Department permit in order to move a cervid to an isolation and testing facility. The requirement to obtain a Department permit prior to moving an untested cervid to an isolation and testing facility may add minimal costs for the small businessperson choosing this option, but presumably the businessperson will consider those costs when deciding which restraint option to choose. The disease control concerns outweigh the minimal cost associated with this requirement.

This rule also imposes requirements for the handling of tuberculosis suspect and reactor cervidae consistent with USDA regulations relating to branding and shipping to slaughter. The changes related to handling suspect and reactor cervidae will not add costs for the businessperson because the requirements are already in place at the federal level and this is consistent with the federal requirement.

#### **Bovine Animals**

This rule imposes requirements for the handling of tuberculosis suspect and reactor bovine animals consistent with USDA regulations relating to branding and shipping to slaughter. Since these requirements are already in place at the federal level, this rule provision does not add costs for the businessperson.

#### **Veterinarians**

This rule requires veterinarians who prepare interstate health certificates or certificates of veterinary inspection for farm-raised deer to record on the certificate the owner's Department of Agriculture, Trade and Consumer Protection's farm-raised deer registration number. This will not result in significant time or expense, since veterinarians need only record the registration number supplied to them by the deer owner.

To better define a veterinarian's responsibility in officially identifying cervidae tested for disease purposes or vaccinated, identified or tested for purposes of health certificate documentation, provisions related to officially eartagging are included in the rule. These provisions correlate with existing provisions for bovine animals. These provisions do not create new responsibilities, but clarify responsibilities which are already in effect.

Also, the rule requires veterinarians that diagnose or find evidence of five poultry diseases to report to the Department the diagnosis or finding. These diseases are being added to an already existing list of diseases that are reportable to the Department; therefore, this will not result in any notable time or expense since veterinarians already have reporting procedures in place.

#### **Livestock Truckers, Livestock Dealers and Livestock Markets**

The statute includes farm-raised deer in the definition of livestock as it pertains to livestock truckers, dealers and markets as of June 1, 1996. This emergency rule imposes requirements for the identification and associated recordkeeping of farm-raised deer handled by livestock truckers, dealers and markets which are consistent with records currently required for other species of livestock. For existing livestock dealers, truckers and market operators, the costs of complying will be insignificant. There may be a few businesspeople who have previously not been required to be licensed as a

livestock dealer, trucker or market operator who will now be required to license. Costs that will be incurred by those people are a result of the statutory change and not as a result of this rule.

### **Notice Sent to Dept. of Development**

Notice of the proposed rule has been delivered to the Department of Development, as required by s. 227.114 (5), Stats.

### **Copies of the Emergency Rule**

A copy of the emergency rule to be considered may be obtained, free of charge, from:

Animal Health Division, (608) 224-4883  
Wis. Dept of Agriculture, Trade & Consumer Protection  
P. O. Box 8911  
Madison, WI 53708-8911

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## **Notice of Hearing Development**

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Notice is hereby given that pursuant to s. 560.04 (2) (j), Stats., and interpreting s. 560.14 (2) (j), Stats., the Wisconsin Department of Development will hold a hearing to consider the adoption of an emergency rule relating to the community development block grant portion of the Wisconsin development fund at the following place and time: **Department of Development, Room 908, 123 West Washington Avenue, Madison, Wisconsin at 10:00 A.M. on Wednesday, May 8, 1996.**

### **Analysis Prepared By The Department Of Development**

Section 560.04 (2) (j), Stats., gives the Department of Development the authority to adopt the order. The order interprets s. 560.04 (2) (j), Stats., and relates to federal funding the Department receives annually under section 107 (b) (5) of title I of the housing and community development act of 1974.

That federal funding supports the state administered community development block grant portion of the Wisconsin Development Fund. The rules contained in this order relate primarily to the economic development, public facilities economic development and emergency grant portions of the community development block grant program administered by the Department.

The substantive changes contained in this order and the Department's proposed emergency rule include:

1. The Department is authorized to reallocate federal Wisconsin development funds administered by the Department under s. 560.04 (2) (j), Stats. and Wis. Adm. Code ss. DOD 6.14 to 6.24 from the economic development and the public facilities programs to the public facilities economic development program. This change is required because, under current law, public infrastructure projects under the public facilities economic development program can be funded only with funds in the Department's revolving loan fund, consisting of repayments from prior economic development program awards. This change is needed to ensure that the Department has sufficient funds available to fund the public infrastructure economic development projects in the Village Lena and other communities that meet the requirements of the program.

2. The maximum emergency grant available under s. DOD 6.32 (2) is increased from \$500,000 to \$750,000, thereby authorizing the Department to make sufficient emergency grant funding available to the Village of Lena and other communities that meet the requirements of subchapter III of Wis. Admin. Code ch. DOD 6.

### **Initial Regulatory Flexibility Analysis**

Notice is hereby given that pursuant to s. 227.14, Stats., the Department's emergency rule will have no impact on small businesses. The initial regulatory flexibility analysis as required by s. 227.17 (3) (f), Stats., is as follows:

*a. Types of businesses affected:* Businesses located within a local government eligible for CDBG funds from the state.

*b. Description of reporting and bookkeeping procedures required:* None.

*c. Description of professional skills required:* None.

### **Fiscal Estimate**

The order will not have a fiscal effect on the Department of Development because it does not change the Department's workload or the total amount of CDBG funding available to fund projects under the economic development, public facilities economic development and emergency grant programs. The total amount available to local governments under the community development block grant program is not changed by the order because all federal funds and program income are and will be distributed as block grant funding to local governments.

### **Contact Person**

Thomas H. Taylor, Deputy Secretary and General Counsel -  
(608) 266-3203.

### **Order**

Pursuant to the authority vested in the Department of Development by s. 560.04 (2) (j), Stats., the Department of Development hereby amends rules interpreting s. 560.04 (2) (j), Stats., relating to federal funding received by the Department under section 107 (b) (5) of title I of the housing and community development act of 1974.

### **Text of Rule**

**SECTION 1.** DOD 6.18(1) is amended to read:

DOD 6.18(1) Out of each annual allotment grant of federal Wisconsin development CDBG funds administered by the department from the federal government, the department may set aside up to 75 % for the economic development program, up to 20 % for the public facilities economic development program, or and up to 75 % for the public facilities competition program administered under subch. I. The department shall announce the amount of the set aside no later than August 1 of the preceding year. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program. Funds in Program income received by the department's revolving loan fund, consisting of department from repayments from of prior economic development program awards, shall be used allocated for economic development, public facilities economic development or public facilities program awards. The department may reallocate funds set aside for the economic development program, the public facilities economic development program and the public facilities program from one program to another program as needed to meet the needs of local governments.

**SECTION 2.** DOD 6.32(2) is amended to read:

DOD 6.32(2) Grants may be for up to \$500,000 \$750,000.

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## **Notice of Hearing Natural Resources (Fish, Game, Chs. NR 1--)**

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Notice is hereby given that pursuant to ss. 30.92 and 227.11(2), Stats., interpreting s. 30.92, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 7, Wis. Adm. Code, relating to the recreational boating facilities program. The proposed changes reflect recent legislative changes as well as changes proposed by the Wisconsin Waterways Commission. The proposed rule modifications include:

1. Incorporating rehabilitation as a formal, new category for funding eligibility.

2. Broadening the eligibility of weed harvesters to include Great lakes sponsors.

3. Modifying the eligibility requirements associated with channel dredging so that eligible costs are more clearly defined.

4. Codifying an operating policy regarding the minimum acreage of harvestable weeds that is necessary for a sponsor to be eligible for harvester grants.

5. Making several rule changes to make ch. NR 7 more consistent with other recreational grant programs, e.g., consideration of advance payments and use of donations as local match.

### **Initial Regulatory Flexibility Analysis**

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

**Environmental Assessment**

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

**Hearing Information**

**May 17, 1996  
Friday  
at 1:00 p.m.**

**Room #2,  
DNR Southern District Hdqrs.  
3911 Fish Hatchery Road  
Fitchburg**

*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Larry Freidig at (608) 266-5897 with specific information on your request at least 10 days before the date of the scheduled hearing.*

**Written Comments**

Written comments on the proposed rule may be submitted to Mr. Larry Freidig, Bureau of Community Assistance, P.O. Box 7921, Madison, WI 53707 no later than **May 20, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Freidig.

**Fiscal Estimate**

There is no fiscal effect anticipated from the promulgation of this rule.

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**Notice of Hearing  
Natural Resources  
(Fish, Game, etc., Chs. NR 1--)**

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Notice is hereby given that pursuant to ss. 29.107, 29.174(3) and 227.11 (2) (a), Stats., interpreting ss. 29.107 and 29.174(1) and (2), Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM-50-94(E) relating to deer hunting management units and overwinter goals. This emergency order took effect on **April 15, 1996**. The proposed rule:

1. Describes the Department's method for developing deer management unit size and configuration.
2. Describes how the Department will monitor deer population size.
3. Requires the Department to manage deer populations with consideration for ecological and social impacts.
4. Establishes a three-year period between reviews of overwinter goals and unit boundaries.
5. Establishes overwinter goals and unit boundaries.

**Hearing Information**

**May 20, 1996  
Monday  
at 1:00 p.m.**

**Room 027  
GEF #2  
101 South Webster St.  
Madison, WI**

*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Todd Peterson at (608) 267-2948 with specific information on your request at least 10 days before the date of the scheduled hearing.*

**Written Comments**

Written comments on the emergency rule may be submitted to Mr. Todd Peterson, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than **May 21, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule may be obtained from Mr. Peterson.

**Fiscal Estimate**

Regulation Change	Fiscal Impact
Unit Boundary Changes	\$300 Map Revision
Over Winter Goal Changes	\$250 Map Revision

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**Notice of Hearings  
Natural Resources  
(Environmental Protection,  
WPDES, Chs. NR 200--)**

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Notice is hereby given that pursuant to ss. 147.025 and 227.11(2), Stats., interpreting ss. 144.025 (1) and (2) (a) and 147.01 (2) and 147.08 (1) and (2), Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 200 and 205, Wis. Adm. Code, relating to the electronic submission of WPDES permit applications and monitoring data.

**Analysis**

All discharge monitoring reports, groundwater monitoring reports and WPDES discharge permit applications are currently submitted to the DNR Bureau of Wastewater Management as signed paper forms. With the recent advances in information technology, many WPDES permit holders have been asking if they may submit their data in electronic format. Current rules regarding information submitted for WPDES permits do not allow for electronic submittal of such information. The proposed rules allow the electronic data submittal of data involving WPDES permit applications, reapplications and monitoring requirements.

**Initial Regulatory Flexibility Analysis**

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

**Environmental Assessment**

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

**Hearing Information**

**May 15, 1996  
Wednesday  
at 1:00 p.m.**

**Room 149  
Marathon Co. Cthse.  
500 Forest St.  
Wausau**

**May 17, 1996  
Friday  
10:00 a.m.**

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

*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Shelly Schueller at (608) 267-7602 with specific information on your request at least 10 days before the date of the scheduled hearing.*

## Written Comments

Written comments on the proposed rule may be submitted to Ms. Shelly Schueller, Bureau of Wastewater Management, P.O. Box 7921, Madison, WI 53707 no later than **May 24, 1996**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule and fiscal estimate may be obtained from Ms. Schueller.

## Fiscal Estimate

The revisions proposed will allow WPDES permittees the option of submitting permit applications and monitoring data electronically. Currently only paper forms are accepted, per rule requirements. With the recent advances in information technology, many WPDES permittees have been asking if they may submit their data in electronic format. These proposed code revisions would allow electronic data submittal.

There will be some cost savings to the Department because the manual data entry step will be eliminated. State government data entry contract costs are expected to decrease by 40%, a savings of approximately \$10,200 per year; however, there will also be some cost increases to the Department because the Department may need to purchase more disks or a modem for the electronic transfer and move staff time to handle the electronic data. The cost savings and increased costs are expected to balance out; thus, there is no anticipated state fiscal effect.

Indirect impacts to the Department and to permittees include better use of Department staff time. The computer program can edit data faster than the current process, which is a manual process and thus labor intensive. Electronic data submittal will also allow the Department to make the data available faster to those needing the data. Using the electronic format, facility staff will not need to spend time calculating values; the computer program will include this.

Local governments (i.e., towns, villages, cities, school districts, etc.) are required to submit WPDES permit applications and monitoring data if they own and/or operate a wastewater treatment plant with discharges to waters of the state. The proposed rule revisions should not have significant effects on funding or costs associated with the data submittal requirements of local governments. In fact, costs to local governments may decrease as they take advantage of computer software programs and electronic transfer to reduce staff time currently spent manually entering and calculating values to be mailed on a paper copy to the Department. These potential future cost savings are impossible to quantify at this time.

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## Notice of Hearing

### Physical Therapists Affiliated Credentialing Board

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Notice is hereby given that pursuant to authority vested in the Physical Therapists Affiliated Credentialing Board in ss. 15.08 (5) (b), 227.11 (2) and 448.53 (2), Stats., and interpreting s. 448.53 (2), Stats., the Physical Therapists Affiliated Credentialing Board will hold a public hearing at the time and place indicated below to consider an order to repeal and recreate s. PT 3.01 (4); and to create s. PT 1.02 (2m), relating to temporary licenses to practice physical therapy.

## Hearing Information

**May 16, 1996**  
**Thursday**  
**9:00 a.m.**

**1400 E. Washington Ave.**  
**Room 180**  
**Madison, Wisconsin**

## Appearances at the Hearing

Interested people are invited to present information at the hearing. People 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 **May 30, 1996** to be included in the record of rule-making proceedings.

## Analysis Prepared by the Department of Regulation and Licensing

*Statutes authorizing promulgation:* ss. 15.08 (5) (b), 227.11 (2) and 448.53 (2)

*Statute interpreted:* s. 448.53 (2)

In this proposed rule-making order the Physical Therapists Affiliated Credentialing Board modifies the duration of temporary licenses to practice physical therapy under supervision pending examination results. This modification is necessary because of the transition from the current paper-and-pencil examinations to computerized adaptive testing.

The Board also defines "hardship" as there have been cases of examination candidates experiencing a sudden death in the family, serious illness, or automobile accidents on the way to examination sites wherein candidates would be unable to take that scheduled examination.

## Text of Rule

**SECTION 1.** PT 1.02 (2m) is created to read:

PT 1.02 (2m) "Hardship" as used in s. PT 3.01 (4), means an applicant's inability to take or complete a scheduled examination because of illness, family illness or death, accident or disaster, or because the applicant is waiting for examination results.

**SECTION 2.** PT 3.01 (4) is repealed and recreated to read:

PT 3.01 (4) The duration of a temporary license to practice physical therapy under supervision granted under this section shall be for a period of 3 months or until the holder receives failing examination results, whichever is shorter. A temporary license may be renewed for a period of 3 months, and may be renewed a second time for a period of 3 months, for reasons of hardship, if the holder files with the board an affidavit satisfactory to the board identifying the hardship. Practice under a temporary license may not exceed 9 months total duration.

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

## Copies of Rule and Contact Person

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

Pamela Haack, (608) 266-0495  
Office of Administrative Rules  
Department of Regulation and Licensing  
1400 East Washington Avenue, Room 171  
P.O. Box 8935  
Madison, Wisconsin 53708

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## Notice of Hearings

### Public Instruction

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Notice is hereby given that pursuant to ss. 115.28 (7), 121.02 (1) (a), and 227.11 (2) (a), Stats., and interpreting s. 118.19 (1) and (3) (a), Stats., the Department of Public Instruction will hold public hearings as follows to consider the amending of ch. PI 3, relating to teacher licenses.

## Hearing Information

The hearings will be held as follows:

**May 21, 1996**  
**Tuesday**  
**5:00 – 6:00 p.m.**

**Room 041**  
**GEF 3 Building**  
**125 South Webster Street**  
**Madison**



**May 22, 1996**  
**Wednesday**  
**5:00 – 6:00 p.m.**

**Rm. 401**  
**North Central Technical College**  
**1000 Campus Drive**  
**Wausau**

*The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation, which may include materials prepared in an alternative format, as provided under the Americans with Disabilities Act, to access any meeting, please call Peter Burke, Director, Bureau for Teacher Education, Licensing and Placement, (608) 266-1879 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date.*

### **Copies of Rule and Contact Person**

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

Lori Slauson, Administrative Rules Coordinator  
 Department of Public Instruction  
 125 South Webster Street  
 P.O. Box 7841  
 Madison, WI 53707

Written comments on the proposed rules received at the above address no later than **May 29, 1996**, will be given the same consideration as testimony presented at the hearings.

### **Analysis by the Department of Public Instruction**

In August 1994, the state superintendent appointed a 21-member task force on restructuring teacher education and licensure to review, discuss, and debate current issues in the preparation and licensing of education professionals. The task force was asked to make recommendations aimed at improving the status of teacher education and licensing. Specifically, the task force was asked to determine the skills and abilities necessary for education professionals to be successful in the schools of the 21st century and to make recommendations aimed at improving the quality of the work force. These rules address task force and field recommendations and make minor technical changes.

The proposed rules:

- Authorize the state superintendent to grant exemptions on required test scores for out-of-state graduates. Authority already exists for the state superintendent to grant exemptions to in-state applicants.
- Allow deficiencies to be met through Department-approved equivalency clock hour programs, not just through college or university course work.
- Allow all secondary teachers to qualify for specific science licenses (biology, chemistry, environmental studies, earth/space science, and physics) based on a minor.
- Reduce the number of credits required to allow licensed teachers to receive additional licenses in science and social studies.
- Allow all secondary teachers to qualify for the middle level science and social studies licenses.
- Eliminate the business education – without shorthand license. A business education license is available and it is not necessary to have a business education – without shorthand license available too.
- Accept three years of school administrator experience under a regular or full license from and in another state in lieu of the currently-required 3 years of teaching experience.

### **Fiscal Estimate**

The proposed rules provide for flexibility in teacher licensure by:

- 1) Authorizing the state superintendent to grant exemptions on required tests for out-of-state graduates;
- 2) Allowing deficiencies to be met through Department-approved equivalency clock hour programs;
- 3) Allowing all secondary teachers to qualify for specific science licenses based on a minor;

4) Reducing the number of credits required to allow licensed teachers to receive additional licenses in science and social studies;

5) Allowing all secondary teachers to qualify for the middle level science and social studies licenses; and

6) Accepting three years of school administrator experience under a regular or full license from and in another state.

It is assumed that the proposed rules will not result in any increased costs to school districts.

The proposed rules may result in decreased costs to individuals seeking a license due to lower credit requirements.

The proposed rules may have a fiscal effect on the University of Wisconsin System. A copy of the proposed rules has been submitted to the University of Wisconsin System with a request for a fiscal note.

The proposed rules will have no fiscal effect on the Department.

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## **Notice of Hearings**

### **Public Instruction**

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Notice is hereby given that pursuant to ss. 115.92 (3) and 227.11 (2) (a), Stats., and interpreting s. 115.92, Stats., the Department of Public Instruction will hold public hearings as follows to consider the amending of ch. PI 19, relating to education for school age parents.

### **Hearing Information**

The hearings will be held as follows:

**May 15, 1996**  
**Wednesday**  
**4:00 – 6:00 p.m.**

**Room 041**  
**GEF 3 Building**  
**125 South Webster Street**  
**Madison**

**May 21, 1996**  
**Tuesday**  
**4:00 – 6:00 p.m.**

**Rm. 401**  
**North Central Tech. College**  
**1000 Campus Drive**  
**Wausau**

*The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation, which may include materials prepared in an alternative format, as provided under the Americans with Disabilities Act, to access any meeting, please call Joan Meier, Program Assistant, Student Services/Prevention and Wellness Team, at (608) 266-8960 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date.*

### **Copies of Rule and Contact Person**

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

Lori Slauson, Administrative Rules Coordinator  
 Department of Public Instruction  
 125 South Webster Street  
 P.O. Box 7841  
 Madison, WI 53707

Written comments on the proposed rules received at the above address no later than **May 24, 1996**, will be given the same consideration as testimony presented at the hearings.

### **Analysis by the Department of Public Instruction**

The proposed rules make several modifications to the education for school age parents program. The proposed rule:

- ♦ Clarifies that nurses serving in the program must be registered.
- ♦ Clarifies that pupil services personnel, in addition to teachers, may participate in the program and may provide instruction within their respective areas of expertise.
- ♦ Eliminates the requirement that program evaluations must be submitted to the Department. Accountability of program effectiveness will

be maintained through newly-established and streamlined evaluation and report formats. This new format will eliminate the need for school districts to submit narrative evaluations on an annual basis.

- ◆ Clarifies that placement options for participating pupils is determined by the district. Current rules imply that a participating pupil determines which option he or she will be placed in and that school districts must maintain all program options for the pupil to select from.

- ◆ Clarifies that program placement options are to be discussed in a meeting with the pupil, family, and appropriate school staff.

- ◆ Allows pupil services personnel who provide instructional services under the program to be eligible for categorical aid reimbursement.

### **Fiscal Estimate**

The proposed rules make several modifications to the education for school age parents program, including allowing the costs for pupil services personnel who provide instructional services under the program to be eligible for categorical aid reimbursement.

Under the program, reimbursement for school district costs for salaries of teachers and instructional aides, special transportation and other expenses approved by the Department for the education of school age parents comes from the appropriation under s. 20.255 (2) (b), Stats., (handicapped aids). In recent years, this ch. 20, Stats., appropriation has been insufficient to pay the full amount of aid that school districts are entitled to under s. 115.93 (1), Stats.; therefore, as provided in statute, reimbursement to school districts for costs incurred under the school age parent program have been prorated. The current level of prorated reimbursement for this program is approximately 40% of incurred costs.

Because the handicapped aid appropriation does not increase in the 1996-97 fiscal year and because proposed rules will add to the costs eligible for reimbursement under the school age parent program in Fiscal Year (FY) 97, it is assumed that the overall reimbursement rate for handicapped education and school age parent programs will decrease. It should be noted, however, that the rules will benefit those school districts which currently offer a school age parent program through staff whose costs may not be reimbursed by allowing pupil services staff to be partially reimbursed.

The proposed rules will have no fiscal effect on the Department.

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## **Notice of Hearings Public Instruction**

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Notice is hereby given that pursuant to ss. 115.36 (3) (a) 5, 115.361 (2) (c), 115.361 (5) (c), 115.362 (5) and 227.11 (2) (a), Stats., and interpreting ss. 115.36 (1) and (3), 115.361 (2), (3), (4), and (5), and 115.362 (2), Stats., the Department of Public Instruction will hold public hearings as follows to consider the amending of ch. PI 32, relating to alcohol and other drug abuse (AODA) programs.

### **Hearing Information**

The hearings will be held as follows:

**May 15, 1996**  
**Wednesday**  
**4:00 – 6:00 p.m.**

**Room 041**  
**GEF 3 Building**  
**125 South Webster Street**  
**Madison**

**May 21, 1996**  
**Tuesday**  
**4:00 – 6:00 p.m.**

**Rm. 401**  
**North Central Tech. College**  
**1000 Campus Drive**  
**Wausau**

*The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation, which may include materials prepared in an alternative format, as provided under the Americans with Disabilities Act, to access any meeting, please call Joan Meier, Program Assistant, Student Services/Prevention and Wellness Team, at (608) 266-8960 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date.*

### **Copies of Rule and Contact Person**

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

Lori Slauson, Administrative Rules Coordinator  
Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707

Written comments on the proposed rules received at the above address no later than **May 24, 1996**, will be given the same consideration as testimony presented at the hearings.

### **Analysis by the Department of Public Instruction**

The proposed rules make several minor modifications to the various alcohol and other drug abuse (AODA) grant programs under ch. PI 32 in order to make the rules more flexible and consistent with statutes that established the programs. Major modifications include:

- ◆ Clarifying how AODA prevention affects other health and safety problems and concerns by including the phrase "health and safety problems or concerns."

- ◆ Changing the general requirements for AODA program policies. Grant participants will now be required to explain how their program will operate consistent with state and federal law rather than require the participants to ensure compliance with requirements specified in rule. Examples of applicable state law are given in the rule.

- ◆ Eliminating some of the general application requirements for all AODA grant programs as they relate to the required outline and description information. For instance,

- 1) The outline no longer requires a list of personnel involved and materials to be used (this information is already available in the application's budget) and

- 2) The description no longer requires a list of quantifiable data used to determine the extent to which the program objectives were met (this will allow grant applicants greater flexibility in choosing evaluation methods).

- ◆ Eliminating or modifying some provisions relating to the state superintendent's review of AODA grant applications.

- ◆ Eliminating or modifying the requirements for a comprehensive K-12 AODA program, including eliminating the specific criteria previously required for a comprehensive K-12 AODA policy. Instead, allow grant recipients to determine policy contents.

- ◆ Eliminating specific training, knowledge and skill requirements for an AODA program coordinator. Instead, allow the grant recipient to decide what training will be required for the coordinator.

- ◆ Eliminating or modifying specific application requirements under the various AODA grant categories.

- ◆ Eliminating the criteria used to determine comparable training required for an officer to offer drug abuse resistance education (DARE). The comparable training currently listed in the rule is subject to change as determined by DARE America; therefore, the rule will give an explanatory note describing how the reader may obtain more information regarding training.

- ◆ Eliminating specific DARE curriculum requirements. Again, curriculum requirements currently listed in the rule are subject to change as determined by DARE America.

- ◆ Defining the enrollment size of small, medium and large districts under the grants for families and schools together program.

- ◆ Eliminating the school counselors, psychologists and social workers program since the program has already been eliminated in statute.

- ◆ Having the state superintendent's advisory council advise him or her on related health and safety issues and programs as well as AODA issues and programs.

### **Fiscal Estimate**

The proposed rules allow for flexibility by eliminating many restrictive requirements under the various grant categories available under the AODA program.

It is assumed that the amendments to ch. PI 32 will not result in any increased costs to school districts. In fact, the desired result is to make it easier for school districts to apply for funds under the AODA program.

The proposed rules will have no fiscal effect on the Department.

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## **Notice of Hearing**

### **Department of Transportation**

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Notice is hereby given that pursuant to s. 348.27(9t), Stats., as created by 1995 Wis. Act 163, interpreting s. 348.27(9t), Stats., as created by 1995 Wisconsin Act 163, the Department of Transportation will hold a public hearing on **Monday, May 13, 1996 at the Hill Farms State Transportation Building, Room 88, 4802 Sheboygan Avenue, Madison, WI, at 10:00 AM**, to consider the emergency rule creation of ch. Trans 258, Wis. Adm. Code, relating to Seed Potato Overweight Permits.

*Parking for people with disabilities and an accessible entrance are available.*

### **Copies of Rule and Contact Person**

A copy of the emergency rule may be obtained upon request from:

Kathleen Nichols, (608) 266-6648  
Motor Carrier Services Section, Room 151  
Division of Motor Vehicles  
Wis. Department of Transportation  
P. O. Box 7980  
Madison, WI 53707-7980

Alternate formats of the proposed rule will be provided to individuals at their request. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396.

### **Analysis Prepared by the Wisconsin Department of Transportation**

*Statutory Authority:* s. 348.27(9t), Stats., as created by 1995 Wis. Act 163

*Statute Interpreted:* s. 348.27(9t), Stats., as created by 1995 Wis. Act 163

**General Summary of Emergency Rule.** 1995 Wis Act 163 created s. 348.27(9t), Stats., which directs the Department to issue permits for divisible loads of seed potatoes to be hauled at weights in excess of the statutory maximum weights of 80,000 pounds. These permits are to allow transportation of seed potatoes on a year round basis, including through the spring thaw when all other types of overweight permits are ordinarily suspended to prevent road damage. This permit type is only valid along the "seed potato route," State Trunk Highway 64 from Antigo to Marinette, and then along U.S. Highway 41 to the Michigan border. Michigan potato farmers use high-quality Wisconsin potatoes from the Antigo, Wisconsin area for seed.

The law provides that the Department may specify configuration requirements for the trucks used to carry such loads and may establish an

alternate route to be used by trucks by administrative rule. This rulemaking addresses both those issues and sets forth the other administrative procedures needed for the issuance of these overweight permits in a manner consistent with the Department's other overweight permit rules in chs. Trans 250 to 280.

Proposed s. Trans 258.06 sets forth the basic eligibility requirements for the permit. First, the vehicle may only be used empty or when hauling seed potatoes under the permit. The vehicle may not weigh more than 90,000 pounds when loaded nor exceed the statutory weight limits of s. 348.15 (3) (c), Stats., by more than 10,000 pounds. Because of the special vehicle configuration requirements needed to reduce the risk of highway damage caused by hauling through the spring thaw, maximum axle weights that are lower than the normal axle weights for legal loads are required as well. This is possible because most of these trucks are expected to come from the state of Michigan, which allows such trucks to operate legally under its weight laws. Maximum vehicle size is limited to 65 feet in length, 13 feet 6 inches in height and 8 feet 6 inches in width.

Under proposed s. Trans 258.07(4), overweight seed potato trucks may be operated within 15 road miles of the route in order to drop off and retrieve loads and to acquire supplies or engage in other normal trucking activities. The shipper is expected to obey other traffic laws and obtain such local permits as are required as would any other overweight permit holder: proposed s. Trans 258.07.

Permits may be suspended, revoked, or denied for the same types of reasons as any other overweight permit, such as operating in violation of the permit or altering a permit: proposed s. Trans 258.10 (1). Because the trucks that are expected to utilize this permit are expected to be primarily Michigan trucks, s. Trans 258.10 permits the Department to suspend, revoke or deny a permit upon request of the State of Michigan if that state has taken similar action against the shipper for good cause: proposed s. Trans 258.10 (1) (h).

Insurance requirements for permitted vehicles are laid out in proposed s. Trans 258.09. Carrying insurance is required as a condition of the permit.

Proposed s. Trans 258.11 sets forth a proposed alternative seed potato route. There are currently three wooden timber bridges located along State Trunk Highway 64 between Langlade and Mountain. The Department conducts regular inspection of these bridges. If it appears that these overweight trucks are causing damage to these bridges, the Department may require that the alternate route specified in proposed s. Trans 258.11(2) be used in order to avoid these three bridges. The Department may make the declaration either by either publishing a notice in an Antigo area newspaper or by mailing notice to all permit holders.

If the Department determines it must specify a different alternative route, the administrative rule will need to be amended in order to meet the statutory requirements of s. 348.27 (9t), Stats., as created by 1995 Wis. Act 163.

### **Fiscal Estimate**

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

### **Initial Regulatory Flexibility Analysis**

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



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## EMERGENCY RULES NOW IN EFFECT

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*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 Milwaukee Journal Sentinel. 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.*

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### EMERGENCY RULES NOW IN EFFECT

#### Department of Agriculture, Trade & Consumer Protection

Rules were adopted amending **ch. ATCP 100 (note)** and creating **s. ATCP 100.76 (3m)** and **subchapter VI of ch. ATCP 100**, relating to price discrimination in milk procurement.

#### FINDING OF EMERGENCY

1) Each year, Wisconsin's approximately 27,000 dairy farmers sell approximately \$3 billion worth of milk to dairy plant operators. Milk sales represent the primary or exclusive source of income for thousands of Wisconsin farm families.

2) Currently, many dairy plant operators appear to be discriminating between milk producers in the amount paid for milk. Many operators appear to be paying higher prices to large producers which cannot be fully justified on the basis of milk quality or differences in procurement cost. Discrimination in milk prices may injure small milk producers and competing dairy plant operators, and may contribute to unwarranted concentration in the dairy industry.

3) Recently, discrimination in milk prices has reached historic highs, with some dairy plants paying volume premiums of up to 70 cents to 90 cents per hundredweight. In order to pay volume premiums at this level, a dairy plant operator must reduce the price paid to other producers. This affects the livelihood of many smaller milk producers, and may affect their ability to continue farming.

4) The state of Wisconsin Department of Agriculture, Trade and Consumer Protection is responsible for enforcing s. 100.22, Stats., which prohibits dairy plant operators from discriminating between milk producers in the prices paid to those producers. However, a dairy plant operator may defend a discrimination in prices if the operator can prove that the discrimination is based on differences in milk quality, is justified on the basis of differences in procurement costs, or is justified in order to meet competition.

5) The Department recently completed a survey of dairy plant pricing programs. The Department presented the survey results to the Board of Agriculture, Trade and Consumer Protection on November 14, 1994. The survey suggests that many dairy plant operators are paying discriminatory prices which cannot be justified on the basis of differences in milk quality or procurement costs. Many of the surveyed dairy plant operators claimed that

their discriminatory prices were justified in order to meet prices offered by competitors. Many operators stated that they were willing to reduce their discriminatory payments to levels that could be cost-justified if their competitors would do the same. But compliance by an individual dairy plant operator may put that operator in an untenable competitive position unless the operator's competitors also comply.

6) Enforcement of s. 100.22, Stats., is hampered by the lack of clear standards in the law. For example, there are no clear standards of cost-justification or "meeting competition." Currently, there are no rules interpreting s. 100.22, Stats. Clarifying rules would facilitate compliance and enforcement.

7) Effective January 1, 1996, federal milk marketing orders will be modified to incorporate a new system of milk component pricing. Dairy plant operators will be making changes to their payment schedules and computer programs in order to implement the new component pricing system. Although the marketing order changes do not address the issue of discrimination in milk pricing, they provide an opportunity for all dairy plant operators to modify their pay programs to comply with s. 100.22, Stats. Simultaneous compliance by dairy plant operators would minimize competitive losses by individual dairy plant operators who choose to comply.

8) In order to promote prompt and effective compliance with s. 100.22, Stats., and to minimize continuing harm to dairy plant operators and smaller milk producers, it is necessary to adopt rules interpreting s. 100.22, Stats., before January 1, 1996. Failure to adopt rules by January 1, 1996 will reduce the chance of securing industry-wide compliance with s. 100.22, Stats., and may therefore result in continuing harm to milk producers and competition.

9) The Department cannot adopt interpretive rules by normal rulemaking procedures by January 1, 1996. Pending the adoption of rules by normal rulemaking procedures, it is therefore necessary to adopt emergency rules to protect the public welfare.

**Publication Date:** January 1, 1996  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Date:** February 1, 1996

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### EMERGENCY RULES NOW IN EFFECT

#### Department of Corrections

Rules were adopted revising **ch. DOC 328**, relating to the procedure and timing for collecting fees charged for supervision.

#### EXEMPTION FROM FINDING OF EMERGENCY

In section 6360 in 1995 Wis. Act 27, the Legislature directed the Department to promulgate rules required under ss. 304.073 (3) and 304.074 (5), Stats., for supervision fees charged to probationers and parolees, by using the emergency rule-making procedures under s. 227.24, Stats., but without having to make a finding of emergency. These rules will remain in effect until replaced by permanent rules.

#### ANALYSIS PREPARED BY THE DEPARTMENT OF CORRECTIONS

This rule-making order implements ss. 301.08 (1) (c), 304.073 and 304.074, Stats., establishing the procedure and timing for collecting fees charged for supervision.

Currently, offenders on probation or parole pay no supervision fee. Through this emergency rule making order, the Department will charge offenders on probation and parole a supervision fee. Offenders under

administrative or minimum supervision and supervised by the Department will pay a fee sufficient to cover the cost of supervision. Offenders under medium, maximum, or high risk supervision will pay a supervision fee based on the ability to pay.

These rules exempt an offender who is supervised by another state under an interstate compact from paying a Wisconsin supervision fee. An offender who is serving a concurrent sentence of prison and probation or parole is not required to pay the supervision fee while in prison.

These rules authorize the Department to contract with a vendor to provide monitoring of an offender. Offenders who are on monitoring are required to pay a fee sufficient to cover the cost of monitoring, supervision by the Department and cost of administering the contract.

These rules require the Department to establish the rate for supervision and monitoring fees and to provide the offender with the supervision fee schedule.

These rules require offenders to comply with the procedures of the Department or vendor for payment of the supervision or monitoring fee. These rules require the Department to provide the offender with a copy of the procedures for paying the supervision or monitoring fee. These rules permit an offender to pay the supervision fee in monthly installments or in a lump sum.

These rules permit the Department to take certain action for the offender's failure to pay the supervision or monitoring fee. The actions include counseling, wage assignments, review of supervision level, recommendation for revocation of probation or parole and any other appropriate means of obtaining the supervision or monitoring fee.

**Publication Date:** December 21, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Dates:** February 13, 16 & 22, 1996

## EMERGENCY RULES NOW IN EFFECT

### *Development*

Rule adopted amending **ss. DOD 6.18 (1) and 6.32 (2)**, relating to the community development block grant portion of the Wisconsin development fund.

## FINDING OF EMERGENCY

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

On the evening of January 5, 1996, a fire broke out at Stella Foods' cheese processing and packaging plant in the Village of Lena, Wisconsin, resulting in more than \$15 million in property damage, more than \$10 million in business interruption losses, and the loss of more than 300 full-time equivalent jobs for that small rural community. As a result of the fire, 70 percent of Stella Foods' plant was destroyed, all dairy and cheese processing ground to a halt, and approximately 350 dairy farmers had to find alternative facilities to receive and process their dairy products.

The scope of the Stella Foods fire and resulting damages was exacerbated by the lack of adequate water supply and pressure to fight the fire. To address various water supply, waste water treatment and insurance needs, and to persuade Stella Foods to reconstruct the Lena plant and rehire more than 300 former employees, the Village of Lena needs to replace its 50-year old 40,000 gallon water tank with a new 300,000 gallon water tank at an estimated cost of approximately \$890,000, and to upgrade its current waste water treatment plant at an estimated cost of approximately \$900,000. Adoption of these emergency rules will allow the Department of

Development to provide the Village of Lena with the financial assistance to address the foregoing problems.

**Publication Date:** April 3, 1996  
**Effective Date:** April 3, 1996  
**Expiration Date:** August 31, 1996  
**Hearing Date:** May 8, 1996  
**[See Notice this Register]**

## EMERGENCY RULES NOW IN EFFECT (2)

### *Emergency Response Board*

1. Rules adopted creating **ch. ERB 5**, relating to a grant for local emergency planning committees.

## EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in section 10(m) of 1995 Wis. Act 13 directed the Board to promulgate rules under s. 166.20 (2) (bg), Stats., as created by this Act, to establish an amount that may be an eligible cost for computers in an emergency planning grant under s. 166.21 (2) (bm), Stats., but without having to make a finding of emergency. The rule will remain in effect until replaced by permanent rules, but not to exceed the time authorized under s. 227.24 (1) (c) and (2), Stats.

## ANALYSIS

Statutory Authority: ss. 166.20 (2) (b), (bg), 166.21 (2), 227.11 (2) (a)  
 Statutes Interpreted: ss. 166.20 (2) (bg), (br), 166.21 (1), (2), (3)

### *Plain Language Summary*

The computer grant rule establishes guidelines for the computer grant to county Local Emergency Planning Committees. The rule requires the State Emergency Response Board to establish grant procedures to implement this rule. The rule allows Local Emergency Planning Committees to purchase computer equipment under this grant for specific use within the county emergency management program to comply with state and federal planning requirements.

The rule requires that matching costs for computer equipment are to be based on a 4-year grant cycle. For one year of the 4-year grant cycle, up to a maximum of \$6,000 of the cost of computer equipment shall be eligible for reimbursement. For each of the remaining 3 years of the 4-year grant cycle, up to a maximum of \$2,000 of the cost of the computer equipment shall be eligible for reimbursement.

**Publication Date:** December 5, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Date:** March 28, 1996

2. Rules adopted revising **ch. ERB 4**, relating to a fee for transporting hazardous material.

## FINDING OF EMERGENCY

The State Emergency Response Board finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health safety or welfare. A statement of the facts constituting the emergency is:

It is necessary to provide adequate protection against the risks to life and property inherent in the transportation of hazardous materials in commerce.

This emergency rule is being promulgated to allow continuation of the Wisconsin hazardous materials transportation registration program established in s. 166.20(7g), Stats. The State Emergency Response Board (SERB) promulgated a rule, ch. ERB 4, to implement the program. The original rule had a sunset date of June 30, 1995. A revised ch. ERB 4 was promulgated December 1, 1995, but was superseded by statutory changes to s. 166.20(7g), Stats., enacted in the Department of Transportation (DOT) biennial budget.

The emergency rule will enable the DOT to collect registration fees for the billing period July 1, 1995 through June 30, 1996. This was agreed upon as a necessary step by several agencies including SERB, Division of Emergency Government and DOT in consultation with Legislative Council and Joint Committee For Review of Administrative Rules staff. Through this collection, DOT will meet the statutory requirement to collect an annual registration fee for the transport of hazardous materials. These fees are deposited to the State Transportation Fund to partially offset the DOT appropriations funding the level A and level B hazardous materials emergency response teams in Wisconsin. The legislature has supported the emergency response team system in Wisconsin by adopting legislation to authorize teams and fund them through a combination of fees and the State Transportation Fund.

The SERB, the Department of Military Affairs—Division of Emergency Government and the Department of Transportation are jointly developing a permanent rule to reflect the statutory fee structure enacted by the legislature in the DOT 1995–97 biennial budget. It is expected a revised permanent rule will be promulgated later this year.

**Publication Date:** February 23, 1996  
**Effective Date:** February 23, 1996  
**Expiration Date:** July 22, 1996  
**Hearing Date:** April 2, 1996

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**EMERGENCY RULES NOW IN EFFECT**

*Department of Employment Relations*

A rule was adopted creating **s. ER 29.03 (8) (bm)**, relating to the rate of pay as a result of voluntary demotions by employees who are notified they may be subject to layoff.

**FINDING OF EMERGENCY**

The Department of Employment Relations finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety of welfare. A statement of the facts constituting the emergency is:

Many state agencies are undergoing reorganizations, either at the directive of the Governor and State Legislature or on their own initiative. These organizational changes are occurring to promote efficient and effective administration of state agencies, improve delivery of services and improve coordination of similar programs. Numerous permanent positions in the classified civil service are being restructured because of a reduction in force due to a lack of work or funds or owing to material changes in duties organization. Incumbents of those positions will soon face critical career decisions and alternatives that involve new duties, classification and/or physical location of their work site.

This emergency rule allows employees who have been notified that they are “at risk” of layoff to maintain their current rate of pay if they voluntarily demote under certain circumstances within an agency. “At risk” means the employee has received written notification that layoffs may occur in the agency and the employee’s position may be affected by they layoffs. The employee may be allowed to retain his/her present rate of pay only if the demotion is to a position no more than three pay ranges or counterpart pay ranges lower than the pay range of the position from which the employee is demoting.

If the option of maintaining the employee’s pay rate is not available to the employee and the agency, employees will be forced to choose between options that may result in a reduction in pay, transfer or demotion to a less desirable location or position, or the employee may eventually be laid off. These consequences may adversely affect employee morale, undermine the efficient use of human resources and reduce the benefits of the agency reorganization. Retention of an employee’s current rate of pay can be used by the agency as an incentive for employees to move to positions they might otherwise not choose.

For these reasons and because employee layoffs may occur before the Department could promulgate permanent rule, the Department believes a

finding of emergency is warranted to preserve the welfare of individual employees and the civil service system.

**Publication Date:** March 18, 1996  
**Effective Date:** March 18, 1996  
**Expiration Date:** August 15, 1996  
**Hearing Date:** May 3, 1996

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**EMERGENCY RULES NOW IN EFFECT (2)**

*Wisconsin Gaming Commission*

1. Rules were adopted creating **ch. WGC 45**, relating to licensing requirements for the conduct of a raffle.

**FINDING OF EMERGENCY**

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

As a result of the passage of 1995 Wis. Act 27, s. 563.935, Stats., was created, and the amending of existing s. 563.93, Stats. These two statutes provide distinction between a Class A and a Class B raffle license authorized by the Wisconsin Gaming Commission’s Office of Charitable Gaming. It has been determined that administrative rules must be promulgated to address the statutory changes.

The new rules are created to establish licensing criteria relating to the conduct of raffles authorized under a Class A or Class B raffle license. Without the promulgation of these rules, authorized raffles would be subject to inconsistencies, incorrect interpretations and mistakes contrary to the intent of the statute.

**Publication Date:** November 17, 1995  
**Effective Date:** November 17, 1995  
**Expiration Date:** April 16, 1996  
**Hearing Dates:** January 8, February 5, 1996

2. A rule was adopted amending **s. WGC 24.13 (1) (d)**, relating to simulcasting fees.

**FINDING OF EMERGENCY**

The Wisconsin Gaming Commission 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 previous fee of \$50 per performance made simulcasting cost prohibitive, and as a result, prevented the expansion of employment and residual economic benefits. The emergency rule will allow for the increased economic activity.

**Publication Date:** March 1, 1996  
**Effective Date:** March 1, 1996  
**Expiration Date:** July 29, 1996  
**Hearing Date:** April 15, 1996

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**EMERGENCY RULES NOW IN EFFECT (2)**

*Health and Social Services*

**(Community Services, Chs. HSS 30—)**

1. Rules were adopted creating **ch. HSS 38**, relating to treatment foster care for children.

**EXEMPTION FROM FINDING OF EMERGENCY**

The Legislature in s. 182 (1) of 1993 Wis. Act 446 directed the Department to promulgate rules under s. 48.67 (1), Stats., as amended by

Act 446, for licensing treatment foster homes, to take effect on September 1, 1994, by using the emergency rule-making procedures under s. 227.24, Stats., but without having to make a finding of emergency. They will remain in effect until replaced by permanent rules.

## ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

This rule-making order implements s. 48.67 (1), Stats., as amended by 1993 Wis. Act 446, which directs the Department to promulgate rules establishing minimum requirements for issuing licenses to treatment foster homes, including standards for operation of those homes.

Treatment foster care is a family-based and community-based approach to substitute care and treatment for children who are medically needy or emotionally disturbed and for some developmentally disabled children, and could be an alternative to institutionalization for some children. Treatment foster care is provided in a foster home by foster parents who meet education and training requirements which exceed the requirements for regular foster care, and by social service, mental health and other professional staff.

A number of public and private agencies have recently begun providing "treatment foster care," but since there are no standards currently for this type of care, those programs vary considerably in the type and quality of services they provide. These rules establish minimum standards that agencies, professional staff and foster parents would have to meet in order to claim that they are providing treatment foster care.

The rules require treatment foster homes to comply with ch. HSS 56 for regular foster homes except when there is a conflict between a provision of these rules and ch. HSS 56, in which case these rules take precedence.

The rules cover making application to a licensing agency for a treatment foster home licensee, licensee qualifications, licensee responsibilities, respite care for foster parents, responsibilities of the providing agency, the physical environment of a treatment foster home, care of the children and training for treatment foster parents.

**Publication Date:** September 1, 1994  
**Effective Date:** September 1, 1994  
**Expiration Date:** 1993 Wis. Act 446, s. 182  
**Hearing Dates:** January 24, 25 & 26, 1995

- Rules adopted revising **ch. HSS 73**, relating to an exception to limits on use of community long-term support funds for services used by CBRF residents.

## EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 9126 (5) (c) of 1995 Wis. Act 27 directed the Department to promulgate the rules required under ss. 46.27 (2) (h) 2 and 46.277 (5r), Stats., as created by Act 27, by using emergency rule-making procedures but without having to make a finding of emergency. These are the rules. They will take effect on January 1, 1996.

## ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

The 1995-97 Budget Act, 1995 Wis. Act 27, created ss. 46.27 (3) (f) and 46.277 (3) (c), Stats., to require counties, beginning January 1, 1996, to limit the amount of spending for services received by persons who reside in community-based residential facilities (CBRFs) from the annual allocations received for the provision of long-term community support services to no more than 25% of each allocation for the calendar year. Act 27 also added provisions in ss. 46.27 and 46.277, Stats., that prohibit counties from using funds from an allocation that exceed the maximum allowable to pay for services for a person who resides in a CBRF or intends to reside in a CBRF and is initially applying for services unless the Department grants an exception for the person on hardship grounds under conditions specified by rule.

Through this rule-making order the Department is establishing conditions of hardship on the basis of which it will make exceptions to the

limitations on spending for services provided to CBRF residents from the annual allocations for community long-term support services.

**Publication Date:** December 27, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Date:** February 13, 1996

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## EMERGENCY RULES NOW IN EFFECT (4)

### Health and Social Services

(Health, Chs. HSS 110--)

- Rules were adopted revising **ss. HSS 122.06 and 122.07**, relating to review of projects concerning new nursing home designs.

## FINDING OF EMERGENCY

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

A capital expenditure by or on behalf of a nursing home that exceeds \$1,000,000 is subject to prior review and approval by the Department under subch. II of ch. 150, Stats. An approved project has a maximum cost per bed limit computed under s. HSS 122.07 (1) (c).

The Legislature in s. 10 of 1993 Wis. Act 290 directed the Department to study the issue of the relationship between the design and construction of nursing homes and the formula for determining approvable proposed bed costs under s. HSS 122.07 within the context of health care cost containment.

The Department on January 31, 1995 submitted its report to the Legislature on nursing home design and construction in relation to the formula for determining maximum bed costs. While the study dealt primarily with traditional nursing home designs, the Department stated in the report that its Division of Health was developing rules to permit the study of new nursing home designs which increase capital costs per bed but decrease operating costs. The rules would increase the maximum cost per bed for projects that will permit study of the impact of nursing home design and management approaches on the health of nursing home residents and the cost of care. New nursing home designs may exceed the maximum costs per bed but reduce operating costs.

The Department is publishing the necessary rules by emergency order because of the length of the permanent rulemaking process and also the length of the Department's project approval process which cannot begin until the rules are in effect. An emergency order will give the Department the opportunity to act now to improve care for nursing home residents and possibly lower the overall costs of care.

This order creates rules which will increase the cost per bed maximum for two or three pilot projects that will demonstrate new nursing home designs.

The rules establish conditions for the announcement and acceptance of applications, criteria for review of applications and a selection process when there are more applicants that meet the requirements for project approval than can be approved.

**Publication Date:** November 29, 1995  
**Effective Date:** November 29, 1995  
**Expiration Date:** April 28, 1996  
**Hearing Date:** January 18, 1996

- Rules were adopted creating **ch. HSS 182**, relating to lead poisoning prevention grants.

## EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 9126 (27x) (b) of 1995 Wis. Act 27 directed the Department to promulgate rules required under s. 254.151, Stats., as created by Act 27, using emergency rulemaking procedures, but exempted the



Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency. They will take effect on publication in the Milwaukee Journal Sentinel.

## ANALYSIS

These rules implement the requirement in s. 254.151, Stats., as amended by 1995 Wis. Act 27, that the Department establish criteria by rule for the award of grants to fund educational programs, including programs for health care providers, about the dangers of lead poisoning or exposure to lead; to fund lead poisoning or lead exposure screening, care coordination and follow-up services, including lead inspections, for or on behalf of children under the age of 6, not covered by third-party payers; to fund administration and enforcement activities of local health departments that, under s. 254.152, Stats., are designated by the Department to be its agents for administration and enforcement of ss. 254.11 to 254.178, Stats.

The grant program was established in mid-1994. The requirement that the Department's criteria for awarding grants be set out in rules was added by Act 27 in mid-1995. The amount available in the appropriation for grant awards is \$879,000 for each year of the 1995-97 biennium.

The rules identify who may apply for a grant, describe the application process, provide for preliminary review of applications by the Department for compliance with format and content requirements set out in the relevant request for proposals (RFP), provide for evaluation of applications by one or more review committees appointed by the Department and specify 14 criteria for use in that final review, note that the Department will award grants based on the recommendations of the review committee or committees and taking into consideration other specified factors and describe the awards process and conditions that are imposed when grants are awarded.

**Publication Date:** December 5, 1995  
**Effective Date:** December 5, 1995  
**Expiration Date:** May 4, 1996  
**Hearing Date:** January 16, 1996

3. A rule was adopted creating s. **HSS 110.05 (3m)**, relating to authorized actions of emergency medical technicians--basic.

## FINDING OF EMERGENCY

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

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings are now specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective January 1, 1996 and directed the Department to have rules in place on that date that specify what those actions are. The Department has separate chapters of rules for licensing EMTs--basic, EMTs--intermediate and EMTs--paramedic. This emergency order amends ch. HSS 110, which includes rules for licensing EMTs--basic, to specify the actions that EMTs--basic may carry out.

Through a separate rulemaking order, the Department is revising the whole of ch. HSS 110, its rules for licensing ambulance service providers and EMTs--basic, to specify the authorized actions of EMTs--basic and, at the request of the new Emergency Medical Services Board under s. 146.58, Stats., to update the entire chapter. The proposed permanent rules have already been reviewed by the Legislative Council and the public and will soon be submitted to the presiding officers of the Legislature for review by standing committees but will not take effect until April 1, 1996 at the earliest. Therefore the Department, in order to have the rules that specify the authorized actions of EMTs--basic in effect by January 1, 1996, when s. 146.50 (6m), Stats., will be repealed, is publishing the authorized actions subsection of the proposed permanent rules by this emergency order. This must be done because s. 146.50 (6n), which takes effect on January 1, 1996, provides that an EMT--basic may undertake only those actions that are authorized in rules promulgated by the Department. If those rules are not in effect on that date, ambulance services will not be able to provide emergency

medical services using EMTs--basic and consequently there will be reduced availability of emergency medical services and a threat to public safety.

**Publication Date:** December 26, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Dates:** March 1 & 8, 1996

4. Rules adopted creating ss. **HSS 111.04 (2m)** and **112.04 (3m)**, relating to authorized actions of emergency medical technicians--intermediate and paramedic.

## FINDING OF EMERGENCY

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

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings are now specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective January 1, 1996 and directed the Department to have rules in place on that date that specify what those actions are. The Department has separate chapters of rules for licensing EMTs--basic, EMTs--intermediate and EMTs--paramedic. This emergency order amends ch. HSS 111, rules for licensing EMTs--intermediate, and ch. HSS 112, rules for licensing EMTs--paramedic, to specify the actions that EMTs--intermediate and EMTs--paramedic may carry out.

Through separate permanent rulemaking orders, the Department is revising chs. HSS 111 and 112 in their entirety in order to specify the authorized actions of EMTs--intermediate and EMTs--paramedic and, at the request of the new Emergency Medical Services Board under s. 146.58, Stats., to update the chapters. However, those rulemaking orders have not yet been transmitted to the Legislative Council for review and therefore will not likely take effect until July 1, 1996 at the earliest. Consequently, the Department, in order to have the rules that specify the authorized actions of EMTs--intermediate and EMTs--paramedic in effect by January 1, 1996, when s. 146.50 (6m), Stats., will be repealed, is publishing the authorized actions subsections of the proposed revised permanent rules by this emergency order. This must be done because s. 146.50 (6n), Stats., which takes effect on January 1, 1996, provides that EMTs--intermediate and EMTs--paramedic may undertake only those actions that are authorized in rules promulgated by the Department. If those rules are not in effect on that date, ambulance services will not be able to provide emergency medical services using EMTs--intermediate or EMTs--paramedic and consequently there will be reduced availability of emergency medical services and a threat to public safety.

**Publication Date:** December 27, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Dates:** March 1 & 8, 1996

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## EMERGENCY RULES NOW IN EFFECT (4)

### *Health & Social Services*

(Economic Support, Chs. HSS 200--)

1. Rules adopted revising ch. **HSS 230**, relating to county relief programs funded by block grants.

## FINDING OF EMERGENCY

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

These rules for the administration of county relief programs funded by relief block grants under subch. II of ch. 49, Stats., as affected by 1993 Wis. Act 27. Section 49.02 (7m), Stats., as created by Act 27, directs the

Department to promulgate rules for use of relief block grants and specifies that the rules include procedures that county relief agencies are to observe in obtaining block grants, procedures that they are to follow in making eligibility determinations, procedures by which a county relief agency may waive certain eligibility requirements and procedures for a relief applicant or recipient to appeal agency eligibility determinations.

The rules included in this order apply to all Wisconsin counties, including Milwaukee county which, under s. 49.025, Stats., will receive a relief block grant that is to be used only to provide health care services to dependent persons, whereas the other counties are eligible for block grants that can be used to provide cash grants as well as health care services to dependent persons.

As provided in s. 9426 (13) of 1995 Wis. Act 27, county relief programs funded by block grants will take the place of county-administered general relief on January 1, 1996. Department rules are necessary for implementation of county relief programs funded by block grants, in particular for the appeal provisions in the rules. Section 9126 (13) of Act 27 directed the Department to submit proposed rules to the Legislative Council no later than October 1, 1995. The proposed rules were submitted to the Legislative Council for review on September 29, 1995 and were taken to public hearing on November 30, 1995. They will soon be submitted to the presiding officers of the Legislature for review by standing committees after which they will be filed and prepared for publication but will not likely take effect until April 1, 1996.

The Department through this order is publishing these rules as emergency rules to be effective from January 1, 1996 until the permanent rules take effect so that county relief programs will be operated in a fair and clear manner statewide for the benefit of applicants for assistance and recipients of assistance.

**Publication Date:** December 27, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Date:** February 13, 1996

2. Rules adopted revising **ch. HSS 211**, relating to tribal medical relief programs.

## FINDING OF EMERGENCY

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

These are rules for the administration of tribal medical relief programs funded by relief block grants under subch. II of ch. 49, as affected by 1995 Wis. Act 27.

Section 49.02 (7m), Stats., as created by Act 27, directs the Department to promulgate rules for use of relief block grants and specifies that the rules are to include procedures that tribal governing bodies are to follow in obtaining block grants, procedures that they are to follow in making eligibility determinations, standards for waiver of certain eligibility requirements, and procedures for a relief applicant or recipient to appeal an adverse eligibility determination.

Section 49.029, Stats. as created by Act 27, directs the Department to promulgate rules for distribution of medical relief block grant funds to eligible tribal governing bodies.

As provided in s. 9426 (13) of 1995 Wis. Act 27, tribal medical relief programs funded by block grants will take the place of the Relief to Needy Indian Persons (RNIP) program on January 1, 1996. Department rules are necessary for implementation of these programs funded by block grants, in particular because of the appeal provisions in the rules and formula for distributing relief block grant funds to eligible tribal governing bodies.

**Publication Date:** December 28, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Date:** February 13, 1996

3. Rules adopted revising **ch. HSS 201**, relating to a benefit cap pilot project under the AFDC program.

## EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 12 (1) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.19 (11s), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on January 1, 1996.

## ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

Under s. 49.19, Stats., a family can apply and be determined eligible for the Aid to Families with Dependent Children (AFDC) program. If a family is determined eligible, the AFDC benefit amount is based, in part, on family size. The maximum amount of AFDC benefits a family can receive currently increases when an additional child is born.

On January 1, 1996, Wisconsin will implement the AFDC Benefit Cap Demonstration Project, authorized under s. 49.19 (11s), Stats., as created by 1995 Wis. Act 12. The purpose of this demonstration is to test whether eliminating the increase in the AFDC grant when an additional child is born will encourage families on welfare to delay having more children until they are financially able to support them.

Under the demonstration project, a family will not receive an automatic increase in the AFDC grant when an additional child is born. Starting on January 1, 1996, a child born to a current or new recipient more than ten months after first receipt of benefits will be counted in the family size for AFDC assistance standard purposes but not for purposes of benefit determination. An exception will be made for a child born as a result of rape or incest. The benefit cap will first apply to children born on or after November 1, 1996. A child born on or after that date, although not counted in the family size for the purpose of determining the amount of the grant, will be counted for Medical Assistance and food stamp purposes, and the family will be entitled to receive other social service assistance for the child.

These are the rules for implementation of the AFDC Benefit Cap Demonstration Project. The rules describe how the Department will choose AFDC recipients who must participate in the demonstration, and outline the Department's responsibilities in administering the demonstration project.

**Publication Date:** December 27, 1995  
**Effective Date:** January 1, 1996  
**Expiration Date:** May 30, 1996  
**Hearing Date:** February 16, 1996

4. Rules were adopted revising **chs. HSS 201 and 206**, relating to pay for performance demonstration project under the AFDC program.

## EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 12 (2) and (3) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.193 (3m) and (9m), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on March 1, 1996.

## ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Under s. 49.19, Stats, families inquiring about the Aid to Families with Dependent Children (AFDC) program are immediately encouraged to apply for assistance without exploring possible alternatives to welfare. Once determined eligible, many families come to consider the AFDC program a program of long-term financial support, sometimes spanning generations. Yet AFDC was originally meant to be a temporary, emergency program.

Wisconsin has obtained approval from the Food and Consumer Service of the U.S. Department of Agriculture and from the Administration for Children and Families of the U.S. Department of Health and Human Services to conduct a Pay for Performance (PFP) demonstration project beginning March 1, 1996. The major objective of the Pay for Performance demonstration project is to focus on freedom from public assistance by encouraging immediate attachment to the work force and helping families explore alternatives to AFDC before becoming dependent on AFDC. The

demonstration project will be conducted statewide except in Dane, Dodge, Jefferson and Waukesha counties. In those counties individuals may be assigned to a control group which will be exempt from the demonstration project requirements to permit evaluation of the demonstration project. Statutory authority for the Department to operate two related demonstration projects, Self-Sufficiency First and Pay for Performance, was included in 1995 Wis. Act 12. Under the federal government's terms and conditions of approval for demonstration project, the Department is now calling the combined project Pay for Performance.

The first component of the Pay for Performance demonstration project encourages alternatives to AFDC through services of a financial planning resource specialist (FPRS) and up-front job search. This component is directed at helping applicants identify alternatives to AFDC, facilitating immediate orientation and referral to the Job Opportunities and Basic Skills (JOBS) program and requiring job search before receiving AFDC. Cooperation is made an AFDC eligibility requirement. An individual who fails without good cause to cooperate with these requirements will be ineligible to receive AFDC benefits for himself or herself and his or her family.

For an individual who becomes an AFDC recipient after fulfilling the applicant job search requirements, there is a second component of the Pay for Performance demonstration project. This requires the JOBS case manager to design an employability plan for the recipient that focuses on employment at the earliest opportunity and requires the recipient to participate in a set number of hours of participation in JOBS program activities or work to maintain AFDC eligibility. Failure, without good cause, to maintain participation as assigned will result in sanctions in the next possible month based on the number of hours missed without good cause multiplied by the federal minimum wage. Failure to participate in at least 25% of the assigned hours will result in no AFDC benefits being paid for that month and a reduction to \$10 in food stamp benefits.

These are the rules for the implementation of the Pay for Performance demonstration project.

**Publication Date:** March 1, 1996  
**Effective Date:** March 1, 1996  
**Expiration Date:** July 29, 1996  
**Hearing Date:** April 16, 1996

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**EMERGENCY RULES NOW IN EFFECT**

***Industry, Labor & Human Relations***

**(Petroleum Products, Ch. ILHR 48)**

Rules were adopted revising **ch. ILHR 48**, relating to labeling of oxygenated fuels.

**FINDING OF EMERGENCY**

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

1995 Wis. Act 51 requires reformulated fuels to be labeled with the oxygenate that they contain. The labels are to be constructed and displayed in a manner specified by the department by rule. The act takes effect on the 14th day after the day of publication.

In order to permit compliance with the law, the department must adopt rules using the emergency rule procedure.

**Publication Date:** September 13, 1995  
**Effective Date:** September 13, 1995  
**Expiration Date:** February 10, 1996  
**Hearing Date:** November 15, 1995  
**Extension Through:** April 9, 1996

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**EMERGENCY RULES NOW IN EFFECT (2)**

***Industry, Labor & Human Relations***

**(Building & Heating, etc., Chs. ILHR 50-64)  
 (Multi-Family Dwellings, Ch. ILHR 66)**

1. Rules were adopted revising **chs. ILHR 57 & 66**, relating to multifamily dwellings.

**FINDING OF EMERGENCY**

The Department of Industry, Labor and Human Relations finds that an emergency exists and that adoption of a rule is necessary for the immediate preservation of public health, safety and welfare.

The facts constituting the emergency are as follows. As required by ss. 101.14 (4m) and 101.971 to 101.978, Stats., the Department adopted rules earlier this year establishing uniform construction standards for multifamily dwellings. The rules include some minor technical provisions which have been difficult to apply and which are needlessly disrupting new construction.

The proposed rules essentially reinstate the existing requirements that applied to smaller apartments prior to adoption of the current rules, and clarify and simply other problematic minor technical provisions.

Pursuant to s. 227.24, Stats., these rules are adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

**Publication Date:** August 14, 1995  
**Effective Date:** August 14, 1995  
**Expiration Date:** January 11, 1996  
**Hearing Date:** December 11, 1995  
**Extension Through:** May 9, 1996

2. Rule adopted delaying the effective date of a rule revision to portions of **chs. ILHR 50 to 64 and 66**, relating to energy efficiency.

**Note:** A lawsuit has been filed challenging the validity of this emergency rule action.

**FINDING OF EMERGENCY**

The Department of Industry, Labor and Human Relations finds that an emergency exists and that the adoption of a rule is necessary for the immediate preservation of public health, safety and welfare. The facts constituting the emergency are as follows:

1. On August 8, 1995, the Department adopted revised rules relating to ventilation and energy conservation in public buildings and places of employment. The purpose of these rules was to improve indoor air quality in buildings and to comply with the federal Energy Policy Act of 1992 which requires all states to revise their commercial building codes to meet or exceed the American Society of Heating, Refrigerating and Air-Conditioning Engineers/Illuminating Engineering Society (ASHRAE/IES) standard 90.1-1989. The rules went into effect on April 1, 1996.

2. Information has been recently provided to the Department that indicates that two of the provisions of the rules will cause excessive costs for building owners without commensurate benefit.

3. The emergency rule is being promulgated to avoid economic hardship caused by imposing unnecessary building construction and operating costs on building owners and operators.

## EMERGENCY RULE ANALYSIS

The emergency rule will delay the effective date of the Energy Conservation related and Heating, Ventilating and Air Conditioning related rules for one year to give the Department and its advisory committee time to study the effect of the rules and make any necessary changes.

**Publication Date:** April 6, 1996  
**Effective Date:** April 6, 1996  
**Expiration Date:** September 3, 1996

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## EMERGENCY RULES NOW IN EFFECT

### *Industry, Labor & Human Relations*

(Unemployment Compensation, Chs. ILHR 100–150)

Rules adopted creating s. **ILHR 127.035**, relating to a limited waiver of work search requirement.

## FINDING OF EMERGENCY

The department of industry, labor and human relations finds that an emergency exists within the state of Wisconsin 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:

Under s. 108.04(2)(b), Stats., the requirements for searching for work, as a condition of eligibility for unemployment insurance benefits, are to be prescribed by rule of the department. The statute further provides that the department may by general rule waive those requirements under certain conditions to be stated by the department. ILHR 127.02(2) allows the department to waive a claimant's work search requirement if she or he has been laid off from work but has a reasonable expectation of reemployment by an employer within 12 weeks after the week in which a claim is filed for unemployment insurance benefits.

On or about January 6, 1996, the Stella Foods plant in Lena, WI burned down. As a result, most of the workers were temporarily laid off. The company committed to rebuilding and reopening the plant. 35% of the plant was reopened after cleaning and about half the workers were recalled. The other 65% of the plant is being rebuilt. The company originally expected to be able to recall all or most workers within approximately 12 weeks. As a result, a work search waiver was granted to these claimants. Due to the vagaries of construction scheduling, especially during the winter months in Wisconsin, the rehire dates will be later than originally anticipated. The company expects to be able to open a line in part of the new construction in June or July of 1996 and will recall additional workers at that time. The company expects to be able to recall all workers by Labor Day.

Lena's population is approximately 590. The Stella Foods plant is a major employer in the Lena/Oconto Falls labor market, providing approximately 10% of all jobs in that labor market. Half of the jobs available with the plant remain unfilled. This constitutes 5% of all the jobs in that labor market. The unemployment rate in Oconto county before this fire was already 7.6%.

The department believes that the number of affected employes and the nature of the labor market in the Lena/Oconto Falls area makes it very unlikely that any substantial number of affected Stella Foods employes would be able to obtain suitable alternative work as a result of customary work search activities.

The existing permanent rule relating to work search requirements does not provide for waiver of the requirements in these circumstances. The department believes that it is necessary to promulgate this emergency rule in order to avoid wasting administrative funds and to avoid the hardship for other employers in the Lena/Oconto Falls area which will occur if this number of employes in this small labor market area are required to repeatedly canvass such other employers in order to comply with customary work search requirements. Other employers' hiring of those temporarily laid off due to the fire could also impose a hardship on other unemployed individuals

in the labor market who do not have any such assurance of being recalled to their former jobs.

**Publication Date:** April 15, 1996  
**Effective Date:** April 15, 1996  
**Expiration Date:** September 12, 1996

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## EMERGENCY RULES NOW IN EFFECT

### *Insurance*

Rules adopted creating s. **Ins 18.13 (5)**, relating to cost-containment rules.

## FINDING OF EMERGENCY

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

The rule permits the Health Insurance Risk-Sharing Plan (HIRSP) Board to create a network of providers that have agreed to give discounts in addition to the mandatory discount of 10%. This rule is necessary to implement cost-containment measures allowed by statute. These measures become necessary to help control costs that have threatened a funding crisis for the HIRSP program. That funding crisis poses a potentially deleterious effect upon HIRSP policyholders and the insurance industry.

**Publication Date:** January 8, 1996  
**Effective Date:** January 8, 1996  
**Expiration Date:** June 6, 1996  
**Hearing Date:** March 1, 1996

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## EMERGENCY RULES NOW IN EFFECT (2)

### *Natural Resources*

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

1. Rules were adopted amending s. **NR 20.03 (1) (q) 2. b.** and creating s. **NR 20.036**, relating to sturgeon spearing in Lake Winnebago.

## FINDING OF EMERGENCY

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

Department Fisheries staff have recently shown that due to increasing spearing pressure and increasing spearer success rates the Winnebago lake sturgeon population, particularly the mature female portion, is experiencing overexploitation. Improvements in system water quality along with optimal weather conditions have provided clear water and optimal spearing conditions in recent years resulting in three of the four highest harvests on record in recent years resulting in three of the four highest harvests on record since 1990. To prevent the possible overharvest of sturgeon during the 1996 spearing season, an Emergency Order is required.

**Publication Date:** February 2, 1996  
**Effective Date:** February 2, 1996  
**Expiration Date:** July 1, 1996  
**Hearing Date:** March 12, 1996

2. Rules were adopted revising ss. **NR 1.15 (2) (a), 10.104 and 10.28**, relating to deer hunting permits.

## FINDING OF EMERGENCY

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. There is great

public interest in white-tailed deer and their management in Wisconsin. Failure to adopt these rules would require that the 1996 antlerless deer quotas be based upon existing overwinter population goals that do not reflect the public interest in deer management. There has been more than a year of comprehensive public involvement in developing this rule.

**Publication Date:** April 15, 1996  
**Effective Date:** April 15, 1996  
**Expiration Date:** September 12, 1996  
**Hearing Date:** May 20, 1996  
 [See Notice this Register]

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## EMERGENCY RULES NOW IN EFFECT

### Regulation and Licensing

Rules adopted amending s. **RL 2.02**, and creating **ch. RL 9**, relating to establishing a procedure for determining whether an applicant for credential renewal is liable for any delinquent taxes.

## FINDING OF EMERGENCY

Under statutes created by 1995 Wis. Act 27, the Department of Regulation and Licensing must deny applications for license renewal filed by applicants who are liable for delinquent state taxes. These provisions first apply to applications submitted to the Department of Regulation and Licensing or to an examining board or affiliated credentialing board attached to the department to renew credentials that expire on or after January 1, 1996.

Section 440.03 (12), Stats., as created by 1995 Wis Act 27, requires the department to establish a procedure for making a determination concerning the liability of credential holders for delinquent taxes owed to this state. Newly created s. 440.08 (2r), Stats., provides that before granting an application to renew a credential issued under chs. 440 to 480, Stats., the department shall determine in accordance with the procedure established under s. 440.03 (12), Stats., whether the applicant for a credential renewal is liable for any delinquent taxes owed to this state. If the department determines that an applicant is liable for any delinquent taxes owed to this state, the department is required to deny the application, subject to the right of the applicant to have the denial reviewed at a hearing before the department.

Because the treatment of these provisions first apply to renewals applications that expire on or after January 1, 1996, and the department has determined that there are at least 40,000 credential holders whose credential will expire on January 1, 1996, preservation of the public peace, health, safety or welfare necessitates putting these rules into effect prior to the time it would take effect if the department complied with the notice, hearing and publication requirements set forth in ch. 227, Stats.

In this order the Department of Regulation and Licensing creates ch. RL 9 to establish a procedure for making the determination whether an applicant for credential renewal is liable for any delinquent taxes owed to this state and to describe the procedures available to a credential holder whose application for renewal is denied because the applicant is liable for delinquent state taxes.

The proposed rules define terms including "liable for any delinquent taxes owed to this state," the term used in ss. 440.03 (12) and 440.08, Stats., as created by 1995 Wis. Act 27. The rules describe the method to be used for determining whether an applicant for renewal is liable for delinquent taxes. Under the procedures, the name and social security number or federal employer identification number of an applicant is compared with information at the Wisconsin Department of Revenue to identify individuals and organizations liable for delinquent taxes. If an applicant is identified as owing taxes, a notice is mailed to the applicant stating that the application shall be denied unless delinquent taxes are paid within 10 days. If delinquent taxes are not paid following a notice of intent to deny or if an applicant fails to complete an application form, the department shall deny the renewal application.

The rules provide for an applicant who has been denied renewal because of liability for delinquent taxes to request a hearing. Procedural rules include

rules governing a notice of hearing, service of documents and the conduct of the hearing.

**Publication Date:** November 14, 1995  
**Effective Date:** November 14, 1995  
**Expiration Date:** April 13, 1996  
**Hearing Date:** January 29, 1996

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## EMERGENCY RULES NOW IN EFFECT

### Department of Revenue

Rules adopted revising **ch. Tax 18**, relating to the 1996 assessment of agricultural property.

## FINDING OF EMERGENCY

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

1995 Wis. Act 27, published July 28, 1995, changes the way agricultural land is valued for property tax purposes. Under the law, the assessed value of each parcel of agricultural land in 1996 is the same as the assessed value of that parcel in 1995. Buildings and improvements to agricultural land continue to be assessed at their full market value.

Since 1995 Wis. Act 27 affects assessments as of January 1, 1996, an emergency rule is necessary for the efficient and timely assessment of agricultural land in 1996.

In particular, the rule addresses the following needs:

- repealing obsolete terms defined by rule
- defining the terms "land devoted primarily to agricultural use", "other", and "parcel of agricultural land"
- providing instructions for assessing "agricultural land" and "other" land classifications in 1996.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of the rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

**Publication Date:** December 6, 1995  
**Effective Date:** December 6, 1995  
**Expiration Date:** May 5, 1996  
**Hearing Date:** January 25, 1996

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## EMERGENCY RULES NOW IN EFFECT (2)

### Department of Transportation

1. Rule was adopted amending s. **Trans 6.04 (1) (e)**, relating to the administration of the federal section 18 program.

## FINDING OF EMERGENCY

The Department of Transportation 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 that without a Governor's certification that the intercity bus service needs of the state are being adequately met, many small urban and rural transit systems will see sharp, unplanned reductions in the amount of financial assistance they receive in 1996. These cuts may result in service reductions, fare increases and the need for local governments to cover a higher share of operating losses than has been budgeted.

**Publication Date:** March 13, 1996  
**Effective Date:** March 13, 1996  
**Expiration Date:** August 10, 1996  
**Hearing Date:** April 17, 1996

2. Rules adopted creating **Ch. Trans 258**, relating to seed potato overweight permits.

**FINDING OF EMERGENCY**

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety and welfare. Although the Department will pursue promulgation of this rule through normal procedure, the Department finds an emergency exists for the following reasons: (1) seed potatoes are transported to market between late February and April. Promulgation of an administrative rule through the normal process would not be timely for this planting season; (2) the Department believes the Legislature intended the provisions of 1995 Wis. Act 163 to be effective during this spring planting season. In order to promulgate rules in time for this spring growing season, this emergency process must be employed. The statute does not specify truck configurations,

such as trailer length, axle spacing and weight distribution, but delegates responsibility to the Department. Without specified configurations vehicles that will impose damage to the roadway will be eligible for permits; and (3) the statute confers authority to identify an alternate route through rule but does not specify the alternate route. A suitable alternate route should be in place prior to the issuance of permits to allow diversion of permitted loads if any of the low weight bridges along the primary route manifests overstress. Closure of any of those bridges would substantially impede movement of other legal weight traffic in an area with few alternate routes.

**Publication Date:** April 3, 1996  
**Effective Date:** April 3, 1996  
**Expiration Date:** August 31, 1996  
**Hearing Date:** May 13, 1996  
**[See Notice this Register]**

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## *SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE*

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*Please check the Bulletin of Proceedings--Administrative Rules Book for further information on a particular rule.*

### NOTICE OF SUBMITTAL OF PROPOSED RULES TO WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

#### **Agriculture, Trade & Consumer Protection:**

On April 12, 1996, the Wisconsin Department of Agriculture, Trade & Consumer Protection submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule amends chs. ATCP 10, 11 and 12, relating to animal health. It addresses reportable diseases of poultry, control of bovine tuberculosis in bovine animals and cervidae, and farm-raised deer.

Public hearings are required. Four hearings will be held after the Wisconsin Legislative Council Clearinghouse completes its review of the proposed rule.

The Division of Animal Health is primarily responsible for promulgation of this rule. If you have questions regarding this rule, you may contact Lynn Jarzombek of the Division of Animal Health at (608) 224-4883 or Attorney Jim Matson at (608) 224-5022.

#### **Natural Resources:**

On April 12, 1996, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule, board order number [WW-30-96], affects chs. NR 200 and 205, relating to the electronic submission of Water Pollutant Discharge Elimination System (WPDES) permit applications and monitoring data.

The dates for the public hearings are May 15 and 17, 1996.

If you have questions regarding this rule, you may contact Shelly Schueller at the Bureau of Wastewater Management at (608) 267-7602.

#### **Natural Resources:**

On April 12, 1996, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule, board order number [CA-23-96], affects ch. NR 7, relating to amendments to the recreational boating facilities program.

The date for the public hearing is May 17, 1996.

If you have questions regarding this rule, you may contact Larry Freidig at the Bureau of Community Assistance at (608) 266-5897.

#### **Natural Resources:**

On April 12, 1996, the Wisconsin Department of Natural Resources submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

The proposed rule, board order number [FM-2-96], affects s. NR 20.04 (5), relating to the special fishing season in urban waters for persons under the age of 16 or the disabled.

The date(s) for the public hearing(s) have yet to be decided.

If you have questions regarding this rule, you may contact Tim Simonson at the Bureau of Fisheries Management at (608) 266-1877.

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

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

**Medical Examining Board (CR 95-189):**

Ch. Med 15 (title) and s. Med 15.02 – Relating to tattooing and body piercing.

**Natural Resources (CR 95-107):**

SS. NR 812.09 and 812.33 – Relating to fiberglass pressure tank use in private wells.

**Natural Resources (CR 95-117):**

S. NR 19.30 – Relating to requiring criminal history checks on all volunteer All-Terrain Vehicle (ATV), boating, bowhunter, hunter education and snowmobile safety instructors.

**Natural Resources (CR 95-185):**

S. NR 1.52 – Relating to a policy on promulgation of environmental quality standards.

**Natural Resources (CR 95-221):**

SS. NR 28.03 & 28.04 – Relating to wild ginseng.

**Regulation & Licensing (CR 96-14):**

Ch. RL 4 – Relating to examination fees, refunds and fees for test reviews.



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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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*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.*

**Health & Social Services (CR 95-182):**

An order repealing and recreating ch. HSS 211, relating to tribal medical relief programs funded by block grants.  
Effective 06-01-96.

**Health & Social Services (CR 95-220):**

An order affecting ss. HSS 122.06 and 122.07, relating prior review of projects to demonstrate the worth of new nursing home designs.  
Effective 06-01-96.

**Industry, Labor & Human Relations (CR 93-32):**

An order creating s. ILHR 83.035, relating to petitions for variance and private sewage systems.  
Effective 06-01-96.

**Industry, Labor & Human Relations (CR 93-33):**

An order amending s. ILHR 83.23, relating to mound type private sewage systems.  
Effective 06-01-96.

**Industry, Labor & Human Relations (CR 95-231):**

An order affecting chs. ILHR 41-42, relating to boilers and pressure vessels.  
Effective 06-01-96.

**Natural Resources (CR 95-191):**

An order affecting ss. NR 20.03, 20.04, 20.07, 21.06, 21.11, 22.06, 22.11, 23.05, 26.01, 26.08, 26.09 and 26.21, relating to sport and commercial fishing and fish refuges.  
Effective 06-01-96.

**Natural Resources (CR 96-16):**

An order repealing and recreating s. NR 10.32, relating to the duck zone boundary for migratory game bird hunting.  
Effective 06-01-96.

**Public Instruction (CR 95-203):**

An order affecting ss. PI 35.03 and 35.06, relating to the Milwaukee parental private school choice program.  
Effective 06-01-96.

**Regulation & Licensing (CR 95-141):**

An order affecting s. RL 10.04, relating to examination requirements for optometrists to obtain Diagnostic Pharmaceutical Agent (DPA) certificates.  
Effective 06-01-96.

**Revenue (CR 95-169):**

An order affecting ss. Tax 2.09, 2.105, 2.12 and 3.94, relating to:  
1) Claims for refund;  
2) The reproduction of franchise or income tax forms;  
3) Notices of federal audit adjustments and federal or other states' amended returns; and  
4) Amended Wisconsin returns.  
Effective 06-01-96.

**Revenue (CR 95-202):**

An order creating s. Tax 2.31, relating to compensation of nonresident members of professional athletic teams.  
Effective 06-01-96.

**University of Wisconsin (CR 95-95):**

An order repealing and recreating ch. UWS 17, relating to student nonacademic disciplinary procedures.  
Effective 09-01-96.

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## RULES PUBLISHED IN THIS WIS. ADM. REGISTER

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*The following administrative rule orders have been adopted and published in the April 30, 1996 Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

*For subscription information, contact Document Sales at (608) 266-3358.*

### **Agriculture, Trade & Consumer Protection**

#### **(CR 95-147):**

An order affecting ch. ATCP 30, Appendix A, relating to atrazine use restrictions.

Effective 5-1-96.

### **Agriculture, Trade & Consumer Protection**

#### **(CR 95-167):**

An order affecting ch. ATCP 70, relating to food processing plants.

Effective 5-1-96.

### **Development (CR 95-212):**

An order affecting ch. DOD 15, relating to the community-based economic development program.

Effective 5-1-96.

### **Development (CR 95-213):**

An order affecting ch. DOD 6, relating to the Community Block Grant portion of the Wisconsin Development Fund.

Effective 5-1-96.

### **Health & Social Services (CR 95-90)**

An order creating ch. HSS 86, relating to appeal by a county of an independent professional review determination that a resident of a state center for the developmentally disabled from that county is appropriate for community care.

Effective 5-1-96.

### **Health & Social Services (CR 95-186):**

An order affecting ss. HSS 108.02, 152.065, 153.07 and 154.07, relating to recovery of the cost of benefits from the estate of a person who was a client of the community options program or a participant in the aid program for persons with chronic renal disease, the aid program for persons with hemophilia or the aid program for adults with cystic fibrosis, or from the estate of the surviving spouse of that person.

Effective 5-1-96.

### **Industry, Labor & Human Relations (CR 95-148):**

An order amending ch. ILHR 145 (title) and s. ILHR 145.01, relating to active fresh perishable fruit and vegetable processing seasons.

Effective 5-1-96.

### **Medical Examining Board (CR 95-49)**

An order creating s. Med 10.02 (2) (za) and ch. Med 21, relating to requirements for patient health care records.

Effective 5-1-96.

### **Optometry Examining Board (CR 95-142):**

An order affecting chs. Opt 3 to 7, relating to examinations, continuing education and late renewal.

Effective 5-1-96.

### **Public Defender (CR 95-224):**

An order affecting s. PD 1.04 (5) and (7), relating to the certification of private attorneys for appellate cases and to the certification equivalent for staff attorneys.

Effective 5-1-96.

### **Public Defender (CR 95-230):**

An order amending s. PD 3.02 (1), relating to cost of counsel, and s. PD 3.04 (1), relating to partial indigency.

Effective 5-1-96.

### **Public Service Commission (CR 95-139):**

An order creating ch. PSC 160, relating to the provision of universal telecommunication service and the establishment of a universal service fund.

Effective 5-1-96.

### **Transportation (Dept.) (CR 95-115):**

An order affecting ch. Trans 131, relating to the motor vehicle inspection and maintenance program (MVIP).

Effective 5-1-96.

### **Transportation (Dept.) (CR 95-200):**

An order affecting ch. Trans 310, relating to child restraint standards.

Effective 5-1-96.

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## *FINAL REGULATORY FLEXIBILITY ANALYSES*

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### 1. Agriculture, Trade & Consumer Protection (CR 95-147)

Ch. ATCP 30 – Atrazine use restrictions.

Summary of Final Regulatory Flexibility Analysis:

*Businesses Affected*

The amendments to the atrazine rule will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition areas contain approximately 34,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 8,400 acres of corn will be affected. This acreage would represent between 40 and 90 producers, depending on their corn acreage. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

*Reporting, Record keeping and Other Procedures Required for Compliance*

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10, Wis. Adm. Code.

*Professional Skills Required to Comply*

The rule affects how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in the State, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past this type of assistance has been provided by University Extension personnel and farm chemical dealers. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

Summary of Comments from Legislative Committees:

The rule was referred to the Senate Committee on Transportation, Agriculture, and Local Affairs and to the Assembly Committee on Agriculture on January 2, 1996. The department received comments from both committees.

The Senate Committee did not suggest changes to the rule but did encourage department efforts to develop a process for the rescission of atrazine prohibition areas when there is no longer a need for these restrictions. The Assembly Committee requested the deletion of Prohibition Area (PA) 96-22-01, located in the Town of North Lancaster, Grant County. In addition, the Assembly Committee requested the department review all existing and proposed prohibition areas by December 31, 1996 and report the results of this review to the Committee.

The department is committed to development of a process to rescind atrazine prohibition areas where renewed atrazine use will not result in groundwater contamination above the enforcement standard. The rule has been modified to eliminate Prohibition Area (PA) 96-22-01. The department has also begun the review of existing and proposed prohibition areas and will report the findings of this review to the Assembly Committee on Agriculture.

### 2. Agriculture, Trade & Consumer Protection (CR 95-167)

Ch. ATCP 70 – Food processing plants.

Summary of Final Regulatory Flexibility Analysis:

This rule interprets s. 97.29, Stats., which regulates food Processing Plants. The rule relates to a wide range of wholesale food processing businesses engaged in canning and freezing fruits and vegetables, fish processing, baked goods, bottled water, beer and soda water beverages as well. There are a large number of highly technical, large food processing plants as well as a rapidly growing number of small scale wholesale food processors.

The rule has been updated to reflect today's current practices relating to the processing and packaging of fish and fish products, including caviar. The minimum processing requirements in the existing rule, such as cooking and smoking temperatures for smoked fish, minimum salt levels, and not allowing the use of reduced oxygen packaging technology, have put Wisconsin at a marketing disadvantage. Although there is a growing domestic and foreign market for Great Lakes caviar, the current rule does not address the processing of fish roe.

The rule requires fish processing plants to operate under a hazard analysis critical control point ("HACCP") plan. Under a HACCP plan, an operator prevents food safety hazards by monitoring and controlling food safety variables at critical control points during the production process. This rule may pose some additional costs on small businesses processing fish or fish products to comply with the HACCP requirements. Developing and implementing an initial HACCP plan will be approximately \$2,000 and the annual costs of monitoring a HACCP plan may be about \$1,500.

The federal Food and Drug Administration (FDA) has recommended that state regulatory agencies mandate a HACCP system for fish processors. Furthermore, wholesale buyers of processed fish and fish products, as well as buyers of other processed food products, are in rapidly increasing numbers, requiring in purchase specifications that vendors operate under a HACCP plan.

The impact on other rule changes on small businesses is negligible. It will not be necessary for licensed food processing establishments to retain additional professional services such as accounting or legal services to comply with this rule.

Summary of Comments by Legislative Committees:

The notice, report and rule was submitted in triplicate to the Senate and Assembly records Offices on December 21, 1995. The rule was submitted to the Senate Committee on Transportation, Agriculture and Local Affairs on December 27, 1995. On January 2, 1996, the rule was referred to the Assembly Committee on Consumer Affairs. The department received no comments or request for hearing from either committee.

### 3. Health & Social Services (CR 95-90)

Ch. HSS 86 – Appeal by a county of an independent professional review determination that a resident of a state center for the developmentally disabled from that county is appropriate for community care.

Summary of Final Regulatory Flexibility Analysis:

These rules apply to the Department and to county departments of developmentally disabilities services under s. 51.437, Stats. The rules will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats.

Summary of Comments:

No comments were reported.

### 4. Health & Social Services (CR 95-186)

Chs. HSS 108, 152 to 154 – Estate recovery under the community options and disease aid programs.

Summary of Final Regulatory Flexibility Analysis:

These rules will not directly affect small businesses as “small business” is defined in s. 227.114 (1) (a), Stats. The rules will affect some heirs and other beneficiaries of the estates of some persons who receive certain publicly funded health care services or some heirs and other beneficiaries of the estates of the surviving spouses of those persons.

Summary of Comments:

No comments were reported.

### 5. Industry, Labor & Human Relations (CR 95-148)

Ch. ILHR 145 – Active fresh perishable fruit and vegetable processing seasons.

Summary of Final Regulatory Flexibility Analysis:

A final regulatory flexibility analysis is not required. This rule will not have any economic impact on small business.

Summary of Comments of Legislative Standing Committees:

No comments were received.

### 6. Medical Examining Board (CR 95-049)

Chs. Med 10 & 21 – Requirements for patient health care records.

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. Optometry Examining Board (CR 95-142)

Chs. Opt 3 to 7 – Examinations, continuing education and late renewal.

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.

### 8. Public Service Commission (CR 95-139)

Ch. PSC 160 – The provision of universal telecommunications service and the establishment of a universal service fund.

Summary of Final Regulatory Flexibility Analysis:

These proposed universal service rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. The agency has considered the methods in s. 227.114 (2), Stats., for reducing the impact of the rules on small telecommunications utilities and finds that incorporating all but a few of these methods into the proposed rules would be contrary to the statutory objectives which are the basis for the proposed rules.

The Commission has, in s. PSC 160.061 (1), exempted from participation in the Link-Up America Program small telecommunications utilities with low service ordering and connection charges and, in s. PSC 160.062 (1), exempted from participation in the Lifeline Program small telecommunications utilities with low monthly local service rates.

The Commission has allowed an implementation schedule for data transmission capabilities in s. PSC 160.031, to reduce the cost that would be imposed by immediate implementation of the requirement. It has also allowed a slower implementation of blocking for Extended Community Calling to allow time for compliance which will reduce the impact of the requirement on small telecommunications utilities.

The Commission also established a universal service fund assessment exemption policy in s. PSC 160.18 (1) (a) that protects the entry and continuation of small telecommunications providers as directed in the statutory objectives.

The Commission finds that the universal service policies and programs and the processes to administer and fund them as set forth in this chapter are in the public interest for all telecommunications utilities in the state.

Summary of Comments:

No comments were reported.

### 9. Transportation (Dept.) (CR 95-115)

Ch. Trans 131 – The motor vehicle inspection and maintenance program.

Summary of Final Regulatory Flexibility Analysis:

These changes will not have a significant effect on any small businesses located within the seven county I/M area.

Certain entities such as automobile repair facilities, automobile and truck dealerships, and automotive tool manufacturers are indirectly affected by I/M program requirements. There are no special compliance or reporting requirements placed on these small businesses and the effect, in most part, should be positive rather than negative. A report, *Employment Effects of Shifting to Enhanced Inspection and Maintenance Programs in Selected Areas*, prepared by Booz, Allen & Hamilton for the Coalition for Safer Cleaner Vehicles in June, 1992, estimates that implementing enhanced I/M programs in 74 areas of the country will result in an increase of 8,420 jobs, \$666 million in repair sales, and more employment in the I/M industries in every state.

Some small businesses, fleet operations with testable vehicles between 8,000 and 14,000 pounds gross vehicle weight, for example, that previously have not been affected by I/M will be required to have vehicles inspected under enhanced I/M. Every effort has been made to draft this rule according to s. 227.114 (3), Stats., to reduce the impact on small business and still meet statutory objectives.

Summary of Comments:

No comments were reported.

**10. Transportation (Dept.) (CR 95-200)**

Ch. Trans 310 – Child restraint standards.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

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## *EXECUTIVE ORDERS*

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

**Executive Order 275.** Relating to the Temporary Evacuation of Residents of Long Term Care Facilities as a consequence of the State of Emergency in Waupaca County.

**Executive Order 276.** Relating to a Proclamation that the Flags of the United States and the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Edmund Sixtus Muskie, Former Secretary of State of the United States of America.

**Executive Order 277.** Relating to Amending Executive Order #262 and the Creation of the Commission on Reform of the State's Human Resource System.

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## *STATEMENT OF SCOPE OF PROPOSED RULES*

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### **Statement of Scope of Proposed Rules**

#### ***Natural Resources:***

##### **A) Subject of administrative code action:**

Management of certain hazardous wastes through interim guidance and subsequent development of revisions to chs. NR 600 through 685, HAZARDOUS WASTE MANAGEMENT.

##### **B) Description of policy issues:**

In May, 1995, US-EPA finalized the Universal Waste Rule (40 CFR 273). The rule allows generators of certain hazardous wastes (mercury thermostats, suspended/cancelled/recalled pesticides and consumer dry cell batteries) to manage these wastes in a less stringent manner, but one that is still protective of human health and the environment. The Department supported promulgation of the Universal Waste Rule and intends to incorporate these provisions along with other recently promulgated Federal rules into the chs. NR 600— series shortly. The Department has received numerous requests from industry who desire to establish Universal Waste recycling programs in Wisconsin, as well as from generators and legislators for the Department to allow implementation of the rule as soon as possible; however, since the rule promulgation process in Wisconsin requires an extended period of time to complete, the Department is proposing to implement these new, less stringent standards through guidance. Approval of this guidance will allow Wisconsin's special waste generators to immediately implement the new standards.

Concurrent with preparation of the special waste guidance, revisions to chs. NR 600 through 685 will be drafted. The purpose of this rulemaking will be to incorporate changes in Federal hazardous waste regulations that have been promulgated since the last round of rule revisions. Most of these new Federal regulations must be incorporated into Wisconsin rules to maintain consistency with US-EPA and qualify for continued US-EPA authorization. The major rules that the Department intends to include in this package are briefly summarized:

- ◆ The first major rule involves a restructuring and simplification of the land disposal restriction (LDR) program. The LDR rules require treatment of hazardous wastes prior to land disposal.
- ◆ The second major rule expands the scope of the organic air emission standards for hazardous waste management activities. The new air standards apply to owners and operators of hazardous waste treatment, storage and disposal facilities, as well as large-quantity hazardous waste generators accumulating hazardous wastes in tanks or containers.
- ◆ The third major rule expands the public participation requirements for the siting of new or expanded hazardous waste management facilities.
- ◆ The fourth major rule is the Universal Waste rule which was previously discussed.

In addition, numerous technical amendments have been promulgated along with revisions to the waste listing requirements. It is also possible that other Federal rules will be promulgated prior to the time these rules are brought to the Board for approval to hold public hearings and, if so, the Department will make every attempt to incorporate those rules as well.

##### **C) Statutory authority:**

Sections 144.431 (1) (e) and 144.60 to 144.74 and 227.11, Wisconsin Statutes.

##### **D) Anticipated time commitment:**

The total anticipated time commitment to the development of the rule is 478 hours.

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