

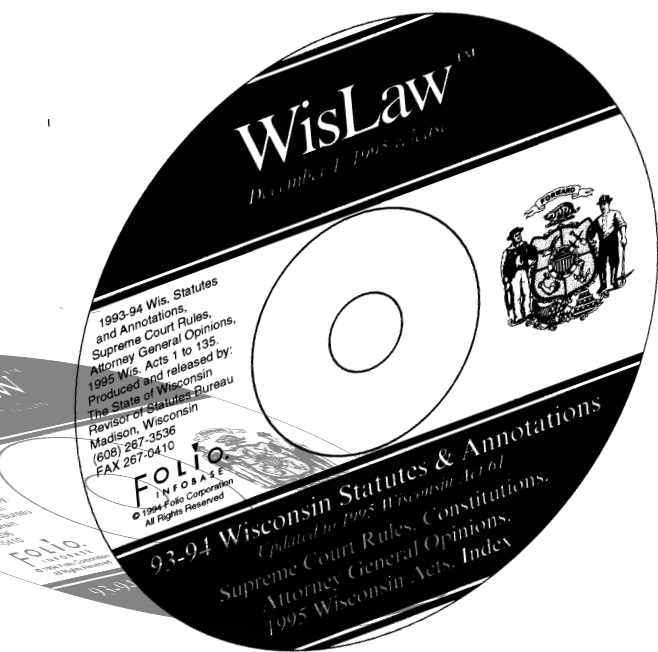
WISCONSIN ADMINISTRATIVE REGISTER

No. 486



Publication Date: June 30, 1996
Effective Date: July 1, 1996

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



WisLaw™

Wisconsin Statutes & Annotations, Session Laws, and other legal research material on CD-ROM

The December 1, 1995 release of *WisLaw™* is now available in both DOS and Windows. The CD-ROM includes the 1993–94 Wisconsin Statutes and Annotations (updated to 1995 Wisconsin Act 61), 1995 Wisconsin Acts 1 to 135, and other legal research materials.

WisLaw™, the computer-searchable CD-ROM, may now be ordered in both the DOS and Windows version of Folio PreViews search and retrieval software. The December 1, 1995 release of *WisLaw™* includes the **1993–94 Wisconsin Statutes and Annotations, Supreme Court Rules**, and recent **Opinions of the Attorney General**. For the first time, the **1995 Wisconsin Acts 1 to 135**, with hypertext links to the affected statutes, are included on *WisLaw™*.

WisLaw™ is only available by subscription for 12-month periods; the number of CDs to be released in any 12-month period is indeterminate. *WisLaw™* End-user license and subscription order forms are available at Document Sales in Madison, WI (608) 266–3358. A 12-month subscription plus a license for no more than one simultaneous user costs \$99. A 12-month subscription plus a license for no more than 4 simultaneous users costs \$149. A 12-month subscription plus a license for no more than 10 simultaneous users costs \$199. Shipping is included. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% Wisconsin stadium sales tax.

Document Sales accepts credit card orders. Payments by check, money order, or credit card should be made payable to *WI Department of Administration* and mailed to Document Sales, P.O. Box 7840, Madison, WI 53707–7840.

Prior releases of *WisLaw™* are still available; these CDs provide the end-user with research capabilities that are available nowhere else. No on-line statutory re-search and retrieval system permits the researcher to examine past versions of the Statutes. In many instances, the facts of the researcher's case arose under and are governed by statutes which are no longer current. *WisLaw™* end-users can select the appropriate *WisLaw™* release, insert it into a CD reader, and enjoy sophisticated search and retrieval capabilities in searching the statutes in effect when the facts of the case arose. Prior releases of *WisLaw™* may be licensed for the discounted single simultaneous-user license fee of \$30.00. Supplies are limited.

TABLE OF CONTENTS

Emergency Rules Now In Effect.

Agriculture, Trade & Consumer Protection:

Pages 5 to 14.

Rules relating to potato late blight.
Rules adopted revising chs. ATCP 10 to 12, relating to animal health. **[FIRST APPEARANCE]**

Corrections:

Rules relating to supervision fees for probationers and parolees.

Development:

Rule relating to the community block grant program.

Emergency Response Board:

Rules relating to a fee for transporting hazardous material.

Employment Relations (Dept.):

Rule relating to rate of pay as a result of voluntary demotions by employees subject to layoff.

Gaming Commission:

Rules relating to simulcasting fees.

Health & Social Services:

Community Services, Chs. HSS 30--
Rules relating to treatment foster care for children.

Health & Social Services:

Health, Chs. HSS 110--
Rules relating to authorized action of EMTs--intermediate and --paramedic.
Rules adopted revising chs. HSS 172, 175, 178, 195 to 198, relating to permit fees. **[FIRST APPEARANCE]**

Health & Social Services:

Economic Support, Chs. HSS 200--
Rules relating to a benefit cap pilot project under the AFDC program.
Rules relating to the pay for performance program.

Industry, Labor & Human Relations:

Uniform Dwellings, Chs. ILHR 20-25
Rules relating to dwellings constructed in flood hazard zones.

Industry, Labor & Human Relations:

Building & Heating, etc., Chs. ILHR 50-64
Multi-Family Dwelling, Ch. ILHR 66
Rules delaying energy efficiency revision to chs. ILHR 50-64 and 66.

Industry, Labor & Human Relations:

Unemployment Compensation, Ch. ILHR 100-150
Rule relating to a limited waiver of work search requirement.

Insurance, Commissioner of:

Rules relating to Patients Compensation Fund and Mediation Fund fees.

Natural Resources:

Fish, Game, etc., Chs. NR 1-
Rules relating to sturgeon spearing in Lake Winnebago.
Rules relating to deer hunting permits.
Rules relating to size and bag limits for Lac du Flambeau reservation.
Rules relating to the 1996 deer hunting season.

Revenue:

Rules relating to assessment of agricultural property in 1996.

Transportation (Dept.):

Rule relating to the federal section 18 program.
Rules relating to seed potato overweight permits.

Scope Statements.**Pages 15 to 17.**

Banking, Commissioner of:

Ch. Bkg 6 - Relating to investment in foreign bonds.

Natural Resources:

Ch. NR 20 - Relating to bass fishing regulations.

Natural Resources:

NR Code - Relating to reducing the daily bag limit for panfish from 50 in total to 25 in total on most waters statewide.

- Natural Resources: Ch. NR 520 – Relating to fees – phase II – long-term funding for the solid waste program.
- Public Instruction: S. PI 11.35 (2) (L) – Relating to defining “significant developmental delay” in a way that will promote consistent application throughout the state.
- Psychology Examining Board: Psy Code – Relating to revising the passing score for the written examination in basic and applied psychology, repealing requiring undergraduate transcripts for licensure applications and defining applications as abandoned if applicant does not respond to an application request for additional information within one year.
- Securities, Commissioner of: SEC Code – Relating to the Wisconsin Uniform Securities Law and the Wisconsin Franchise Investment Law.
- Transportation: Ch. Trans 276 – Relating to adding one highway segment to the long truck route network.
- Transportation: Chs. Trans 253, 255 and 259 – Relating to permits for oversize/overweight loads.

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

Page 18.

- Chiropractic Examining Board: Chs. Chir 6 and 11 – Relating to minimum standards of patient recordkeeping by chiropractors.
- Industry, Labor & Human Relations: Chs. ILHR 20 and 21 – Relating to construction of one- and two-family dwellings in flood hazard zones.
- Industry, Labor & Human Relations: Chs. ILHR 20 and 21 – Relating to soil erosion requirements in the uniform dwelling code.
- Natural Resources: S. NR 20.038 – Relating to special size bag limits for the Lac du Flambeau reservation.
- Natural Resources: Ch. NR 10 – Relating to the 1996 migratory game bird season.
- Natural Resources: SS. NR 25.03 and 25.06 – Relating to commercial fishing licenses and lake trout quotas on Lake Superior.

Notice Section.

Pages 19 to 22.

- Industry, Labor and Human Relations: Uniform Dwellings, Chs. ILHR 20–25
Hearing to consider revision to chs. ILHR 20 and 21, relating to one- and 2-family dwellings in flood hazard zones.
Hearing to consider revision to chs. ILHR 20 and 21, relating to soil erosion requirements.
- Natural Resources: Fish, Game, etc., Chs. NR 1–
Hearings to consider revision to s. NR 10.01, relating to the 1996 migratory game bird season.
Hearing to consider amendment to s. NR 20.038, relating to special size and bag limits for the Lac du Flambeau reservation.
Hearing to consider amendments to ss. NR 25.03 and 25.06, relating to commercial fishing licenses and lake trout quotas on Lake Superior.

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

Page 23.

- Administration: (CR 95–233) – Ch. Adm 25
- Health & Social Services: (CR 96–36) – Chs. HSS 201 and 206

University of Wisconsin System:

(CR 96-31) – SS. UWS 18.02 and 18.06

Administrative Rules Filed With the Revisor of Statutes Bureau.

Page 24.

Agriculture, Trade & Consumer Protection:

(CR 95-14) – Ch.ATCP 123

Agriculture, Trade & Consumer Protection:

(CR 95-146) – Ch.ATCP 116

Corrections, Dept. of:

(CR 95-227) – Ch. DOC 328

State Emergency Response Board:

(CR 95-216) – Ch. ERB 5

Transportation:

(CR 94-202) – S. Trans 201.16 (2) (e)

Transportation:

(CR 94-197) – Ch. Trans 104

Rules Published in this Wisconsin Administrative Register.

Page 25.

Dentistry Examining Board:

(CR 95-218) – SS. DE 2.03 (1) (intro.) and (2) and 5.02 (18)

Elections Board:

(CR 96-12) – S. ElBd 6.04

Funeral Directors Examining Board:

(CR 95-63) – SS. FD 2.04, 2.10 and 2.13

Health & Social Services:

(CR 95-113) – Ch. HSS 94

Health & Social Services:

(CR 95-198) – Ch. HSS 182

Industry, Labor & Human Relations:

(CR 95-199) – Chs. ILHR 51, 57 and 66

Industry, Labor & Human Relations:

(CR 95-231) – Chs. ILHR 41-42

Insurance, Office of the Commissioner of:

(CR 96-10) – S. Ins 18.13 (5)

Insurance, Office of the Commissioner of:

(CR 96-11) – S. Ins 18.07 (5) (b) and (bg) 1 and 2

Medical Examining Board:

(CR 95-173) – SS. Med 4.03 and 4.06

Natural Resources:

(CR 95-12) – Ch. NR 323

Natural Resources:

(CR 95-149) – SS. NR 116.03, 116.12 and 116.13

Natural Resources:

(CR 95-188) – SS. NR 150.03 and 605.05 and chs. NR 500--

Natural Resources:

(CR 95-192) – Ch. NR 400

Natural Resources:

(CR 95-193) – Chs. NR 161, 162, 163 and 165

Regulation & Licensing:

(CR 95-163) – Chs. RL 80 to 87 and the Uniform Standards of Professional Appraisal Practice

Regulation & Licensing:

(CR 95-205) – Ch. RL 127

Revenue:

(CR 95-209) – S. Tax 12.07 (2) (b)

Transportation:

(CR 96-4) – Ch. Trans 112

Final Regulatory Flexibility Analyses.

Pages 26 to 29.

Dentistry Examining Board:

(CR 95-218) – SS. DE 2.03 (1) (intro.) and (2) and 5.02 (18)

Elections Board:

(CR 96-12) – S. ElBd 6.04

Funeral Directors Examining Board:

(CR 95-63) – SS. FD 2.04, 2.10 and 2.13

Health & Social Services:

(CR 95-113) – Ch. HSS 94 and s. HSS 96.04

Health & Social Services:

(CR 95-198) – Ch. HSS 182

Industry, Labor & Human Relations:

(CR 95-199) – Chs. ILHR 51, 57 and 66

Industry, Labor & Human Relations:

(CR 95-231) – Chs. ILHR 41-42

Insurance, Office of the Commissioner of:

(CR 96-10) – S. Ins 18.13 (5)

Insurance, Office of the Commissioner of:

(CR 96-11) – S. Ins 18.07 (5) (b) and (bg) 1 and 2

Medical Examining Board:	(CR 95-173) – SS. Med 4.03 and 4.06
Natural Resources:	(CR 95-12) – Ch. NR 323
Natural Resources:	(CR 95-149) – SS. NR 116.03, 116.12 and 116.13
Natural Resources:	(CR 95-188) – SS. NR 150.03 and 605.05 and chs. NR 500--
Natural Resources:	(CR 95-192) – Chs. NR 400 series
Natural Resources:	(CR 95-193) – Chs. NR 161, 162, 163 and 165
Regulation & Licensing:	(CR 95-163) – Chs. RL 80 to 87 and the Uniform Standards of Professional Appraisal Practice
Regulation & Licensing:	(CR 95-205) – Ch. RL 127
Revenue:	(CR 95-209) – S. Tax 12.07 (2) (b)
Transportation:	(CR 96-4) – Ch. Trans 112

Executive Orders.

Executive Order 283:

Page 30.

Relating to the Transfer to the Department of Administration of Responsibilities for Higher Educational Aids Programs Currently Assigned to the Higher Educational Aids Board and to the Transfer to the Department of Administration of Responsibilities for the regulation of Proprietary schools and the Approval of Schools and Courses of Instruction for the Training of Veterans Receiving Assistance from the Federal Government Currently Assigned to the Educational Approval Board and to the Creation of the Higher Education Aids Council and the Educational Approval Council.

Executive Order 284:

Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Paul Brehm of the Wisconsin Department of Transportation and the Late Ralph Jungbluth of the Waukesha County Highway Department.

Public Notices.

Health & Social Services:

Public notice relating to eligibility and benefits for Aid to Families with Dependent Children (AFDC) two-tier demonstration project.

Health & Social Services:

Public notice relating to Medical Assistance (MA) reimbursement of providers of rural health clinic services.

Health & Social Services:

Public notice relating to Medical Assistance (MA) reimbursement of providers of prenatal care coordination services.

Health & Social Services:

Public notice relating to Medical Assistance (MA) reimbursement of nursing homes.

Health & Social Services:

Public notice relating to Medical Assistance (MA) reimbursement of hospitals.

Pages 31 to 36.

EMERGENCY RULES NOW IN EFFECT

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

Emergency rules are published in the official state newspaper, which is currently the 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.

EMERGENCY RULES NOW IN EFFECT (2)

Department of Agriculture, Trade & Consumer Protection

1. Rules were adopted creating **s. ATCP 21.15**, relating to potato late blight.

Finding of Emergency

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection finds, pursuant to s. 224.24 (1), Stats., that an emergency rule is necessary to preserve the public peace, health, safety or welfare. The following circumstances justify the emergency rule:

1) In recent years, new forms of the highly virulent "Irish potato famine" fungus, *Phytophthora infestans*, have caused increasingly devastating losses to potato and tomato growers in the United States and Canada. The fungus causes a disease of potato plants which is commonly known as "late blight."

2) The National Association of State Departments of Agriculture reports that late blight epidemics in 1992, 1993 and 1994 were the worst in decades, and that some individual farm losses have amounted to hundreds of thousands of dollars in a single year. The University of Wisconsin estimates that Wisconsin growers lost up to \$10 million in 1994 and \$6 million in 1995 due to late blight.

3) The potato industry is one of Wisconsin's most important agricultural industries. In 1995, Wisconsin was the 3rd leading state in the nation in potato production. Cash receipts to Wisconsin potato growers totalled over \$150 million in 1995. Potatoes are an important food source for the people of Wisconsin and other states. Potato production also supports important processing and distribution industries in Wisconsin. The uncontrolled spread of late blight would have a devastating impact on Wisconsin potato growers, and would seriously affect the public health, safety and welfare.

4) Late blight appears on potato plant leaves, stems and tubers. It causes foliar lesions which are followed by severe defoliation in

wet weather. It can also reduce marketable yield by directly infecting and rotting potato tubers. Once late blight appears, it spreads rapidly and can cause total crop loss.

5) Late blight fungal spores can be carried to other plants by many things, including wind, rain, machinery, workers, wildlife and infected seed potatoes. The University of Wisconsin reports that spores can be transported over 25 miles by storms.

6) There are very few registered fungicides in the United States that are effective in controlling the new forms of late blight fungus.

7) Because of the lack of registered fungicides, and the ease with which the late blight fungus spreads, potato growers must mitigate the spread of the disease by removing sources of the overwintering inoculum. Among other things, potato growers must properly dispose of potato cull piles and potato plants which germinate from waste potatoes.

8) If individual potato growers fail to implement necessary cultural practices to mitigate the spread of late blight, that failure will have a potentially devastating impact on other growers and on the Wisconsin potato industry as a whole.

9) In order to ensure that growers take adequate steps to mitigate the spread of late blight, it is necessary to adopt rules that spell out critical problems and establish sanctions for growers who fail to comply. Because of the imminent threat of harm to the potato industry, rules are urgently needed prior to the 1996 planting and growing season.

10) Under normal rulemaking procedures, it is not possible for the Department to adopt rules prior to the 1996 planting and growing season. Pending the adoption of permanent rules, the following emergency rules are needed to protect the public health, safety and welfare, and to mitigate the spread of late blight during the 1996 planting and growing season.

Publication Date: May 1, 1996
Effective Date: May 1, 1996
Expiration Date: September 28, 1996
Hearing Date: May 30, 1996

2. Rules adopted revising **chs. ATCP 10 to 12**, relating to animal health.

Finding of Emergency

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

(1) 1995 Wis. Act 79 was published December 8, 1995. Under its provisions, no person may keep farm-raised deer in Wisconsin after June 1, 1996, unless that person is registered with the department.

(2) 1995 Wis. Act 79 requires the department to adopt rules which specify the fee for registration. In addition, rules are necessary to establish the mechanism for registration.

(3) Prior to 1995 Wis. Act 79, persons who kept farm-raised deer were required to be licensed by the department of natural resources (DNR). Many persons who keep farm-raised deer will have become licensed with DNR for calendar year 1996. Those licenses will be transferred to the department as registrations.

(4) Permanent rules implementing 1995 Wis. Act 79 will not take effect until on or about January 1, 1997. This emergency rule establishes an interim procedure for registering herds of farm-raised

deer, pending the effective date of the permanent rules. Without this emergency rule, no person would be able to start a farm-raised deer herd in Wisconsin between June 1, 1996, and the effective date of the permanent rules, because there would be no way to register that herd.

(5) 1995 Wis. Act 79 also requires animal owners to provide a means of testing those animals for tuberculosis without endangering the animal or the person performing the test. In addition, a non-statutory provision of that Act requires all keepers of farm-raised deer to have the deer tested for tuberculosis between December 8, 1995, and June 30, 1997.

(7) Concerns for the safety of farm-raised deer during testing prohibit testing during significant periods of the year. For example, deer should not be tested during the birthing season, the rut season and the season in which the animals are in velvet. Therefore testing is restricted to periods in late August to early October or during January and February.

(8) The department anticipates that many keepers of farm-raised deer will perform their testing in July, August or September of 1996, before a permanent rule can be adopted. This emergency rule establishes three alternative ways in which the animal owner can insure the safety of the persons doing the testing. This is necessary to insure the safety of the person conducting the test and to permit the keeper of farm-raised deer to know what constitutes adequate restraint of the animals.

(9) In September, 1995, the United States department of agriculture adopted new regulations relating to identification and slaughter shipment of bovines or cervidae which are reactors or suspects for bovine tuberculosis. Wisconsin's current administrative rules are in conflict with the current federal regulations. This emergency rule will make Wisconsin's rules consistent with the federal regulations, so that persons who comply with federal law will not be placed in violation of state law.

(10) In March 1996, the department was advised by the United States department of agriculture that the Russian federation intends to prohibit shipment of poultry meat into the Russian federation from any state which does not require veterinarians to report the presence of specific poultry diseases to the state animal health agency. Wisconsin's current administrative rules do not require reporting of 5 of the diseases which concern the Russian federation.

(11) Wisconsin poultry producers ship poultry meat valued in excess of \$1 million per year to the Russian federation. By adopting a provision requiring veterinarians to report the existence of 5 diseases to the department, the department will protect the poultry producers' export market in the Russian federation. The department has proposed a permanent rule requiring reporting of the diseases. This emergency rule protects the export market during the period before the permanent rule is effective.

Publication Date: June 3, 1996
Effective Date: June 3, 1996
Expiration Date: October 31, 1996

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 Date: February 13, 16 & 22, 1996
Extension Through: July 28, 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

EMERGENCY RULES NOW IN EFFECT

Emergency Response Board

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

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

EMERGENCY RULES NOW IN EFFECT

Wisconsin Gaming Commission

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

EMERGENCY RULES NOW IN EFFECT

Health and Social Services

(Community Services, Chs. HSS 30--)

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 Date: January 24, 25 & 26, 1995

EMERGENCY RULES NOW IN EFFECT (2)

Health and Social Services

(Health, Chs. HSS 110--)

1. 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 Date: March 1 & 8, 1996
Extension Through: July 28, 1996

2. Rules adopted revising **chs. HSS 172, 175, 178, 195 to 198**, relating to permits and permit fees.

Finding of Emergency

The Department of Health & 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:

The Department and agent local government health departments regulate campgrounds, camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations, under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with health, sanitation

and safety standards established by the Department by rule. The Department's rules are in chs. HSS 172, 175, 178, 195, 196, 197 and 198, Wis. Adm. Code. None of these facilities may operate without receiving a permit from the Department or an agent local government health department. A permit is evidence that a facility complies with the Department's rules on the date of issuance of the permit. All permits except those for bed and breakfast establishments are one-year permits. A facility is charged a permit fee. Permit fee revenues support the regulatory program.

In 1993 the Budget Act for 1993-95 directed the Department to establish permit fees by rule beginning July 1, 1994. Until then the fees had been set by statute.

This rulemaking order increases permit fees effective July 1, 1996, by about 10% for campgrounds; recreational and educational camps; swimming pools that serve the public; restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending operators and commissaries. It also increases preinspection fees for restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending commissaries.

The fees are increased to cover higher costs for these regulatory programs.

The rules are being promulgated as emergency rules to protect public health and safety. The fee increases will take effect on July 1, 1996, which is the beginning of a new permit period. Raising the fees as provided in this order will enable the Department to avoid running a deficit in program revenue and so avoid having to reduce inspections of food-serving, lodging and recreational facilities and taking longer to respond to foodborne and waterborne disease outbreaks.

The fees established by this order do not apply to facilities regulated by local health departments granted agent status under s. 254.69, Stats. Permit fees for those facilities are established by the local health departments, pursuant to s. 254.69 (2) (d), Stats.

Publication Date: June 8, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Health & Social Services

(Economic Support, Chs. HSS 200-)

1. 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
Extension Through: July 28, 1996

2. 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

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations **(Uniform Dwellings, Chs. ILHR 20–25)**

Rules adopted revising **chs. ILHR 20 and 21**, relating to one- and two-family dwellings constructed in flood hazard zones.

Finding of Emergency

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

The Federal Emergency Management Agency (FEMA) has informed some municipalities that it will no longer allow variances to a local ordinance that prohibits the construction of homes in flood fringe areas where the foundation extends below the base flood elevation. FEMA regulations allow this type of construction in some locations but require the construction to meet a suitable building code. The Uniform Dwelling Code, which regulates new home construction in Wisconsin, has never addressed this issue. FEMA's actions have halted some residential projects, causing serious financial hardship for those affected Wisconsin builders and residents.

The proposed rules add requirements to the Uniform Dwelling Code for construction in flood fringe areas in order to meet FEMA requirements. The primary source of these rules is the National

Building Code published by Building Officials and Code Administrators International, Incorporated (BOCA).

Publication Date: May 8, 1996
Effective Date: May 8, 1996
Expiration Date: October 5, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations **(Building & Heating, etc., Chs. ILHR 50–64)** **(Multi-Family Dwellings, Ch. ILHR 66)**

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
Hearing Date: May 28, 1996

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 employees 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 employees 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 employees 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
Hearing Date: May 28, 1996

EMERGENCY RULES NOW IN EFFECT

Insurance

Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1996.

Finding of Emergency

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

The commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule no. 96-045, in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1996. The permanent rule was delayed pending legislative action on Senate Bill 378 which, if passed, would have resulted in a lowering of the fund fees originally proposed by the fund's board of governors. Senate Bill 378 was tabled by the assembly on May 8, 1996, before it adjourned for the year on May 13, 1996.

The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 1, 1996. Because the provisions of this rule first apply on July 1, 1996, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on April 18, 1996.

Publication Date: May 28, 1996
Effective Date: May 28, 1996
Expiration Date: October 24, 1996

EMERGENCY RULES NOW IN EFFECT (4)

Natural Resources

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

- Rules were adopted amending s. NR 20.03 (1) (g) 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

- 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

3. Rules adopted amending s. NR 20.038, relating to special size and bag limits for the Lac du Flambeau reservation.

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:

The department has recently come to an interim agreement with the Lac du Flambeau band regarding their off-reservation harvest goals. This rule change is needed for the 1996 fishing season in order to meet our obligation in the agreement, thus, an Emergency Order is required. This agreement will promote preservation and protection of public peace, safety, and welfare in the ceded territory of Wisconsin by minimizing regional social and economic disruption known to be associated with reductions in walleye bag limits on off-reservation waters. Pursuant to litigation arising from *Lac Courte Oreilles v. Voight*, 70 F. 2d 341 (7th Cir. 1983), the Chippewa bands of Wisconsin, which includes the Lac du Flambeau, have the right to take walleye from off-reservation waters using efficient methods such as spearing and netting. The Lac du Flambeau have made initial 1996 harvest declarations for off-reservation lakes that are sufficiently high to require the department to reduce the daily bag limit to 0 on several lakes, consistent with the formula of s. NR 20.037. The Lac du Flambeau have agreed to reduce harvest declarations to a level commensurate with a daily bag limit of 2 walleye this year and a daily bag limit of 3 in future years, provided that the state reduces its daily bag limits for walleye to 3, with a minimum length limit of 18" and increase the muskellunge minimum length limit to 40" on waters within the Lac du Flambeau reservation. The state has agreed to do so in order to provide more socially acceptable sports fishing opportunity on off-reservation waters. This will lessen tensions caused by severely reduced bag limits and will assist local businesses dependent on the sport fishery.

Publication Date: May 3, 1996
Effective Date: May 3, 1996
Expiration Date: September 30, 1996
Hearing Date: June 12, 1996

4. Rules were adopted revising chs. NR 10 and 11, relating to the 1996 deer hunting seasons.

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. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and to minimize deer nuisance problems, thereby protecting the public peace, health, safety or welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify our rules will result in the failure to provide hunting opportunity and comply with administrative rules.

Publication Date: May 3, 1996
Effective Date: August 12, 1996
Expiration Date: January 9, 1997
Hearing Date: June 11, 1996

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
Extension Through: July 3, 1996

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

STATEMENTS OF SCOPE OF PROPOSED RULES

Banking

Subject:

Investment in foreign bonds. (Ch. Bkg 6)

Description of the objective of the rule:

The objective is to repeal ch. Bkg 6.

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

Chapter Bkg 6 limits the amount a state-chartered bank may invest in foreign bonds. Generally, the amount is limited to 3% of the bank's capital stock and surplus, except the percentage is 10% of the bank's capital and surplus for bonds issued by the International Bank for Reconstruction and Development, and by the Inter-American Development Bank.

1995 Wis. Act 336 ("the Act") was enacted on May 2, 1996, and becomes effective **July 1, 1996**. The Act repeals and recreates ch. 221 of the statutes. This represents a total modernization and streamlining of Wisconsin's banking statutes. Certain provisions of the existing Administrative Code are incorporated into the new provisions of ch. 221. The provisions of existing ch. Bkg 6 are incorporated into s. 221.0320 (4) and (5), Stats., which is created by the Act.

Statutory authority for the rule:

S. 220.04 (6) (d), Stats.

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

Estimated time to be spent by state employees— 40 hours. No other resources are necessary.

Natural Resources

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

Subject:

Revision of chapter NR 20, related to bass fishing regulations.

Description of policy issues:

Recently, some members of the public have raised concerns regarding the early catch-and-release-only season (first Saturday in May to Friday nearest June 20) for black bass in northern Wisconsin. Specifically, the tourism industry in northwest Wisconsin believes that significant economic losses are sustained, due to this season. In October 1995, we presented a history of bass management, with possible management alternatives and a time line for action. At the request of the Natural Resources Board, we met with the Conservation Congress to discuss the issue and to get their recommendations.

In January 1996, the Natural Resources Board directed the Department to begin an evaluation of current management practices and make recommendations for new rules that would simplify the existing bass regulations, while maintaining a conservative approach. We plan to convene a team of biologists, Conservation Congress representatives, and interested public to review the information and develop recommendations for bass management. We anticipate proposing appropriate rule recommendations for the 1997 spring hearings, with implementation of any new rules beginning in April 1998.

72 hearings are proposed to be held in all counties in April, 1997.

Statutory authority for rule-making:

S. 29.174, Stats.

Staff time required:

The anticipated time commitment is 110 hours.

Natural Resources

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

Subject:

Reduce the daily bag limit for panfish from 50 in total to 25 in total on most waters statewide.

Description of policy issues:

This proposal was made in 1991 [FM-32-91], was supported by the participants at the hearings, was adopted by the Natural Resources Board, but was dropped by the Legislature during the review process. At that time, many anglers supported the bag limit reduction, but Conservation Congress members opposed the proposal, based on procedural grounds (the proposal did not go through their normal process) and some resort owners opposed the proposal because they felt it would hurt their businesses.

In December 1995, the Natural Resources Board directed the Department to seek public input on a proposal to hold special hearings on a reduced daily bag limit for panfish. An advisory question was included on the Spring Hearing questionnaire for the 1996 hearings, asking attendees if they favored the approach of holding special public rules hearings during 1996 on a proposal to reduce the daily bag limit for panfish. Overwhelming support for this approach was given by participants at the Spring Hearings; 3,170 favored this proposal and 1,277 opposed it. The Natural Resources Board then directed the Department to draft this proposal and hold public hearings during 1996.

History. —The first bag limits for any panfish were set in the late 1800's, with 15 daily for crappie ("Oswego bass") and 15 daily for yellow bass. In about 1909, a minimum length limit of 10" was placed on these 2 species. By 1935, the daily bag limit for each of the following panfish species was 15:

- 1) White bass (7" minimum);
- 2) Rock bass (7" minimum);
- 3) Crappie (7" minimum).

The daily bag limit for blue gill and sunfish was 25 daily (5" minimum) and the daily bag limit for yellow perch was 25 (no minimum). This continued through the 1940's and 1950's, with the daily bag limit for all the above species eventually becoming 25 for each of the panfish species listed above and the length limits were removed. In 1960, the bag limits for panfish were completely removed. A bag limit was reinstated in 1965 at 50 in total and has remained through the present.

Four hearings are proposed to be scheduled in the summer of 1996 at locations to be determined.

Statutory authority for rule-making:

S. 29.174, Stats.

Staff time required.

The anticipated time commitment is 92 hours.

Natural Resources

(Solid & Hazardous Waste, Chs. NR 500--)

Subject:

Solid Waste Management, chs. NR 500— series (ch. NR 520, Fees) – Phase II – Long-term Funding.

Description of policy issues:

Long-term funding for the SW program must be developed. Operators of landfills and other solid waste facilities will be most

directly impacted. Municipalities (towns, cities, counties), industries, (foundries, paper mills, utilities, WMC) and citizen groups (WED, CBE) would be interested in this issue.

We received authorization to begin revisions of the solid waste rules in February 1994. The revisions were completed and were authorized by the NRB in February 1996, with a temporary fee structure for the purposes of moving the rules through the rulemaking process and to avoid fiscal crisis. The Natural Resources Board was aware that we would propose a long-term fee structure prior to the sunset date for the temporary fees.

Two hearings are proposed to be scheduled in December of 1996 in Waukesha and Eau Claire.

Statutory authority:

S. 144.44 (10), Stats.

Staff time required:

The anticipated time commitment is 258 hours.

Public Instruction

Subject:

1995 Wis. Act 298 has added an alternative category of "significant developmental delay" to ch. 115, Stats. The proposed rule will define this handicapping condition in a way that will promote consistent application throughout the state. This rule will affect s. PI 11.35 (2) (L).

DESCRIPTION OF POLICY ISSUES

Statement of the objective of the proposed rule:

This Act adds a new handicapping condition, "significant developmental delay", for 3-, 4- and 5-year-old disabled children, when the diagnosis is not clear. The proposed rule will define this alternative category for preschoolers, to ensure consistent application throughout the state.

Description of existing policies to be included in the rule:

The state definition must conform to s. 300.7 Code of Federal Regulations:

(a) (2) The term "children with disabilities" for children aged 3 through 5 may, at a State's discretion, include children--

(i) Who are experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) Who, for that reason, need special education and related services. (Authority: 20 U.S.C. 1401 (a) (1))

Description of new policies to be included in the administrative rule:

The Act emphasizes the serious nature of such a disability by adding the word "significant" to the federal term of "developmental delay" and further defines the federal criteria with state language, making it easier for school districts to understand and apply. It also limits the application to only those preschoolers who demonstrate a delay in two areas of development by 1.5 standard deviations.

Description of policy alternatives:

Use only federal language as stated above.

Statement of the statutory authority for the rule:

SS. 115.76 (3) (k) and 227.11 (2) (a), Stats.

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

Minimal time is needed to develop the rule, as Department of Public Instruction staff have been working with the field and the Legislature to develop a draft definition.

Psychology Examining Board

The Psychology Examining Board gives notice, pursuant to s. 227.135, Stats., that it proposes to amend administrative rules.

Subject:

Revising the passing score for the written examination in basic and applied psychology, repealing requiring undergraduate transcripts for licensure applications, and defining applications as abandoned if applicant does not respond to an application request for additional information within one year.

DESCRIPTION OF POLICY ISSUES

Preliminary objective:

The objectives are to:

- a) Accept the Association of State and Provincial State Boards (ASPPB) recommendation for the Examination for Professional Practice of Psychology (EPPP) passing score;
- b) Repeal requiring undergraduate transcripts for application licensure; and
- c) Define parameters for application abandonment.

Existing policies relevant to the rules:

- The EPPP passing score is the percent-of-items-passed score that is at or above one-half standard deviation below the most recently published cumulative mean of all the doctoral examinees on the respective form of the examination.
- Applicants are required to submit official transcripts of undergraduate and graduate coursework.
- We do not have a policy for considering an inactive file abandoned and appropriate for records disposal. We have inactive credential files that should have been destroyed years ago.

New policies that the rule proposes to include and provide an analysis of policy alternatives:

- The revised rules would reflect the Board accepting the recommendations of the ASPPB for the EPPP passing score.
- Applicants would not have to bear the expense or effort of submitting an unnecessary undergraduate transcript.
- Inactive credential files which take valuable space could be destroyed, consistent with Records Disposal Authorization mandates.

Affect on the budget, staff or uniform policies or procedures of the Department:

These rules will not affect the agency budget, staff or uniform policies or procedures.

Statutory authority :

The Board proposes to amend rules under the authority of ss. 15.08 (5) (b), 227.11, 455.045 (3) and 455.08, Stats.

Staff time required:

The Board estimates 22 hours to amend these rules.

Securities, Commissioner of

Subject:

Annual revision process to the Rules of the Commissioner of Securities, relating to the Wisconsin Uniform Securities Law and the Wisconsin Franchise Investment Law.

Description of the objective of the rule:

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

- 1) Making changes to simplify and streamline the process by which securities and franchise issuers register offerings of their securities and franchises;
- 2) Developing new securities registration exemptions or making modifications to existing securities registration exemptions to reflect new legal and interpretive issues under the federal and state securities laws;
- 3) Adopting new rules or amending existing rules, relating to the securities broker-dealer, agent and investment adviser licensing requirements, procedures and sales practices to effectively regulate new licensing developments that have occurred in the securities industry and marketplace that require regulatory treatment;

4) Making clarifications to any current securities or franchise rule provisions where language is vague or ambiguous.

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

The agency annual rule revision for 1996 will be particularly important in view of recent major legislative changes to the Wisconsin Uniform Securities Law and the Wisconsin Franchise Investment Law as administered by this agency.

In legislation signed by the Governor as 1995 Wis. Act 356 and published on June 6, 1996, major revisions were made to the securities regulatory review and registration process conducted by the agency for the offer and sale of securities in Wisconsin. The legislation repealed the provisions in the Wisconsin Uniform Securities Law that provide the statutory authority to conduct a "merit review" of a securities registration offering. In particular, the legislation removed the ability of the agency to issue a stop order relating to a pending registration statement for a securities offering on the grounds that the issuance of the securities would be "unfair or inequitable" (the statutory basis for most of the specific "merit"/"fair and equitable" registration rules contained in ch. SEC 3, Wis. Adm. Code). In view of the recently enacted securities law legislation, substantive repeals and modifications will need to be made to many rule provisions, particularly in ch. SEC 3.

In additional recent legislation signed by the Governor as 1995 Wis. Act 364 (to become effective July 1, 1996), the current franchise registration process—which involves a disclosure adequacy review by the staff—is replaced with a registration-by-notification/no-staff-review filing process. Because of the extensive changes made by the legislation to both the substantive and procedural requirements of the franchise law, extensive corresponding changes need to be made to the current franchise rules in the various substantive and procedural areas.

Statutory authority for the rules:

SS. 551.63 (1) and (2), 553.58 (1) and (2).

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

Estimated time to be spent by state employees—200 hours. No other resources are necessary.

Transportation

Description of the objective of the rule:

This proposal will amend ch. Trans 276, relating to the designated highway system, otherwise known as the long truck route network, by adding one highway segment to the network. The actual highway segment being proposed is STH 19 from USH 12 south of Springfield Corners to STH 113 in Waunakee.

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

Federal law requires the Department to react within 90 days to requests for additions to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to deal with changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. We have received a written request for this route from United Parcel Service.

Statutory authority for the rule:

S. 348.07 (4), Stats.

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

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

Transportation

Description of the objective of the rule:

This proposal will amend two existing rules and create one new rule (ch. Trans 253), all relating to permits for oversize/overweight loads.

1. Chapter Trans 259 (Raw Forest Products, Fruits or Vegetables Permits) will be amended to:

- Expand the definition of commodities eligible for the permits.
- Add a provision related to transporting bulk potatoes to rail loading facilities.

2. Chapter Trans 255 (Multiple Trip Permits for Oversize or Overweight Vehicles or Loads) will be amended to clarify the permit holder's responsibility to clear all overhead structures.

3. Chapter Trans 253 will be created to cover issuance of permits for oversize or overweight vehicles traveling within 11 miles of the Wisconsin-Michigan border.

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

1. Chapter Trans 259:

• The Department proposes to incorporate a recent statutory change that expands the definition of a raw forest product eligible for a permit under this rule. Currently, the rule defines eligible raw forest products as those not altered by a manufacturing process off the land from which they are taken. The proposed change expands the definition to include raw forest products from sawmills or factories. The rule would also be amended to clarify that permits may be issued for movement of raw forest products from the cutting site to storage or milling facilities, and for movement of mill by-products.

• The rule currently defines eligible fruit or vegetable as a plant cultivated for human consumption. The Department proposes to delete the requirement that the fruit or vegetable be cultivated for human consumption, allowing such crops as grains, nuts and spices to be eligible for permits.

• The Department proposes to incorporate a recent statutory change that expands the types of movements eligible for permits under this rule. Currently the rule allows permits for transporting fruits and vegetables from the field to storage or processing facilities. The proposed change allows permits to be issued for transporting bulk potatoes from storage to rail loading facilities.

2. Chapter Trans 255:

• Currently the rule implies that it is the responsibility of the permit holder to clear all overhead structures. The Department proposes a minor change to clearly state this responsibility, and to establish that if a permit holder hits a structure, the permit is invalidated. This change is responsive to law enforcement concerns regarding responsibility and liability when permit holders hit overhead structures.

3. Chapter Trans 253 — Regarding vehicles operating near the Wisconsin-Michigan border:

• The Department proposes to create a rule to correspond to existing law, recently revised, that allows issuance of permits for vehicles meeting Michigan vehicle and axle weight requirements, but exceeding Wisconsin's requirements, that operate within 11 miles of the Wisconsin-Michigan border. Originally, only loads of wood, paper products, pole length and pulpwood were eligible for such permits. Recently enacted statutory changes expand the availability of this permit to loads of any commodity. The newly-created rule would set forth the requirements for this permit, including the change to make all commodities eligible.

Statutory authority for the rule:

SS. 85.16 (1), 227.11 (2) (a) and 348.25 (3), Stats.

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

It is estimated that state employees will spend 200 hours on the rule-making process, including research, drafting and conducting public hearing(s).

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

Chiropractic Examining Board

Rule Submittal Date

On June 10, 1996, the Chiropractic Examining Board submitted to the Legislative Council Rules Clearinghouse a proposed order repealing s. Chir 6.015; amending s. Chir 6.02 (27); and creating ch. Chir 11.

Analysis

Statutory Authority: ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 446.02 (7m), Stats., as created by 1995 Wis. Act 94.

In this proposed rule-making order the Chiropractic Examining Board proposes to create ch. Chir 11, relating to minimum standards of patient record keeping by chiropractors. Section 446.02 (7m), Stats., created by 1995 Wis. Act 94, provides that a chiropractor shall create and maintain a patient record for every patient the chiropractor examines or treats. The patient records shall contain complete and comprehensive health care information as defined by the board by this proposed rule. This proposed rule specified the minimum format, contents and retention time for patient records required to be created and maintained by chiropractors licensed and practicing in the state of Wisconsin.

Section Chir 6.015 is repealed and replaced by the new definition of "patient record" in s. Chir 11.01 (1), for consistency with the terminology in s. 446.02 (7m) (a), Stats., and s. Chir 6.02 (27) is also amended for consistency with the term "patient record." The definition of "patient record" in proposed s. Chir 11.01 (1), includes a cross-reference to the term "patient health care records" as used and defined in ch. 146, Stats., to clarify that the terms "patient record" under the proposed rule and "patient health care records" are synonymous.

The requirement that patient records be created and maintained under this proposed rule applies to chiropractors consulting with, examining and treating patients in the normal course of practice and to chiropractors or peer review committees that conduct an examination, evaluation or makes a recommendation under s. 632.87 (3) (b) 1, Stats.

Public Hearing

August 8, 1996

Contact Person

Pamela Haack, Rules Center Coordinator, (608) 266-0495.

Industry, Labor & Human Relations

Rule Submittal Date

On June 14, 1996, the Department of Industry, Labor & Human Relations submitted to the Legislative Council Rules Clearinghouse a proposed order affecting chs. ILHR 20 & 21, relating to construction of one- and two-family dwellings in flood hazard zones.

Public Hearing

July 17, 1996

Agency Unit Responsible

Safety & Buildings (608) 266-9375

Industry, Labor & Human Relations

Rule Submittal Date

On June 14, 1996 the Department of Industry, Labor & Human Relations submitted to the Legislative Council Rules Clearinghouse a proposed order affecting chs. ILHR 20 & 21, relating to soil erosion requirements in the uniform dwelling code.

Public Hearing

July 17, 1996

Agency Unit Responsible

Safety & Buildings (608) 266 - 9375

Natural Resources

Rule Submittal Date

On June 11, 1996, the Department of Natural Resources submitted to the Legislative Council Rules Clearinghouse a proposed order affecting s. NR 20.038, relating to special size bag limits for the Lac du Flambeau reservation.

Public Hearing

July 12, 1996

Contact Person

Steve Hewett, Bureau of Fisheries Management and Habitat Protection, (608) 267-7501.

Natural Resources

Rules Submittal Date

On June 11, 1996, the Department of Natural Resources submitted to the Legislative Council Rules Clearinghouse a proposed order affecting ch. NR 10, relating to the 1996 migratory game bird season.

Public Hearings

August 5 - 8, 1996

Contact Person

John Bergquist, Bureau of Wildlife Management (608) 266-8841.

Natural Resources

Rules Submittal Date

On June 11, 1996 the Department of Natural Resources submitted to the Legislative Council Rules Clearinghouse a proposed order affecting ss. NR 25.03 and 25.06, relating to commercial fishing licenses and lake trout quotas on Lake Superior.

Public Hearing

July 11, 1996

Contact Person

Jim Christenson, Bureau of Legal Services (608) 266-1318.

NOTICE SECTION

Notice of Hearing

Industry, Labor & Human Relations (Uniform Dwellings, Chs. ILHR 20–25)

Notice is given that pursuant to ss. 101.02 (1), 101.63 (1), 101.64 (3), Stats., the Department of Industry, Labor and Human Relations proposes to hold a public hearing to consider the revision of chs. ILHR 20 and 21, Wis. Adm. Code, relating to construction of one- and two-family dwellings in flood hazard zones.

Hearing Information

July 17, 1996
Wednesday
10:00 a.m.

Madison,
Room 103, GEF #1
201 E. Washington Ave.

Analysis

Statutory authority: ss. 101.02 (1) and 101.63 (1)

Statutes interpreted: ss. 101.02 (1), 101.63 (1) and 443.15 (1)

These rules are intended to apply only where local zoning ordinances allow construction to take place in flood hazard zones. There are two recognized levels of hazard: (normal) flood-hazard zones and high-flood-hazard zones. In both cases, a registered surveyor, engineer, or architect must certify the elevation of the lowest structural member of the dwelling in relation to the base flood elevation.

In the “normal” hazard zones, floodproof basements are allowed. No limitation is placed on the use or occupancy of the basement, however, a registered engineer or architect is required to design the basement. Other, non-floodproof enclosures are allowed below the base flood elevation, but these spaces are limited as to use and occupancy. These other enclosures may be designed by a registered engineer or architect, or they may be designed according to generic requirements in these proposed rules.

In the high-hazard zones, areas subject to high wave heights or rapid wave run-up, the entire dwelling must be designed by a registered engineer or architect. Enclosures below the base flood elevation are limited in use and occupancy and must be designed to break away or otherwise relieve the pressure exerted by flood waters. Therefore, floodproof basements are not allowed in these areas.

Copies of the Rules

A copy of the rules to be considered may be obtained from the Department of Industry, Labor & Human Relations, Division of Safety and Buildings, 201 E. Washington Ave., P.O. Box 7969, Madison, WI 53707, by calling (608) 266-9375 or at the appointed time and place the hearing is held.

Written Comments & Contact Person

Interested persons are invited to appear at the hearing and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are required to submit their facts, views and suggested rewording in writing. Written comments from persons unable to attend the public hearing, or who wish to supplement testimony offered at the hearing, may be submitted no later than **July 31, 1996**, for inclusion in the summary of public comments submitted to the Legislature. Any such

comments should be submitted to Duane Hubeler at the address noted above. Written comments will be given the same consideration as testimony presented at the hearing. Persons submitting comments will not receive individual responses.

The hearing is held in an accessible facility. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266-9375 to Telecommunication Device for the Deaf (TDD) at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translator or materials in audio tape format will, to the fullest extent possible, be made available on request by a person with a disability.

Initial Regulatory Flexibility Analysis

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

Contractors, designers, tradespeople and material suppliers involved in designing or building homes in flood hazard zones will be affected by these rules.

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

Dwellings built in flood hazard zones that have floors below the base flood elevation may require the services of a registered architect or engineer. If the dwelling has a floodproof basement, the basement must be designed by a registered architect or engineer. If the dwelling has storage space below the base flood elevation, the pressure relieving devices must meet the code minimums or be designed by a registered architect or engineer.

Dwellings built in high-flood-hazard zones must be designed in the entirety by a registered architect or engineer.

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

The only professional skills required would be on the part of a designer who is a registered architect or engineer. The level of skill required should be no greater than that required for initial registration through the department of regulation and licensing.

Fiscal Estimate

The department currently regulates all one- and two-family dwelling construction in the state. The proposed rules merely add requirements to clarify what must be done when zoning laws allow construction in flood zones.

Notice of Hearing

Industry, Labor & Human Relations (Uniform Dwellings, Chs. ILHR 20–25)

Notice is given that pursuant to ss. 101.02 (1), 101.63 (1), 101.64 (3), 101.653 (2) and (2m), Stats., the Department of Industry, Labor & Human Relations proposes to hold public hearing to consider the revision of chs. ILHR 20 and 21, Wis. Adm. Code, relating to Soil Erosion Requirements in the Uniform Dwelling Code.

Hearing Information

July 17, 1996
Wednesday
10:00 a.m.

Madison
Room 103, GEF #1
201 E. Washington Ave.

Analysis

Statutory authority: ss. 101.02 (1); 101.63 (1); 101.64 (3); 101.653 (2), (2m) and (7); and 101.73 (1) to (3)

Statutes interpreted: ss. 101.63 (1) and (5); 101.64 (3); 101.653 (2), (2m) and (7); and 101.73 (1) to (3)

The proposed rules modify the existing rules contained in the Uniform Dwelling Code related to soil erosion control. They establish new criteria for soil erosion plans on sites with different slopes and requires that a tackifier be used on slopes of 12% or more when seeding and mulching is used as a stabilization measure. The proposed rules will allow inspectors to notify the applicant of soil erosion code violations via telephone or fax. The proposal clarifies that perimeter erosion control measure must be installed within 24 hours of excavation. Finally, the rules clarify the requirement on tracking soil from the construction site.

There is also a short section intended to clarify the application of handrail and guardrail requirements contained in s. ILHR 21.04.

Copies of the Rules

A copy of the rules to be considered may be obtained from the Department of Industry, Labor and Human Relations, Division of Safety and Buildings, 201 E. Washington Ave., P.O. Box 7969, Madison, WI 53707, by calling (608) 266-9375 or at the appointed time and place the hearing is held.

Written Comments & Contact Person

Interested persons are invited to appear at the hearing and will be afforded the opportunity of making an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing, may be submitted no later than **July 31, 1996**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Duane Hubeler at the address noted above. Written comments will be given the same consideration as testimony presented at the hearing. Persons submitting comments will not receive individual responses.

The hearing is held in an accessible facilities. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266-9374 or Telecommunication Device for the Deaf (TDD) at 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators or materials in audio tape format will, to the fullest extent possible, be made available on request by a person with a disability.

Initial Regulatory Flexibility Analysis

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

All one- and two-family dwellings constructed in the state are required to comply with these rules. Contractors, tradespeople, material suppliers and other small businesses have been affected by these rules since their inception. The currently proposed changes should have very little additional impact.

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

A soil erosion control plan is required by the current code. These proposed rules required the contractor to estimate the amount of slope at a building site and designate it on the plan. These are the only additional reporting procedures required.

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

There are no additional skills necessary to comply with these rules.

Fiscal Estimate

The proposed rules update the existing requirements regarding soil erosion control procedures at one- and two-family dwelling construction sites. There are no new requirements in this proposed package that will affect costs or revenues.

Notice of Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.085, 29.174 (3) and 227.11 (2) (a), Stats., interpreting ss. 29.085 and 29.174 (1) and (2), Stats., the Department of Natural Resources will hold public hearings on revisions to s. NR 10.01, Wis. Adm. Code, relating to the 1996 migratory game bird season.

Analysis

The significant regulations are:

Ducks. The state is divided into two zones each with 50-day seasons. The season in the southern duck zone begins at noon September 28 and continues through October 6 and, following a 5-day closed period, reopens October 12 and continues through November 21. The north duck zone season begins at noon September 28 and continues through November 16. The daily bag in both zones is 5 ducks, including 4 mallards and one canvasback for the entire 50 days in both zones.

Canada Geese. The state is apportioned into 3 goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior zone include Brown County, Burnett County, New Auburn, Rock Prairie and the Mississippi River. Season lengths are: Collins Zone - 68 days; Horicon Zones - 86 days; Exterior Zone - 94 days; and Mississippi River Subzone - 70 days. The Burnett County and New Auburn Subzones are closed to Canada goose hunting.

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

Notice is hereby further given that the hearings will be held on:

August 5, 1996
Monday
At 7:00 p.m.

Basement Auditorium
La Crosse Co. Office Bldg.
300 N. 4th St.
LA CROSSE, WI

August 6, 1996
Tuesday
At 7:00 p.m.

Rooms 450-451
North Central Voc. Tech College
1000 Campus Drive
WAUSAU, WI

August 7, 1996
Wednesday
At 7:00 p.m.

Room F102
Fox Valley Tech. Institute
1825 N. Bluemound St.
APPLETON, WI

August 8, 1996
Thursday
At 7:00 p.m.

Room BO202
Waukesha Tech. College
800 Main St.
PEWAUKEE, 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 Jon Bergquist at (608) 266-8841 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Jon Bergquist
Bureau of Wildlife Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **August 8, 1996**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WM-26-96] and fiscal estimate may be obtained from Mr. Bergquist.

Fiscal Estimate

The proposed changes will not result in any significant changes in spending or revenue.

Notice of Hearing

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.174 (2) (a) and 227.11 (2) (a), Stats., interpreting s. 29.174 (2) (b), Stats., the Department of Natural Resources will hold a public hearing on amendment of s. NR 20.038, Wis. Adm. Code, relating to special size and bag limits for the Lac du Flambeau reservation.

Analysis

Authorizing statutes: ss. 29.174 (2) (a) and 227.11 (2) (a)

Interpreted statute: s. 29.174 (2) (b)

This order extends the current sunset of these special regulations from March 1, 1992 to March 1, 1997, and allows the Secretary to further extend the sunset beyond March 1, 1997, provided future agreements are reached with the Lac du Flambeau which limit their off-reservation harvest goals to a level allowing a state walleye bag limit of 3. The order also increases the minimum length for walleye from 15" to 18" for waters within the Lac du Flambeau reservation.

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

Notice is hereby further given that the hearing will be held on:

July 12, 1996
Friday
At 1:00 p.m.

Room 611A, 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 Steve Hewett at (608) 267-7501 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments & Contact Person

Written comments on the proposed rule may be submitted to:

Mr. Steve Hewett
Bureau of Fisheries Management & Habitat Protection
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **July 17, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FM-33-96] and fiscal estimate may be obtained from Mr. Hewett.

Fiscal Estimate

The basis for this fiscal estimate is as follows:

1. No fiscal effect on local units of government.
2. Rules are specific to waters within or bordering the Lac du Flambeau (LDF) reservation.
3. Enforcement will be by county wardens already assigned related tasks.
4. The 40 affected waters containing walleye/musky will have to be posted.
5. No collection of fees is required.
6. Material costs of 80 signs for posting of regulations at access sites is \$5/sign.
7. State labor cost is determined as 40 hours @ \$10/hour for posting the signs. *

* Should LDF choose to assist in posting lakes, labor costs would be reduced.

Fiscal Impact

\$800 net impact on state funds

Notice of Hearing

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.33 (1) and 227.11 (2) (a), Stats., interpreting s. 29.33 (1), Stats., the Department of Natural Resources will hold a public hearing on amendments to ss. NR 25.03 (1) (a) and 25.06 (1) (a) 2., Wis. Adm. Code, relating to commercial fishing licenses and lake trout quotas on Lake Superior.

Analysis

The proposed rules reduce the number of authorized non-tribal commercial fishing licenses on Lake Michigan from 21 to 10 and reduce the total lake trout quota to non-tribal commercial fishers from 13,000 lake trout to 6,480 lake trout.

The proposal is based upon a trial retirement incentive program the Department supports, whereby state-licensed commercial fishers willing to retire their commercial fishing license and trout quota will receive financial incentives from the Department for early retirement. Payments to the retired licensees will be made out of the sport fishing license segregated account, consistent with a retirement agreement entered into between the Department and the participating licensees.

The lake trout formerly distributed to the retired licensees will be directed to enhance lake trout restoration in Lake Superior rather than be allocated among the remaining 10 state-licensed commercial fishers. It is hoped that this restoration effort will significantly enhance the lake trout restoration effort on the lake as well as the total fishery of Lake Superior.

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

Notice is hereby further given that the hearing will be held on:

**July 11, 1996
Thursday
At 4:30 p.m.**

**County Board Room
Bayfield Co. Courthouse
117 E. Fifth St.
WASHBURN, WI**

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

on your request at least 10 days before the date of the scheduled hearing.

Written Comments & Contact Person

Written comments on the proposed rule may be submitted to:

Ms. Carol Turner
Bureau of Legal Services
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **July 17, 1996**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FM-42-96] and fiscal estimate may be obtained from Ms. Turner.

Fiscal Estimate

State Fiscal Impacts:

The financial incentives will be paid from the segregated license fund account and will normally require payments to licensees over a period of 10 years. As stated, 11 licensees have agreed to retire their licenses and lake trout quotas. The Department, in consultation with these licensees, has estimated the total net worth of the 11 licenses over a 10-year period to be approximately \$1,500,000; thus, the annual cost for the total retirement incentives is approximately \$150,000 (\$167,032 each year for years 1 through 5, and \$135,172 each year for years 6 through 10). It is not anticipated that additional costs will be incurred in the management of the fishery or administration of the agreements other than processing of annual payments.

In addition, the retirement of 11 licenses will reduce annual income to the Fish and Wildlife Account by \$8,250 annually.

Local Fiscal Impacts:

Since the licensees subject to the retirement agreements are not permitted by local jurisdictions or required to report to them, there are no impacts anticipated on local government bodies.

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

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

Administration ([CR 95-233](#)):

Ch. Adm 25 – Relating to the Information Technology Investment Fund.

Health & Social Services ([CR 96-36](#)):

Chs. HSS 201 and 206 – Relating to participation of Aid to Families with Dependent Children (AFDC) applicants and recipients in the Pay for Performance (PFP) demonstration project.

University of Wisconsin System ([CR 96-31](#)):

SS. UWS 18.02 and 18.06 – Relating to conduct on university lands.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Agriculture, Trade & Consumer Protection (CR 95-14):

An order creating ch. ATCP 123, relating to telecommunications and cable television service.
Effective 08-01-96.

Agriculture, Trade & Consumer Protection (CR 95-146):

An order repealing and recreating ch. ATCP 116, relating to work recruitment schemes.
Effective 08-01-96.

Corrections, Dept. of (CR 95-227):

An order affecting ch. DOC 328, relating to supervision fees charged to probationers and parolees.
Effective 08-01-96.

State Emergency Response Board (CR 95-216):

An order creating ch. ERB 5, relating to the computer grant.
Effective 08-01-96.

Transportation, Dept. of (CR 94-202):

An order amending s. Trans 201.16 (2) (e), relating to on-private property political signs next to interstates and freeways.
Effective 08-01-96.

Transportation, Dept. of (CR 94-197):

An order repealing and recreating ch. Trans 104, relating to examination procedures for operator's license.
Effective 08-01-96.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

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

Dentistry Examining Board (CR 95-218):

An order amending ss. DE 2.03 (1) (intro.) and (2) and 5.02 (18), relating to the statutory renewal dates for licenses, and to provide the correct citation relating to records which must be kept by dentists for controlled substances.

Effective 07-01-96.

Elections Board (CR 96-12):

An order affecting s. ElBd 6.04, relating to filing documents with filing officers by means of facsimile (FAX) transmission.

Effective 07-01-96.

Funeral Directors Examining Board (CR 95-63):

An order affecting ss. FD 2.04, 2.10 and 2.13, relating to discrimination, sanitation and confidentiality.

Effective 07-01-96.

Health & Social Services (CR 95-113):

An order affecting ch. HSS 94, relating to the rights of patients receiving treatment for mental illness, a developmental disability, alcohol abuse or dependency or other drug abuse or dependency, and standards for grievance procedures for these patients.

Effective 07-01-96.

Health & Social Services (CR 95-198):

An order creating ch. HSS 182, relating to grants for prevention of lead poisoning or exposure to lead.

Effective 07-01-96.

Industry, Labor & Human Relations (CR 95-199):

An order affecting chs. ILHR 51, 57 and 66, relating to the Uniform Multifamily Dwelling Code.

Effective 07-01-96.

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

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

Effective 07-01-96.

Insurance, Office of the Commissioner of (CR 96-10):

An order creating s. Ins 18.13 (5), relating to creating a network of providers for the Health Insurance Risk-Sharing Plan (HIRSP) who will provide services at a discount greater than that which is already mandated by statute.

Effective 07-01-96.

Insurance, Office of the Commissioner of (CR 96-11):

An order repealing and recreating s. Ins 18.07 (5) (b) and (bg) 1 and 2, relating to 1996-97 premium rates for the Health Insurance Risk-Sharing Plan (HIRSP).

Effective 07-01-96.

Medical Examining Board (CR 95-173):

An order repealing s. Med 4.03 and amending s. Med 4.06, relating to expiration and renewal of temporary camp or locum tenens licenses.

Effective 07-01-96.

Natural Resources (CR 95-12):

An order creating ch. NR 323, relating to bird nesting and similar habitat structures in navigable waters.

Effective 07-01-96.

Natural Resources (CR 95-149):

An order creating ss. NR 116.03 (1e), (1s) and (30m), 116.12 (2m) and 116.13 (3m), relating to regulating camping in floodplain areas.

Effective 07-01-96.

Natural Resources (CR 95-188):

An order affecting ss. NR 150.03 and 605.05 and the chs. NR 500-- series, relating to solid waste management.

Effective 07-01-96.

Natural Resources (CR 95-192):

An order affecting the chs. NR 400 series, relating to revision of the definition of volatile organic compound (VOC), and to updating, clarification and corrective changes throughout the chs. NR 400 series.

Part effective 07-01-96.

Natural Resources (CR 95-193):

An order affecting the chs. NR 161, 162, 163 and 165, relating to financial assistance under the Clean Water Fund program.

Effective 07-01-96.

Regulation & Licensing (CR 95-163):

An order creating chs. RL 80 to 86 and the Uniform Standards of Professional Appraisal Practice, relating to real estate appraisers.

Effective 07-01-96.

Regulation & Licensing (CR 95-205):

An order creating ch. RL 127, relating to the sale of real estate at an auction.

Effective 07-01-96.

Revenue (CR 95-209):

An order amending s. Tax 12.07 (2) (b), relating to assessor certification for municipalities in Kenosha County.

Effective 07-01-96.

Transportation (CR 96-4):

An order affecting ch. Trans 112, relating to medical standards for driver licensing.

Effective 07-01-96.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Dentistry Examining Board (CR 95–218)

SS. DE 2.03 (1) (intro.) and (2) and 5.02 (18) – Statutory renewal dates for licenses, and to provide the correct citation relating to records which must be kept by dentist for controlled substances.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

2. Elections Board (CR 96–12)

S. El Bd 6.04 – Filing documents by facsimile process.

Summary of Final Regulatory Flexibility Analysis:

The creation of this rule does not affect business.

Summary of Comments:

No comments were reported.

3. Funeral Directors Examining Board (CR 95–63)

Ch. FD 2 – Discrimination, sanitation and confidentiality.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

4. Health & Social Services (CR 95–113)

Ch. HSS 94 – The rights of persons receiving services for mental illness, a developmental disability, alcohol abuse or dependency or other drug abuse or dependency, and standards for grievance procedures.

Summary of Final Regulatory Flexibility Analysis:

These rules apply to the Department, to county departments of human services, community programs and developmental disabilities services and to privately operated clinics, agencies, residential facilities and other providers of care and treatment for persons with mental disabilities, whether or not under contract to a county department. Many of the privately operated clinics, agencies, residential facilities and other service providers are small businesses as “small business” is defined in s. 227.114 (1) (a), Stats.

Section 51.61, Stats., establishes legal rights for persons receiving services for mental illness, a developmental disability, alcoholism or drug dependency. The statute identifies each of those rights and for many of them elaborates on what they mean for care and treatment, including in some cases specifying procedures, conditions or qualifications related to protection of the rights. The Department’s administrative rules, ch. HSS 94, further interpret that statute. This rulemaking order updates the rules to add new rights established by 1993 Wis. Act 445, to incorporate other changes in s. 51.61, Stats., made by Wis. Act 445, and to clarify, amend and further develop requirements on the basis of experience with the rules since they went into effect in 1987. These updating changes do not include new reporting or bookkeeping requirements, but do include requiring service providers to re-notify long-term patients of their rights and notify various parties when a patient is ready for placement in a less restrictive setting.

This rulemaking order also establishes standards of program grievance procedures. Every program subject to s. 51.61, Stats., and ch. HSS 94 must have a grievance procedure for persons receiving residential care or services. This is a current requirement of s. 51.61 (5) (a), Stats., and s. HSS 94.27. Standards for grievance procedures are required by a new s. 51.61 (5) (b), Stats. Every grievance procedure must be in compliance with those standards. They are included in outline in s. 51.61 (5) (b), Stats. However, the rules provide that the standards do not apply to individual private practitioners who deliver services through offices that are not part of a program.

No exceptions or lesser requirements could be included in the rules for service-providing organizations or agencies organized as small businesses. This is because the rules, like the statutes upon which they are based, are minimum requirements intended to help protect patients/clients who receive treatment and supportive services for mental illness, a developmental disability, alcohol abuse or dependency or drug abuse or dependency, and must apply quality to all service providers so that patients/clients will be protected from harm or will have a recourse if harmed. Moreover, patient rights are set out in detail in s. 51.61, Stats. The rules reiterate and fill in that statute, and cannot reduce statutory patient/client protections for the benefit of some service providers.

No issues were raised by small businesses at the Department’s public hearings on the proposed rules.

Summary of Comments of Legislative Standing Committees:

No comments were received.

5. Health & Social Services (CR 95–198)

Ch. HSS 182 – Criteria for awarding lead poisoning prevention grants.

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. They apply to the Department and to local health departments and collaborating nonprofit agencies that apply for a grant or receive a grant under these rules.

Summary of Comments:

No comments were received.

6. Industry, Labor & Human Relations (CR 95–199)

Chs. ILHR 51, 57 and 66 – Uniform Multifamily Dwelling Code.

Summary of Final Regulatory Flexibility Analysis:

Builders and owners of multifamily dwellings constructed under these rules are expected to have lower costs for that construction due to (1) the rule’s reduction of the number of municipalities that can adopt lower thresholds for requiring fire sprinkler protection or 2-hour fire resistance, (2) deletion of area limits for buildings that are smaller than the thresholds for sprinkling or 2-hour fire resistance, (3) exclusion of exterior dwelling unit areas when determining whether sprinklers or 2-hour fire resistance is required, and (4) reinstatement of the previous less restrictive existing requirements where lofts, row houses, or rescue platforms are used. Reducing the number of municipalities that can adopt the lower thresholds will also lower costs by increasing the state-side uniformity of these rules — lack of such uniformity was cited by Governor Thompson’s Wisconsin Housing Task Force in 1988 as making it more difficult and costly for developers to construct multifamily housing in different communities around the state.

The two issues raised by small businesses during the hearings were to (1) allow only municipalities with sprinkler ordinances adopted prior to January 1, 1992, to use the lower threshold in s. 101.14 (4m), Stats., for requiring sprinkler systems or 2-hour fire resistance; and (2) to reinstate the previous existing requirements for row houses. Both of these changes are now in the proposed rules.

Summary of Comments:

The rules were reviewed by the Assembly Committee on Housing and the Senate Committee on Human Resources, Labor, Tourism, and Veterans and Military Affairs. No comments were received.

7. Industry, Labor & Human Relations (CR 95–231)

Chs. ILHR 41–42 – Boilers and pressure vessels.

Summary of Final Regulatory Flexibility Analysis:

Section 101.17, Stats., gives the department authority to adopt rules for the design, construction, installation, operation, and inspection of boilers and pressure vessels. The proposed rules of Clearinghouse Rule No. 95–231 are minimum requirements to provide the needed level of safety, and any exceptions from compliance for small businesses would be contrary to the statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Labor and Employment and the Senate Committee on Human Resources, Labor, Tourism, Veterans and Military Affairs. No comments were received.

8. Insurance (CR 96–10)

S. Ins 18.13 (5) – Creating a network of providers of the health insurance risk-sharing plan who will provide services at a discount greater than that which is already mandated by statute.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

9. Insurance (CR 96–11)

1996–97 premium rates for the health insurance risk-sharing plan.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The legislative standing committee had no comments on this rule.

10. Medical Examining Board (CR 95–173)

Ch. Med 4 – Expiration and renewal of temporary camp or locum tenens licenses.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

11. Natural Resources (CR 95-12)

Ch. NR 323 – Bird nesting and similar habitat structures in navigable waters.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments by Legislative Review Committees:

The proposed rules were regulated by the Senate Committee on Environment and Energy and the Assembly Committee on Natural Resources. On April 3, 1996, the Assembly Committee on Natural Resources held a public hearing. No comments or recommendations were submitted to the agency.

12. Natural Resources (CR 95-149)

SS. NR 116.02, 116.12 and 116.13 – Camping in floodplain areas.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

The proposed rules were regulated by the Senate Committee on Environment and Energy and the Assembly Committee on Natural Resources. On April 3, 1996, the Assembly Committee on Natural Resources held a public hearing. No comments or recommendations were submitted to the agency.

13. Natural Resources (CR 95-188)

NR 500 series – Solid waste management.

Summary of Final Regulatory Flexibility Analysis:

The Department does not believe that the proposed revisions will have a significant economic impact on a substantial number of small businesses. In general, these revisions affect municipalities and large businesses (landfills). Many of the revisions were made to exempt smaller, recycling or beneficial reuse related facilities which should have a positive economic impact on small businesses involved in this aspect of solid waste management.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Environment and Energy. On April 17, 1996, the Assembly Committee on Natural Resources held a public hearing. The majority of the discussion on the proposed rule centered on the definition of a professional geologist and the length of the surcharge on the fees. On April 23, 1996, the Assembly Natural Resources Committee formed a subcommittee for this proposed rule. On April 30, 1996, this subcommittee held a public hearing. Following this public hearing, the Committee decided not to request modifications of the rule at this time.

14. Natural Resources (CR 95-192)

NR 400 series – Revision of the definition of VOC and updating, clarification and corrective changes throughout the NR 400 series.

Summary of Final Regulatory Flexibility Analysis:

The acetone portion of the rule is a relaxation of existing emission inventory report requirements. The proposed variance eligibility changes will provide the Department with increased flexibility in applying RACT requirements to all affected sources, including small businesses.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Senate Committee on Environment and Energy and the Assembly Committee on Environment and Utilities. There were no comments.

15. Natural Resources (CR 95-193)

Chs. NR 161, 162, 163 and 165 – Financial assistance under the clean water fund program.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule does not regulate any small business. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Senate Committee on Environment and Energy and the Assembly Committee on Natural Resources. On April 3, 1996, the Assembly Committee on Natural Resources held a public hearing. The focus of the discussion at that hearing was on how the Department determined the median household income for a town sanitary district. The Assembly Natural Resources Committee plans to seek legislation to clarify this issue.

16. Regulation & Licensing (CR 95-163)

Chs. RL 80-87 – Real estate appraisers.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

17. Regulation & Licensing (CR 95-205)

Ch. RL 127 – Sale of real estate at an auction.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules will have no significant economic impact on small businesses, as defined in s. 27.114 (1) (a), Stats. The rules protect the prerogatives of registered auctioneers and auction companies, whether large or small, to conduct auctions of real estate without also having a real estate license.

Summary of Comments:

No comments were reported.

18. Revenue (CR 95-209)

S. Tax 12.07 (2) (b) – Assessor certification for municipalities in Kenosha county.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules does not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

19. Transportation (Dept.) (CR 96-4)

Ch. Trans 112 – Medical standards for driver licensing.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule has no significant impact on small businesses.

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

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

Executive Order 283. Relating to the Transfer to the Department of Administration of Responsibilities for Higher Educational Aid Programs Currently Assigned to the Higher Educational Aids Board and to the Transfer to the Department of Administration of Responsibilities for the regulation of Proprietary schools and the Approval of Schools and Courses of Instruction for the Training of Veterans Receiving Assistance from the Federal Government Currently Assigned to the Educational Approval Board and to the Creation of the Higher Education Aids Council and the Educational Approval Council.

Executive Order 284. Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Paul Brehm of the Wisconsin Department of Transportation and the Late Ralph Jungbluth of the Waukesha County Highway Department.

PUBLIC NOTICES

Public Notice Health & Social Services (Eligibility and Benefits for Aid to Families with Dependent Children Two-Tier Demonstration Project)

The Wisconsin Department of Health and Social Services, through its Division of Economic Support, supervises county and tribal administration of the federal-state Aid to Families with Dependent Children (AFDC) Program.

The State of Wisconsin has federal governmental approval to conduct a demonstration project, called the Two-Tier AFDC Benefit Demonstration Project, that will measure the impact of AFDC benefit levels on migration of low income families.

The Two-Tier AFDC Benefit Demonstration Project began July 1, 1994. The demonstration project is being conducted in four counties – Milwaukee, Kenosha, Racine and Rock. For the first six months that a family subject to the demonstration project lives in Wisconsin, AFDC benefits for a new arrival in the state are paid at a level comparable to AFDC benefits paid to a typical AFDC family in that person's state of origin, regardless of whether the state of origin's benefit level is higher or lower than Wisconsin's. Applicants or recipients who came to Wisconsin to take a job and who were employed at least 90 days before applying for AFDC and those recipients who previously were residents of Wisconsin for at least 6 consecutive months are not subject to the Two-Tier AFDC Benefit Demonstration Project. The Department has also exempted certain other categories of applicants and recipients such as migrant families and individuals participating in the Parental Responsibility Pilot Program under s. 49.25, Stats.

Maximum AFDC benefit levels, for the period July 1, 1994 through June 30, 1995, available to families participating in the demonstration project according to family size and former state of residence were set out in Table 201.305, included in the administrative rules promulgated to implement the Two-Tier AFDC Benefit Demonstration Project. Section HSS 201.305 (4) of the rules directs the Department to update the other state benefit levels annually beginning July 1, 1995, for each year of the demonstration project by publishing updated benefit levels as a public notice in the *Wisconsin Administrative Register*. The July 1, 1996 through June 30, 1997 maximum benefit amounts are found in the updated table included as part of this notice.

Contact Person

For more information about the Two-Tier Project and the table of other state benefit levels, write:

Donna Cochems
Bureau of Welfare Initiatives
Division of Economic Support
P.O. Box 7850
Madison, WI 53707-7850

TABLE 201.305
WISCONSIN AFDC TWO-TIER TABLE OF STATE MAXIMUM BENEFIT AMOUNTS BY FAMILY SIZE
EFFECTIVE 07-01-96 -- 06-30-97*

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
AL	111	137	164	194	225	252	287	315	344	372	400	428	457	485	513	541	541	541
AK	514	821	923	1025	1127	1229	1331	1433	1535	1637	1739	1841	1943	2045	2147	2249	2351	2453
AZ	204	275	347	418	489	561	632	703	775	846	917	988	1060	1131	1202	1274	1346	1416
AR	81	162	204	247	286	331	373	415	457	457	457	457	457	457	457	457	457	457
CA	299	490	607	723	824	926	1017	1108	1197	1286	1286	1286	1286	1286	1286	1286	1286	1286
CO	214	280	356	432	512	590	652	715	779	840	902	959	1016	1072	1129	1186	1243	1300
CT	356	473	581	683	781	884	997	1102	1193	1304	1359	1489	1527	1643	1744	1799	1882	1966
DE	201	270	338	407	475	544	612	681	750	819	888	957	1026	1095	1164	1233	1302	1371
DC	265	330	420	513	591	695	797	881	968	1053	1111	1194	1248	1316	1366	1434	1574	1610
FL	180	241	303	364	426	487	549	610	671	733	795	857	919	981	1043	1105	1167	1229
GA	155	235	280	330	378	410	444	470	496	530	568	568	568	568	568	568	568	568
HI	418	565	712	859	1006	1153	1300	1446	1593	1740	1887	2034	2181	2328	2475	2621	2767	2913
ID	205	251	317	382	448	513	579	645	710	776	841	906	971	1036	1101	1166	1231	1296
IL	212	283	382	424	495	560	589	624	655	689	725	761	801	842	886	931	979	1030
IN	139	229	288	346	405	463	522	580	639	697	762	827	892	957	1022	1087	1152	1217

State	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
IA	183	361	426	495	548	610	670	731	791	865	952	1039	1126	1213	1300	1387	1474	1561
KS	241	326	403	471	532	593	654	715	776	837	898	959	1020	1081	1142	1203	1264	1325
KY	186	225	262	328	383	432	482	482	482	482	482	482	482	482	482	482	482	482
LA	72	138	190	234	277	316	352	391	427	462	501	540	580	620	662	707	741	789
ME	198	312	418	526	632	739	846	953	1060	1167	1274	1381	1488	1595	1702	1809	1916	2023
MD	165	292	373	450	521	573	645	709	766	826	886	946	1004	1063	1124	1184	1282	1342
MA	392	486	579	668	760	854	946	1037	1128	1220	1315	1410	1505	1600	1695	1790	1885	1980
MI	276	371	459	563	659	792	868	944	1020	1096	1172	1248	1324	1400	1476	1552	1628	1704
MN	250	437	532	621	697	773	850	916	980	1035	1089	1142	1195	1248	1301	1354	1407	1460
MS	60	96	120	144	168	192	216	240	264	288	312	336	360	384	408	432	456	480
MO	136	234	292	342	388	431	474	514	554	595	635	675	715	755	795	835	875	915
MT	252	338	425	511	597	684	771	857	900	941	977	1013	1046	1076	1106	1132	1132	1132
NE	222	293	364	435	506	577	648	719	790	861	932	1003	1074	1145	1216	1287	1358	1429
NV	229	288	348	408	468	527	587	647	706	766	826	885	945	1005	1065	1124	1184	1244
NH	414	481	550	613	673	754	817	910	962	1039	1126	1198	1265	1332	1399	1466	1533	1600
NJ	162	322	424	488	552	616	677	728	778	828	878	928	978	1028	1078	1128	1178	1228
NM	227	304	381	458	534	611	688	764	841	918	995	1071	1148	1225	1302	1331	1360	1389
NY	327	429	524	619	716	787	901	979	1039	1099	1159	1219	1279	1339	1399	1459	1519	1579
NC	181	236	272	297	324	349	373	386	406	430	448	473	496	521	546	571	596	621
ND	223	333	431	517	591	653	702	739	776	813	850	887	924	961	998	1035	1072	1109
OH	203	279	341	421	493	549	613	680	748	816	881	949	1016	1082	1150	1234	1318	1402
OK	190	238	307	380	445	509	574	631	685	685	685	685	685	685	685	685	685	685
OR	310	395	460	565	660	755	840	925	985	1090	1195	1300	1405	1510	1615	1720	1825	1930
PA	215	330	421	514	607	687	770	853	936	1019	1102	1185	1268	1351	1434	1517	1600	1683
RI	327	451	556	636	714	806	886	978	1050	1140	1220	1301	1383	1469	1550	1636	1722	1808
SC	118	159	200	241	281	322	363	403	444	484	525	565	606	646	687	727	768	808
SD	304	380	430	478	528	578	627	675	724	773	822	872	920	969	1018	1067	1115	1164
TN	95	142	185	226	264	305	345	386	425	467	508	549	589	630	670	711	750	790
TX	78	163	188	226	251	288	313	356	382	425	451	494	520	563	589	632	675	718
UT	246	342	426	498	567	625	654	685	717	747	778	809	840	870	902	933	965	994
VT	449	553	656	738	827	884	983	1069	1148	1228	1307	1387	1466	1546	1625	1705	1784	1864
VA	174	257	322	386	457	509	570	636	692	754	815	876	937	998	1059	1120	1181	1242
WA	349	440	546	642	740	841	971	1075	1075	1075	1075	1075	1075	1075	1075	1075	1075	1075
WV	145	209	257	328	376	437	486	509	509	509	509	509	509	509	509	509	509	509
WY	195	320	360	390	450	510	575	640	700	765	777	789	801	813	825	837	849	861

Public Notice

Health & Social Services

(Medical Assistance Reimbursement of Providers of Rural Health Clinic Services)

The State of Wisconsin reimburses providers for rural health clinic services provided to Medical Assistance recipients. This is done under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Social Services (which will be re-named Department of Health and Family Services on July 1, 1996), is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

Effective **July 1, 1996**, the Department will reimburse for rural health clinic services at 100% of their reasonable costs, up to a maximum limit established by the federal government. Rural health clinics will bill and be paid following the regular fee-for-service procedures, and the

Department will provide cost settlements on an annual basis. Rural health clinics that request it may receive interim cost settlement payments on a quarterly basis with final cost settlements at the end of the year. Rural health clinic services include face-to-face encounters between a clinic patient and a Wisconsin Medicaid-certified physician, physician assistant, nurse practitioner, certified nurse midwife, clinical psychologist or clinical social worker.

This modification of the reimbursement system is estimated to have no effect on expenditures of the Wisconsin Medicaid program.

Copies of the Proposed Change

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

State Plan Coordinator
Bureau of Health Care Financing
Division of Health
P.O. Box 309
Madison, WI 53701-0309

Written Comments

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

Bureau of Health Care Financing
Room 250, State Office Building
One West Wilson Street
Madison, WI

Public Notice

Health & Social Services

(Medical Assistance Reimbursement of Providers of Prenatal Care Coordination Services)

The State of Wisconsin reimburses providers for prenatal care coordination services provided to Medical Assistance (MA) recipients. This is done under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. Medical Assistance (MA) or Medicaid is administered by the State's Department of Health and Social Services (which will be re-named Department of Health and Family Services on July 1, 1996). Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

Currently, the target group for prenatal care coordination services includes pregnant women throughout the state who are expected to have difficulty receiving proper medical, social, educational, and other services and who are at high risk for adverse pregnancy outcomes, such as preterm births or low birth weight babies, due to medical and non-medical factors, as determined by the Department's risk assessment. All recipients remain in the target group at least until 60 days after delivery.

Effective **July 1, 1996**, the Department will expand the target group for prenatal care coordination services to also include Milwaukee County postpartum women and their infants who are at high risk for child abuse and neglect as determined by the Department. These recipients remain in the target group until the child is 7 years old.

This modification of the target group for the services is estimated to increase annual expenditures of the Wisconsin Medical Assistance Program by \$2,863,000 all funds (\$1,154,700 GPR and \$1,708,300 FFP).

Copies of the Proposed Change

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

State Plan Coordinator
Bureau of Health Care Financing
Division of Health
P.O. Box 309
Madison, WI 53701-0309

Written Comments

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

Bureau of Health Care Financing
Room 250, State Office Building
One West Wilson Street
Madison, WI

Public Notice
Health and Social Services
(Medical Assistance Reimbursement of Nursing Homes)

The State of Wisconsin reimburses Medicaid-certified nursing facilities for long-term care and health care services provided to eligible persons under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Social Services (which will be re-named the Department of Health and Family Services on July 1, 1996), is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for setting payment rates for nursing facility services covered by the payment system. A plan that describes the nursing home reimbursement system for Wisconsin (methods of payment for costs incurred by efficiently and economically operated providers) is now in effect as approved by the federal Health Care Financing Administration (HCFA).

The Department is proposing changes in the methods of payment to nursing homes and, therefore, in the plan describing the nursing home reimbursement system. The changes are effective **July 1, 1996**.

The proposed changes would update the payment system and make various payment-related policy changes, including modifications requested by HCFA in its approval of the 1995-1996 nursing facility payment plan. Some of the changes are necessary to implement various budget cost containment policies contained in the 1995-97 State Budget, Wis. Act 27. Some of the changes are technical in nature; some clarify various payment plan provisions.

The estimated increase in annual aggregate expenditures attributable to these changes for nursing homes serving MA residents is approximately \$34,000,000 all funds (\$17,000,000 FFP), including patient liability.

The proposed changes are being implemented to assure adequate funding related to increases in costs incurred by efficiently and economically operated facilities, and to comply with Wisconsin statutes governing Medicaid payment systems, particularly s. 49.45 (6m), Wis. Stats.

For the following proposed changes, the plan amendment proposals are being developed and are not available at this time. See below for discussion of public meetings.

These proposed changes are as follows:

1. Modify the methodology to adjust the reimbursement for nursing homes within the parameters of the 1995-97 State Budget Act, 1995 Wis. Act 27, which may be by application of a percent change based on the previous year's rates.
2. Modify the methodology to adjust for inflation.
3. Modify standards to determine base payment amounts with consideration for the facility's previous year's rates and the facilities' allowable cost as reported in 1995 cost reports.
4. Modify plan provisions to continue to reflect implementation of provision of the federal Omnibus Budget Reconciliation Acts (OBRA) relating to nursing homes.
5. Revise various references to specific years and related provisions to clarify the base year, the rate year, and various payment policies which are specific to a given year.
6. Incorporate technical revisions as needed in select sections requiring clarification.
7. Incorporate miscellaneous changes to implement the intent of the payment plan, including provisions to address special situations such as new facilities, facility phase downs, and changes of ownership.

For the following proposed changes, the plan amendment proposals are available at this time. See below for discussion of public meetings.

1. Modify section 3.522 to incorporate the Dodge Construction Index into the re-evaluation of assets provisions to reflect the annual assurance within the plan amendment.
2. Modify section 5.710 to state the methodology used for the blended increment for facilities with expenses for both property taxes and payments for municipal services.
3. Amend sections 1.240 and 3.011 (c) to clarify policy on the ch. 150, Wis. Stats., Resource Allocation Program.
4. Modify section 3.011 and related sections on the licensed bed adjustments to reflect continuing provisions as well as modifications included in the Act 27 and incorporated in the 95-96 payment plan.
5. Revise section 1.248 on the definition of self-insurance costs.
6. Modify section 1.900 to clarify applicability of policy to offset otherwise allowable costs for what should have been billed to Medicare Parts A and B as primary payor.
7. Revise sections 2.800, 3.800, and 3.810 to clarify that the over-the-counter drug allowance is limited to Medicaid costs and Medicaid patient days.
8. Modify sections 3.400 and 5.710 to change the computation of the property tax allowance.
9. Modify section 3.525 (a) on the minimum useful life schedules used for major remodeling, new construction, bed additions, and bed deletions.
10. Revise section 1.270 on the payment parameters for working capital debt.
11. Revise section 6.110 to clarify that the chart of accounts basis for preparing the uniform cost report must be acceptable to the Department.
12. Modify policies affected by section 4.000 to address payment rate modifications and adjustments effective July 1, 1996.
13. Revise section 3.115 on the reclassification of Medicare patient days to Intensive Skilled Nursing patient days.
14. Modify section 3.775 to update the Intergovernmental Transfer Program provisions.
15. Modify section 1.281 to adjust payments for therapy space to ensure that Medicaid is secondary payor to Medicare and payments reflect equitable share of overhead-related payments.
16. Revise section 3.110 to permit separate ICF 1 and ICF 2 rates.
17. Revise section 3.110 to allow setting a composite rate for ICF 3 and ICF 4 residents.

Copies of the Proposed Changes

Copies of the proposed changes are available free of charge by writing to:

Attention: Nursing Home State Payment Plan
Bureau of Health Care Financing
Division of Health
PO Box 309
Madison, WI 53701-0309

The proposed changes may be reviewed at the main office at any county department of social services or human services.

Written Comments/Meetings

Written comments on the proposed changes may be sent to the Bureau of Health Care Financing, Division of Health, at the above address. The comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 250 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changes based on comments received. There will also be public meetings to seek input on the proposed plan amendment. If you would like to be sent a public meeting notice, please write to the above address. Revisions may also be made in the proposed changes based on comments received at the public meetings.

Public Notice **Health & Social Services** **(Medical Assistance Reimbursement of Hospitals)**

The State of Wisconsin reimburses hospitals for medical services provided to low-income persons under the authority of Title XIX of the Federal Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. Medicaid or Medical Assistance (MA) is administered by the State's Department of Health and Social Services (which will be renamed the Department of Health and Family Services effective July 1, 1996). Federal statutes and regulations require state plans, one for outpatient services and one for inpatient services, which provide the methods and standards for paying for hospital outpatient and inpatient services.

State plans are now in effect for the reimbursement of outpatient hospital services and inpatient hospital services. The Department is proposing to make several changes in these plans effective **July 1, 1996**.

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

1. Revision of the rural hospital adjustment percentages to ensure that payments do not exceed authorized funds.
2. Modification of the retrospective final settlement of outpatient reimbursement to include the rural hospital adjustment in the reimbursement which is limited to the hospital's cost of providing outpatient services in order to comply with s. 49.45 (3) (e) 4., Wisconsin Statutes.
3. For outpatient services provided by hospitals not located in Wisconsin, reduction of payment to reflect the level of payment provided in state hospitals.
4. For hospitals not located in Wisconsin, clarification that reimbursement for outpatient laboratory services is limited to the laboratory fee schedule of the Medicaid program.
5. Modification of qualifying criteria, as mandated by the state's 1995-1997 biennial budget, to allow a hospital not operated by a county to receive an indigent care allowance if the hospital contracts with a county-administered general assistance program to serve persons covered by the county's general assistance program and provides a significant proportion of its services to such persons.
6. To carry out mandates of the 1995-1997 biennial budget, adjustment of the criteria for determining that a hospital provides a significant proportion of its services to low-income persons and modification of the methodology for determining the indigent care allowance.
7. For hospitals that combine into one hospital operation either through merger or consolidation or for a hospital that absorbs the operation of another hospital through purchase or donation, establishment of a methodology to combine the financial and statistical data of the individual hospitals to determine if the combined or absorbing hospital qualifies for the indigent care allowance in order to implement mandates of the 1995-1997 biennial budget.
8. Adjustment of the maximum funding for indigent care allowances to that available under the 1995-1997 biennial budget and modification of the methodology for determining indigent care allowances to maintain compliance with federal payment limits.
9. Modification of supplemental payments to essential access city hospitals (EACH) to maintain compliance with federal upper-limits on payments to hospitals.
10. With Medicaid and Medicare cost reporting encompassed in the same cost reporting form, changing the due date by which a hospital must submit its cost report to coincide with Medicare due date requirements to promote administrative efficiency of hospitals.
11. Modification of administrative adjustment procedures for outpatient reimbursement and elimination of the administrative adjustments committee, in order to promote administrative efficiency by eliminating procedural requirements which are not needed under the current rate-setting methodology.
12. To promote administrative efficiency, addition of policies and procedures by which a hospital would be required to request review and modification of how Department staff are carrying out provisions of the outpatient rate setting methodology before the hospital could pursue legal review through administrative hearing or court appeal.
13. Modification of the calculation for a case mix administrative adjustment to more appropriately recognize the cost of a change in outpatient case mix.

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

1. For the payment system which is based on diagnosis-related groups (DRGs), adjustment of DRG weighting factors, standard DRG base rates, area wage indices, and capital and medical education payments to implement the average rate adjustment provided by the 1995-1997 biennial budget.
2. Adjustment of payment rates and payment maximums for AIDS treatment, ventilator care and brain injury treatment to implement the average rate adjustment provided by the 1995-1997 biennial budget.

3. Revision of the rural hospital adjustment percentages to ensure that payments do not exceed authorized funds.
4. Updating the disproportionate share adjustment parameters to recognize the more current proportion of services provided by hospitals to Medicaid recipients.
5. Modification of supplemental payments to essential access city hospitals (EACH) to maintain compliance with federal upper-limits on payments to hospitals.
6. Modification of qualifying criteria, as mandated by the state's 1995-1997 biennial budget, to allow a hospital not operated by a county to receive an indigent care allowance and a general assistance disproportionate share supplement if the hospital contracts with a county-administered general assistance program to serve persons covered by the county's general assistance program and provides a significant proportion of its services to such persons.
7. Adjustment of the criteria for determining that a hospital provides a significant proportion of its services to low-income persons and modification of the methodology for determining the indigent care allowance and the general assistance disproportionate share supplement to implement mandates of the 1995-1997 biennial budget.
8. For hospitals that combine into one hospital operation either through merger or consolidation or for a hospital that absorbs the operation of another hospital through purchase or donation, establishment of a methodology to combine the financial and statistical data of the individual hospitals to determine if the combined or absorbing hospital qualifies for the indigent care allowance and a general assistance disproportionate share supplement in order to implement mandates of the 1995-1997 biennial budget.
9. Modification of the ceiling amounts for the general assistance disproportionate share supplement and modification of the methodology for determining the supplement to assure compliance with federal disproportionate share payment ceilings.
10. For the indigent care allowance, adjustment of the maximum funding to that available under the 1995-1997 biennial budget and modification of the methodology for determining the allowance to maintain compliance with federal payment limits.
11. Modification of the payment rates for state-operated mental health hospitals for additional funding provided by the 1995-1997 biennial budget which may include establishment of a supplemental disproportionate share hospital payment for state-operated mental health hospitals.
12. For hospitals that combine or have combined into one hospital operation either through merger or consolidation or for a hospital that absorbs or has absorbed the operation of another hospital through purchase or donation, modification of the method for establishing capital cost payment by limiting payment to the capital cost incurred by the combined or absorbing hospital and by limiting payment to that allowed by federal regulations in order to maintain program expenditures within available funding and to assure compliance with federal regulations.
13. For hospitals that combine or have combined into one hospital operation either through merger or consolidation or for a hospital that absorbs or has absorbed the operation of another hospital through purchase or donation, modification of the method for establishing direct medical education payment to limit payment to the amount incurred by the combined or absorbing hospital and to base the indirect medical educational payment adjustment on the size of the graduate medical education program of the combined or absorbing hospital to maintain program expenditures within available funding.
14. Modification of the methodology for establishing capital cost payment and direct medical education payment for major border-status hospitals so that the methodology is more comparable to that used for establishing in-state hospital payments.
15. Establishment of a supplemental adjustment for a disproportionate share acute care hospital not in Milwaukee County that:
 - (a) Has a significantly high proportion of inpatient days for newborns;
 - (b) Is in a county that has, or is scheduled to have, mandatory or optional enrollment in Medicaid managed care for the next year; and
 - (c) Participates as a major provider of Medicaid HMO services in the county, in order to assure sufficient availability of hospital services through the Medicaid program.
16. Modification of administrative adjustment procedures for inpatient reimbursement and elimination of the administrative adjustments committee, in order to promote administrative efficiency by eliminating procedural requirements that are not needed or are rarely used under the current rate-setting methodology.
17. To promote administrative efficiency, addition of policies and procedures by which a hospital would be required to request review and modification of how Department staff are carrying out provisions of the inpatient rate setting methodology before the hospital could pursue legal review through administrative hearing or court appeal.

Implementation of the above changes to the State Plans for inpatient hospital services and outpatient hospital services are expected to increase annual expenditures of the Wisconsin Medical Assistance Program by \$11.7 million all funds (\$6.9 million federal financial participation and \$4.8 million general purpose revenue) for the state fiscal year 1996-1997.

Copies of Proposed Changes

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

Hospital Reimbursement Unit
 FAX (608) 266-1096
 Bureau of Health Care Financing
 Division of Health
 P. O. Box 309
 Madison, WI 53701-0309

Written Comments

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

Bureau of Health Care Financing
 Room 265, State Office Building
 One West Wilson Street
 Madison, WI

THE STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DOCUMENT SALES UNIT
P.O. BOX 7840
MADISON, WISCONSIN 53707-7840

First Class

U.S. POSTAGE PAID

Madison, Wisconsin

Permit Number 1369

First Class Mail

*Wisconsin
Administrative
Register*

DATED MATERIAL. PLEASE DO NOT DELAY!