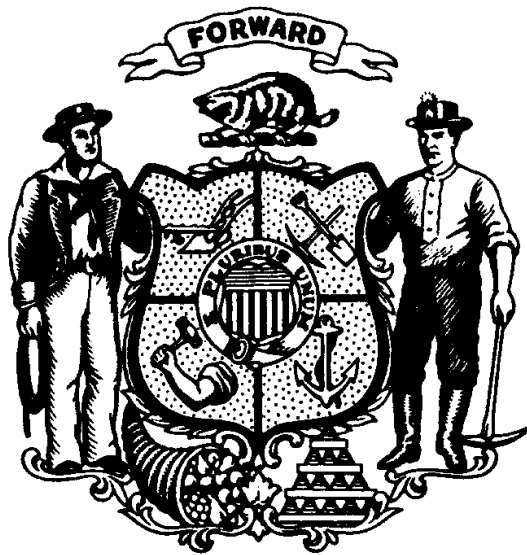


WISCONSIN ADMINISTRATIVE REGISTER

No. 496



Publication Date: April 30, 1997
Effective Date: May 1, 1997

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



State of Wisconsin
Revisor of Statutes Bureau

Suite 800, 131 West Wilson Street, Madison, Wisconsin 53703-3233
 (608) 266-2011 • Fax (608) 267-0410

Bruce Munson
 Revisor of Statutes

Gary L. Poulson
 Deputy Revisor of Statutes
 Assistant Revisor-Administrative Code

November 14, 1996

**The 1995-96 Wisconsin Statutes and Annotations can be ordered now
 in bound volumes or on the WisLaw™ CD-ROM**

Prices for the 1995-96 Wisconsin Statutes and Annotations bound volumes have been established and are detailed below:

<i>Hard Cover</i>	<i>Hard Cover</i>	<i>Soft Cover</i>	<i>Soft Cover</i>
<i>With Postage</i>	<i>Without Postage</i>	<i>With Postage</i>	<i>Without Postage</i>
\$107.00	\$101.00	\$96.00	\$91.00

Send orders to Document Sales, 202 S. Thornton Avenue, P.O. Box 7840, Madison, WI 53707-7840, telephone (608) 266-3358. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% stadium tax. Prepayment is required for all orders. Payments by check, money order, or credit card should be made payable to *WI Department of Administration*. Credit card orders using either VISA or Mastercard may be placed by calling 1-800-DOC-SALE. Local customers may call 264-9419 to place an order. Delivery to Document Sales is scheduled to begin in late January, 1997.

WisLaw™, the computer-searchable CD-ROM, includes both the DOS and Windows version of Folio PreViews search and retrieval software. WisLaw™ includes the **Wisconsin Statutes and Annotations, Supreme Court Rules**, and recent **Opinions of the Attorney General**. In addition, the **Wisconsin Acts**, with hypertext links to the affected statutes, are included on WisLaw™.

WisLaw™ is only available by subscription for 12-month periods; the number of CD's to be released in any 12-month period is indeterminate. WisLaw™ End-user license and subscription order forms are available at Document Sales; CD's will only be delivered upon receipt of a signed license and subscription form and full payment. 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.

TABLE OF CONTENTS

Emergency Rules Now In Effect.**Pages 5 to 11.**

Agriculture, Trade & Consumer Protection:	Rule relating to prohibiting certain gaseous hydrocarbons in mobile air conditioners.
Development (Commerce):	Rules relating to annual allocation of volume cap.
Health & Family Services:	<u>Management, Policy & Budget, Chs. HFS 1--</u> Rules relating to parental liability for the cost of care for children in court-ordered substitute care.
Health & Family Services:	<u>Health, Chs. HSS 110--</u> Rules relating to do-not-resuscitate orders. Rules relating to lead abatement.
Health & Social Services (Workforce Development):	<u>Economic Support, Chs. HSS 200--</u> Rules relating to time limits on benefits for AFDC recipients in the Job Opportunities and Basic Skills (JOBS) program.
Insurance, Commissioner of:	Rule relating to requirements for tax deductible long-term care insurance policies.
Natural Resources:	<u>Fish, Game, etc., Chs. NR 1-</u> Rule relating to notice of receipt of an application to incidentally take an endangered or threatened species. Rules relating to the Lake Superior fisheries management plan.
Public Instruction:	Rules relating to private school choice program.
Transportation:	Rules relating to general transportation aids. Rules relating to occupational driver's license. Rules relating to general transportation aids.
Veterans Affairs:	Rule adopted creating s. VA 2.01 (2) (b) 18., relating to the health care aid grant program. [FIRST APPEARANCE]
Workforce Development:	<u>Economic Support, Chs. DWD 11-59</u> Rules relating to administration of child care funds and required parent copayments. Rules relating to Wisconsin Works program.
Workforce Development:	<u>Labor Standards, Chs. ILHR 270-279</u> Rules relating to the minimum wage.
Workforce Development:	<u>Wage Rates, Chs. ILHR 290-294</u> Rules relating to prevailing wage rates for state or local public works projects.

Scope Statements.**Pages 13 to 16.**

Administration:	Ch. Adm 2 – Relating to the use of state buildings and facilities.
Agriculture, Trade & Consumer Protection:	Ch. ATCP 75 – Relating to retail food establishments.
Natural Resources:	Ch. NR 115 – Relating to Wisconsin's Shoreland Management Program.
Pharmacy Examining Board:	Phar Code – Relating to the minimum standards for pharmacists in preparing sterile pharmaceuticals.

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

Pages 17 to 19.

Chiropractic Examining Board:

Chir Code – Relating to continuing education requirements and approval of continuing education programs for chiropractors.

Dietitians Affiliated Credentialing Board:

SS. DI 2.01, 2.02 and 2.03 – Relating to making changes relating to technical matters such as amending form, style and clarity.

Natural Resources:

Ch. NR 46 – Relating to the administration of the Forest Crop Law and the Managed Forest Law.

Natural Resources:

S. NR 10.12 (11) – Relating to the harvest information program (HIP) for migratory bird hunters.

Natural Resources:

Chs. NR 132 and 182 – Relating to the regulation of metallic mineral mining.

Regulation & Licensing:

Chs. RL 30 to 35 – Relating to credentialing requirements and procedures for private detective agencies, private detectives and private security persons.

Revenue:

SS. Tax 11.001, 11.002, 11.01, 11.35 and 11.97 – Relating to registering for and reporting Wisconsin sales and use taxes.

Revenue:

SS. Tax 11.32 and 11.68 – Relating to the computation and collection of sales taxes from customers, and the sales and use tax treatment of construction contractors.

Revenue:

Ch. ATCP 53 – Relating to changing the agency acronym to reflect the program transfer from the Department of Agriculture, Trade & Consumer Protection to the Department of Commerce, and to increase plat review fees.

Transportation:

Ch. Trans 206 – Relating to the local roads improvement program.

Transportation:

Ch. Trans 276 – Relating to allowing the operation of “double bottoms” (and certain other vehicles) on specified highways.

Transportation:

Ch. Trans 129 – Relating to the waiver of the motorcycle skills test and to required attendance of motorcycle rider courses and motorcycle instruction permit issuance.

Transportation:

Ch. Trans 305 – Relating to standards for vehicle equipment.

Notices of Hearings or of Proposed Rules.

Pages 20 to 36.

Chiropractic Examining Board:

Hearing to consider revision of ch. Chir 5, relating to continuing education requirements.

Educational Approval Board:

Hearing to consider revision of rules relating to approval of schools and programs, setting fees, setting bond requirements, and refund policy.

Health & Family Services:

~~Health, Chs. HSS 110—~~
Hearings to consider ch. HFS 127, relating to licensing of rural medical centers.

Natural Resources:

~~Fish, Game, etc., Chs. NR 1—~~
Hearings to consider creating s. NR 10.12 (11), relating to the harvest information program (HIP) for migratory game bird hunters.

Hearing to consider revision to ch. NR 46, relating to the Forest Crop Law and Managed Forest Law.

Natural Resources:

~~Environmental Protection—General, Chs. NR 100—~~
Hearings to consider revision to chs. NR 132 and 182, relating to metallic mining.

Natural Resources:	<u>Environmental Protection—Air Pollution Control, Chs. NR 400—</u> Hearings to consider revision to chs. NR 400, 406 and 407, relating to the air permit program.
Regulation & Licensing:	Hearing to consider revision of chs. RL 30 to 35, relating to private detectives and private security persons.
Transportation:	Hearing to consider revision of ch. Trans 129 and repeal of ch. Trans 503, relating to motorcycle skills test and rider courses and permit issuance. Proposed amendment to ss. Trans 206.02 (1) and 206.03 (12) (c), relating to the local roads improvement program. Hearing to consider amendment to s. Trans 276.07 (8), (10), (11) and (16), relating to allowing the operation of “double bottoms” on certain specified highways. Hearing to consider revision of ch. Trans 305, relating to standards for vehicle equipment.
Workforce Development:	<u>Economic Support, Chs. DWD 11—</u> Hearings to consider chs. DWD 12 and 56, relating to Wisconsin Works program.

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

Commerce:	(CR 97–26) – Ch. Comm 113
-----------	---------------------------

Page 37.

Administrative Rules Filed with the Revisor of Statutes Bureau.

Employe Trust Funds:	(CR 96–167) – S. ETF 60.53
Labor & Industry Review Commission:	(CR 96–136) – Chs. LIRC 1 to 4
Natural Resources:	(CR 96–132) – S. NR 20.03 (1) (k)
Transportation:	(CR 96–44) – Ch. Trans 139
Transportation:	(CR 96–170) – Ch. Trans 55
Workforce Development:	(CR 96–156) – Chs. HSS 201 and DWD 11
Workforce Development:	(CR 96–7) – SS. ILHR 100.02 and 132.001 and ch. ILHR 140

Page 38.

Rules Published in this Wis. Adm. Register.

Agriculture, Trade & Consumer Protection:	(CR 96–138) – Ch. ATCP 98
Agriculture, Trade & Consumer Protection:	(CR 96–139) – S. ATCP 21.15
Agriculture, Trade & Consumer Protection:	(CR 96–142) – Ch. ATCP 30 Appendix A
Corrections:	(CR 95–206) – SS. DOC 328.20 and 333.16
Corrections:	(CR 96–175) – S. DOC 309.05 (2) (d)
Health & Family Services:	(CR 95–235) – Ch. HSS 90
Insurance, Commissioner of:	(CR 96–153) – S. Ins 18.07 (5)
Natural Resources:	(CR 96–134) – Chs. NR 190 and 191
Natural Resources:	(CR 96–160) – SS. NR 25.02, 25.05, 25.06 and 25.07
Public Defender:	(CR 96–152) – S. PD 6.05 (1) (b)
Public Defender:	(CR 96–161) – S. PD 3.04
Transportation:	(CR 96–62) – Ch. Trans 301
Transportation:	(CR 96–76) – SS. Trans 276.07 and 276.09

Page 39.

Final Regulatory Flexibility Analyses.

1. Agriculture, Trade & Consumer Protection:
2. Agriculture, Trade & Consumer Protection:
3. Agriculture, Trade & Consumer Protection:
4. Corrections:
5. Corrections:
6. Health & Family Services:
7. Insurance, Commissioner of:
8. Natural Resources:
9. Natural Resources:
10. Public Defender:
11. Public Defender:
12. Transportation:
13. Transportation:

Pages 40 to 42.

- (CR 96-138) – Ch. ATCP 98
 (CR 96-139) – S. ATCP 21.15
 (CR 96-142) – Ch. ATCP 30
 (CR 96-175) – Ch. DOC 309
 (CR 95-206) – Ch. DOC 328
 (CR 95-235) – Ch. HSS 90
 (CR 96-153) – S. Ins 18.07 (5) (b)
 (CR 96-134) – Chs. NR 190 and 191
 (CR 96-160) – Ch. NR 25
 (CR 96-152) – S. PD 6.05 (1) (b)
 (CR 96-161) – S. PD 3.04
 (CR 96-62) – Ch. Trans 301
 (CR 96-76) – Ch. Trans 276

Executive Orders.

- Executive Order 307:
 Executive Order 308:
 Executive Order 309:

Page 43.

Relating to the Creation of the Governor's Blue Ribbon Task Force on the Stewardship Program.

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 Brave Personnel of the United States Air Force Reserve's 440th Airlift Wing Who Lost Their Lives in the Line of Duty in Tegucigalpa, Honduras.

Relating to the Creation of the Wisconsin Science Advisory Council on Metallic Mining.

EMERGENCY RULES NOW IN EFFECT

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

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

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

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

EMERGENCY RULES NOW IN EFFECT

Department of Agriculture, Trade & Consumer Protection

Rule adopted creating **s. ATCP 139.04 (11)**, relating to prohibiting the sale of butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons for use as refrigerants in mobile air conditioners.

Finding of Emergency

(1) On June 2, 1995, the United States Environmental Protection Agency ("EPA") issued a final rule prohibiting the use of HC-12a, a hydrocarbon-based refrigerant containing liquified petroleum gas, as a refrigerant in mobile air conditioning systems. EPA prohibited HC-12a, and a predecessor product called OZ-12, because of safety risks associated with the use of flammable refrigerants in mobile air conditioning systems. According to EPA, the manufacturer of HC-12a did not provide adequate information to demonstrate that the product was safe when used in a mobile air conditioning system.

(2) Despite the current EPA rule, at least one company is currently engaged in manufacturing and distributing HC-12a for use in motor vehicle air conditioning systems. The Idaho manufacturer argues that EPA lacks jurisdiction to regulate the sale of its product. HC-12a is currently being offered, distributed or promoted for sale at wholesale and retail outlets in Wisconsin and surrounding states, for use as a refrigerant in mobile air conditioning systems.

(3) HC-12a is a highly flammable substance, as defined by the American Society of Testing and Materials (ASTM) standard test procedure for refrigerants, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), and Underwriter's Laboratories. Use of HC-12a or its predecessor, OZ-12, in mobile air conditioning systems is inconsistent with standards adopted by the Society of Automotive Engineers.

According to those standards, refrigerants used in mobile air conditioning systems must be of low toxicity, and must be nonflammable and nonexplosive.

(4) At least 13 states have enacted legislation prohibiting the sale of refrigerants for use in air conditioning or refrigeration systems unless those refrigerants meet flammability standards or are specifically approved for their intended use.

(5) HC-12a and other hydrocarbon-based refrigerants, when sold for use in motor vehicle air conditioning systems, present a serious risk to public health and safety for the following reasons:

(a) Motor vehicles and mobile air conditioning systems are not currently designed to use flammable refrigerants, or to prevent hazards associated with flammable refrigerants.

(b) Refrigerants in mobile air conditioning systems commonly leak into the engine compartments or passenger compartments of motor vehicles. Leaking refrigerant is often routed into the passenger compartment through the air distribution system from the evaporator. Hydrocarbon refrigerants, which are heavier than air, will tend to accumulate in low or confined spaces of a motor vehicle.

(c) Hydrocarbon refrigerants are flammable at low concentrations.

(d) Internal components of a motor vehicle provide many potential sources of ignition for flammable refrigerants. Passenger activities, such as smoking, may also create ignition sources.

(e) Fires or explosions resulting from the ignition of leaked flammable refrigerant may cause serious bodily injury or death to motor vehicle passengers. Automotive technicians who test for leaks, or who repair or service mobile air conditioning systems containing flammable refrigerants, are also at risk.

(6) The risk to public health and safety cannot be adequately addressed by product packaging or labeling, for the following reasons:

(a) The use of flammable hydrocarbon-based products in motor vehicle air conditioning systems is inherently hazardous. That hazard will not be materially altered by mere packaging or labeling.

(b) Use is hazardous to persons who are not aware that the refrigerant is present, and have not have seen or read the product label.

(c) Current product labels for HC-12a already contain a warning statement that the contents are under pressure and are extremely flammable. Current labels direct use by qualified personnel only, and list other cautions and instructions when recharging a mobile air conditioning system with this substitute refrigerant. These label statements do not materially alter the hazard inherent in the use for which the product is sold. There are few if any protective actions which a customer or technician could take to reduce the hazards associated with use of the product.

(d) There are no automotive industry standards which would allow a flammable refrigerant to be used in a motor vehicle air conditioning system as currently designed.

(7) Flammable hydrocarbon-based refrigerants, including HC-12a, OZ-12, and other refrigerants containing butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons, pose a serious risk to public health and safety when sold for use as refrigerants in mobile air conditioners. At this time, the public health and safety can only be protected by keeping these products out of the channels of commerce in this state. The department can and should adopt rules, under ss. 93.07(1) and 100.37(2), Stats., prohibiting the sale of such products in this state.

(8) Pending the adoption of rules according normal administrative rulemaking procedures, it is necessary to adopt

emergency rules under s. 227.24, Stats., to protect the public health, safety and welfare.

Publication Date: October 9, 1996
Effective Date: October 9, 1996
Expiration Date: March 8, 1997
Hearing Date: November 15, 1996
Extension Through: May 6, 1997

EMERGENCY RULES NOW IN EFFECT

Department of Commerce

Rules adopted repealing **ch. DOD 13** and creating **ch. Comm 113**, relating to the annual allocation of volume cap.

Finding of Emergency

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

Historically, s. 560.032, Stats. has been interpreted by the legislature and certain legislative attorneys to provide that the annual allocation for the distribution of volume cap established by the Department of Commerce expires at the end of each calendar year. To comply with this interpretation, the Department is required to repeal and recreate the volume cap rule annually. The proposed permanent rule for 1997 is in process. Without this emergency rule, which is effective upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes, there will be several months during which Wisconsin will be unable to take advantage of the approximately \$260 million of volume cap and thus risk losing the jobs and investment that would be created by Wisconsin businesses that otherwise would make use of the federally subsidized financing during the period. Adoption of the rule will insure that there is no gap in the use of this development tool and that the jobs and investment occur.

Publication Date: December 30, 1996
Effective Date: December 30, 1996
Expiration Date: May 29, 1997
Hearing Date: February 13, 1997

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Management, Policy and Budget, Chs. HSS 1--)

Rules adopted revising **ch. HSS 1**, relating to parental liability for the cost of care for children in court-ordered substitute care.

Exemption From Finding of Emergency

The Legislature in s. 9126 (2z) of 1993 Wis. Act 481 directed the Department to promulgate rules required under s. 46.25 (9) (b), Stats., by using emergency rulemaking procedures but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency.

Analysis

Section 46.10 (14) (b), Stats., as created by 1993 Wis. Act 481, requires that parental support for court-ordered placements under s. 48.345, Stats., for children found to be in need of protection or

services, and s. 938.183 (2), 938.34, 938.345 or 938.357, Stats., for youth adjudged delinquent, be established according to the child support percentage of income standard in ch. HSS 80, and s. 46.25 (9) (b), Stats., as created by Wis. Act 481, directs the Department to promulgate rules, separate from ch. HSS 80, for the application of the child support percentage of income standard to court-ordered substitute care cases. The rules are to take into account the needs of any person, including dependent children other than the child going into care, whom either parent is legally obligated to support. The rules proposed here will address these and other issues related to support for children in court-ordered substitute care.

This order creates s. HSS 1.07 relating to parental support for children in court-ordered substitute care and makes related changes in ss. HSS 1.01 to 1.06. However, if a child in care has income or assets, the payment requirements will continue to be assessed according to s. HSS 1.03.

Publication Date: January 22, 1997
Effective Date: January 22, 1997
Expiration Date: June 21, 1997
Hearing Date: April 8, 1997

EMERGENCY RULES NOW IN EFFECT (2)

Health and Family Services

(Health, Chs. HSS 110--)

1. Rules adopted creating **ch. HFS 125**, relating to do-not-resuscitate bracelets to alert emergency health care personnel.

Finding of Emergency

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

A recent session law, 1995 Wis. Act 200, created ss. 154.17 to 154.29, Stats., relating to a do-not-resuscitate (DNR) order written by the attending physician for a patient who requests the order and who has a terminal condition or a medical condition such that, if the patient were to suffer cardiac or pulmonary failure, resuscitation would be unsuccessful or would cause significant physical pain or harm that would outweigh the possibility of successful restoration of the function for an indefinite period of time. A DNR order directs emergency health care personnel not to attempt cardiopulmonary resuscitation on a patient for whom the order is issued if that person suffers cardiac or respiratory arrest. Emergency health care personnel will know if there is a do-not-resuscitate order in effect if the patient has on his or her wrist a do-not-resuscitate bracelet which has been affixed there by the patient's attending physician or at the direction of the patient's attending physician. Emergency health care personnel are expected to follow a do-not-resuscitate order unless the patient revokes the order, the bracelet appears to have been tampered with or the patient is known to be pregnant.

Section 154.19 (3) (a), Stats., created by Wis. Act 200, permits the Department to establish procedures by rule for emergency health care personnel to use in following do-not-resuscitate orders, and s. 154.27, Stats., as created by Wis. Act 200, requires the Department to establish by rule a uniform standard for the size, color and design of do-not-resuscitate bracelets.

These rules are being published by emergency order because while most Wis. Act 200 provisions have taken effect and do-not-resuscitate orders are being written for patients who are qualified, as defined in s. 154.17 (4), Stats., as created by Wis. Act 200, and request the order, without rules that establish a uniform standard for the bracelets the Department cannot approve bracelets. If the bracelet is not approved by the Department, it cannot be affixed. In the absence of a DNR bracelet on the wrist of a person in

cardiac or respiratory arrest, emergency health care personnel ordinarily cannot know that a DNR order is in effect, and so must initiate cardiopulmonary resuscitation which in some cases will contravene a DNR order.

The rules establish a uniform standard for do-not-resuscitate bracelets and a procedure for emergency medical technicians (EMTs), first responders and emergency health care facility personnel to use in following do-not-resuscitate orders.

Publication Date: January 18, 1997
Effective Date: January 18, 1997
Expiration Date: June 17, 1997
Hearing Date: March 19, 1997

2. Rules adopted revising **ch. HSS 163**, relating to certification for lead abatement work and lead management activities.

Finding of Emergency

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

Exposure to lead in paint, dust or soil is known to have both short term and long term deleterious effects on the health of children, causing learning disabilities, decreased growth, hyperactivity, impaired hearing, brain damage, and even death. Occupational exposure in adults may result in damage to the kidneys, the central nervous system in general, and the brain in particular, and to the reproductive system. Children born of a parent who has been exposed to excessive levels of lead are more likely to have birth defects, mental retardation or behavioral disorders, or to die during the first year of childhood. About one child in six has a level of lead in the blood that exceeds the threshold for risk.

A residential dwelling or other building built before 1978 may contain lead-based paint. When lead-based paint on surfaces like walls, ceilings, windows, woodwork and floors is broken, sanded or scraped down to dust and chips, the living environment can become a source of poisoning for occupants. When it becomes necessary or desirable to identify lead hazards in order to determine the appropriate method of hazard reduction or abatement, it is imperative that persons who provide lead hazard evaluation and other lead management services be properly trained to ensure accurate lead inspection or assessment results. A reliable lead inspection or assessment is necessary to ensure a lead-safe environment for building occupants, especially children under the age of six, who are the most vulnerable population affected by lead-based paint and lead-contaminated dust and soil.

Under s. 254.176, Stats., the Department may establish training and certification requirements for any person who performs or supervises lead hazard reduction or lead management. In addition, s. 254.178, Stats., states that no person may advertise or conduct a training course in lead hazard reduction or lead management that is represented as qualifying persons for state certification unless the course is accredited by the Department.

In 1993, the Department created ch. HSS 163, Wis. Adm. Code, Certification for Lead Abatement and Other Lead Hazard Reduction, to regulate the training and certification of lead abatement workers and supervisors and to accredit the corresponding training courses. Rules were needed to meet eligibility requirements for a \$6 million federal Department of Housing and Urban Development (HUD) grant to fund lead hazard reduction in low and moderate income housing where children under the age of six are found to have elevated blood lead levels.

Development of rules for training and certifying lead management professionals, including lead inspectors, risk assessors, and project designers, and for accrediting the corresponding courses, was postponed pending publication of U.S. Environmental Protection Agency (EPA) lead training and certification regulations. Initially expected in June 1994, these EPA regulations were not published until August 29, 1996.

Since most lead management work to date has been associated with elevated blood lead level investigations conducted by state and local government employees who received appropriate training from EPA regional lead training centers, the delay in lead management rules was not a health hazard. The creation of the private inspection and risk assessment service market resulting from new federal HUD/EPA disclosure regulations, however, poses a health hazard if that market is not properly regulated.

Joint HUD/EPA regulations (24 CFR Part 35 and 40 CFR Part 745) now require that landlords and home sellers disclose the known presence of lead in rental units and homes being sold. These regulations took effect September 6, 1996, for owners of more than four dwelling units and December 6, 1996, for owners of four or fewer dwelling units. In addition, a home buyer is allowed 10 days to obtain a lead inspection or risk assessment before final obligation to purchase a home under a signed offer to purchase.

Due to the lack of state-accredited training courses and state-certified lead management professionals to fill the demand, lead management services are being offered by persons who may not possess appropriate education, experience or training. Unqualified lead inspectors and risk assessors can have an adverse effect on the state's residential marketplace. Based on an inaccurate inspection, a mortgage company could deny a mortgage loan, a home sale could fall through, or a property owner could expend large sums of money for unnecessary lead abatement actions. Even worse, the health of children may be jeopardized by erroneous findings that a lead hazard is not present, which can result in improper handling of lead-based paint materials.

HUD recently announced it was awarding the State of Wisconsin and the City of Milwaukee additional lead hazard reduction grants totaling over \$6.5 million. The grants require that money be disbursed only for lead-based paint activities performed by state-certified persons who have completed state-accredited lead training courses. Since Wisconsin does not yet certify lead inspectors, risk assessors, or project designers, grant mandates cannot be fully met, which could lead to funding difficulties and delay vital abatement activities.

This emergency order amends ch. HSS 163 to require accreditation of lead inspector, risk assessor and project designer training courses and, beginning April 19, 1997, certification of lead inspectors, risk assessors and project designers. In addition, references to "lead abatement or HUD-funded lead hazard reduction" have been changed to add lead management services. The order also adds accreditation and certification fees.

These rule changes are being published by emergency order to ensure, through Department certification and accreditation, that persons providing lead management services, including lead inspections, risk assessments and project design, are appropriately trained and qualified.

Publishing these rules as emergency rules also enables the State of Wisconsin and the City of Milwaukee to implement the federal grants which require that only trained and certified lead professionals perform lead hazard evaluations and lead hazard reduction and abatement.

Publication Date: February 18, 1997
Effective Date: February 18, 1997
Expiration Date: July 18, 1997
Hearing Date: March 18, 1997

EMERGENCY RULES NOW IN EFFECT

Health & Social Services

(Economic Support, Chs. HSS 200-)

Rules adopted creating s. HSS 201.135, relating to time limits on benefits for AFDC recipients participating in the JOBS program.

Exemption From Finding of Emergency

The Legislature in s. 275 (3) of 1995 Wis. Act 289 directed the Department to promulgate the rule required under s. 49.145 (2) (n), stats., as created by Wis. Act 289, by using emergency rulemaking procedures but without having to make a finding of emergency. The rule will take effect on October 1, 1996.

Analysis Prepared by the Department of Workforce Development

Under the Aid to Families with Dependent Children (AFDC) program an individual may apply and be determined eligible for AFDC benefits with no regard to whether the individual has received benefits in the past or the number of months an individual may have already received benefits. Wisconsin Works (W-2), the replacement program for AFDC, as created by 1995 Wis. Act 289, includes a provision limiting the amount of time an individual may receive AFDC benefits, W-2 employment position benefits or a combination thereof. Under s. 49.145 (2) (n), Stats., as created by 1995 Wis. Act 289, the total number of months in which an adult has actively participated in the Job Opportunities and Basic Skills (JOBS) program under s. 49.193, Stats., or has participated in a W-2 employment position or both may not exceed 60 months. The months need not be consecutive. Extensions to the 60 month time limit may be granted only in unusual circumstances in accordance with rules promulgated by the Department. Section 49.141 (2) (b), Stats., as created by 1995 Wis. Act 289, provides that if a federal waiver is granted or federal legislation is enacted, the Department may begin to implement the W-2 program no sooner than July 1, 1996. Participation in JOBS under s. 49.193, Stats., begins to count toward the 60-month limit beginning on October 1, 1996.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) was signed into law by President Clinton on August 22, 1996. It creates the Temporary Assistance for Needy Families (TANF) program which proves that a state may not use any part of the TANF grant to provide assistance to a family that includes an adult who has received assistance for 60 months, whether consecutive or not, under a state program funded by the TANF block grant. Wisconsin submitted its TANF Block Grant State Plan to the Federal Administration for Children and Families on August 22, 1996. The Department will implement time limits October 1, 1996, for AFDC recipients who are actively participating in the Job Opportunities and Basic Skills (JOBS) Training Program. Implementation of the time limits is part of the continuing transition from AFDC to the W-2 program. W-2 will be implemented statewide in September 1997.

Time limits reinforce the idea that AFDC is a temporary support for families, rather than a long-term source of income. Wisconsin's Work Not Welfare (WNW) demonstration project which is operating in Fond du Lac and Pierce Counties, has shown that time limits create a sense of urgency for families to actively seek alternatives to AFDC. Time limits stress mutual responsibility: government provides support and services designed to promote employment and participants who are able must prepare for and enter employment.

The rule defines the term "actively participating" in the JOBS program and includes criteria county or tribal economic support agency would use to determine whether an extension of the 60

month time limit should be granted. The Department retains the right to review an economic support agency's decisions related to extensions.

Publication Date: September 30, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: November 19, 1996
Extension Through: April 28, 1997

EMERGENCY RULES NOW IN EFFECT

Commissioner of Insurance

A rule adopted creating s. Ins 3.46 (18), relating to the requirements for tax deductible long term care insurance.

Finding of Emergency

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

The recently passed federal "Kassebaum-Kennedy" law, P.L. 104-191, set certain standards for allowing favorable tax treatment of long term care insurance policies. The existing Wisconsin administrative rules pertaining to long term care do not meet these criteria and require changes. These changes will allow tax deductible long term care insurance policies to be sold to Wisconsin residents as soon as possible.

Publication Date: December 20, 1996
Effective Date: January 1, 1997
Expiration Date: May 31, 1997
Hearing Date: February 19, 1997

EMERGENCY RULES NOW IN EFFECT (2)

Natural Resources

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

1. Rule adopted creating s. NR 27.07, relating to notice of receipt of an application to incidentally take an endangered or threatened species.

Exemption From Finding of Emergency

1995 Wis. Act 296 establishes authority in the department of natural resources to consider applications for and issue permits authorizing the incidental take of an endangered or threatened species while a person is engaged in an otherwise lawful activity. Section 29.415 (6m) (e), Stats., as created, requires the department to establish by administrative rule a list of organizations, including nonprofit conservation groups, that have a professional, scientific or academic interest in endangered species or in threatened species. That provision further provides that the department then give notification of proposed takings under that subsection of the statutes to those organizations and establish a procedure for receipt of public comment on the proposed taking.

The proposed rule lists a number of organizations the department is familiar with as being interested in endangered and threatened species; a notification procedure to be used to notify them, and others, of a proposed taking; and a public comment procedure to be used for consideration of public comments. The notification

procedure is not limited to mail distribution, but is broad to allow other forms of notification, such as electronic mail.

Publication Date: November 18, 1996
Effective Date: November 18, 1996
Expiration Date: See section 12m, 1996 Wis. Act 296
Hearing Date: January 14, 1997

2. Rules adopted revising **chs. NR 25** and **26**, relating to the Lake Superior fisheries management plan.

Finding of Emergency

The waters of Lake Superior were not part of the extensive off-reservation treaty rights litigation known as the Voigt case. The parties stipulated that the Lake Superior rights would be dealt with, to the extent possible, by agreement rather than litigation. This rule represents the implementation of the most recent agreement between the State and the red Cliff and Bad River Bands. In order to comply with the terms of the agreement, the State must change its quotas and commercial fishing regulations at the earliest possible date. In accordance with the agreement, the Bands have already made these changes. Failure of the State to do so will not only deprive state fishers of the increased harvest opportunities available under the agreement, but could also jeopardize the agreement, putting the entire Lake Superior fishery at risk of litigation.

Publication Date: November 18, 1996
Effective Date: November 28, 1996
Expiration Date: April 27, 1997
Hearing Date: December 17, 1996

EMERGENCY RULES NOW IN EFFECT

Public Instruction

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

Finding of Emergency

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

In his ruling, effective August 15, 1996, Judge Higginbotham prohibited the expansion of the Milwaukee private school choice program to religious private schools provided for under 1995 Wis. Act 27. On January 15, 1997, Judge Higginbotham determined that all other stipulations under the Act are allowed to continue until June 1997. At that time all of the provisions under the Act are suspended and the program reverts to previous statutory language.

Since the provisions under the Act (except for the participation of religious schools) are to be implemented for the remainder of the 1996-97 school year, rules must be in place as soon as possible in order to establish uniform financial accounting standards and financial audit requirements required of the participating private schools as provided for under the Act. The requirements established under this rule have been discussed with the private schools and initial indications reflect an acceptance of these provisions.

Since the private school choice program has yet to be reviewed by the Court of Appeals and possibly the Supreme Court, only emergency rules will be promulgated at this time in order to implement the provisions under the Act through the end of the

1996-97 school year. Permanent rules will be developed when judicial review is finalized.

Publication Date: February 19, 1997
Effective Date: February 19, 1997
Expiration Date: July 19, 1997
Hearing Date: April 1, 1997

EMERGENCY RULES NOW IN EFFECT (3)

Transportation

1. Rules adopted revising **ch. Trans 76**, relating to general transportation aids.

Finding of Emergency

The Department of Transportation finds that an emergency exists for the following reason: In *Schoolway Transp. Co. v. Division of Motor Vehicles*, 72 Wis. 2d 223 (1976), a changed interpretation of a statute was held to be a rule. The interpretation is being administered as law and the Department will rely upon it to make aids payments. This interpretation is in direct contrast to the manner in which the statute was previously administered by the Department. Therefore, the Department must promulgate the changed interpretation as a rule or it is invalid. In order to make the change in time to implement it for aids estimates and payment purposes, the Department must promulgate this interpretation as an emergency rule.

Publication Date: October 25, 1996
Effective Date: October 25, 1996
Expiration Date: March 24, 1997
Hearing Date: December 16, 1996
Extension Through: May 22, 1997

2. Rules adopted revising **ch. Trans 117**, relating to occupational driver's license.

Finding of Emergency

1995 Wis. Act 269 rewrote state law regarding the issuance of occupational licenses. That Act goes into effect on November 1, 1996. Absent this emergency rule making, the Department will lack rule authority necessary to administer the new law. This emergency rule will permit the Department to issue occupational licenses until the permanent rule establishing procedures for issuing occupational licenses are in place. Therefore, the Department of Transportation finds that an emergency exists and that the rule is necessary.

Publication Date: November 1, 1996
Effective Date: November 1, 1996
Expiration Date: March 31, 1997
Hearing Date: November 26, 1996
Extension Through: May 29, 1997

3. Rules were adopted amending an emergency rule revising **ch. Trans 76**, Wis. Adm. Code, relating to uniform cost reporting procedure during calendar year 1996 for general transportation aids to be paid in calendar year 1997.

Finding of Emergency

The Department of Transportation finds that an emergency exists for the following reason: In *Schoolway Transp. Co. v. Division of Motor Vehicles*, 72 Wis. 2d 223 (1976), a changed interpretation of a statute was held to be a rule. The interpretation is being administered as law and the Department will rely upon it to make aids payments. This interpretation is in direct contrast to the manner

in which the statute was previously administered by the Department. Therefore, the Department must promulgate the changed interpretation as a rule or it is invalid. In order to make the change in time to implement it for aids estimates and payment purposes, and to limit its application to late filing events in 1996 only, the Department must promulgate this as an emergency rule.

Publication Date: March 25, 1997
Effective Date: March 25, 1997
Expiration Date: May 22, 1997
Hearing Date: May 8, 1997

EMERGENCY RULES NOW IN EFFECT

Veterans Affairs

Rule adopted creating s. VA 2.01 (2)(b)18., relating to the health care aid grant program.

Finding of Emergency

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

The department provides payment to dental providers for dentures under the health care aid grant program for needy veterans and their dependents. Under s. VA 2.01 (2)(b)2., Wis. Adm. Code, the Department is restricted to a \$50,000 cap per fiscal year for the payment of claims for dentures. As the result of a significant increase in the use of the health care aid grant program for dentures, the Department has received requests for approval of treatment plans involving dentures which would result in expenditures in excess of the fiscal year cap.

The treatment plans typically encompass the removal of teeth with a resulting need for dentures. Failure to promptly provide denture could have a negative impact upon an individual's health. It is therefore necessary to assure that the Department has sufficient authority to pay for the dentures included in treatment plans already received during this fiscal year. The emergency rule cap will accomplish this goal.

Publication Date: April 7, 1997
Effective Date: April 7, 1997
Expiration Date: September 5, 1997
Hearing Date: April 18, 1997

EMERGENCY RULES NOW IN EFFECT (2)

Workforce Development

(Economic Support, Chs. DWD 11-59)

1. Rules adopted renumbering subch. VII of ch. HSS 55 and creating s. DWD 56.08, relating to the administration of child care funds and required parent copayments.

Finding of Emergency

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

The Governor has directed the Child Care Working Group to analyze the impact that the federal legislation will have on child care in Wisconsin and on the Wisconsin Works program, and to analyze

and identify effective methods and funding sources to increase child care options and expand the availability of affordable child care. The Governor has approved a new schedule for child care copayments and this rule places the new schedule into operation. The use of an emergency rule allows the implementation of the new schedule immediately.

Publication Date: December 30, 1996
Effective Date: December 30, 1996
Expiration Date: May 29, 1997

2. Rules were adopted creating ch. DWD 12, relating to Wisconsin Works program.

Exemption From Finding of Emergency

The Legislature in s.275(3) of 1995 Wis. Act 289 permitted the Department to promulgate the rules required under ss. 49.143 to 49.157, Stats., as created by Act 289, by using emergency rulemaking procedures but without having to make a finding of emergency.

Analysis Prepared by the Department of Workforce Development

Wisconsin Works (W-2), the replacement program for the Aid to Families with Dependent Children (AFDC) program, is based squarely on work. Rather than offering welfare checks to those who do not work, as AFDC does currently, W-2 offers participants the opportunity to move into the work world and become self-sufficient through employment.

These rules provide the administrative framework under which the Department will implement a W-2 pilot program in two counties, Fond du Lac and Pierce, effective March 1, 1997. As the pilot counties for the Work Not Welfare program which began January 1, 1995, these two counties have had experience in implementing major welfare reform efforts. The W-2 program includes work opportunities, job access loans, education and training activities to enhance employability, intensive case management, child care and child support enforcement and other employment supports such as transportation assistance and access to health care services under the Medical Assistance program.

Wisconsin Works (W-2) was authorized through enactment of 1995 Wis. Act 289 which Governor Thompson signed into law on April 25, 1996. Under s.49.141(2)(b), Stats., if a federal waiver is granted or federal legislation is enacted, the Department of Workforce Development could begin to implement W-2 no sooner than July 1, 1996 and must fully implement the W-2 program statewide in September 1997. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) was signed into law on August 22, 1996. It creates the Temporary Assistance for Needy Families (TANF) program which ends the entitlement program under Title IV-A of the Social Security Act and creates a block grant program under which states receive monies to provide cash and other benefits to help needy families support their children while at the same time requiring families to participate in work program activities which will help them become self-sufficient. In general, a state may not use any part of the TANF grant to provide assistance to a family for more than 60 months.

States must ensure, under section 114 of P.L. 104-193, that families who meet the AFDC eligibility requirements in effect on July 16, 1996, have access to Medical Assistance. Wisconsin has not yet obtained the necessary waivers or federal legislation that would allow the implementation of the W-2 health plan. Therefore, W-2 participants who meet the July 16, 1996, AFDC eligibility requirements or are eligible under s.49.46 or 49.47, Stats., and the implementing administrative rules, Chs. HFS 101-108, administered by the Department of Health and Family Services, may apply and be determined eligible for Medical Assistance.

Under W-2, there will be a place for everyone who is willing to work to their ability. The program is available to parents with minor children, low assets and low income who need assistance in becoming self-sufficient through employment. The W-2 program

provides cash benefits only for those individuals who participate in W-2 employment and training activities. W-2 agencies have the option, for participants in a community service job or a transitional placement, to aggregate education and training hours for approved programs to allow an individual to participate in education and training activities for more than 10 or 12 hours per week within the first few months of participation. Each eligible W-2 applicant will meet with a Financial and Employment Planner (FEP) who will help the individual develop a self-sufficiency plan and determine their place on the W-2 employment ladder. The ladder consists of four levels of employment options, in order of preference: unsubsidized employment; subsidized employment through a trial job for those participants who need minimal assistance but where unsubsidized employment is not available; a community service job for those participants who need to practice work habits and skills necessary to move into unsubsidized employment; and transitional placement for those unable to perform independent, self-sustaining work. Individuals placed in a trial job will receive wages from an employer. Individuals placed in a community service job will receive a monthly benefit of \$555 and individuals placed in a transitional placement will receive a monthly benefit of \$518. W-2 participants are limited to 24 months in a single subsidized employment position category. Extensions may be granted on a limited basis when local labor market conditions preclude opportunities or when the participant has significant barriers which prevent him or her from obtaining unsubsidized employment. Child care is available for those individuals who have children under the age of 13 and need child care in order to work or participate in a W-2 employment position. The W-2 program will be administered by contracted agencies which may include counties, tribal agencies and private agencies in geographic areas determined by the Department.

These are the rules for implementation of the Wisconsin Works program. The rules include eligibility requirements for those individuals applying for a W-2 employment position or child care, time-limited benefits for participants in W-2 employment positions, good cause for failure or refusal to participate in W-2 employment positions or other required employment and training activities, how sanctions are applied for failure to meet the W-2 employment position participation requirements, and school attendance requirements under the Learnfare program for the children of W-2 employment position participants.

Publication Date: March 1, 1997
Effective Date: March 1, 1997
Expiration Date: July 29, 1997
Hearing Dates: May 21 & 28, 1997
 [See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Labor Standards, Chs. ILHR 270-279)

Rules adopted revising **ch. ILHR 272**, relating to the minimum wage.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that a rule is necessary for the immediate

preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

The minimum wage set by federal law will be raised to \$4.75 per hour effective October 1, 1996. The federal minimum wage covers many but not all of the employers and employees in the state, and it is not always easy for a particular employer to know if it is covered by state or federal law. If the state did not act quickly to adjust its minimum wage rules in response to the change in federal law, many employers and employees would be subjected to confusion and uncertainty in the calculation and payment of wages.

Publication Date: August 28, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: December 17, 1996
Extension Through: April 28, 1997

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Wage Rates, Chs. ILHR 290-294)

Rules adopted revising **ch. ILHR 290**, relating to the determination of prevailing wage rates for workers employed on state or local public works projects.

Finding of Emergency

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

1995 Wis. Act 213 made a number of major changes to the laws which require the department to determine prevailing wage rates for state and local public works projects. In place of a case-by-case investigations, the Department of Workforce Development is required to conduct an annual survey of employers and issue prevailing wage rate determinations for all trades or occupations in all areas of the state throughout the year based on the survey data. The statutes also provide that members of the public, employers, local governmental units and state agencies may ask the DWD to review prevailing wage rate determinations under a number of specified circumstances.

This emergency rule establishes deadline and appeal criteria for the process that will be used to compile the 1996 survey results and consider requests for review. The use of an emergency rule for this purpose will benefit the public, employers local governments units and state agencies by giving them clear information as to the procedures to be followed, and it will also help the DWD to meet the statutory requirement that prevailing wage rates be compiled and issued promptly.

Publication Date: December 11, 1996
Effective Date: December 11, 1996
Expiration Date: May 10, 1997
Hearing Date: March 31, 1997

STATEMENTS OF SCOPE OF PROPOSED RULES

Administration

Subject:

Ch. Adm 2 – Relating to the use of state buildings and facilities.

Description of policy issues:

Statement of the objective of the proposed rule:

The Department proposes to repeal and recreate ch. Adm 2, in order to update rule language and to incorporate legislative changes contained in 1995 Wis. Act 174, concerning the use, care and preservation of property under the Department's control.

Description of policy issues:

The Department of Administration is designated as the managing authority of the several state office buildings and properties leased or rented by the State, as provided in s. 16.84 (1), Stats.

The proposed rule will:

- Define the managing authority of state office buildings and properties leased or rented by the State;
- Designate state buildings and facilities for the purpose of use management under the rules;
- Create provision regarding use of state buildings and facilities for public meetings and events;
- Create provisions regarding personal and commercial solicitation and distribution of handbills, literature or promotional materials within or on the grounds of state office buildings;
- Create provisions regarding exterior and interior displays and decorations in state office buildings and facilities;
- Create provisions relating to equipment and hazards in buildings and facilities managed or leased by the Department;
- Create provisions regarding leasehold improvements, furniture and furnishings in buildings and facilities managed or leased by the Department;
- Create provisions for concessions in buildings and facilities managed or leased by the Department;
- Create rules of conduct for property leased or managed by the Department, pursuant to s. 16.846 (1) (a), Stats.;
- Create a provision relating to use of state buildings and facilities during closed periods;
- Create a provision regarding access devices for state office buildings.

Statement of the statutory authority for the rule:

Sections 16.004 (1), 16.846 (1) (a) and 227.11, Stats.

Staff time required:

The Department estimates that state employees will spend 40 hours to develop this rule.

Agriculture, Trade & Consumer Protection

Subject:

Ch. ATCP 75 – Relating to retail food establishments.

Description of policy issues:

Preliminary objectives:

Working with the Department of Health and Family Services (DHFS), develop common rules and uniform standards for retail food establishments regulated by DATCP and restaurants regulated by DHFS. Incorporate the current scientific standards contained in the 1997 FDA Food Code into both agencies' regulations. Utilize these

common standards to develop consistent rules and regulatory policy between the two agencies.

Preliminary policy analysis:

Currently, retail food establishments and restaurants are inspected by two separate agencies. Because of changes in how retail food establishments and restaurants do business, there are some areas of overlapping responsibility. A business operating both a grocery store and a restaurant at the same location may be subject to duplicate licensing and inspection.

Common rules and uniform standards will:

- ✦ Reduce confusion for restaurant and retail food establishment operators;
- ✦ Reduce duplication of licensing and inspection of these establishments; and
- ✦ Reduce costs to the industry and the state.

Policy alternatives:

☉ Update each agency's rules independently. It is likely that this alternative would not provide fully uniform rules and standards for retail food establishments and restaurants.

☉ Provide licensing and inspection services for retail food establishments and restaurants in one agency utilizing one regulation. The retail food establishment and restaurant industries have indicated that this solution is not satisfactory to them.

☉ Develop a single state retail food establishment/restaurant regulation. This does not appear to be feasible due to statutory constraints on each agency's rulemaking authority.

☉ Cease regulation of retail food establishments and restaurants at the state level. This would eliminate food safety protection in many areas of the state where there is no effective regulation by local health agencies.

Statutory authority:

The Department proposes to develop rules regulating retail food establishments under the authority of ss. 93.07 (1), 97.09 (4) and 97.30 (5), Stats. The rule would interpret s. 97.30 (5), Stats.

Staff time required:

The Department estimates that it will use approximately 0.5 FTE staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings and communicating with affected persons and groups. The Department will assign existing staff to develop this rule.

Corrections

Subject:

Chapter DOC 346 (Secure Detention for Juveniles)—Relating to the elimination of outdated provisions; clarification; and updating citations to statutes for accuracy.

Description of policy issues:

Description of the objectives of the rule:

The objective of the rule is to:

- ✦ Bring the rules into conformity with ch. 938, Stats., Juvenile Justice Code;
- ✦ Bring the rules into conformity with the federal Juvenile Justice and Delinquency Prevention Act;
- ✦ Clarify the requirements for juvenile portions of county jails; and
- ✦ Clarify the observation requirements under s. DOC 346.28.

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:

Chapter DOC 346 establishes minimum standards for juvenile detention facilities and juvenile portions of county jail consistent with the federal Juvenile Justice and Delinquency Act. The rule will:

- Correct statutory references to ch. 938, Stats.;
- Define the term “juvenile” and clarify age and eligibility requirements for detention in secure detention facilities;
- Update references to the current federal act and regulations;
- Clarify the use of a juvenile portion of a county jail (s. DOC 346.03 (10));
- Make programmatic distinctions between secure detention facilities and juvenile portions of a county jail; and
- Clarify the requirements for the observation of juveniles under s. DOC 346.28.

The alternatives to the proposed policy would result in not updating and clarifying existing rule provisions.

Statutory authority:

SS. 301.36 and 301.37, Stats.

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

The Department estimates that it will take approximately 80 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

Corrections

Subject:

Chapter DOC 348 (Huber Facilities)—Relating to Huber facilities and work camps.

Description of policy issues:

Description of the objectives of the rule:

The objective of the rule is to amend:

- ◆ Physical environment requirements to be consistent with industry standards for equipment, materials, and space allocation;
- ◆ Fire safety requirements to be consistent with Department of Commerce (formerly, Department of Labor, Industry and Human Relations) regulations; and
- ◆ Provisions relating to medical records, health screening, and diet.

In addition, the objective of the rule is to create:

- * Variance language similar to s. DOC 350.16;
- * Requirements for written policies and procedures similar to s. DOC 350.17; and
- * Minimum standards for work camps in accordance with s. 303.10, Stats.

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:

Chapter DOC 348 sets forth with specificity the physical environment and space allocation requirements for jails and houses of correction.

The rule will:

- Revise physical requirements by identifying equipment and materials commensurate with inmate security risk, industry standards, and level of supervision;
- Establish a minimum square footage requirement for day room, multi-purpose, and sleeping space per occupant;
- Establish the maximum length of stay in receiving cells and holding rooms;
- Incorporate Department of Commerce requirements for natural lighting and door and lock controls.

Chapter DOC 348 contains minimum fire safety standards.

The rule will:

- Remove the requirement for self contained breathing apparatus;
- Require jails to develop fire protection and evacuation policies and procedures in conjunction with local fire departments;
- Make fire inspection requirements consistent with Department of Commerce rules; and
- Require documentation of inspection requests, completed inspections, and staff training on facility fire protection and evacuation policies and procedures and equipment.

Chapter DOC 348 contains policies and procedures and minimum standards relating to health care.

The rule will:

- ✓ Establish requirements for health care space within the secure perimeter of new or substantially remodeled jail or house of correction;
- ✓ Require the development of policies and procedures for the housing of inmates who have contagious diseases, including physical plant requirements which meet Department of Commerce and federal OSHA standards;
- ✓ Require the development of policies and procedures for the laundering of inmate clothing, including underclothing; and
- ✓ Clarify the definition of health care and medical care for inmates.

Currently, ch. DOC 348 does not contain a provision for variance. The rule will provide for variance language which is similar to the provision under s. DOC 350.16.

Currently, ch. DOC 348 does not contain requirements for written policies and procedures. The rule will require written policies and procedures similar to the requirement under s. DOC 350.17.

1995 Wis. Act 281 created the concept of work camps. The rule will define and establish minimum standards for this type of facility.

The alternatives to the proposed policy would result in not clarifying or updating existing rule provisions.

Statutory authority for the rule:

SS. 301.36, 301.37, and 303.10, Stats.

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

The Department estimates that it will take approximately 100 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

Corrections

Subject:

Chapter DOC 350 (Jails)—Relating to requirements concerning physical environment, fire safety, health care, holding rooms in locations other than within the secure perimeter of the jail, sanitation and hygiene, and security.

Description of policy issues:

Description of the objectives of the rule:

The objective of the rule is to amend:

- ◇ Physical environment requirements to make them consistent with industry standards for space allocation, equipment, and materials;
- ◇ Fire safety requirements to make them consistent with Department of Commerce (formerly, Department of Labor, Industry and Human Relations) regulations;
- ◇ Provisions relating to medical records, health screening, and diet;
- ◇ Holding room requirements to include rooms operated by the sheriff in locations other than within the secure perimeter of the jail;
- ◇ Sanitation requirements; and
- ◇ Security requirements, specifically:
 - Observation of inmates;

- ⊙ Control of jail keys and locking devices.

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:

Chapter DOC 350 sets forth with specificity the physical environment and space allocation requirements for jails and houses of correction.

The rule will:

- ⊞ Revise physical requirements by identifying equipment and materials commensurate with inmate security risk, industry standards, and level of supervision;

- ⊞ Establish a minimum square footage requirement for day room, multi-purpose, and sleeping space per occupant;

- ⊞ Establish the maximum length of stay in receiving cells and holding rooms;

- ⊞ Incorporate Department of Commerce requirements for natural lighting and door and lock controls.

Chapter DOC 350 contains minimum fire safety standards.

The rule will:

- Remove the requirement for self contained breathing apparatus;

- Require jails to develop fire protection and evacuation policies and procedures in conjunction with local fire departments;

- Make fire inspection requirements consistent with Department of Commerce rules; and

- Require documentation of inspection requests, completed inspections, and staff training on facility fire protection and evacuation policies and procedures and equipment.

Chapter DOC 350 contains policies and procedures and minimum standards relating to health care.

The rule will:

- ↔ Establish requirements for health care space within the secure perimeter of new or substantially remodeled jail or house of correction;

- ↔ Require the development of policies and procedures for the housing of inmates who have contagious diseases, including physical plant requirements which meet Department of Commerce and federal OSHA standards;

- ↔ Require the development of policies and procedures for the laundering of inmate clothing, including underclothing; and

- ↔ Clarify the definition of health care and medical care for inmates.

Chapter DOC 350 establishes standards for holding rooms within the secure perimeter of a jail or house of correction. The rule will establish minimum standards for ch. DOC 350. The rule contains policies and procedures and minimum standards for holding rooms operated by the sheriff in locations other than within the secure perimeter.

Chapter DOC 350 contains minimum standards for sanitation and hygiene and incorporates ch. HSS 190 by reference.

The rule will:

→ Remove the reference to ch. HSS 190; and

→ Establish additional specific standards consistent with ch. HSS 190.

Chapter DOC 350 contains requirements for physical observation of inmates and control of keys and locking devices.

The rule will:

- Establish time intervals for the physical observation of inmates; and

- Require the development of policies and procedures relating to the control of keys and other locking devices.

The alternatives to the proposed policy would result in not updating and clarifying existing rule provisions.

Statutory authority for the rule:

SS. 301.36, 301.37, Stats.

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

The Department estimates that it will take approximately 100 hours to develop this rule, including drafting the rule and complying with rulemaking requirements.

Natural Resources

Subject:

Ch. NR 115 – Relating to Wisconsin's Shoreland Management Program.

Description of policy issues:

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

The Bureau of Watershed Management's Shoreland Management Program staff are completing a thorough program review, including:

- ▣ Review of existing shoreland zoning program standards and their implementation;

- ▣ Review of the scientific literature and compilation of examples of innovative standards for water quality, habitat, and scenic beauty protection; and

- ▣ Review of current waterfront development trends and their impacts.

Groups likely to be impacted by these issues include:

- a) Shoreland property owners who must comply with shoreland zoning requirements;

- b) Zoning administrators and other county officials who implement state minimum shoreland zoning requirements in their local zoning ordinances;

- c) Realtors, contractors, and others who provide land alteration and building services to shoreland property owners; and

- d) Members of the public who recreate on or near navigable waters, and who have a strong interest in natural resource protection.

This action represents a change from past policy.

Explain the facts that necessitate the proposed change:

With the exception of the wetland protection provisions added in the early-1980's, the basic county shoreland zoning standards contained in ch. NR 115, the state administrative rule for Wisconsin's Shoreland Management Program, have essentially remained the same since the program's origin in the late 1960's, while the natural, administrative, and political landscapes have changed greatly. The program evaluation report will include regulatory and nonregulatory options for improved protection of the upland buffer adjacent to wetlands, lakes and streams.

Options will include:

- ⚡ Technical assistance;
- ⚡ Information/education;
- ⚡ Financial and other incentives;
- ⚡ Funding and staffing; and
- ⚡ Administrative rule changes.

For the most part, the ch. NR 115 change options under consideration are within the current jurisdiction of the program. The final project report will identify possible changes to shoreland zoning requirements in order to:

- ❖ Increase clarity of the rule;
- ❖ Provide regulatory relief to applicants and administrative relief to zoning administrators; and
- ❖ Increase the likelihood of meeting legislative goals for the program.

Some items under consideration would require a change in statute because they would add program jurisdiction (for example, the addition of undeveloped incorporated areas for shoreland general development standards). Most changes under consideration would

change current standards or add other standards to the same regulated group (property owners within the shoreland zone of navigable waters in Wisconsin).

Statement of the statutory authority for the rule:

Section 59.692, Stats. (formerly, s. 59.971, Stats.)

Anticipated time commitment:

Unknown at this time.

Pharmacy Examining Board

Subject:

Phar Code – Relating to the minimum standards for pharmacists in preparing sterile pharmaceuticals.

Description of policy issues:

Objective of the rule:

The purpose of the rule is to create standards for:

- 1) Pharmaceutical care;
- 2) The preparation, labeling and distribution of sterile pharmaceutical drugs by pharmacies, either pursuant to or in anticipation of a prescription drug order; and
- 3) Product quality and characteristics.

The standards are intended to apply to all sterile pharmaceutical drug products, notwithstanding the location of the patient (e.g., home, hospital, nursing home, hospice, physician's office).

Policy analysis:

One aspect of the practice of pharmacy is "compounding," which is defined in s. 450.01 (3), Stats., to mean to "mix, combine or put together various ingredients or drugs for the purpose of dispensing." Compounding involves the creation of a drug product by a pharmacist through combining various drugs or other ingredients; as opposed to dispensing prefabricated drugs (e.g., tablets, liquids) received from drug manufacturers.

At this time, the Board does not have any rules respecting specific minimal standards for the preparation of sterile drug products by pharmacists.

However, in compounding sterile drug products, it is essential to the health, safety and welfare of the public that the pharmaceuticals be prepared in a physical environment that is suitable for the aseptic preparation of sterile drug products. Appropriate records need to be maintained regarding the preparation of sterile pharmaceuticals (e.g., documentation of refrigerator and freezer temperatures, certification of laminar-airflow hoods). Furthermore, pharmacies must maintain a documented, ongoing quality assurance control program to monitor personnel performance, equipment, and facilities to assure the consistent preparation of quality sterile products for patient use.

Various alternative approaches are available in creating rules regarding the preparation of sterile products. For example, the National Association of Boards of Pharmacy (NABP) has formulated "Model Rules for Sterile Pharmaceutical," and the American Society of Hospital Pharmacists (ASH) has issued a "Technical Assistance Bulletin on Quality Assurance for Pharmacy-Prepared Sterile Products." Additionally, the United States Pharmacopoeia (USP) has reference materials regarding the preparation of sterile products. The best alternative is to adopt a combination of the various approaches taken by these authorities in order to assure quality preparation of sterile products, without overburdening pharmacies with unnecessary or over-regulatory requirements.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 450.02 (3) (e), Stats.

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

15 hours.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

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

Chiropractic Examining Board

Rule Submittal Date

On April 15, 1997, the Chiropractic Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

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

The proposed rule-making order relates to continuing education requirements and approval of continuing education programs for chiropractors.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for May 22, 1997.

Contact Person

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

Dietitians Affiliated Credentialing Board

Rule Submittal Date

On April 11, 1997, the Dietitians Affiliated Credentialing Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

In this proposed rule-making order, the Dietitians Affiliated Credentialing Board is making changes relating to technical matters such as amending form, style and clarity. Section DI 2.02, relating to applications for certification without examination on or before July 31, 1996, and s. DI 2.03, relating to applications for certification without examination by persons registered as a dietitian on or before July 31, 1996, are being repealed as the "grandfathering provision" has passed. Also, the Note after s. DI 2.01 (6) is being amended to address the Americans With Disabilities Act.

Agency Procedure for Promulgation

A public hearing will be held on June 27, 1997.

Contact Person

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

Natural Resources

Rule Submittal Date

On April 11, 1997, the Department of Natural Resources submitted a proposed rule [FR-19-97] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 46, relating to the administration of the Forest Crop Law and the Managed Forest Law.

Agency Procedure for Promulgation

A public hearing is scheduled for May 13, 1997.

Contact Person

Ken Hujanen
Bureau of Forestry
Telephone (608) 266-3545

Natural Resources

Rule Submittal Date

On April 11, 1997, the Department of Natural Resources submitted a proposed rule [WM-16-97] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects s. NR 10.12 (11), relating to the harvest information program for migratory bird hunters.

Agency Procedure for Promulgation

Public hearings are scheduled for June 17 and 18, 1997.

Contact Person

Todd Peterson
Bureau of Wildlife Management
Telephone (608) 267-2948

Natural Resources

Rule Submittal Date

On April 11, 1997, the Department of Natural Resources submitted a proposed rule [SW-21-97] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 132 and 182, relating to the regulation of metallic mineral mining.

Agency Procedure for Promulgation

Public hearings are scheduled for May 19, 20, 21, 23 and 30, 1997.

Contact Person

Larry Lynch
Bureau of Waste Management
Telephone (608) 267-7553

Regulation and Licensing

Rule Submittal Date

On April 3, 1997, the Department of Regulation and Licensing submitted to the Legislative Council Rules Clearinghouse a proposed rule-making order repealing ss. RL 30.02 (12) (b) 3., 31.04 (2), 32.04 (2), 33.06 and 34.04 (3); amending ss. RL 30.01, 30.02 (1), (7) (b), (11), (12) (a) 1., 2.e., (b) 2. and 5., (13), ch. RL 31 (title), 31.01 (title) and (3), 31.02 (1) (a), (b) (intro.) and 1., (2) (a), 31.04 (8) (title) and (8), 32.04 (title) and (1), 32.07 (1) (b) and (2), 34.01 (1) (b) and (d), 34.011 (title) and (intro.), 34.02 (3), 34.07, 34.08, ch. RL 35 (title), 35.01 (intro.), (1), (2), (3), (10), (13), (17), (19), (22) and (23) and 35.03 (2); repealing and recreating ss. RL 31.01 (1), 31.03, 31.04 (3), (4), (6), (7) (b) and (c), 31.06, 32.01, 32.05, 32.06,

33.01 and 35.01 (12m); and creating ss. RL 30.02 (1m), (1n) and (10) (d), 31.055, 31.02 (1) (b) 1m., (2) (am) and (3), 31.034, 31.035, 31.036, 33.07, 34.055, 34.01 (1) (h) and (i), 34.04 (4), (5) and (6), 35.055 and 35.01 (24) and (25), relating to credentialing requirements and procedures for private detective agencies, private detectives and private security persons.

Analysis

Statutory authority: ss. 227.11 (2) and 440.03 (1), Stats., and s. 440.26 (1) (b), (2) (c), (3m) and (6), Stats., as created by 1995 Wis. Act 461.

This rule proposal contains many amendments which relate to the titles of the chapters of the current rules, the statutory authority for each chapter, and the form, style, placement, clarity, grammar, punctuation, and plain language of the current rules.

This rule proposal also incorporates changes that are required by the promulgation of 1995 Wis. Act 461.

The following sections contain changes of a more substantive nature:

SECTIONS 9 to 19 amend, repeal and recreate certain provisions relating to the requirements, qualifications and procedures for licensing private detective agencies and private detectives. Some of these sections include provisions relating to the new authority and responsibility given to the Department by 1995 Wis. Act 461, relating to the granting of permits to private security persons. SECTIONS 9 to 19 establish separate sections for each type of credential and each section contains the requirements, qualifications and procedures which apply to that credential. The only substantive changes that apply to private detectives and private detective agencies are those required by 1995 Wis. Act 461, such as the prohibition against licensing a person who has been convicted of a felony unless pardoned, the requirement that applicants pay the Department for the cost of record searches (as provided in 1995 Wis. Act 461), the elimination of the requirement that applications be notarized, the elimination of the requirement for an applicant to provide his or her employment record for the 10 years immediately preceding the date of application, the elimination of a requirement that fingerprints on fingerprint cards be taken by a law enforcement officer and the creation of a requirement that the Department provide reasonable accommodations to applicants with disabilities who are otherwise qualified. The provisions relating to private security permits track the requirements in 1995 Wis. Act 461.

SECTIONS 21 to 24 make changes relating to the administration, the contents and the review procedures for the private detective licensing examination. Section RL 31.04 (2), relating to admission cards, is repealed, because no admission cards are needed for a person to schedule himself or herself to take the examination, which is now administered by computer. The other provisions are modified to make them consistent with similar provisions in other rules of the Department and boards in the Department.

SECTION 25 eliminates the requirement that a private detective agency must obtain a separate license if it operates an office, branch, department or division under a name which is different from that of the principal office. The proposed rule simply requires the agency to inform the Department of a new or additional name under which it will operate before the agency begins operating under that name.

SECTION 29 distinguishes between the requirements for a private detective and a private security person to notify the Department about a transfer or termination of employment by a private detective agency. The new provisions pertaining to private security persons track the requirements in 1995 Wis. Act 461.

SECTIONS 20 and 36 clarify a policy, which is not very clearly stated in the current rules, that a private detective agency that permits an owner or employe to carry a firearm while on duty must obtain a comprehensive general liability policy with certain specific coverages.

SECTION 33 moves requirements for written contracts between private detective agencies and their clients from chapter RL 35, relating to grounds for discipline, to chapter RL 33, relating to

practice requirements. This section also creates the following 3 exceptions to the general requirement:

- 1) In an emergency situation;
- 2) When providing services to an attorney; and
- 3) When providing services to another licensed private detective agency.

Chapter RL 35 would still contain a statement that it is unprofessional conduct to violate the requirements for a written contract as required in chapter RL 33.

SECTION 35 permits a private detective agency to assign armed security personnel when the client and the agency agree in writing to do so, rather than, as in the current rule, when the client of the agency requests such assignments.

SECTION 37 clarifies a recent rule change by stating the conditions for carrying a loaded weapon in a vehicle. The current rule implies "loaded," but does not say "loaded."

SECTION 38 permits firearms proficiency certifiers to satisfy the annual 6-hour retraining requirement by conducting the 6-hour refresher course or the 36-hour course. They would not be required to take the 6-hour refresher course presented by another firearms proficiency certifier.

SECTION 41 is more specific than the current rules about what type of dangerous weapon, other than a firearm, a private security person may carry, provided that the person has proper training. The proposed rule lists a night stick and pepper spray.

SECTION 44 uses "credential" or "credential holder" in many of the provisions in that chapter when they apply to private detective agencies, private detectives and private security persons. The provision relating to a credential holder being convicted of a crime is modified to conform with 1995 Wis. Act 461.

Agency Procedure for Promulgation

A public hearing will be held.

Contact Person

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

Revenue

Rule Submittal Date

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on April 10, 1997, the Wisconsin Department of Revenue submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule order revises ss. Tax 11.001, 11.002, 11.01, 11.35 and 11.97, relating to registering for and reporting Wisconsin sales and use taxes.

Agency Procedure for Promulgation

The Department intends to promulgate the proposed rule order without a public hearing, pursuant to s. 227.16 (2) (e), Stats. The Office of the Secretary is primarily responsible for the promulgation of the rule order.

Contact Person

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

Mark Wipperfurth
Income, Sales and Excise Tax Division
Telephone (608) 266-8253

Revenue

Rule Submittal Date

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on April 10, 1997, the Wisconsin Department of Revenue submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule order revises ss. Tax 11.32 and 11.68, relating to the computation and collection of sales taxes from customers, and the sales and use tax treatment of construction contractors.

Agency Procedure for Promulgation

The Department intends to promulgate the proposed rule order without a public hearing, pursuant to s. 227.16 (2) (e), Stats. The Office of the Secretary is primarily responsible for the promulgation of the rule order.

Contact Person

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

Mark Wipperfurth
Income, Sales and Excise Tax Division
Telephone (608) 266-8253

Revenue

The Department of Revenue, in accordance with the 1996 Memorandum of Understanding between the Department of Revenue and the Department of Commerce, is in the process of promulgating a rule relating to ch. ATCP 53.

Rule Submittal Date

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on April 3, 1997 the Wisconsin Department of Revenue submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule order proposes to renumber and amend ch. ATCP 53 to change the agency acronym to reflect the program transfer from the Department of Agriculture, Trade & Consumer Protection to the Department of Commerce and to increase flat review fees to cover all of the current costs of activities and services provided by the Department under s. 236.12, Stats., and s. 70.27, Stats.

Agency Procedure for Promulgation

The Department intends to promulgate the proposed rule order without a public hearing, pursuant to s. 227.16 (2) (e), Stats. The Office of the Secretary is primarily responsible for the promulgation of the rule order.

Contact Person

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

Wallace T. Tews, Assistant Administrator
Division of State and Local Finance
Telephone (608) 266-9759

Transportation**Rule Submittal Date**

In accordance with s. 227.14 (4m), Stats., on April 11, 1997, the Wisconsin Department of Transportation submitted a proposed rule order to the Wisconsin Legislative Council Staff.

Analysis

The proposed rule affects ch. Trans 206, relating to the local roads improvement program.

Agency Procedure for Promulgation

A public hearing is not required. The organizational unit responsible for promulgation of the proposed rule is the Division of Transportation Investment Management, Bureau of Transit and Local Roads.

Contact Person

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

Transportation**Rule Submittal Date**

In accordance with s. 227.14 (4m), Stats., on April 14, 1997, the Wisconsin Department of Transportation submitted a proposed rule order to the Wisconsin Legislative Council Staff.

Analysis

The proposed rule affects ch. Trans 276, relating to allowing the operation of "double bottoms" (and certain other vehicles) on specified highways.

Agency Procedure for Promulgation

A public hearing is required, and public hearings are scheduled for May 13 and 16, 1997. The organizational unit responsible for promulgation of the proposed rule is the Division of Transportation Infrastructure Development, Bureau of Operations.

Contact Person

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

Transportation**Rule Submittal Date**

In accordance with s. 227.14 (4m), Stats., on April 14, 1997, the Wisconsin Department of Transportation submitted a proposed rule order to the Wisconsin Legislative Council Staff.

Analysis

The proposed rule affects ch. Trans 129, relating to the waiver of the motorcycle skills test and to required attendance of motorcycle rider courses and motorcycle instruction permit issuance.

Agency Procedure for Promulgation

A public hearing is required, and a public hearing is scheduled for May 19, 1997. The organizational units responsible for promulgation of the proposed rule are the Bureau of Driver Services and the Bureau of Transportation Safety.

Contact Person

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

Transportation**Rule Submittal Date**

In accordance with s. 227.14 (4m), Stats., on April 14, 1997, the Wisconsin Department of Transportation submitted a proposed rule order to the Wisconsin Legislative Council Staff.

Analysis

The proposed rule affects ch. Trans 305, relating to standards for vehicle equipment.

Agency Procedure for Promulgation

A public hearing is required, and two public hearings are scheduled for June 3, 1997, at 1:30 p.m. and at 7:00 p.m. The organizational unit responsible for promulgation of the proposed rule is the Division of State Patrol.

Contact Person

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

NOTICE SECTION

Notice of Hearing Chiropractic Examining Board

Notice is hereby given that pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 446.02 (1) (b), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to renumber and amend s. Chir 5.02 (1) (d); to amend ss. Chir 5.01 (1), (2) (intro.), (a) and (3), 5.02 (1) (a), (b) and (c); to repeal and recreate s. Chir 5.02 (2) and (4); and to create ss. Chir 5.02 (1) (d), (e), (f) and 5.03, relating to continuing education requirements and approval of continuing education programs for chiropractors.

Hearing Information

May 22, 1997
Friday
8:45 a.m.

Room 182
1400 E. Washington Ave.
MADISON, WI

Written Comments

Interested people are invited to present information at the hearing. People appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to:

Office of Administrative Rules
Dept. of Regulation & Licensing
P.O. Box 8935
Madison, WI 53708

Written comments must be received by **June 9, 1997** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation & Licensing

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

Statute interpreted: s. 446.02 (1) (b)

In this proposed rule-making order, the Chiropractic Examining Board amends ch. Chir 5, relating to continuing education requirements and approvable programs for chiropractors. The rules establish, clarify and define the responsibilities of those organizations which sponsor chiropractic continuing education programs for which Board approval is sought for chiropractor continuing education credit. The proposed rule deletes the provision of the existing rule permitting a faculty member of an approved chiropractic college or an accredited college of medicine or osteopathy to independently sponsor a program for which Board approval for chiropractic continuing education may be granted.

The proposed rule requires sponsoring organizations:

- ✓ To monitor and keep attendance records;
- ✓ To validate the content of each course, and
- ✓ To insure that course subject matter relates to improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college.

The proposed rule also states that sponsoring organizations may not delegate their responsibilities to outside individuals or organizations unless approved by the Board. The proposed rule requires chiropractic colleges to verify that program instructors who are undergraduate or postgraduate faculty members have been

appointed in accordance with accreditation standards of the Council on Chiropractic Education. Additionally, the proposed rule requires applications for program credit to be made to the Board and completed 75 days prior to the program date, and to include the relative amount of time which will be spent on each portion of the program outline or syllabus. The proposed rule requires that any presentation, program content, materials or displays for the advertising, promotion, sale or marketing of equipment, devices, instruments or other materials shall be kept separate from the program content and presentation for which approval is applied for and granted under the rule.

The proposed rule provides that a sponsor, instructor, or person delegated or assigned a responsibility under this chapter, shall ensure that the program is carried out and presented as represented to and approved by the Board.

The proposed rule allows the Board to deny approval:

➤ Of programs which do not satisfy the requirements of ch. Chir 5, or programs the emphasis of which is on the business, management, or insurance aspects of chiropractic practice rather than on improving the clinical skills of a chiropractor; or

➤ If a sponsor, instructor, or person or entity delegated or assigned a responsibility under this rule has a financial, personal, or professional interest which conflicts directly with the performance of responsibilities under this chapter; or

➤ If a sponsor, instructor, or a person delegated or assigned a responsibility under the rule has failed to carry out a program as represented to and approved by the Board under the chapter.

Text of Rule

SECTION 1. Chir 5.01 (1), (2) (intro.), (a) and (3) are amended to read:

Chir 5.01 (1) Every chiropractor shall complete at least 40 continuing education ~~contact~~ credit hours in approved continuing education programs during each 2 year license registration period ending on January 1 of each odd-numbered year, except as specified in s. Chir 3.02 (1) (c).

(2) Continuing education ~~contact~~ credit hours may apply only to the 2 year license period in which the ~~contact~~ credit hours are acquired, unless either of the following applies:

(a) The continuing education ~~contact~~ credit hours required of a particular chiropractor as a consequence of a disciplinary proceeding, informal settlement conference, or resolution of an investigation into the conduct or competence of the chiropractor may not be counted towards the fulfillment of generally applicable continuing education requirements.

(3) To obtain credit for completion of continuing education programs, a chiropractor shall submit to the board a certificate of attendance issued by the program ~~provider~~ sponsor or other evidence of attendance satisfactory to the board. Chiropractors attending a program for credit are expected to be present in the room where a program is being presented for the entire program for which they claim continuing education credit, except for authorized break periods or to attend to personal hygiene needs. A chiropractor may claim only those credit hours of approved continuing education for which he or she was in actual attendance in the room where the continuing education was presented.

SECTION 2. Chir 5.02 (1) (a), (b) and (c) are amended to read:

Chir 5.02 (1) (a) The program is sponsored by the Wisconsin chiropractic association, the American chiropractic association, the international chiropractors association, a college of chiropractic approved by the board, ~~a member of a college of chiropractic approved by the board, or a member of a member of the faculty of~~ a college of medicine or osteopathy accredited by an agency recognized by the United States department of education.

(b) The program subject matter relates to the ~~general subject areas of the practice of chiropractic~~ improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college.

(c) The ~~provider sponsor~~ of the program agrees to ~~monitor the attendance and furnish to each participant evidence of having attended the program~~ provide a responsible person to monitor and verify the attendance of each registered chiropractor at the program, and the program sponsor agrees to keep the records of attendance for 3 years from the date of the program and to furnish each participant with evidence of having attended the program.

SECTION 3. Chir 5.02 (1) (d) is renumbered (1) (g) and amended to read:

Chir 5.02 (1) (g) The program offers significant professional educational benefit for participants, as determined by the board.

SECTION 4. Chir 5.02 (1) (d), (e) and (f) are created to read:

Chir 5.02 (1) (d) A program sponsor shall not assign or delegate its responsibilities to monitor or record attendance, provide evidence of attendance, validate course content, or provide information on instructors or other aspects of the program unless the assignment or delegation is specifically identified in the application for approval and approved by the board.

(e) The program sponsor has reviewed and validated the program's course content to insure its compliance with sub. (1) (b).

(f) When a course instructor of the program is on the undergraduate or postgraduate faculty of a chiropractic college, the sponsor has provided written verification that such course instructors have been appointed in accordance with the accreditation standards of the council on chiropractic education, and that the chiropractic college exercises sufficient supervision over a faculty member's course content.

SECTION 5. Chir 5.02 (2) is repealed and recreated to read:

Chir 5.02 (2) (a) Continuing education programs may include subject material other than that which relates to improving the clinical skills of a chiropractor and is generally taught at the undergraduate or postgraduate level of a chiropractic college. However, only the parts of the program which relate to improving the clinical skills of a chiropractor and are generally taught at the undergraduate or postgraduate level of a chiropractic college shall be eligible for credit.

(b) Any presentation, program content, materials or displays for the advertising, promotion, sale or marketing of equipment, devices, instruments or other material of any kind or purpose shall be kept separate from the program content and presentation for which approval is applied for and granted.

(c) Programs shall be approved for one hour of continuing education for every 50 minutes of instruction.

SECTION 6. Chir 5.02 (4) is repealed and recreated to read:

Chir 5.02 (4) (a) An application for approval of a continuing education program shall:

1. Be on a form provided by the board.

Note: Application forms are available on request to the board office located in 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

2. Identify the name and address of the sponsor and describe how the sponsor qualifies in this section.

3. Describe the time and place of the program.

4. Be complete as prescribed by in this chapter and filed with the board no later than 75 days prior to the program date. An application is not considered complete until such time as all information required to be submitted with the application and any supplementary information requested by the board, is received by the board.

5. Include a course outline or syllabus which describes the relevant amount of time to be spent on each section of the outline or syllabus and is in sufficient detail for the board to determine whether the course material is generally taught at the undergraduate or postgraduate level of a chiropractic college and relates to improving the clinical skills of a chiropractor.

6. Describe the names and qualifications of all instructors, and if applicable, whether an instructor of the program who is an undergraduate or postgraduate faculty member of a sponsoring college was appointed in accordance with accreditation standards of the council on chiropractic education.

7. Identify whether the sponsor intends to assign or delegate any of its responsibilities to another person or entity, and if so, include each of the following:

- a. A specific description of the assignment or delegation.

- b. The person or entity who is assigned or delegated to perform the responsibility, including name, address and qualification to perform the responsibility.

- c. The method by which the sponsor intends to assure that the delegated or assigned responsibility is performed.

(b) If necessary in order to determine whether an applicant meets the requirements of this chapter, the board may require that applicants for approval submit information in addition to that described in this section.

SECTION 7. Chir 5.02 (6) is created to read:

Chir 5.02 (6) The sponsor of an approved program shall ensure that the program is carried out and presented as represented to and approved by the board, and that all responsibilities of the sponsor, an instructor, and any person or entity delegated or assigned a responsibility relating to a program approved by the board are fulfilled.

SECTION 8. Chir 5.03 is created to read:

Chir 5.03 The board may deny approval of an application for any of the following reasons:

- (1) The program or sponsor does not meet requirements established in this chapter.

- (2) The emphasis of the program is on the business, management, or insurance aspects of a chiropractic practice rather than on improving the clinical skills of the chiropractor.

- (3) The board determines that the sponsor has not provided adequate assurance that responsibilities delegated or assigned to others will be satisfactorily performed.

- (4) The sponsor, an instructor, or a person delegated or assigned a responsibility has a financial, personal or professional interest which conflicts directly with the performance of responsibilities in this chapter.

- (5) Failure on the part of a sponsor, an instructor, or a person delegated or assigned a responsibility to carry out a program as represented to and approved by the board or as provided in this chapter.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

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

Notice of Hearing

Educational Approval Board

Notice is hereby given that pursuant to s. 38.51 (3) and (10) (c), Stats., and interpreting s. 38.51 (10) (c) the Educational Approval Board will hold a public hearing at the **Wisconsin Technical College System board 'Districts Room', 310 Price Place, Madison, Wisconsin, on the 14th day of May 1997 at 9:00 a.m.** to consider the deletion, amendment and creating of permanent rules relating to the approval of schools and programs, setting fees, setting bond requirements, outlining refund policy and, in general, affecting all aspects of the Educational Approval Board's approval of schools. The hearing will continue until the agency has heard all interested persons who indicated by 10:00 a.m. that they wished to speak.

Persons who wish to present written information for the agency's consideration may do so whether or not they attend the hearing. Such comments should be mailed to the Educational Approval Board at P.O. Box 7874, Madison, WI 53707-7874, or delivered to the agency offices at the M & I Office Center, 310 Price Place, Madison, prior to 4:00 p.m. on May 14, 1997.

Summary of Proposed Rules

Statutory Authority s. 38.51 (3), (7), (8) and (10) (a), (b), (c)

Statute Interpreted: s. 38.51 (3), (7), (8) and (10) (a), (b), (c)

The proposed order affects postsecondary institutions subject to the approval requirements of s. 38.51 (10) (a), Stats. It constitutes a major simplification of regulatory requirements and practices and a parallel simplification in the assessment of fees. It modifies policies and procedures; deletes many regulatory requirements; and, creates new standards and practices. The changes are in the context of the EAB's re-engineering: in 1995-96 the EAB reoriented its philosophical and policy underpinnings, shifting focus from strict procedural compliance (with an emphasis on operations) to concern with educational quality, program results and the general role of private education. It restructured its oversight around two guiding principles: protecting students and ensuring quality programming.

The proposed rules changes simplify, clarify and make more understandable the basic requirements schools must meet to secure approval to operate in Wisconsin. They streamline the application process, specifically outlining required information which schools must provide (and policies they must have in place) in order to become licensed and set parallel standards for information to be included in school catalogs. The changes condense and speed up the program approval process by placing more responsibility with the schools to engage in and document quality program development. Staff will, thereby, have less need to do invasive analysis, or contract with third-party reviewers, and will, instead, be able to rely on information about how schools developed their programs. The proposed changes encourage continuous improvement on the part of schools by removing the impediment of EAB approval of minor program modifications. They also clarify the process for the evaluation of innovative programs by more carefully defining approval criteria and also establish operational standards for distance education.

The proposed changes greatly simplify the fee structure; in general, making it simpler for the EAB to administer fees and easier for schools to comprehend them. The changes remove the fee for program revisions affecting less than 25% of content; collapse fees for correcting errors in application from more than 30 to two fees; remove the fee for changing a program name; and, establish a simple, more

predictable, procedure to set the annual renewal fee on gross school revenues.

The proposed changes greatly simplify prescriptions and prohibitions regarding advertising by concentrating on broad categories of behavior. They clarify the school bonding requirement by basing it on highest point of "unearned tuition," but also provide for better reality-testing by adding criteria so stable schools can have their bond requirement lowered (without risk to students). The changes simplify the administrative procedure for bonding school representatives by removing the requirement for separate bonding and, instead, enabling schools to cover representatives under their school bond. The proposed changes greatly reduce complexity regarding partial payments to students who do not complete their programs; clearly outlining conditions for pro-rata partial reimbursements based upon a single scale for all types of programs. The changes establish a clearer complaints procedure and more carefully delineate data collection and retention requirements.

Fiscal Estimate

Under the provisions of s. 38.51 (10) (c), Stats., fees paid by schools must cover costs for the examination and approval (i.e., licensing) of such schools. The proposed rules modifications would: end fees for minor program modifications; end fees for program name changes; raise fees for new school approval; raise fees for new program application; raise the first(fixed) renewal payment and establish greater predictability in setting the second renewal payment (based on annual gross revenues). Given the intended goal of simplification and reduction of the number of fees, the board estimates that revenue from all the changes will be sufficient to meet its operating spaces.

Initial Regulatory Flexibility Analysis

The proposed rule will have a positive impact on those small businesses which are postsecondary schools. It will reduce paperwork and compliance verification in a number of significant areas.

Persons who desire copies of the proposed rules or of the full fiscal estimate may obtain them from the Educational Approval Board at the address noted above.

Notice of Hearings

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

Notice is hereby given that pursuant to s. 50.51(2), Stats., the Department of Health and Family Services will hold public hearings to consider the proposed creation of ch. HFS 127, Wis. Adm. Code, relating to licensing of rural medical centers.

Hearing Information

May 13, 1997 Tuesday 12:00 p.m. to 2:00 p.m.	Neville Public Museum 210 Museum Place GREEN BAY, WI
May 14, 1997 Wednesday 9:00 a.m. to 11:00 a.m.	Holiday Acres Resort 4060 South Shore Drive RHINELANDER, WI
May 14, 1997 Wednesday 5:00 p.m. to 7:00 p.m.	Holiday Inn Convention Center 205 South Barstow EAU CLAIRE, WI
May 15, 1997 Thursday 1:00 p.m. to 3:00 p.m.	Reedsburg Area Medical Center 2000 N. Dewey Ave. REEDSBURG, WI

The hearing sites are fully accessible to people with disabilities.

Analysis Prepared by the Department of Health and Family Services

A recent session law, 1995 Wis. Act 98, created subch. III of ch. 50, Stats., which establishes a new type of licensed health care entity called a rural medical center. A rural medical center provides different

kinds of inpatient and outpatient health care services tailored to community needs. It has a single governing body and corporate structure. It is located in a county, city, town or village with a population of not more than 15,000 and in a nonurbanized area as determined by the U.S. Bureau of the Census. It offers two or more types of health care services that are subject to survey inspections by the Department to determine compliance with state and federal requirements. Types of services that could be provided by a rural medical center include hospital services, nursing home services, home health agency services, outpatient physical therapy services and ambulatory surgery center services.

The types of health care services that a rural medical center may provide are hospital, nursing home, hospice, home health, rural health clinic, ambulatory surgery center, rural primary care hospital, outpatient physical therapy and end-stage renal disease. The Department may in the future specify other services by rule. Combinations of health care services at a rural medical center could include, for example, a rural nursing home that also operates a home health agency or hospice program, or a rural hospital that also operates a nursing home.

Being licensed as a rural medical center will be advantageous for a multiservice health care provider in rural Wisconsin for a number of reasons. These include: a single application process, instead of two or more; consolidated fees; a single license; consolidated surveys and inspection by the Department's Bureau of Quality Assurance; and a 2-year license period instead of separate one-year periods that may not coincide.

If an organization meets the statutory criteria for being a rural medical center, it may apply to the Department to be licensed as a rural medical center. To be licensed as a rural medical center, an organization must comply with the standards set out in these proposed rules. The rules incorporate by reference Department rules and federal regulations that separately govern the services that a rural medical center may provide.

The rules repeat and add greater specificity to the requirements of subch. III of ch. 50, Stats., as created by Act 98. They specify all of the following:

1. Types of health care services that rural medical centers may be licensed to provide;
2. Requirements for license applications and fee amounts based on the types of health care services to be provided
3. License application review criteria and inspection requirements for full review of new health care services and expedited review of existing health care services;
4. Procedures for issuance of two-year regular licenses, as well as six-month provisional licenses for rural medical center applicants that have not previously been licensed by the Department or certified by the federal government to provide any of the proposed health care services;
5. Procedures for appealing a decision of the Department to deny issuance or renewal of a license or to suspend or revoke a license;
6. Requirements for license renewal and when there is change of ownership;
7. Complaint investigation and survey inspection requirements, including access to financial, administrative and patient or resident health care records;
8. Requirement for consolidated facility surveys and inspections insofar as the health care services listed on the license can be surveyed or inspected at the same time and in an outcome-based, program-wide manner;
9. Violation, penalty and forfeiture requirements and appeal procedures;
10. Procedures for requesting a waiver or variance from a rule requirement and for appealing the denial of a request for a waiver or variance; and
11. Incorporation by reference of program and operational standards.

Contact Person

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

Larry Hartzke
Bureau of Quality Assurance
Division of Supportive Living
P.O. Box 309
Madison, Wisconsin 53701
608-267-1438 or, if you are hearing
impaired, 608-266-7376 (TDD)

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

Written comments on the proposed rules received at the above address no later than **May 23, 1997**, will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

The rules will not affect the expenditures or revenues of state government or local governments.

Some cities and counties in rural areas of Wisconsin may operate a hospital, nursing home or home health agency, or more than one of these, and may choose to organize and be licensed and regulated as a rural medical center. This is not required by subch. III of ch. 50, Stats., as created by Act 98, or by the rules. If some city and county health care facilities and programs elect to be regulated as rural medical centers, the city and county governments may realize some savings in administrative costs. These savings will be the result of the statute rather than the rules.

The Department has no way of knowing how many health care facilities and programs in rural areas will elect to be regulated as rural medical centers. In any case, there should not be increased administrative costs to the Department for the program because it will be a new way of regulating existing providers. Any reduction in the administrative costs of regulation will be a result of the statute rather than the rules.

The rules maintain the same license fee for each service that is currently charged under existing statutes for licensing a provider of that service. The fee for a rural medical center, then, is the sum of the fees for the specific types of health care services provided by the rural medical center.

Initial Regulatory Flexibility Analysis

These rules apply to health care facilities or programs in rural areas that operate under a single governing body to provide at least 2 types of health care services usually licensed or certified separately by the Department, and that choose to be licensed and regulated as rural medical centers. A rural medical center could be a small business, as defined in s. 227.114(1)(a), Stats., but that is not likely because of the numbers of staff a rural medical center would have.

These new rules will not add to current facility or program reporting or record-keeping requirements nor will compliance with them require professional skills that facilities and programs do not have now. The Department is simply promulgating rules for a new, elective licensure category established under subch. III of ch. 50, Stats., which is intended to ease the regulatory burden for eligible facilities and programs.

Fiscal Estimate

These rules implement subch. III of ch. 50, Stats., as created by 1995 Wis. Act 98, which establishes a new type of licensed health care entity called a rural medical center. The Department is directed by s. 50.51 (2), Stats., as created by Wis. Act 98, to promulgate rules that

establish standards for operation of the centers, minimum requirements and fees for license issuance and renewal, and a procedure and criteria for waiver or variance from particular standards or minimum requirements.

The rules will not affect the expenditures or revenues of state government or local governments.

Some cities and counties in rural areas of Wisconsin may operate a hospital, nursing home or home health agency, or more than one of these, and may choose to organize and be licensed and regulated as a rural medical center. This is not required by subch. III of ch. 50, Stats., as created by Wis. Act 98, or by the rules. If some city and county health care facilities and programs elect to be regulated as rural medical centers, the city and county governments may realize some savings in administrative costs. These savings will be a result of the statutes rather than the rules.

The Department has no way of knowing how many health care facilities and programs in rural areas will elect to be regulated as rural medical centers. In any case, there should not be increased administrative costs to the Department for the program because it will be a new way of regulating existing providers. Any reduction in the administrative costs of regulation will be a result of the statute rather than the rules.

The rules maintain the same license fee for each service that is currently charged under existing statutes for the licensing a provider of that service. The fee for a rural medical center, then, is the sum of fees for the specific types of health care services provided by the rural medical center.

Notice of Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.174 (3) and 227.11 (2) (a), Stats., interpreting ss. 29.174 (2) and 29.085, Stats., the Department of Natural Resources will hold public hearings on the creation of s. NR 10.12 (11), Wis. Adm. Code, relating to the harvest information program (HIP) for migratory game bird hunters.

The U. S. Fish and Wildlife Service requires all states to implement the harvest information program (HIP) by 1998. The harvest information program was developed to improve the accuracy of our estimates of the number of individuals hunting migratory birds as well as their effort and harvest. All migratory game bird hunters are required to be HIP certified prior to hunting any migratory game bird species and have in their possession proof of HIP certification while hunting any species of migratory game birds.

50 Code of Federal Regulations section 20.20 (b) and (c) requires the Department to provide the U.S. Fish and Wildlife Service names, addresses, date of birth and certain information for all individuals hunting migratory game birds in the state within a specified time period. The Department intends to include HIP certification in the new "point of sales" process to reduce the burden on hunters. The confirmation of HIP certification will be printed on the hunting license at the time of issuance.

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:

June 17, 1997
Tuesday
7:00 p.m.

Room 027, GEF #2
101 S. Webster St.
MADISON, WI

June 18, 1997
Wednesday
7:00 p.m.

Room 149
Marathon Co. Courthouse
(Please use northside entrance)
500 Forest St.
WAUSAU, 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 **June 19, 1997**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [WM-16-97] and fiscal estimate may be obtained from Mr. Bergquist.

Fiscal Estimate

It is estimated that approximately 125,000 hunters will be HIP-certified annually. Department cost per certification is estimated at \$1.00, comprised of salary (.20¢) and state operations (.80¢). Thus, annual costs are estimated at \$125,000. In 1998 and 1999, the Department will be reimbursed (.30¢) per name submitted by the U.S. Fish and Wildlife Service. In 2000 and thereafter, the rate will be (.10¢) per name; therefore, Department revenues are estimated to increase by \$12,500 per year at full implementation. In addition, the Department will receive approximately \$80,000 in one-time reimbursement from USFWS, to offset start-up costs.

Notice of Hearing

Natural Resources

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

Notice is hereby given that pursuant to ss. 77.06 (2), 77.91 (1) and 227.11 (2) (a), Stats., interpreting ss. 77.06 and 77.87, Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 46, Wis. Adm. Code, relating to the administration of the Forest Crop Law and the Managed Forest Law.

The proposed changes include:

1. Petition Attachment Changes and Requirements – An applicant will no longer have to attached a certified copy of their deed; however, an applicant will have to provide a copy of a recent property tax bill or other documentation showing the parcel identification numbers to identify the specific real estate parcels being petitioned for designation. The Department may also request further documentation on lands being entered by corporations or trusts.

2. Landowner and Consultant Prepared Plan Deadline – Management plans prepared by a landowner or consultant forester must be approved by the Department, signed by the landowner and submitted to the Department forester no later than July 1 of the year in which the order of designation will be issued.

3. Annual Stumpage Rate Adjustments – The average price change for sawtimber is a 5.08% increase over current rates. The

pulpwood proposed prices are, on the average, 7.50% higher compared to current prices.

Initial Regulatory Flexibility Analysis

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

a. Types of small businesses affected: Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law.

b. Description of reporting and bookkeeping procedures required: No new procedures.

c. Description of professional skills required: No new skills.

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:

May 13, 1997
Tuesday
11:00 a.m.

Room 149
Marathon Co. Courthouse
(Please use northside entrance)
500 Forest St.
WAUSAU, 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 Ken Hujanen at (608) 266-3545 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. Ken Hujanen
Bureau of Forestry
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **May 23, 1997**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FR-19-97] and fiscal estimate may be obtained from Mr. Hujanen.

Fiscal Estimate

The proposed 1998 stumpage rate schedule includes an average 5.08% increase in sawtimber prices and a 7.50% average net change in cordwood prices. The severance and yield tax collection in (calendar year) CY '96 was \$975,630. Of this, about 20% of the gross revenue is from sawtimber harvests. Eighty percent of the revenue was related to cordwood harvests. As a result, a 5.08% increase in sawtimber prices will produce an increase in gross revenue of about \$9,910. A 7.50% increase in cordwood values will generate about \$58,540 in additional revenue. The gross receipts are shared, the towns receiving roughly 50% and the state 50% of the revenue.

The other aspects of the rule change (the requirement of supplying PIN numbers, management plan submission deadline, and change in the Department's administrative areas map) have no fiscal effect on state or local costs or revenues.

The net fiscal effect of the rule change will be about a \$34,225 increase in state revenue and a \$34,225 increase in local revenue.

Notice of Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 293.13, 293.15, 293.51 and 227.11 (2) (a), Stats., interpreting ss. 293.13, 293.15 and 293.51, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 132 and 182, Wis. Adm. Code, relating to regulation of metallic mining.

The proposed revisions to ch. NR 132 would require a mining permit holder to establish an irrevocable trust fund to guarantee the availability of funds for necessary remedial actions. The proposed rule specifies appropriate uses of the fund and the mechanisms by which the fund is established, reviewed and adjusted.

The proposed revisions to ch. NR 182 would impose the groundwater quality provisions of ch. NR 140 to mining sites. Facilities on mining sites would be required to be designed and operated to achieve compliance with the preventive action limits and enforcement standards specified in ch. NR 140. Several key elements from existing ch. NR 182, which will supplement the provisions of ch. NR 140, are proposed to be retained. Those include provisions which require predictive modeling prior to project approval, preparation of a contingency plan and assessment of any statistically significant deviation from baseline groundwater quality detected during project monitoring.

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:

May 19, 1997
Monday
1:30 p.m.

Auditorium
Chippewa Valley Tech. Institute
620 West Clairemont
EAU CLAIRE, WI

May 20, 1997
Tuesday
7:00 p.m.

Theater
Nicolet College & Tech. Institute
Highway G
RHINELANDER, WI

May 21, 1997
Wednesday
5:00 p.m.

Shawano Community Hall
115 E. Division St.
SHAWANO, WI

May 23, 1997
Friday
10:30 a.m.

Rooms 140 and 141
DNR Southeast Region Hdqrs.
2300 N. Dr. M. L. King, Jr. Drive
MILWAUKEE, WI

May 30, 1997
Friday
10:00 a.m.

Auditorium
Madison Area Tech. College
211 N. Carroll 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 Larry Lynch at (608) 267-7553 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. Larry Lynch
Bureau of Waste Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 13, 1997**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [SW-21-97] and fiscal estimate may be obtained from Mr. Lynch.

Fiscal Estimate

The proposed rule changes would modify the manner in which groundwater quality standards are applied to mining activities and would require an operator of a mining project to establish a trust agreement to cover costs associated with potential remedial actions at the mining site. The proposed changes pertaining to groundwater quality protection should have essentially no impact on Department costs or revenues, as they do not represent a substantial change from the current regulatory approach. The modifications related to the trust agreement may require some additional staff review time to establish the appropriate amount of the trust and to review the proposed details of the trust agreement. However, since the evaluation is conducted as part of the mining permit evaluation, all costs incurred by the Department are borne by the mining permit applicant, pursuant to s. 144.85 (2) (a), Stats.; thus, this proposed rule would have no state fiscal effect.

Notice of Hearings

(Amended from March 31, 1997 Wis. Adm. Register)

Natural Resources

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

Notice is hereby given that pursuant to ss. 285.11 (1) and (5), 285.60 (4) and (6), 285.62 (1), (7) and (8), 285.65, 285.67 and 227.11 (2) (a), Stats., interpreting ss. 285.11 (6), 285.60 (1) (b) 1. and (4), 285.62 (1), (7) and (8), 285.64 and 285.66 (3) (c), Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 400, 406 and 407, Wis. Adm. Code, relating to the air permit program.

The proposed order revises air construction and operation permit rules to grant new and modified sources, consistent with recently enacted state statutes, the same application shield and operational flexibility that the rules grant to existing sources.

An application shield provides a facility the ability to operate without a permit if a complete and timely permit application is submitted. The proposed order also defines what records a facility must keep to qualify for certain exemptions from the requirement to obtain an operation permit. In addition, exemptions from both the construction and operation permit programs for small grain handling facilities are added to the rules.

The construction permit rules are revised to allow additional operational flexibility for rock crushing facilities, temporary replacement boilers and facilities that voluntarily take Plantwide Emission Limitations (PEL). Through the PEL, a facility elects to incorporate in its operation permit a cap on plantwide emissions. This

would exempt it from the requirement to obtain construction permits for changes within the facility that are described in the operation permit. The plantwide emission limits would be set to actual historic levels, which typically are between 20% and 40% of the potential to emit.

There are also several other minor changes to the permit rules to clarify them or make them consistent with federal policy changes that have occurred since they were written and some clarifying changes to definitions.

Initial Regulatory Flexibility Analysis

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

a. Types of small businesses affected: Any business that needs or will need a construction permit, small grain handling facilities, rock crushing plants, facilities exempt from permitting based on actual production rates, facilities needing a temporary replacement boiler and facilities wishing to avoid construction permit requirements by accepting a PEL.

b. Description of reporting and bookkeeping procedures required: No new procedures required; the paperwork should be decreased.

c. Description of professional skills required: No new skills.

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:

June 4, 1997
Wednesday
11:00 a.m.

Room 2550
Eau Claire Co. Courthouse
721 Oxford Ave.
EAU CLAIRE, WI

June 5, 1997
Thursday
10:00 a.m.

Room 1 (3rd floor)
Outagamie Co. Courthouse
410 S. Walnut St.
APPLETON, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Robert Park at (608) 266-1054 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. Pat Kirsop
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Written comments must be received no later than **June 5, 1997**, and will have the same weight and effect as oral statements presented at the hearings.

Copies of Rule and Fiscal Estimate

A copy of the proposed rule [AM-14-97] and its fiscal estimate may be obtained from:

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

Fiscal Estimate

Facilities will have some costs in gathering and keeping the records necessary for the exemptions. A facility electing to meet a PEL will save money. Changes covered under the PEL will not require a future construction permit or permit exemption. Construction permit costs range from \$600 for a permit exemption to \$2300 for a new source permit at a minor facility. Assuming 5 PELs per year in operation permits, the Department may lose revenue up to \$11,000 per year; however, staff time spent processing the operation permits containing PELs would mean less time spent in processing the future facility changes that would need exemptions or construction permits. Staff will spend time in other revenue-generating activities, such as expedited permit review and other construction permit review. Staff could also spend time processing operation permits containing PELs.

Interest in the PEL program has mainly come from the printing industry. The number of PELs processed per year is an approximation and the Department anticipates processing the first PEL by January 1999. New source construction review permit activity in any year varies by 20 permits or 10% of the workload. The air program will absorb the PEL review fluctuation, as it currently does with construction permits.

Notice of Hearing Regulation & Licensing

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2) and 440.03 (1), Stats., and s. 440.26 (1) (b), (2) (c), (3m) and (6), Stats., as created by 1995 Wis. Act 462 and interpreting s. 440.26, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to revise chs. RL 30 to 35, relating to credentialing requirements and procedures for private detective agencies, private detectives and private security persons.

Hearing Information

May 23, 1997
Friday
10:00 a.m.

Room 179A
1400 E. Washington Ave.
MADISON, WI

Written Comments

Interested people are invited to present information at the hearing. People appearing may make an oral presentation, but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to:

Office of Administrative Rules
Dept. of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708

Written comments must be received by **June 9, 1997** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation & Licensing

Statutes authorizing promulgation: ss. 227.11 (2) and 440.03 (1) and 440.26 (1) (b), (2) (c), (3m) and (6)

Statute interpreted: s. 440.26

This rule proposal contains many amendments which relate to the titles of the chapters of the current rules, the statutory authority for each chapter, and the form, style, placement, clarity, grammar, punctuation, and plain language of the current rules.

This rule proposal also incorporates changes that are required by the promulgation of 1995 Wis. Act 461.

The following sections contain changes of a more substantive nature:

SECTIONS 9 to 19 amend, repeal and recreate certain provisions relating to the requirements, qualifications and procedures for licensing private detective agencies and private detectives. Some of these sections include provisions relating to the new authority and responsibility given to the Department by 1995 Wis. Act 461, relating to the granting of permits to private security persons. SECTIONS 9 to 19 establish separate sections for each type of credential and each section contains the requirements, qualifications and procedures which apply to that credential. The only substantive changes that apply to private detectives and private detective agencies are those required by 1995 Wis. Act 461, such as the prohibition against licensing a person who has been convicted of a felony unless pardoned, the requirement that applicants pay the Department for the cost of record searches (as provided in 1995 Wis. Act 461), the elimination of the requirement that applications be notarized, the elimination of the requirement for an applicant to provide his or her employment record for the 10 years immediately preceding the date of application, the elimination of a requirement that fingerprints on fingerprint cards be taken by a law enforcement officer and the creation of a requirement that the Department provide reasonable accommodations to applicants with disabilities who are otherwise qualified. The provisions relating to private security permits track the requirements in 1995 Wis. Act 461.

SECTIONS 21 to 24 make changes relating to the administration, the contents and the review procedures for the private detective licensing examination. Section RL 31.04 (2), relating to admission cards, is repealed, because no admission cards are needed for a person to schedule himself or herself to take the examination, which is now administered by computer. The other provisions are modified to make them consistent with similar provisions in other rules of the Department and boards in the Department.

SECTION 25 eliminates the requirement that a private detective agency must obtain a separate license if it operates an office, branch, department or division under a name which is different from that of the principal office. The proposed rule simply requires the agency to inform the Department of a new or additional name under which it will operate before the agency begins operating under that name.

SECTION 29 distinguishes between the requirements for a private detective and a private security person to notify the Department about a transfer or termination of employment by a private detective agency. The new provisions pertaining to private security persons track the requirements in 1995 Wis. Act 461.

SECTIONS 20 and 36 clarify a policy, which is not very clearly stated in the current rules, that a private detective agency that permits an owner or employe to carry a firearm while on duty must obtain a comprehensive general liability policy with certain specific coverages.

SECTION 33 moves requirements for written contracts between private detective agencies and their clients from ch. RL 35, relating to grounds for discipline, to ch. RL 33, relating to practice requirements. This section also creates the following 3 exceptions to the general requirement:

- 1) In an emergency situation;
- 2) When providing services to an attorney; and
- 3) When providing services to another licensed private detective agency.

Chapter RL 35 would still contain a statement that it is unprofessional conduct to violate the requirements for a written contract as required in ch. RL 33.

SECTION 35 permits a private detective agency to assign armed security personnel when the client and the agency agree in writing to do so, rather than, as in the current rule, when the client of the agency requests such assignments.

SECTION 37 clarifies a recent rule change by stating the conditions for carrying a loaded weapon in a vehicle. The current rule implies "loaded," but does not say "loaded."

SECTION 38 permits firearms proficiency certifiers to satisfy the annual 6-hour retraining requirement by conducting the 6-hour refresher course or the 36-hour course. They would not be required to take the 6-hour refresher course presented by another firearms proficiency certifier.

SECTION 41 is more specific than the current rules about what type of dangerous weapon, other than a firearm, a private security person may carry, provided that the person has proper training. The proposed rule lists a night stick and pepper spray.

SECTION 44 uses "credential" or "credential holder" in many of the provisions in that chapter when they apply to private detective agencies, private detectives and private security persons. The provision relating to a credential holder being convicted of a crime is modified to conform with 1995 Wis. Act 461.

Text of Rule

SECTION 1. RL 30.01 is amended to read:

RL 30.01 Authority. The provisions ~~rules~~ in chs. ~~RL 30 to 35~~ this chapter are adopted pursuant to ss. 227.11 (2) and 440.26, Stats.

SECTION 2. RL 30.02 (1) is amended to read:

RL 30.02 (1) "Agency" or "private detective agency" means an individual, partnership, limited liability company, or corporation holding a private detective agency license issued by the department or having a right to renew a license issued by the department to act as or employ private detectives or private security persons.

SECTION 3. RL 30.02 (1m) and (1n) are created to read:

RL 30.02 (1m) "Client" means a person for whom a private detective agency agrees to provide private detective services, as described in sub. (12) (a), or to supply private security personnel.

(1n) "Credential" has the meaning in s. 440.01 (2) (a), Stats.

SECTION 4. RL 30.02 (7) (b) is amended to read:

RL 30.02 (7) (b) ~~Purports to be~~ Acts as a private detective or private security person.

SECTION 5. RL 30.02 (10) (d) is created to read:

RL 30.02 (10) (d) The owners of a limited liability company are the members.

SECTION 6. RL 30.02 (11), (12) (a) 1., 2. e. and (b) 2. are amended to read:

RL 30.02 (11) "Permit" means the private security permit described in s. 440.26 (5) (5m), Stats., ~~or a firearms permit described in s. RL 34.015.~~

(12) (a) 1. A person who acts as, ~~uses the title~~ advertises or otherwise represents that the person is a private detective, private investigator or special investigator.

2. e. Securing evidence to be used before any court, public board, officer, or investigating committee.

(b) 2. A person exempt from the licensing requirement under s. 440.26 (5) ~~or (7)~~, Stats.

SECTION 7. RL 30.02 (12) (b) 3. is repealed.

SECTION 8. RL 30.02 (12) (b) 5. and (13) are amended to read:

RL 30.02 (12) (b) 5. Off-duty law enforcement officers when employed by a person or entity and when such employment has been officially authorized by the officer's law enforcement employment department or agency as an appropriate extension of the officer's function; provided that the law enforcement agency ~~clearly establishes with gives~~ the hiring person or entity in writing, a written

statement concerning who is responsible or liable for the actions of the off-duty law enforcement officer while that person is performing services for the hiring person or entity.

(13) "Private security person" means ~~a uniformed employe of a licensed agency any private police, guard or any person~~ who stands watch, ~~patrols or responds to security systems~~ for security purposes ~~and who has obtained a permit under s. 440.26 (5), Stats.~~ "Private security person" does not include off-duty law enforcement officers when employed by a person or entity and when such employment has been officially authorized by the officer's law enforcement department or agency as an appropriate extension of the officer's function; provided that the law enforcement agency ~~clearly establishes with gives~~ the hiring person or entity in writing, a written statement concerning who is responsible or liable for the actions of the off-duty law enforcement officer while that person is performing services for the hiring person or entity.

SECTION 9. Chapter RL 31 (title) is amended to read:

Chapter RL 31

PRIVATE DETECTIVE AND AGENCY LICENSURE CREDENTIALING REQUIREMENTS AND PROCEDURES FOR PRIVATE DETECTIVE AGENCY, PRIVATE DETECTIVE AND SECURITY PERSON

SECTION 10. RL 31.055 is created to read:

RL 31.055 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.26 (2), (3), (4), (5m) and (5r), Stats.

SECTION 11. RL 31.01 (title) is amended to read:

RL 31.01 Credential required.

SECTION 12. RL 31.01 (1) is repealed and recreated to read:

RL 31.01 (1) PRIVATE DETECTIVE AGENCY. (a) Except as provided in par. (c), a person shall obtain a private detective agency license before engaging in the following activities:

1. Advertising, soliciting or engaging in the business of a private detective agency.

2. Acting as a private detective, private investigator, investigator or private security person.

3. Acting as a supplier of private security personnel.

4. Soliciting business or performing any other type of service or investigation as a private detective or private security person.

5. Receiving any fees or compensation for acting as any person, engaging in any business or performing any service specified in subs. 1 to 4.

(b) A private detective agency license may be issued to an individual, a partnership, a limited liability company or a corporation.

(c) An individual who holds a license as a private detective or a permit as a private security person and who is employed by a licensed private detective agency is not required to obtain a private detective agency license before acting as a private detective or a private security person.

SECTION 13. RL 31.01 (3) is amended to read:

RL 31.01 (3) PRIVATE SECURITY PERMIT. An employe of any licensed private detective agency doing business in this state as a supplier of uniformed private security persons to patrol exclusively on the private property of industrial plants, business establishments, schools, colleges, hospitals, sports stadiums, exhibits and similar activities is exempt from the license requirements under sub. (2), but shall obtain a private security permit as specified in s. 440.26 (5) (5m) ~~or (5r)~~, Stats.

SECTION 14. RL 31.02 (1) (a), (b) (intro.) and 1. are amended to read:

RL 31.02 (1) (a) To obtain a license as a private detective agency, an individual applicant, all members of a partnership ~~or a limited liability company~~, or all corporate officers shall be listed on the application. ~~One member shall sign the application and be designated as the principal. The application of a partnership or a limited liability company shall be executed by all members of the partnership or limited liability company. An application of a corporation shall be~~

executed by the secretary and the president or the vice president and, in addition, in the case of a foreign corporation, by the registered agent.

(b) A license may be granted under this section if the individual applicant, ~~all~~ or the members of a partnership or a limited liability company or all corporate officers who executed the application:

1. Subject to ss. 111.321, 111.322 and 111.335, Stats., do not have an arrest or conviction record involving a misdemeanor or a violation, as defined in s. 440.26 (4m), Stats.

SECTION 15. RL 31.02 (1) (b) 1m. is created to read:

RL 31.02 (1) (b) 1m. Have not been convicted in this state or elsewhere of a felony, unless pardoned.

SECTION 16. RL 31.02 (2) (a) is amended to read:

RL 31.02 (2) (a) Subject to ss. 111.321, 111.322 and 111.335, Stats., does not have an arrest or conviction record involving a misdemeanor or a violation, as defined in s. 440.26 (4m), Stats.

SECTION 17. RL 31.02 (2) (am) is created to read:

RL 31.02 (2) (am) Has not been convicted in this state or elsewhere of a felony, unless pardoned.

SECTION 18. RL 31.02 (3) is created to read:

RL 31.02 (3) PRIVATE SECURITY PERSON PERMIT. An applicant for a permit as a private security person may be granted a permit under s. 440.26, Stats., if the applicant:

(a) Subject to ss. 111.321, 111.322 and 111.335, Stats., does not have an arrest or conviction record involving a misdemeanor or a violation, as defined in s. 440.26 (4m), Stats.

(b) Has not been convicted in this state or elsewhere of a felony, unless pardoned.

(c) Is not a user of drugs or alcohol to an extent dangerous to the applicant or others or to an extent which would impair the applicant's ability to responsibly perform private security activities.

SECTION 19. RL 31.03 is repealed and recreated to read:

RL 31.03 Application procedure for private detective agency licenses. (1) An applicant for a private detective agency license shall file with the department all of the following:

(a) A completed application on forms provided by the department.

(b) For each person who, pursuant to s. 440.26 (2) (b), Stats., executes the application, 2 complete and satisfactory sets of fingerprints on forms supplied by the department and taken by a person who has provided evidence satisfactory to the department that the person is competent in taking fingerprints and trustworthy.

Note: Forms are available on request from the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(c) One recent photograph of the person's head and shoulders only.

(d) A bond or liability policy, as required in s. 440.26 (4), Stats.

(e) The complete business location address of the applicant including the office or room number and street address. A post office box without a complete location address is inadequate.

(f) The fee specified in s. 440.05 (1), Stats.

(g) The costs incurred by the department for conducting records searches.

(2) For each person who, pursuant to s. 440.26 (2) (b), Stats., executes the application, information about whether the person is or has, within the 5 years preceding the date of application, been a user of drugs or alcohol to an extent dangerous to the person or other persons or to an extent which could impair the person's ability to perform private detective or private security activities responsibly.

SECTION 20. RL 31.034, 31.035 and 31.036 are created to read:

RL 31.034 Private detective agency's responsibility to obtain and maintain a bond or liability policy. (1) Private detective agencies are responsible for obtaining and maintaining a surety bond or liability policy. If an agency obtains a comprehensive general

liability policy pursuant to s. 440.26 (4), Stats., the policy shall include coverage for bodily injury liability, property damage and personal injury. In any case, if an agency permits an officer or employe to carry a firearm in the course of duty, the agency shall obtain a liability policy which shall include coverage for injury or damage resulting from the use of firearms. Evidence of a comprehensive general liability policy shall consist of a certificate of insurance stating the licensee as insured and the department as certificate holder.

(2) Each licensee shall be responsible for maintaining without lapse in coverage the bond or comprehensive general liability policy submitted to the department before the issuance of an original or renewal license.

(3) If a private detective agency obtains a comprehensive general liability policy, the policy shall cover all licensed private detectives and private security personnel employed by the agency.

(4) An individual licensed employe is not required to obtain a bond or liability policy if the employe is covered by the employing agency's liability policy.

RL 31.035 Application procedure for private detective licenses. (1) An applicant for a private detective license shall file with the department all of the following:

(a) A completed application on forms provided by the department.

(b) Two complete and satisfactory sets of fingerprints on forms supplied by the department and taken by a person who has provided evidence satisfactory to the department that the person is competent in taking fingerprints and trustworthy.

Note: Forms are available on request to the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(c) One recent photograph of the applicant's head and shoulders only.

(d) A \$2,000 surety bond, if the applicant's private detective agency employer has obtained a bond pursuant to s. 440.26 (4), Stats.

(e) A complete address of the applicant. A post office box without a complete location address is inadequate.

(f) The fee specified in s. 440.05 (1), Stats.

(g) The costs incurred by the department for conducting records searches.

(2) An applicant who is or who has, within the 5 years preceding the date of application, been a user of drugs or alcohol to an extent dangerous to the person or other persons or to an extent which could impair the person's liability to perform private detective or private security activities responsibly shall provide the department all information necessary for the department to determine the applicant's fitness to practice.

(3) The department shall provide reasonable accommodations to applicants with disabilities who are otherwise qualified.

RL 31.036 Application procedure for private security permits. (1) An applicant for a private security permit shall file with the department all of the following:

(a) A completed application on forms provided by the department.

(b) Two complete and satisfactory sets of fingerprints on forms supplied by the department and taken by a person who has provided evidence satisfactory to the department that the person is competent in taking fingerprints and trustworthy.

Note: Forms are available on request to the Department of Regulation and Licensing, Bureau of Direct Licensing and Real Estate, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

(c) One recent photograph of the applicant's head and shoulders only.

(d) A complete address of the applicant. A post office box without a complete location address is inadequate.

(e) The fee specified in s. 440.05 (1), Stats.

(f) The costs incurred by the department for conducting records searches.

(2) An applicant who is or who has, within the 5 years preceding the date of application, been a user of drugs or alcohol to an extent dangerous to the person or other persons or to an extent which could impair the person's ability to perform private detective or private security activities responsibly shall provide the department all information necessary for the department to determine the applicant's fitness to practice.

SECTION 21. RL 31.04 (2) is repealed.

SECTION 22. RL 31.04 (3), (4) and (6) are repealed and recreated to read:

RL 31.04 (3) **SUBJECTS TESTED.** The examination shall test the applicant's knowledge or competence in those areas which the department, after consultation with subject matter experts, determines are appropriate for testing the applicant's knowledge for protection of public health and safety.

(4) **UNAUTHORIZED ASSISTANCE.** An applicant may not engage in dishonest acts relating to the examination. The actions taken by the department when dishonest acts occur shall be related to the seriousness of the offense. These actions may include withholding the applicant's score, entering a failing grade for the applicant, and suspending the ability of the applicant to sit for an examination for a specific period of time after the examination in which the unauthorized assistance occurred.

(6) **EXAMINATION REVIEW.** (a) An applicant who fails the examination may request a review of that examination by filing a written request with the department within 30 days after the date on which examination results were mailed to the applicant.

(b) An examination review shall be conducted under the following conditions:

1. The time for review shall be limited to one hour.

2. The examination shall be reviewed only by the applicant and in the presence of a proctor.

3. The proctor may not respond to inquiries by the applicant regarding allegations of examination error.

4. Any comments or claims of error regarding specific questions or procedures in the examination may be placed in writing on the form provided for this purpose. The department shall review the comments or claims in consultation with a subject matter expert. The department shall notify the applicant in writing of the department's decision. If the decision does not result in a passing grade, the applicant may retake the examination.

5. An applicant shall be permitted only one review of the failed examination each time it is taken and failed.

SECTION 23. RL 31.04 (7) (b) and (c) are repealed and recreated to read:

RL 31.04 (7) (b) The department shall review the request in consultation with a subject matter expert. The applicant shall be notified in writing of the department's decision.

(c) If the decision does not result in a passing grade, the applicant may retake the examination.

SECTION 24. RL 31.04 (8) (title) and (8) are amended to read:

RL 31.04 (8) **EXAMINATION RETAKES.** (a) There is no limit to the number of times ~~any~~ an applicant may take the examination.

(b) An applicant who ~~fails the examination under this section and who reviews the examination under pursuant to~~ sub. (6) may not retake ~~an~~ the examination within 30 days ~~from after the date on which the examination review was reviewed.~~

(c) An applicant who ~~has passed~~ passes the examination and remains unlicensed for one year or more after the date of the examination shall again take and pass the examination before being licensed.

SECTION 25. RL 31.06 is repealed and recreated to read:

RL 31.06 Additional licensing requirements. (1) **USE OF TRADE NAME.** (a) In this section "trade name" means a name that

is different than or in addition to the name under which a person obtained a private detective agency license.

(b) A person who is licensed as a private detective agency shall, before doing business under any trade name, notify the department in writing of the trade name.

(2) **PRIVATE DETECTIVE AS PRIVATE SECURITY PERSON.** A licensed private detective may be employed as a private security person without obtaining a private security permit.

SECTION 26. RL 32.01 is repealed and recreated to read:

RL 32.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.05 (7), 440.11 and 440.26 (3), (4), (5), (5m) and (5r), Stats.

SECTION 27. RL 32.04 (title) and (1) are amended to read:

RL 32.04 Change of name. (1) ~~An agency or a private detective~~ A credential holder shall notify the department in writing within 30 days after a change of name or address.

SECTION 28. RL 32.04 (2) is repealed.

SECTION 29. RL 32.05 and 32.06 are repealed and recreated to read:

RL 32.05 Transfer of employment. (1) **PRIVATE DETECTIVES.** A licensed private detective who wishes to transfer employment from one private detective agency to another shall submit to the department a transfer application accompanied by the fee specified in s. 440.05 (7), Stats. The licensed private detective may not conduct licensed activity for the new employer until that person has mailed or delivered the transfer application and required fee to the department. Every licensed private detective shall notify the department of the name of the private detective's current employer or employers.

(2) **PRIVATE SECURITY PERSONS.** A licensed private detective agency shall notify the department in writing within 5 days of any change in the information which the agency has provided the department pursuant to s. 440.26 (5), Stats.

RL 32.06 Termination of employment. (1) **PRIVATE DETECTIVES.** A licensed private detective who terminates employment with an employing private detective agency shall send written notice to the department within 10 days after the termination.

(2) **SECURITY GUARDS.** A private detective agency shall notify the department in writing within 5 days after the termination of employment of a private security person.

SECTION 30. RL 32.07 (1) (b) and (2) are amended to read:

RL 32.07 (1) (b) The prospective new owner of a licensed agency shall apply for and receive an original agency license before engaging in business, ~~and shall attach to the license application a statement made under oath by the current owner certifying that the current owner will have no control of, or pecuniary interest in, the agency after the issuance of a license to the prospective new owner.~~

(2) If there is a change in any of the officers of a corporation or ~~partners~~ members of a partnership or a limited liability company, the agency shall notify the department of the change before new officers or partners take office. ~~Each officer~~ Officers or ~~partner~~ members of an agency shall ~~qualify under~~ comply with s. RL 31.02 (1) ~~at all times.~~ This subsection does not apply to a change of registered agent by a foreign corporation holding an agency license, but a copy of any statement required under s. ~~480.10~~ 180.1508, Stats., to be filed with the ~~secretary of state~~ department of financial institutions shall be filed with the department within 30 days after a change of registered agent.

SECTION 31. RL 33.01 is repealed and recreated to read:

RL 33.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.26, Stats.

SECTION 32. RL 33.06 is repealed.

SECTION 33. RL 33.07 is created to read:

RL 33.07 Contracts required. (1) Except as provided in sub. (2), a private detective agency shall enter into a written agreement with a client before providing services to the client. The agreement shall contain at least the following provisions:

(a) The date of the agreement.

(b) The parties to the agreement.

(c) A description of the services to be provided by the agency.

(d) A description of the fees required by the agency for the services to be provided.

(e) A description of how or when the agreement will terminate or may be terminated by one or both parties.

(2) A private detective agency is not required to enter into a written agreement in any of the following circumstances:

(a) In an emergency situation when the services of the private detective agency are required and there is no time to enter into a written contract before conducting the services.

(b) When providing services to an attorney.

(c) When providing services to another licensed private detective agency.

SECTION 34. RL 34.055 is created to read:

RL 34.055 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.26 (3m) and (5r), Stats.

SECTION 35. RL 34.01 (1) (b) and (d) are amended to read:

RL 34.01 (1) (b) The client of and the agency requests agree in writing that the agency will assign armed security personnel to it the client and the agency retains these requests and makes copies of them available to the department upon request by the department.

(d) The owner or employe is not prohibited from possessing a firearm under s. 941.29, Stats., or any federal law.

SECTION 36. RL 34.01 (1) (h) and (i) are created to read:

RL 34.01 (1) (h) The owner or employe does not hold a temporary private security permit issued under s. 440.26 (5r), Stats.

(i) The agency has obtained a comprehensive general liability policy pursuant to s. RL 31.034.

SECTION 37. RL 34.011 (title) and (intro.) are amended to read:

RL 34.011 Conditions relating to transporting a loaded firearm in a vehicle. No owner or employe of an agency may transport a loaded firearm in a vehicle, unless all of the following apply:

SECTION 38. RL 34.02 (3) is amended to read:

RL 34.02 (3) A certificate of proficiency shall be valid for one year. An owner or employe shall obtain a new certificate of proficiency by satisfying the requirements in subs. (1) and (2), except that the training course shall consist of a 6-hour refresher course which more briefly covers the required course contents described in s. RL 34.03. A person approved as a firearms proficiency certifier under s. RL 34.04 may satisfy the 6-hour training requirement by conducting the 6-hour refresher course or the 36-hour course under s. RL 34.03 (1).

SECTION 39. RL 34.04 (3) is repealed.

SECTION 40. RL 34.04 (4), (5) and (6) are created to read:

RL 34.04 (4) The department may deny an application submitted to it pursuant to sub. (1) or may suspend, limit or revoke a permit which it has granted, if the department determines that the conditions and requirements described in sub. (2) have not been satisfied or do not continue to be satisfied. The department shall grant a hearing pursuant to ch. RL 1 or 2.

(5) An applicant shall submit to the department 2 complete and satisfactory sets of fingerprints to carry a firearm and the department may obtain a criminal history record search from the Wisconsin department of justice and the federal bureau of investigation relating to the applicant before initially granting a permit for that individual and every 2 years thereafter.

(6) The applicant shall pay the reasonable costs incurred by the department in obtaining information relating to the eligibility and qualifications of the applicant, including the reasonable costs of criminal history record searches.

SECTION 41. RL 34.07 and 34.08 are amended to read:

RL 34.07 Other dangerous weapons. An Other than a firearm, an owner or employe of an agency may only be armed with a dangerous weapon other than a firearm, which he or she, based on training, is night stick or an aerosol canister which contains oleoresin

of capsicum and inert ingredients. The owner or employe shall be proficient in handling these weapons. The person shall understand the legal limits of force with the weapon, the dangers and misuse of the weapon and the safety rules relating to the weapon. The agency shall, upon request of the department, provide documentation of the training or experience which prepared the person to be proficient in the use of the weapon.

RL 34.08 Replica of a firearm. No owner or employe of an agency may, at any time while he or she is on duty, carry on, about or near the person an object which looks like a firearm, but is not.

SECTION 42. Chapter RL 35 (title) is amended to read:

Chapter RL 35

GROUNDS FOR DISCIPLINE AGAINST A PRIVATE DETECTIVE, AND A PRIVATE SECURITY PERSON OR A PRIVATE DETECTIVE AGENCY GROUNDS FOR DISCIPLINARY ACTION

SECTION 43. RL 35.055 is created to read:

RL 35.055 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2) and 440.26 (2), (4m), (5m), (6) and (8), Stats.

SECTION 44. RL 35.01 (intro.), (1), (2), (3) and (10) are amended to read:

RL 35.01 UNPROFESSIONAL CONDUCT. The department may deny an application for renewal, limit, suspend or revoke a license credential, or reprimand a licensee credential holder upon proof that the licensee credential holder or any owner of an agency has engaged in conduct reflecting adversely on professional qualification. Conduct reflecting adversely on professional qualification includes, but is not limited to, any of the following:

(1) Performing private detective or private security related services while the ability of the licensee credential holder to competently perform duties is impaired by mental or emotional disorder or alcohol or other drug abuse.

(2) Violating, or aiding or abetting the violation of, any law the circumstances of which substantially relate to the practice of a private detective or private security person. A licensee credential holder who has been convicted of a felony, misdemeanor or ordinance violation, including driving while intoxicated under s. 346.63, Stats., but excluding other motor vehicle offenses under chs. 341 to 349, Stats., as defined in s. 440.26 (4m), Stats., shall send to the department within 30 days 48 hours after the judgment of conviction or the judgment finding that the person committed the violation, a copy of the complaint or other information which describes the nature of the crime or conviction and the judgment of conviction in order that the department may determine whether the circumstances of the crime of which the licensee was convicted are substantially related to the practice of a private detective or private security person, pursuant to s. 111.335 (1) (c), Stats disciplinary action should be taken against the credential holder.

(3) Operating a branch, divisional or department office under a different name than that of the agency's principal office in this state, unless the branch, division or department has received a separate license is different than a name that the credential holder has provided to the department on an application for a credential or in other written form pursuant to s. RL 31.06.

(10) Employing any person who engages in any act or course of conduct for which the department may discipline a private detective or agency credential holder, if the employer knows or should know that the person is engaging or has engaged in the act or course of conduct.

SECTION 45. RL 35.01 (12m) is repealed and recreated to read:

RL 35.01 (12m) Violating the requirements for written contracts in s. RL 33.07.

SECTION 46. RL 35.01 (13), (17), (19), (22) and (23) are amended to read:

RL 35.01 (13) Assigning any person to perform private detective or security personnel duties who has not been issued a license or

permit prior to performing the services or who has not properly notified the department of an employment transfer pursuant to s. RL 32.05.

(17) Providing false information in the application for a license credential.

(19) Practicing without a current license credential.

(22) Having disciplinary action through final board or agency action taken against one's license credential in another jurisdiction.

(23) After a request by the department, failing to cooperate in a timely manner with the department's investigation of a complaint filed against the licensee credential holder. There is a rebuttable presumption that a licensee credential holder who takes longer than 30 days to respond to a request of the department has not acted in a timely manner.

SECTION 47. RL 35.01 (24) and (25) are created to read:

RL 35.01 (24) Providing private detective services to a client in any situation where the exercise of the private detective's independent professional judgment on behalf of a client will be or is likely to be adversely affected.

(25) Providing services to 2 clients when the provision of services to one client directly and adversely affects the interests of the other client without the knowledge and written consent of the clients.

SECTION 48. RL 35.03 (2) is amended to read:

RL 35.03 (2) A private detective credential holder employed by an agency whose agency license is suspended, revoked or not renewed by the department may apply for a transfer of license employment to another agency, provided that the private detective or private security person was not a party to the act or course of conduct which caused the suspension, revocation or nonrenewal of the agency license of the former employer.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

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

Notice of Hearing

Department of Transportation

Notice is hereby given that pursuant to ss. 85.16(1), 227.11, 343.06(1)(c), 343.07(4)(b) and 343.16(1)(a), Stats., and interpreting ss. 343.06(1)(c), 343.07(4)(b) and 343.16(1)(a), Stats., the Department of Transportation will hold a public hearing in **Room 421 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the 19th day of May, 1997, at 1:30 PM,** to consider the repeal of ch. Trans 503, and the repeal and recreation of ch. Trans 129, Wis. Adm. Code, relating to the waiver of the motorcycle skills test and to required attendance of motorcycle rider courses and motorcycle instruction permit issuance.

The public record on this proposed rule making will be held open until **May 23, 1997**, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Alice Weiss, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7920, Madison, WI 53707-7920.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 227.11, 343.06(1)(c), 343.07(4)(b) and 343.16(1)(a)

STATUTES INTERPRETED: ss. 343.06(1)(c), 343.07(4)(b) and 343.16(1)(a)

General Summary of Rule

This proposed rule making combines Chs. Trans 129 and 503 which both relate to the motorcycle safety schools. Ch. Trans 129 deals with requirements for licensing of instructors and schools. Ch. Trans 503 deals with funding for those schools. Because the two issues are closely related and there is no need for separate chapters in the administrative code on these two issues, the Department is incorporating the provisions of Ch. Trans 503 into Ch. Trans 129. Currently, to be granted a waiver of the DMV motorcycle skills test, a graduate of a rider course has to apply for the waiver no more than one year after completing the rider course. The one-year expiration of the waiver authorization is repealed; it will now have no expiration date. However, the rule continues to provide that the person who attempts and fails the motorcycle skills test after completing the rider course is no longer eligible for waiver. This is to prevent the paradoxical situation that occurs if a person fails the test thus showing lack of skill and then "finds" the waiver authorization form.

Currently, a person applying for waiver of the motorcycle skills test must have held a valid cycle instruction permit for at least 7 days. The proposed rule follows the statutory requirement that a person applying for this waiver must hold a valid cycle instruction permit; the minimum 7 days has been repealed.

The proposed rule provides that all persons, not just those under age 18, are exempt from the requirement to complete a rider course if they do not reside within 50 highway miles of a basic rider course site.

Currently, a person may not:

- renew a cycle instruction permit if he or she held three previous instruction permits
- attempt the motorcycle skills test if the person has failed two previous tests.

The proposed rule provides that the Department will only check back 5 years when counting the number of motorcycle instruction permits and the number of skills test failures. This limits the amount of time that the Department is required to keep records of motorcycle instruction permits and motorcycle skills test failures.

The Department is aware that some other jurisdictions and agencies, such as the U.S. military, have motorcycle rider courses equivalent to Wisconsin rider courses. In order to make courses available to as many Wisconsin residents as possible, the Department has included courses in neighboring states for waiver authorization. In the proposed revision to ch. Trans 129, the Department has also provided for the acceptance of other courses if they can provide evidence that the course meets the requirements of this rule for a basic rider course or experienced rider course.

The proposed rule requires a basic rider course to include instruction on the hazards posed by farm machinery and animals on the highway. The class size maximum for a basic rider course has been extended from 30 to 36. The number of students on a range for the experienced rider course has been expanded from 12 to 15 students. The rule also provides for exceptions to classroom or range sizes on a case-by-case basis provided it will not adversely affect the instruction provided or class safety.

This rule requires all motorcycle schools, public or private, to meet the same standards for classroom size, instruction and curriculum.

High school and technical school programs which are not required to be licensed under ss. 343.60 to 343.73, Stats., are exempt from s. Trans 129.20, which reflects statutory requirements imposed on private driver schools. The two private entities in Wisconsin that provide motorcycle rider course instruction are required to be licensed under ss. 343.60 to 343.73, Stats. Under this proposed rule, however, the Department has sought to alleviate the administrative burden of driver school licensing on these entities by permitting the use of existing motorcycle instruction school authorization procedures in lieu of the ordinary private driver school licensing procedures of Ch. Trans 105. Thus, for example, record keeping required of private driver school licensees under proposed s. Trans 129.20(3)(g) is identical to the public school requirement. Similarly, private school instructors need to meet the same testing standards as high school or vocational school instructors under proposed s. Trans 129.20(4)(b).

Currently, no private driver school offers both car and motorcycle training. The rule provides, however, that should a school decide to offer both types of instruction that the school will need to meet the requirements of Ch. Trans 129 with regard to motorcycle classes and Ch. Trans 105 with regard to car driving classes.

Fiscal Impact

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

Initial Regulatory Flexibility Analysis

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

Copies of Proposed Rule

Copies of this proposed rule may be obtained upon request, without cost, by writing to Alice Weiss, Department of Transportation, Bureau of Driver Services, Room 351, P. O. Box 7920, Madison, WI 53707-7920, or by calling (608) 266-7386. Hearing-impaired individuals may contact the Department using TDD (608) 266-0396. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Proposed Rule

Transportation

Notice is hereby given that pursuant to the authority of s. 86.31(6), Stats., and according to the procedure set forth in s. 227.16(2)(e), Stats., the Wisconsin Department of Transportation will adopt the following rule amending ch. Trans 206 without public hearing unless, within 30 days after publication of this notice on **May 1, 1997**, the Department of Transportation is petitioned for a public hearing by 25 natural persons who will be affected by the rule; a municipality which will be affected by the rule; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Questions about this rule and any petition for public hearing may be addressed to Ana Aquino-Perez, Division of Transportation Investment Management, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, Wisconsin 53707-7913, telephone (608) 266-9497.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: s. 86.31(6)

STATUTE INTERPRETED: s. 86.31(6)

General Summary of Proposed Rule

This rule making proposes a minor revision to the Department's Local Roads Improvement Program, ch. Trans 206. The rule was revised in December of 1994 to include a provision for a new appropriation for high cost town road projects. Section 1 amends the present "Administrative Cost" definition to exempt the deduction of county administrative fees from the Town Road Improvement

Discretionary Program (TRIP-D) component of LRIP. TRIP-D was added to the program during the 1993-95 biennium specifically to provide funding for high cost town road improvement projects - costing \$100,000 or more - that otherwise would not be funded. The existing rule requires that a county administrative fee be deducted from the total allocation of the county Town Road Improvement Program (TRI), the Municipal Street Improvement (MSI) Program for cities and villages with a population of 20,000 or less, and the statewide Town Road Improvement Discretionary Program (TRID) of LRIP. There was never an intent to include the statewide TRID in this provision. The present requirement was included in the current rule by error when the rule was last updated.

The county commissioners have already received and have agreed upon a level of reimbursement for administrative costs for the entire LRIP program. The addition of the few geographically diverse TRIP-D projects does not have an effect on county administrative costs. The TRIP-D program is completing its second biennial program at the end of fiscal year 1997. As of today, no payments in the form of administrative fees have been made to any county commissioners from the administration of the TRIP-D program, therefore, we expect no impact from this rule change.

Section 2 makes modifications to the uniform provisions of the LRIP project agreement to include the STRIDC as the approval source for TRIP-D projects.

Fiscal Impact

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, technical college district, sewerage district, or any federally-recognized tribes or bands. The Department also anticipates no fiscal impact on state funds.

Initial Regulatory Flexibility Analysis

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

Copies of Rule

Copies of the proposed rule may be obtained upon request, without cost, by writing to Ana Aquino-Perez, Division of Transportation Investment Management, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, Wisconsin 53707-7913, or by calling (608) 266-9497. Alternate formats of the proposed rule will be provided to individuals at their request.

Text of Proposed Rule

Under the authority vested in the state of Wisconsin, department of transportation, by s. 86.31(6), Stats., the department of transportation hereby proposes an order to amend a rule interpreting s. 86.31(2), Stats., relating to the local roads improvement program.

SECTION 1. Trans 206.02(1) is amended to read:

Trans 206.02(1) "Administrative cost" means the county highway commissioner's staff and material costs to perform the county highway commissioner's duties to the county MSI program for cities and villages with a population of 20,000 or less, and the county TRI program, ~~and the statewide TRID~~, as defined in this chapter, including the cost of conducting bid lettings for MSI projects in cities and villages with a population of 20,000 or less and for TRI ~~and TRID~~ projects.

SECTION 2. Trans 206.03(12)(c)3 is amended to read:

Trans 206.03(12)(c)3. Description of the proposed work as approved by the CTRIC, STRIDC or CMSIC where appropriate and the intended construction year.

Notice of Hearing

Transportation

Notice is hereby given that pursuant to ss. 85.16(1) and 348.07(4), Stats., interpreting s. 348.07(4), Stats., the Department of Transportation will hold a public hearing at the following locations to consider the amendment of ch. Trans 276, Wis. Adm. Code, relating

to allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Hearing Information

May 13, 1997
Tuesday
10:00 a.m.

Waupaca Cty. Courthouse
811 Harding Street, Rm. 3025
Waupaca, WI

May 16, 1997
Friday
10:00 a.m.

Hill Farms State Trans. Bldg.
4802 Sheboygan Ave., Rm. 421
Madison, WI

The hearing locations are accessible to persons with disabilities.

The public record on this proposed rule making will be held open until close of business, May 21, 1997, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to Mark Morrison, Traffic & Safety Engineer, Room 601, P. O. Box 7916, Madison, Wisconsin, 53707-7916.

NOTE: This hearing is being conducted at 2 locations in order to give the public greater opportunity to present its facts, arguments and opinions. The records from both locations will be combined into a single Hearing Record on which the Department will base its decisions. Individuals need only attend one of the public hearings for their testimony to be fully considered.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1) and 348.07(4)

STATUTE INTERPRETED: s. 348.07(4)

This proposed rule amends Trans 276.07(10), (11) and (16) Wisconsin Administrative Code, to add three segments of highway to the designated highway system established under s. 348.07(4), Stats. The actual highway segments that this proposed rule adds to the designated highway system are:

Hwy	From	To
STH 49	USH 10 in Waupaca	STH 161 in Iola
STH 54	I-43 in Green Bay	STH 42 in Algoma
STH 78	USH 12 S. of Sauk City	USH 14 E. of Mazomanie

This rule also amends Trans 276.07(8) and (16), Wisconsin Administrative Code, to reflect the designation of STH 78 and USH 51 as IH 39. These highway segments are currently designated highways so the change in wording does not change the designated highway system.

Note: The proposed rule text often achieves these objectives by consolidating individual segments into contiguous segments with new end points. In order to determine the actual highway segment added, it is necessary to compare the combined old designations with the combined new designation.

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, double bottoms and the vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit: A single vehicle with an overall length in excess of 40 feet, a combination of vehicles with an overall length in excess of 65 feet, a semitrailer longer than 48 feet, an automobile haulaway longer than 66 feet plus allowed overhangs, or a double bottom. Certain exceptions are provided under s. 348.07(2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

Note: 45-foot buses are allowed on the National Network and Interstate system by Federal law. Section 40006(b) of the Intermodal Surface Transportation efficiency Act of 1991.

The effect of this proposed rule will be to extend the provisions of s. 348.07(2)(f), (fm), (gm) and (gr), and s. 348.08(1)(e), Stats., to the highway segments listed above. As a result, vehicles which may legally operate on the federal National Network in Wisconsin will also be allowed to operate on the newly-designated highways. Specifically, this means there will be no overall length limitation for a tractor-semitrailer combination, a double bottom or an automobile haulaway on the affected highway segments. There also will be no length limitation for a truck tractor or road tractor when operated in a tractor-semitrailer combination or as part of a double bottom or an automobile haulaway. Double bottoms will be allowed to operate on the affected highway segments provided neither trailer is longer than 28 feet, 6 inches. Semitrailers up to 53 feet long may also be operated on these highway segments provided the kingpin to rear axle distance does not exceed 43 feet. This distance is measured from the kingpin to the center of the rear axle or, if the semitrailer has a tandem axle, to a point midway between the first and last axles of the tandem. Otherwise, semitrailers, including semitrailers which are part of an automobile haulaway, are limited to 48 feet in length.

These vehicles and combinations are also allowed to operate on undesignated highways for a distance of 5 miles or less from the designated highway in order to reach fuel, food, maintenance, repair, rest, staging, terminal or vehicle assembly or points of loading or unloading.

Fiscal Impact

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

Initial Regulatory Flexibility Analysis

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Copies of Rule and Contact Person

Copies of this proposed rule are available upon request, without cost, at the office of the State Traffic Engineer, P. O. Box 7916, Madison, Wisconsin, 53707, telephone (608) 266-1675. For questions about this proposed rule making, please call Mark Morrison, Traffic & Safety Engineer at (608) 266-1675. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearings Transportation

Notice is hereby given that pursuant to ss. 85.16(1), 110.075, 227.10(1) and 347.35(3)(b), Stats., and interpreting ss. 342.07(2), 342.30 and ch. 347, Stats., the Department of Transportation will hold public hearings at the following locations to consider the amendment of chapter Trans 305, Wisconsin Administrative Code, relating to standards for vehicle equipment:

Hearing Information

June 3, 1997
Tuesday
1:00 p.m.

Hill Farms State Trans. Bldg.
4802 Sheboygan Ave., Room 551
Madison, WI

June 3, 1997
Tuesday
7:00 p.m.

Hill Farms State Trans. Bldg.
4802 Sheboygan Ave., Room 421
Madison, WI

The public record on this proposed rule making will be held open until June 10, 1997, to permit the submission of written comments

from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Major Michael Moore, Wisconsin State Patrol Academy, 800 South 10th Avenue, Sparta, WI 54656-5164.

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16(1), 110.075, 227.10(1) and 347.35(3)(b)

STATUTES INTERPRETED: ss. 342.07(2), 342.30 and ch. 347

General Summary of Proposed Rule.

This rule making proposes to make minor changes in the Department's rule on motor vehicle equipment. The rule was renumbered ch. Trans 305 and recreated in 1996. The proposed changes correct oversights in the 1996 rule making and make certain sections of ch. Trans 305 more understandable and easier to enforce. Section 1 clarifies that vehicles brought to Wisconsin from other jurisdictions need to meet Wisconsin equipment requirements for vehicles of the same model year. Sections 2 and 4 delete registered weight from the definitions of heavy and light truck so that small trucks registered with farm plates are not unnecessarily subjected to heavy vehicle equipment requirements. Section 6 makes clear that homemade and reconstructed trailers and semitrailers need not be inspected prior to titling or registration. Section 9 corrects an oversight by providing that auxiliary lights must be properly aimed. This will provide the same protection as similar restrictions applicable to headlamps. Section 10 eliminates the requirement that auxiliary off-road lamps be covered when a vehicle so equipped is operated on a highway.

As it is difficult to determine if older vehicles were originally manufactured with certain types of equipment, this rule proposes to make mandatory equipment requirements apply either to all vehicles or beginning with certain specified model years for clarity and ease of enforcement. This is accomplished in Sections 11, 14-18, 29 and 30.

Section 13 provides that directional signals may not be covered or obscured which is consistent with restrictions applicable to tail and stop lamps and 1995 Wis. Act 346. Section 16 clarifies that when a camper top or similar covering makes a truck 80 or more inches wide, high mounted stop lamps are not required. Section 19 clarifies that doors, hoods and trunks must be capable of being opened and securely closed, but that no particular type of opening and closing device is mandated. The section also makes the restriction on projecting parts on hoods more enforceable by providing an objective point from which measurements should be made. Sections 22 and 23 simplify the provisions on fuel tanks by providing that the installation of fuel tanks must be in accordance with industry standards. Section 24 amends the provision relating to maintenance of airbags to be consistent with federal regulations which permit deactivation of airbags in certain circumstances. Section 28 deletes the provision which allowed cloudiness or etching beyond 2 inches from the edge of the rear window if the vehicle had two outside rearview mirrors.

Sections 32 to 39 make modifications to the equipment requirements for heavy trucks. Section 32 corrects an error in a cross reference; section 33 makes additional equipment provisions from subchapter II applicable to heavy trucks; section 35 provides a delayed effective date for new requirements concerning the location of axle control valves at the request of the Wisconsin Truck Dealers Association; section 37 makes the brake requirements of s. Trans 305.51 applicable to heavy trucks as well as trailers and semitrailers; and section 39 makes the requirements for suspension systems contained in s. Trans 305.57 applicable to heavy trucks as well as trailers and semitrailers.

Fiscal Impact

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

federally-recognized tribes or bands. The Department also anticipates no fiscal impact on state funds.

Initial Regulatory Flexibility Analysis

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

Copies of Proposed Rule

Copies of the proposed rule may be obtained upon request, without cost, by writing to Major Michael Moore, Wisconsin State Patrol Academy, 800 South 10th Avenue, Sparta, WI 54656-5164, or by calling (608) 269-2500; or contact Frieda Andreas, Division of State Patrol, by calling (608) 266-6936. Alternate formats of the proposed rule will be provided to individuals at their request.

Notice of Hearings

Workforce Development

(Economic Support, Chs. DWD 11--)

Notice is given that pursuant to ss. 49.143 to 49.157, 49.26 (1) (h) 1. as. and 1m. c., and 103.005 (1), Stats., the Department of Workforce Development proposes to hold public hearings to consider the creation of rules under chs. DWD 12 and 56, Wis. Adm. Code, relating to Wisconsin Works (W-2).

Hearing Information

The public hearings are scheduled as follows:

May 21, 1997
Wednesday
10:30 a.m. to
1:30 p.m.

Room 103, Main Building
620 W. Clairemont Ave.
EAU CLAIRE, WI

May 28, 1997
Wednesday
9:00 a.m. to
12:00 p.m. (noon)

Cooley Auditorium
Main Building
1015 North 6th St.
MILWAUKEE, WI
(Public parking structures are located directly across from the Main Building in the 1000 block of North 6th Street, and at 1025 North 8th Street.)

These hearings are held in accessible facilities. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 266-9199 or, if you are deaf or hard of hearing (608) 267-9880, 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.

Copies of the Rules

A copy of the rules to be considered may be obtained from:

Division of Economic Support
Telephone (608) 266-9199
State Department of Workforce Development
1 West Wilson
P.O. Box 7935
Madison, WI 53707-7935

or at the appointed times and places the hearings are held.

Written Comments

Interested people are invited to appear at the hearings and will be afforded the opportunity of making oral presentations of their positions. People making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from people unable to attend the public hearing, or who

wish to supplement testimony offered at the hearings may be submitted no later than **Wednesday, June 4, 1997**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to Nancy Ritter at the address noted above. Written comments will be given the same consideration as testimony presented at the hearings. People submitting comments will not receive individual responses.

Analysis Prepared by the Dept. of Workforce Development

Wisconsin Works (W-2), the replacement program for the Aid to Families with Dependent Children (AFDC) program, is based squarely on work. Rather than offering welfare checks to those who do not work, as AFDC does currently, W-2 offers participants the opportunity to move into the work world and become self-sufficient through employment. The W-2 program includes work opportunities, job access loans, education and training activities to enhance employability, intensive case management, child care and child support enforcement and other employment supports such as transportation assistance and access to health care services under the Medical Assistance program.

Wisconsin Works (W-2) was authorized through enactment of 1995 Wis. Act 289 which Governor Thompson signed into law on April 25, 1996. Under s. 49.141 (2) (b), Stats., if a federal waiver is granted or federal legislation is enacted, the Department of Workforce Development could begin to implement W-2 no sooner than July 1, 1996 and must fully implement the W-2 program statewide in September 1997. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) was signed into law on August 22, 1996. It creates the Temporary Assistance for Needy Families (TANF) program which ends the entitlement program under Title IV-A of the Social Security Act and creates a block grant program under which states receive monies to provide cash and other benefits to help needy families support their children while at the same time requiring families to participate in work program activities which will help them become self-sufficient. In general, a state may not use any part of the TANF grant to provide assistance to a family for more than 60 months.

States must ensure, under section 114 of P.L. 104-193, that families who meet the AFDC eligibility requirements in effect on July 16, 1996, have access to Medical Assistance. Wisconsin has not yet obtained the necessary waivers or federal legislation that would allow the implementation of the W-2 health plan. Therefore, W-2 participants who meet the July 16, 1996, AFDC eligibility requirements or are eligible under s. 49.46 or 49.47, Stats., and the implementing administrative rules, chs. HFS 101-108, administered by the Department of Health and Family Services, may apply and be determined eligible for Medical Assistance.

Under W-2, there will be a place for everyone who is willing to work to their ability. The program is available to parents with minor children, low assets and low income who need assistance in becoming self-sufficient through employment. The W-2 program provides cash benefits only for those individuals who participate in W-2 employment and training activities. W-2 agencies have the option, for participants in a community service job or a transitional placement, to aggregate education and training hours for approved programs to allow an individual to participate in education and training activities for more than 10 or 12 hours per week within the first few months of participation. Each eligible W-2 applicant will

meet with a Financial and Employment Planner (FEP) who will help the individual develop a self-sufficiency plan and determine their place on the W-2 employment ladder. The ladder consists of four levels of employment options, in order of preference:

- ☞ Unsubsidized employment;
- ☞ Subsidized employment through a trial job for those participants who need minimal assistance but where unsubsidized employment is not available;
- ☞ A community service job for those participants who need to practice work habits and skills necessary to move into unsubsidized employment; and
- ☞ Transitional placement for those unable to perform independent, self-sustaining work.

Individuals placed in a trial job will receive wages from an employer. Individuals placed in a community service job will receive a monthly benefit of \$555 and individuals placed in a transitional placement will receive a monthly benefit of \$518. W-2 participants are limited to 24 months in a single subsidized employment position category. Extensions may be granted on a limited basis when local labor market conditions preclude opportunities or when the participant has significant barriers which prevent him or her from obtaining unsubsidized employment. Child care is available for those individuals who have children under the age of 13 and need child care in order to work or participate in a W-2 employment position. The W-2 program will be administered by contracted agencies which may include counties, tribal agencies and private agencies in geographic areas determined by the Department.

These are the proposed permanent rules for implementation of the W-2 program. The rules include eligibility requirements for those individuals applying for a W-2 employment position or child care, time-limited benefits for participants in W-2 employment positions, good cause for failure or refusal to participate in W-2 employment positions or other required employment and training activities, how sanctions are applied for failure to meet the W-2 employment position participation requirements, and school attendance requirements under the Learnfare program for the children of W-2 employment position participants.

Similar emergency rules have been in effect since March 1, 1997.

Initial Regulatory Flexibility Analysis

1. *Types of small businesses that will be affected by the rules:* None.
2. *Reporting, bookkeeping and other procedures required for compliance with the rules:* --
3. *Types of professional skills necessary for compliance with the rules:* --

Fiscal Estimate

This is the rule to implement Wisconsin Works (W-2), under s. 49.141 through 49.161, Stats., as created by 1995 Wis. Act 289.

All costs to the Department and local governments for operation of Wisconsin Works (W-2) were included in the fiscal notes to 1995 Wis. Act 289. There are no additional costs for state government or local governments from promulgation of the administrative rule to implement Wisconsin Works (W-2).

*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.

Commerce ([CR 97-26](#)):

Ch. Comm 113 – Relating to the annual allocation of volume cap on tax-exempt bonds for calendar year 1998.

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.

Employe Trust Funds (CR 96-167):

An order affecting s. ETF 60.53, relating to deadlines to apply for death benefits payable from the Wisconsin Retirement System and timing of automatic distribution of these benefits.

Effective 06-01-97.

Labor & Industry Review Commission (CR 96-136):

An order affecting chs. LIRC 1 to 4, relating to procedural rules concerning petition to and handling of cases by the Labor and Industry Review Commission.

Effective 06-01-97.

Natural Resources (CR 96-132):

An order amending s. NR 20.03 (1) (k), relating to the daily bag limit for panfish as it applies to recreational fishing on inland waters.

Effective 04-01-98.

Transportation (CR 96-44):

An order affecting ch. Trans 139, relating to motor vehicle trade practices.

Effective 09-01-97.

Transportation (CR 96-170):

An order creating ch. Trans 55, relating to the granting of state aid to airport owners.

Effective 06-01-97.

Workforce Development (CR 96-156):

An order renumbering ch. HSS 201 to ch. DWD 11 and creating s. DWD 11.135, relating to circumstances under which the 60-month lifetime limit on participation in the Job Opportunities and Basic Skills (JOBS) program or a Wisconsin Works (W-2) employment position or a combination thereof may be extended.

Effective 06-01-97.

Workforce Development (CR 96-7):

An order affecting ss. ILHR 100.02 and 132.001 and ch. ILHR 140, relating to unemployment insurance appeal rights and procedures.

Effective 06-01-97.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **April 30, 1997 Wisconsin Administrative Register**. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

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

Agriculture, Trade & Consumer Protection

(CR 96-138):

An order affecting ch. ATCP 98, relating to financial standards and security requirements for vegetable contractors.

Effective 05-01-97.

Agriculture, Trade & Consumer Protection

(CR 96-139):

An order creating s. ATCP 21.15, relating to potato late blight.

Effective 05-01-97.

Agriculture, Trade & Consumer Protection

(CR 96-142):

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

Effective 05-01-97.

Corrections (CR 95-206):

An order repealing and recreating ss. DOC 328.20 and 333.16, relating to use of oleoresin of capsicum, firearms and other weapons by Division of Community Corrections employes.

Effective 05-01-97.

Corrections (CR 96-175):

An order creating s. DOC 309.05 (2) (d), relating to stamping outgoing prisoner mail.

Effective 05-01-97.

Health & Family Services (CR 95-235):

An order affecting ch. HSS 90, relating to a system of early intervention services, called the Birth to 3 Program, for children in the age group birth through 2 who are found to be developmentally delayed or to have a diagnosed condition which will likely result in developmental delay.

Effective 05-01-97.

Insurance, Commissioner of (CR 96-153):

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

Effective 05-01-97.

Natural Resources (CR 96-134):

An order affecting chs. NR 190 and 191, relating to lake management planning grants and lake protection grants.

Effective 05-01-97.

Natural Resources (CR 96-160):

An order amending ss. NR 25.02, 25.05, 25.06 and 25.07, relating to commercial fishing for whitefish and chubs in Green Bay and Lake Michigan.

Effective 05-01-97.

Public Defender (CR 96-152):

An order amending s. PD 6.05 (1) (b), relating to reimbursement from parents of juveniles.

Effective 05-01-97.

Public Defender (CR 96-161):

An order repealing s. PD 3.04, relating to partial indigency.

Effective 05-01-97.

Transportation (CR 96-62):

An order affecting ch. Trans 301, relating to Human Services Vehicles (HSV's).

Effective 05-01-97.

Transportation (CR 96-76):

An order affecting ss. Trans 276.07 and 276.09, relating to allowing the operation of "double bottoms" (and certain other vehicles) on certain specified highways.

Effective 05-01-97.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection (CR 96-138)

Ch. ATPC 98 – Security requirements for vegetable contractors.

Summary of Final Regulatory Flexibility Analysis:

This rule amends ch. ATPC 98, Wis. Adm. Code, to incorporate changes made to s. 100.03, Stats., by 1995 Wis. Act 460. The rule makes the following changes:

- It exempts fruit contractors.
- It changes the annual registration expiration date to January 31.
- It requires some vegetable contractors to submit, with their annual renewal application, an interim financial statement as of the quarter ending closest to November 30 of the prior year.
- It changes the minimum financial standards that a vegetable contractor must meet. A contractor who fails to meet the minimum security requirements must file security or make “payment on delivery” for all vegetables purchased.
- It phases in, over a 3 year period, the security requirements for contractors who met the previous minimum financial standards but do not meet the “new” minimum standards.

As a result of the new minimum financial standards, it may be necessary for some contractors to file security for the first time. However, this rule softens the impact of this requirement by allowing the department to return security to a contractor who later files one annual financial statement which meets the new minimum standards during the transitional security-filing period.

These changes may affect some contractors who are small businesses, as defined in s. 227.114 (1) (a), Stats. However, most vegetable contractors are not small businesses. This rule will provide increased financial security for Wisconsin’s vegetable growers, many of whom are small businesses.

Summary of Comments from Legislative Committees:

The rule was referred to the Senate Committee on Agriculture and Environmental Resources on January 15, 1997, and the Assembly Agriculture Committee on January 23, 1997. The department received no comments from either committee.

2. Agriculture, Trade & Consumer Protection (CR 96-139)

Ch. ATPC 21 – Control of potato late blight.

Summary of Final Regulatory Flexibility Analysis:

This rule interprets ss. 93.07 (12) and 94.02 (1), Stats., which provides the authority to abate the spread of plant pests and diseases through survey or inspection and recommend measures of control.

The rule applies to approximately 262 potato growers, 237 of which meet the definition of small business. It will not significantly affect small business, because it does not impose any new reporting or recordkeeping requirements and does not require new professional skills. Technical assistance is available from the University of Wisconsin-Extension and the Potato and Vegetable Growers Association.

The rule defines the practices that are necessary to control a highly virulent potato fungus commonly known as “late blight”. It also clarifies the department’s authority to enforce those practices. Growers are required to dispose of cull potatoes and volunteer potato plants and must treat or dispose of diseased crops in order to mitigate the spread of late blight.

Most growers are well aware of the severe economic damage that this disease can cause and are already following pest management practices recommended by the University of Wisconsin-Extension/Plant Pathology Department and outlined in the proposed rule.

Summary of Comments from Legislative Committees:

This rule was referred to the Senate Committee on Agriculture and Environmental Resources on January 15, 1997 and to the Assembly Committee on Agriculture on January 23, 1997. The department received no comments or requests for hearing from either Committee.

3. Agriculture, Trade and Consumer Protection (CR 96-142)

Ch. ATPC 30 – Relating to atrazine use restrictions.

Summary of Final Regulatory Flexibility Analysis:

Businesses Affected:

The amendments to the atrazine rule will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition areas contain approximately 18,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 4,500 acres of corn will be affected. This acreage would represent between 25 and 60 producers, depending on their corn acreage. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business.

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

Reporting, Recordkeeping and Other Procedures Required for Compliance:

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

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

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

Professional Skills Required to Comply:

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

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

Summary of Comments from Legislative Committees:

The rule was referred to the Senate Committee on Transportation, Agriculture, and Local Affairs and to the Assembly Committee on Agriculture on December 21, 1996. The department received no comments from either committee.

4. Corrections (CR 96–175)

Ch. DOC 309 – Stamping outgoing prisoner mail.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule is not expected to impact on small businesses as defined in s. 227.114 (1), Stats.

Summary of Comments:

No comments reported.

5. Corrections (CR 95–206)

Ch. DOC 328 – Incapacitating agents and firearms use by parole, sanctions and probation staff members.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule is not expected to impact on small businesses as defined in s. 227.114 (1), Stats.

Summary of Comments:

No comments reported.

6. Health & Family Services (CR 95–235)

Ch. HSS 90 – Birth to 3 Program.

Summary of Final Regulatory Flexibility Analysis:

These rule changes 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 county agencies administering the Birth to 3 Program. County agencies may contract with medical and other service providers organized as small businesses to provide early intervention services, in which case the small business providers, like other public and private providers of services to eligible children and their families, must comply with the rules for provision of services. The rules also establish parental liability for the cost of non-core services. This means that, with the parent’s consent, third party payers could be expected to pay at least a part of the cost of services. However, it is unlikely that any third party payer is a small business.

Summary of Comments of Legislative Standing Committees:

No comments were received.

7. Insurance (CR 96–153)

S. Ins 18.07 (5) (b) – HIRSP rate decrease.

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.

8. Natural Resources (CR 96–134)

Chs. NR 190 & 191 – Lake management planning grants and lake protection grants.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules are grant programs and do not regulate businesses. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. There were no comments.

9. Natural Resources (CR 96–160)

Ch. NR 25 – Commercial fishing for whitefish and chubs in Green Bay and Lake Michigan.

Summary of Final Regulatory Flexibility Analysis:

The proposed order will directly affect licensed commercial fishers. No additional compliance or reporting requirements will be imposed as a result of these rule changes.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. There were no comments.

10. Public Defender (CR 96-152)

S. PD 6.05 (1) (b) – Reimbursement from parents of juveniles.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

11. Public Defender (CR 96-161)

S. PD 3.04 – Partial indigency.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

12. Transportation (CR 96-62)

Ch. Trans 301 – Human services vehicles (HSVs).

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

13. Transportation (CR 96-76)

Ch. Trans 276 – Allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Summary of Final Regulatory Flexibility Analysis:

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses, and may have a favorable effect on those small businesses which are shippers or carriers using the newly-designated routes.

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

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

Executive Order 307. Relating to the Creation of the Governor's Blue Ribbon Task Force on the Stewardship Program.

Executive Order 308. 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 Brave Personnel of the United States Air Force Reserve's 440th Airlift Wing Who Lost Their Lives in the Line of Duty in Tegucigalpa, Honduras.

Executive Order 309. Relating to the Creation of the Wisconsin Science Advisory Council on Metallic Mining.

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
Registrar*

DATED MATERIAL. PLEASE DO NOT DELAY!