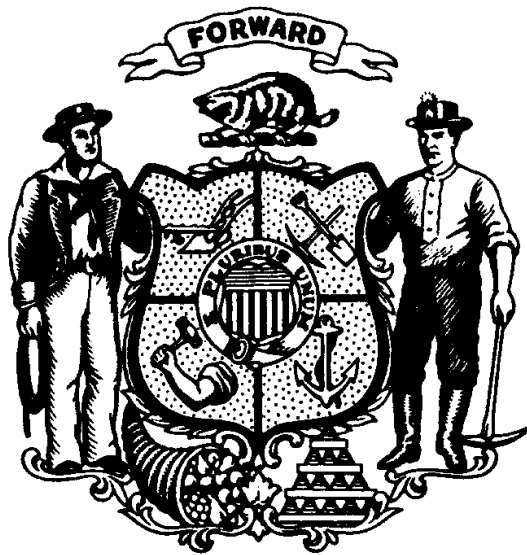


# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 502**



Publication Date: October 31, 1997  
Effective Date: November 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.***

Commerce:	<b><i>Pages 5 to 8.</i></b> <u>Fee Schedule, Ch. Comm 2</u> <u>Credentials, Ch. Comm 5</u> <u>Elevators, Ch. Comm 18</u> Rules relating to inspection of elevators.
Corrections:	Rules relating to inmate secure work groups. Rules relating to registration and community notification of sex offenders. Rule adopted relating to the inmate complaint review system.
Insurance, Commissioner of:	Rules relating to patients compensation fund. Rules relating to patients compensation fund.
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 1997 migratory game bird season.
Public Defender:	Rule relating to calculation of indigency.
Public Instruction:	Rules relating to teacher certification.
State Fair Park Board:	Rules relating to activities in the Park and bail bond schedule.
Transportation:	Rules relating to transportation of school children.

***Scope Statements.***

Agriculture, Trade & Consumer Protection:	<b><i>Pages 9 to 13.</i></b> Chs. ATCP 29 and 30 – Relating to pesticide use and control.
Barbering & Cosmetology Examining Board:	BC Code – Relating to clarification of administrative rules relating to the practice of barbering and cosmetology.
Chiropractic Examining Board:	Chir Code – Relating to the practice of chiropractors.
Dentistry Examining Board:	DE Code – Relating to the periodontal education required, in lieu of successfully completing a clinical periodontal examination, for dentists licensed in other states to qualify for a license in Wisconsin by endorsement.
Employment Relations:	Ch. ER 18 – Relating to sick leave accrual rate, catastrophic leave and other changes in leave provisions for nonrepresented state employees.
Financial Institutions—Securities:	DFI—Sec Code – Relating to repeal of the Division's rules under the securities, take-over and franchise statutes prescribing photocopying charges.
Funeral Directors Examining Board:	FD Code – Relating to clarification of administrative rules relating to the practice of funeral directors.
Health & Family Services:	Ch. HFS 196 – Relating to regulation of restaurants by the Department of Health and Family Services (DHFS) or by local public health departments designated as agents of DHFS.
Insurance:	S. Ins 3.50 (9) (d) – Relating to continuity of access to providers in managed care organizations.
Insurance:	Ch. Ins 28 – Relating to continuing education requirements for insurance intermediaries.

- Insurance: S. Ins 3.39 – Relating to changes in the requirements for Medicare supplement policies to conform to recent federal laws.
- Insurance: Ch. Ins 26 – Relating to preclicensing education requirements for insurance intermediaries.
- Investment Board: Chs. IB 1 and 2 – Relating to restriction of Investment Board employes and general policies of the Investment Board.
- Natural Resources: Ch. NR 20 – Relating to fishing: inland waters; outlying waters.
- Transportation: Ch. Trans 276 – Relating to operation of long combination vehicles on certain specified highways.
- Transportation: Ch. Trans 512 – Relating to the state Infrastructure Bank Program.

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

**Pages 14 to 15.**

- Health & Family Services: Chs. HFS 10, 67 and 118 – Relating to hearings on relief from institutional charges, low-income standard for allocating state nutrition and senior volunteer funds; and confidentiality of health care information.
- Health & Family Services: Ch. HFS 140 – Relating to required services of local health departments.
- Natural Resources: Ch. NR 485 – Relating to emission limitations for motor vehicles.

**Notices of Hearings or of Proposed Rules.**

**Pages 16 to 19.**

- Agriculture, Trade & Consumer Protection: Hearings to consider revision to chs. ATCP 90, 91 and 92, relating to fair packaging and labeling, methods of sale of commodities and weighing and measuring devices.
- Natural Resources: Environmental Protection—Air Pollution Control, Chs. NR 400— Hearings to consider revision of Tables 1 and 3 of s. NR 485.04, relating to emission limitations for motor vehicles.

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

**Page 20.**

- Administration: (CR 96–164) – Ch. Adm 66
- Administration: (CR 96–165) – Chs. Adm 67 and Trans 141
- Administration: (CR 96–166) – Ch. Adm 68
- Commerce: (CR 97–96) – Chs. Comm 2, 5 and 18
- Employe Trust Funds: (CR 97–104) – S. ETF 10.65
- Employe Trust Funds: (CR 97–105) – S. ETF 10.79

**Administrative Rules Filed with the Revisor of Statutes Bureau.**

**Page 21.**

- Accounting Examining Board: (CR 97–70) – S. Accy 7.035
- Financial Institutions—Savings Banks: (CR 96–28) – S. DFI–SB 3.08
- Commissioner of Insurance: (CR 97–71) – SS. Ins 17.01 and 17.28

Law Enforcement Standards Board:	(CR 96-118) – Chs. LES 1 to 6
Public Service Commission:	(CR 95-62) – Ch. PSC 168
Revenue:	(CR 97-56) – SS. Tax 11.32 and 11.68
Transportation:	(CR 97-6) – Chs. Trans 253 and 259 and s. Trans 255.06
Transportation:	(CR 97-34) – Ch. Trans 177

**Rules Published in this Wis. Adm. Register.****Pages 22 to 23.**

Commerce:	(CR 97-37) – Subchs. I, II and III of ch. DOD 6, and ch. Comm 108
Financial Institutions—Credit Unions:	(CR 97-49) – Ch. CU 54 (ch. DFI-CU 54)
Financial Institutions—Credit Unions:	(CR 97-50) – Ch. CU 55 (ch. DFI-CU 55)
Financial Institutions—Credit Unions:	(CR 97-51) – Ch. CU 57 (ch. DFI-CU 57)
Financial Institutions—Credit Unions:	(CR 97-52) – Ch. CU 70 (ch. DFI-CU 70)
Educational Approval Board:	(CR 97-35) – Chs. EAB 1, 4, 5, 6, 7, 8, 9 and 10
Funeral Directors Examining Board:	(CR 96-183) – Ch. FD 6
Health & Family Services:	(CR 97-91) – Ch. HSS 163
Insurance:	(CR 97-76) – S. Ins 18.07 (5) (bg)
Natural Resources:	(CR 96-132) – S. NR 20.03 (1) (k)
Natural Resources:	(CR 97-15) – S. NR 20.03, 20.04, 20.09, 20.10, 26.05, 26.08, 26.09 and 26.14
Natural Resources:	(CR 97-17) – Ch. NR 809
Natural Resources:	(CR 97-18) – SS. NR 10.001, 10.06, 10.103, 10.106, 10.145, 10.28, 10.29, 11.032 and 19.13
Natural Resources:	(CR 97-19) – SS. NR 10.01, 10.07, 10.12, 10.13, 10.145, 10.27, 10.28, 10.29, 10.34, 10.35, 10.37, 10.40, 15.015 and 15.022
Natural Resources:	(CR 97-59) – SS. NR 46.16, 46.18, 46.24 and 46.30
Revenue:	(CR 97-55) – SS. Tax 11.001, 11.002, 11.01, 11.35 and 11.97
Revenue:	(CR 97-56) – SS. Tax 11.32 and 11.68
Revenue:	(CR 97-68) – SS. Tax 11.39 and 11.41
Revenue:	(CR 97-75) – S. Tax 11.14
Revenue:	(CR 97-90) – SS. Tax 11.05 and 11.86
Transportation:	(CR 97-60) – SS. Trans 206.02 (1) and 206.03 (12) (c) 3
Transportation:	(CR 97-64) – Ch. Trans 305
Workforce Development:	(CR 97-54) – Chs. HSS 215 and DWD 12 and 15 and s. DWD 56.04

**Final Regulatory Flexibility Analyses.****Pages 24 to 27.**

1. Commerce:	(CR 97-37) – Subchs. I, II and III of ch. DOD 6, and ch. Comm 108
2. Financial Institutions—Credit Unions:	(CR 97-49) – Ch. CU 54 (ch. DFI-CU 54)
3. Financial Institutions—Credit Unions:	(CR 97-50) – Ch. CU 55 (ch. DFI-CU 55)
4. Financial Institutions—Credit Unions:	(CR 97-51) – Ch. CU 57 (ch. DFI-CU 57)
5. Financial Institutions—Credit Unions:	(CR 97-52) – Ch. CU 70 (ch. DFI-CU 70)
6. Educational Approval Board:	(CR 97-35) – Chs. EAB 1, 4, 5, 6, 7, 8, 9 and 10
7. Funeral Directors Examining Board:	(CR 96-183) – Ch. FD 6
8. Health & Family Services:	(CR 97-91) – Ch. HSS 163

- |                            |                                                                 |
|----------------------------|-----------------------------------------------------------------|
| 9. Insurance:              | (CR 97-76) – S. Ins 18.07 (5) (bg)                              |
| 10. Natural Resources:     | (CR 96-132) – S. NR 20.03 (1) (k) 7                             |
| 11. Natural Resources:     | (CR 97-15) – Chs. NR 20 & 26                                    |
| 12. Natural Resources:     | (CR 97-17) – Ch. NR 809                                         |
| 13. Natural Resources:     | (CR 97-18) – Ch. NR 10                                          |
| 14. Natural Resources:     | (CR 97-19) – Ch. NR 10                                          |
| 15. Natural Resources:     | (CR 97-59) – Ch. NR 46                                          |
| 16. Revenue:               | (CR 97-55) – SS. Tax 11.001, 11.002, 11.01, 11.35<br>and 11.97  |
| 17. Revenue:               | (CR 97-56) – SS. Tax 11.32 and 11.68                            |
| 18. Revenue:               | (CR 97-68) – SS. Tax 11.39 and 11.41                            |
| 19. Revenue:               | (CR 97-75) – S. Tax 11.14                                       |
| 20. Revenue:               | (CR 97-90) – SS. Tax 11.05 and 11.86                            |
| 21. Transportation:        | (CR 97-60) – Ch. Trans 206                                      |
| 22. Transportation:        | (CR 97-64) – Ch. Trans 305                                      |
| 23. Workforce Development: | (CR 97-54) – Chs. HSS 215 and DWD 12 and 15 and<br>s. DWD 56.04 |

**Executive Orders.**

Executive Order #317:

Executive Order #318:

**Page 28.**

Relating to the Implementation of the Federal Communication Commission's Universal Service Fund Order.

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 Fire Fighters of this State Who Have Given Their Lives in the Line of Duty.

---



---

## EMERGENCY RULES NOW IN EFFECT

---



---

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

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

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

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

---

### EMERGENCY RULES NOW IN EFFECT

#### Department of Commerce

**(Fee Schedule, Ch. Comm 2)  
(Credentials, Ch. Comm 5)  
(Elevators, Ch. Comm 18)**

Rules adopted revising **chs. Comm 2, 5 and 18**, relating to inspection of elevators and mechanical lifting devices.

#### Finding of Emergency

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

The Department inspects elevators and mechanical lifting devices to ensure these units are installed and operating in accordance with the elevator safety rules. The Department is required to inspect both new and existing elevator installations. Due to the increased number of elevators and mechanical lifting devices installed in new construction, the Department has not been able to keep up with all of its required inspections. To ensure that the citizens of Wisconsin are safe when using elevators and other mechanical lifting devices, the Department must increase the number of people performing these safety inspections.

The Department rules relating to fees, certification, and inspection procedures are being modified to permit additional individuals to perform inspections of elevators and other mechanical lifting devices. The Department proposes to fund additional inspections by amending its fees to match Department

expenses. Plan review and certificate of operation fees would be lowered. Inspection fees would be raised.

**Publication Date:** May 4, 1997  
**Effective Date:** June 1, 1997  
**Expiration Date:** October 30, 1997  
**Hearing Date:** July 29, 1997

---

### EMERGENCY RULES NOW IN EFFECT (3)

#### Department of Corrections

1. Rules adopted creating **ch. DOC 304**, relating to inmate secure work groups.

#### Finding of Emergency

The Department of Corrections finds 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:

Effective June 1, 1997, appropriations will be made available to the Department of Corrections for the establishment of secure work groups. Section 303.063 (2), Stats. requires that if the Department establishes a secure work program, the Department shall, before implementing the program, promulgate rules specifying the procedures and regulations relating to the program. The Department has just begun the permanent rule process for establishing the administrative rules for the secure work program. It typically takes nine months for a permanent administrative rule to be promulgated from the time the permanent rule making process begins.

The Department needs to adopt administrative rules regarding the organization and operation of the secure work group program in order to have rules in place which will comply with Sec. 303.063 (2), Stats. The rules will provide for the protection of the public, the correctional officers and the inmates by providing the requirements for participation in the program as well as providing for safety and security concerns.

An emergency currently exists as the prison population is idle and needs secure work groups to provide inmates work opportunities, to prepare inmates for work opportunities upon release to the community, and to reintegrate inmates into the community.

**Publication Date:** May 30, 1997  
**Effective Date:** May 30, 1997  
**Expiration Date:** October 28, 1997  
**Hearing Dates:** August 25, 28 & 29, 1997

2. Rules adopted creating **ch. DOC 332**, relating to registration and community notification of sex offenders.

#### Finding of Emergency

The Department of Corrections finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety. A statement of the facts constituting the emergency is: The legislature has directed the department to implement programs for sex offender registration and community notification by June 1, 1997. Emergency rules are necessary to implement the

June 1, 1997, timeline mandated by the legislature, inform sex offenders of registration procedures, and inform law enforcement, victims and the public of the right to access information under the procedures designed by the department. Emergency rules are necessary to implement the June 1, 1997, timeline established by the legislature while permanent rules are developed and promulgated.

**Publication Date:** June 1, 1997  
**Effective Date:** June 1, 1997  
**Expiration Date:** October 30, 1997  
**Hearing Dates:** August 27, 28 & 29, 1997

- Rules adopted revising **ch. DOC 310**, relating to inmates complaint review system.

### Finding of Emergency

The Department of Corrections finds 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:

There is a Corrections Complaint Examiner with two investigator positions and a program assistant position at the Department of Justice. The number and placement of these Corrections Complaint Examiner positions have been in effect for years. At the present time there is a substantial backlog of approximately 3,000 inmate complaints which need to be reviewed by the Corrections Complaint Examiner. The Department of Justice's position is that it will no longer do the Corrections Complaint Examiner function.

The Department must change its administrative rule to reflect the placement of the Corrections Complaint Examiner function from the Department of Justice to the Department of Corrections. The Department must also change its administrative rule regarding inmate complaints to make the system more efficient as a substantial backlog now exists, and there will be no new positions at the Department of Corrections to do the work of the Corrections Complaint Examiner.

The Department's purpose in the inmate complaint review system is to afford inmates a process by which grievances may be expeditiously raised, investigated, and decided. An efficient inmate complaint review system is required for the morale of the inmates and the orderly functioning of the institutions. An emergency exists due to the current backlog and the proposed moving of the function which will require the Department of Corrections to do the work of the Corrections Complaint Examiners with no new positions.

**Publication Date:** August 4, 1997  
**Effective Date:** August 4, 1997  
**Expiration Date:** January 2, 1998  
**Hearing Dates:** October 15, 16 & 17, 1997

---

## EMERGENCY RULES NOW IN EFFECT (2)

### *Commissioner of Insurance*

- Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees calculation of adding certain physician specialties and UW hospital and clinics residents' fees.

### Finding of Emergency

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

The deputy commissioner was unable to promulgate the permanent rule corresponding to this emergency rule, clearinghouse rule no. 97-71, in time for the patients compensation fund (fund) to

bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 1997. The permanent rule was delayed pending legislative action on Senate Bill 145 which, if passed, will require a lowering of the fund fees originally proposed by the fund's board of governors. Senate Bill 145 may still reach the Senate floor this legislative session but, in all likelihood not before July 1, 1997, when this fee rule must be in effect. Assembly Bill 248, the Assembly bill which mirrors Senate Bill 145, passed the Assembly overwhelmingly.

The commissioner expects that the permanent rule will be filed with the secretary of state in time to take effect September 15, 1997. Because the provisions of this rule first apply on July 1, 1997, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to the published notice was held on May 30, 1997.

**Publication Date:** June 20, 1997  
**Effective Date:** June 20, 1997  
**Expiration Date:** November, 18, 1997

- Rules adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1997, adding certain physician specialties to those currently listed in the rule and providing that UW hospital and clinics residents' fees be calculated on a full-time-equivalent basis in the same manner as medical college of Wisconsin resident fees are currently calculated.

### Finding of Emergency

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

1997 Wis. Act 11 was signed into law on July 14, 1997, but by its terms made effective July 1, 1997. Act 11 increased the required primary limits for health care providers subject to the fund from \$400,000 to \$1,000,000 for each occurrence and from \$1,000,000 to \$3,000,000 for an annual aggregate limit. A prior emergency rule effective June 20, 1997, set fund fees for the current fiscal year beginning July 1, 1997, based on the lower liability limits then in effect. The enactment of Act 11 on July 14, 1997, increasing the primary limits made this emergency rule necessary to reduce fund fees as of July 1, 1997, the effective date of that Act.

The commissioner expects that the revised permanent rule corresponding to this emergency rule, clearinghouse rule No. 97-71, will be filed with the secretary of state in time to take effect November 15, 1997. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 30, 1997.

**Publication Date:** August 12, 1997  
**Effective Date:** August 12, 1997  
**Expiration Date:** January 10, 1998

---

## EMERGENCY RULES NOW IN EFFECT (2)

### *Natural Resources*

#### **(Fish, Game, etc., Chs. NR 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 **ch. NR 10**, relating to the 1997 migratory game bird season.

### Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

The foregoing rules are approved and adopted by the Natural Resources Board on August 27, 1997.

**Publication Date:** September 12, 1997  
**Effective Date:** September 12, 1997  
**Expiration Date:** February 10, 1998  
**Hearing Date:** October 27, 1997

---

## EMERGENCY RULES NOW IN EFFECT

### *Public Defender*

A rule was adopted amending **s. PD 3.038 (2)**, relating to the calculation of indigency.

### Finding of Emergency

The State Public Defender Board finds that an emergency exists and that the following rule is necessary for the immediate preservation of the public peace, health, safety or welfare. The statement of facts constituting the emergency is as follows:

The following emergency rule establishes the criteria to be used when determining whether a participant in the Wisconsin works (W-2) program qualifies for public defender representation. W-2 replaces aid to families with dependent children (AFDC) and, pursuant to s. 49.141 (2) (b), Stats., goes into effect on September 1, 1997. Although the Office of the State Public Defender (SPD) has rules governing eligibility for public defender representation of AFDC participants, it does not have rules governing the eligibility

of W-2 participants. Because W-2 goes into effect on September 1, 1997, and it will be several months before a permanent rule is in place, it is essential that the following rule be promulgated as an emergency rule.

**Publication Date:** September 15, 1997  
**Effective Date:** September 15, 1997  
**Expiration Date:** February 13, 1998  
**Hearing Date:** October 27, 1997

---

## EMERGENCY RULES NOW IN EFFECT

### *Public Instruction*

Rules adopted revising **chs. PI 3 and 4**, relating to teacher certification requirements and certification program requirements.

### 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.

Proposed permanent rules were submitted to the Wisconsin Legislative Council on May 27, 1997. Most of the modifications made under the proposed permanent and emergency rules clarify, eliminate redundancy, and streamline current requirements to make the provisions under ch. PI 3 and 4 easier to read, understand, and implement. The rules also provide for consistency with other state agency licensure activity.

In order for teachers to apply for or renew specified licenses (license are issued July 1 through June 30) and for universities to have program requirements in place in time for the upcoming school year, rules must be in place as soon as possible.

**Publication Date:** July 1, 1997  
**Effective Date:** July 1, 1997  
**Expiration Date:** November 29, 1997

---

## EMERGENCY RULES NOW IN EFFECT

### *State Fair Park Board*

Rules adopted revising **chs. SFP 2 and 7**, relating to regulation of activities at the state fair park and revising bond schedule.

### Finding of Emergency

The Wisconsin State Fair Park Board finds that an emergency exists and that the adoption of rules is necessary for the immediate preservation of the public peace, health, safety and welfare of its citizens. The facts constituting this emergency are as follows:

During the annual State Fair, which is scheduled to begin on July 31, 1997, the Wisconsin State Fair Park is host to over 100,000 people per day and millions of dollars in merchandise and property. Initially, chapters SFP 1-7 were designed primarily to protect the property of the State Fair Park.

However, crime patterns at the State Fair Park have changed dramatically since those rules were adopted in 1967. With the increases in attendance and number of events in the intervening years, the number and severity of crimes against State Fair visitors, patrons, and property have necessarily increased. Also, a general rise in gang-related activity at Park events and during skating hours at the Pettit National Ice Center has occurred over the last several years. Consequently, there is a greater need for Park Police Department arrest authority on the Park grounds in order to ensure prosecutorial cooperation by Milwaukee County.

Due to excessive workloads, the Milwaukee County District Attorney's Office and the Milwaukee County Circuit Court system are reluctant to process and charge offenders for relatively minor property-type acts prohibited under the current SFP rules. Area and suburban Milwaukee County Police Departments have alleviated similar problems by conforming their ordinances to the county and state codes, authorizing their Police Departments to make lawful standing arrests for acts which the county will prosecute.

The State Fair Park Board seeks the same level of cooperation from Milwaukee county by conforming its rules to the county code. Therefore, these proposed emergency rules prohibit such activities as loitering, spray painting, theft, battery, and resisting/obstructing an officer, as well as various weapons prohibitions. There is also included provisions to protect the police horses which are not only an integral part of Park enforcement but are also a major public relations tool. With these changes, the Park administration can ensure a safe and family-oriented environment at this year's State Fair and other Park events. It is necessary to use the emergency rule for processing the proposed rule change to Administrative Code, reference to the bail bond schedule, section 5, s. SFP 7.02. Section 5, s. SFP 7.02 is amended to repeal the old bond schedule and recreate the new bond schedule to align the bond code with the corresponding section in the Wisconsin Administrative Code to take effect before the 1997 Wisconsin State Fair begins on July 31, 1997.

The State Fair Park Board has begun the permanent rule process but the normal process will take between 6 and 9 months to complete. It is imperative to have these rules in place by the time of the 1997 State Fair.

These rules are therefore adopted as emergency rules to take effect upon publication in the official state newspaper and filing with

the Secretary of State and the Revisor of Statutes as provided in s. 227.24 (1) (c), Stats.

**Publication Date:** August 1, 1997  
**Effective Date:** August 1, 1997  
**Expiration Date:** December 30, 1997

---

## ***EMERGENCY RULES NOW IN EFFECT***

### ***Department of Transportation***

Rules adopted revising **ch. Trans 300**, relating to school buses.

### **Finding of Emergency**

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public safety. The amendments are needed to assure that school bus operators can purchase school buses manufactured using the latest in construction technology and providing equal strength and safety. Currently, there are estimated to be 60 buses on order by operators. Without this emergency rule, these buses could not be used in Wisconsin when the school year begins in August 1997. Therefore, schools will start using alternative vehicles (production vans) because of the unavailability of the smaller school buses built to the safer school bus standards.

**Publication Date:** July 1, 1997  
**Effective Date:** July 1, 1997  
**Expiration Date:** November 29, 1997  
**Hearing Date:** August 26, 1997

---



---

## STATEMENTS OF SCOPE OF PROPOSED RULES

---



---

### ***Agriculture, Trade and Consumer Protection***

**Subject:**

Chs. ATCP 29 and 30 – Relating to pesticide use and control.

**Description of policy issues:**

*Preliminary objectives:*

Regulate the use of pesticides containing the active ingredient Clomazone (Command herbicide) to reduce or eliminate off-target damage to plants.

*Preliminary policy analysis:*

Clomazone is the pesticide active ingredient contained in the pesticide manufactured and distributed by FMC Corporation as Command herbicide. Command is registered for use on soybeans, cotton, tobacco, peppers, pumpkins and peas. Clomazone is volatile and can drift from applications to non-target plants hundreds of feet from the application. Clomazone inhibits the formation of chlorophyll, causing non-target plants to turn light yellowish to white. While the damage is usually temporary, it has resulted in many complaints to the Department.

When a new formulation of Command was widely used in Wisconsin in 1997, the Department received 49 complaints of drift to non-target plants. These complaints comprised 25% of all pesticide complaints received by the Department in 1997. Department field staff report that these complaints represented only a fraction of the actual total number of Command drift incidents that occurred in 1997. In 1997, the damage encountered to non-target plants was also more severe and long-lasting than in prior years. The Department proposes to regulate the use of Command herbicide to reduce non-target damage associated with its use. The Department believes that regulation can prevent non-target damage without halting the use of this highly-effective herbicide.

*Policy alternatives:*

Do nothing. This will result in escalating complaints about non-target damage to plants from the use of Command. This takes resources away from other priority work of the Department. This would also result in heightened concerns on general pesticide use, as the damage is quite striking and highly visible. Indications are that the damage being observed now is more severe, and some plants may not recover.

Prohibit the use of pesticides containing Clomazone. Command is a very effective soybean herbicide. Using Command on a rotational basis with other soybean herbicides can help prevent weed and resistance problems. Most other soybean herbicides are ALS inhibitors. Command inhibits the formation of chlorophyll in susceptible plants. Reliance only on ALS inhibitors would speed the development of resistance in target weeds.

Rely on voluntary education and use changes. While voluntary education is desirable, the Department does not believe that it will adequately address product volatility problems encountered to date. Label changes proposed by the manufacturer may actually increase non-target damage and complaints.

Seek label changes at the Federal level. The Department is not a party to registration decisions. The Department can and has submitted a summary of our complaint investigations to EPA, but labeling decisions are a matter for resolution between the manufacturer and EPA.

**Statutory authority:**

The Department proposes to adopt these rules under authority of ss. 93.07 and 94.69, Stats.

**Staff time required:**

The Department estimates that it will use approximately 0.2 FTE staff time to modify this rule. This includes research, drafting, preparing related documents, coordinating advisory committee discussions, holding public hearings and communicating with affected persons and groups. The Department will use existing staff to develop this rule.

### ***Barbering & Cosmetology Examining Board***

**Subject:**

BC Code – Clarification of administrative rules relating to the practice of barbering and cosmetology.

**Description of policy issues:**

*Objective of the rule:*

Clarify and update administrative rules. Recommended changes relate to such issues as authority; form, style and placement of provisions in the code; conflicts or duplication of existing rules; the adequacy of references to related statutes, rules and forms; and clarity, grammar, punctuation and use of plain language. Create a provision to address the Americans With Disabilities Act. Also, provisions relating to passing scores of the licensing examinations, examination reviews and dishonest acts by examination candidates will also be amended.

*Policy analysis:*

The proposed changes focus primarily on the form, placement, clarity, grammar, punctuation, plain language and related issues. Clarify how passing scores on examinations are determined. Create a provision to address the Americans With Disabilities Act.

**Statutory authority:**

Sections 15.08 (5) (b) and 227.11 (2), 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:**

20 hours

### ***Chiropractic Examining Board***

**Subject:**

Chir Code – Relating to the practice of chiropractors.

**Description of policy issues:**

*Objective of the rule:*

To make modifications relating to statutory authority, form, style, placement, clarity, grammar, punctuation, plain language and related issues.

*Policy analysis:*

The proposed changes focus primarily on minor defects in the form, placement, clarity, grammar, punctuation and plain language of existing rules. Clarify how passing scores on examinations are determined. Expand the cheating policy relating to examinations. Eliminate the requirement of applications being notarized and instead include a penalty provision for applicants who falsify information or signatures on licensing applications. Eliminate the requirement of including pictures as part of an application, as pictures are no longer a useful check of personal identification. Testing services and Department proctors routinely require a picture ID, usually a driver's license, at the examination site. Also, include a provision to address the Americans With Disabilities Act.

**Statutory authority:**

Sections 15.08 (5) (b) and 227.11 (2), 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:**

20 hours

### ***Dentistry Examining Board***

**Subject:**

DE Code – Relating to the periodontal education required, in lieu of successfully completing a clinical periodontal examination, for dentists licensed in other states to qualify for a license in Wisconsin by endorsement.

**Description of policy issues:**

*Objective of the rule:*

The objective is to promulgate a permanent rule corresponding to an emergency rule adopted by the board on October 15, 1997. Prior to the emergency rule, a dentist licensed in another state applying for a Wisconsin license was required to successfully complete a clinical examination with a periodontal part to meet the requirement of having passed an examination “substantially equivalent to the clinical examination administered by the central regional dental testing service”, under s. DE 2.04 (1) (e), Wis. Adm. Code.

The emergency rule provides two additional means by which out-of-state dentists may meet the periodontal requirement through education. The first grants a regular dental license to an applicant who has taken continuing education programs or courses in periodontal procedures within the last 12 months. The second permits an applicant who has not met this prior education requirement to be granted a temporary license to practice dentistry in this state. The applicant then has 6 months to obtain the periodontal education and receive a regular license. Under both alternatives, the applicant is not required to successfully complete a clinical examination on periodontal procedures.

*Policy analysis:*

The Governor vetoed a provision in the budget bill which would have permitted dentists licensed in other states to obtain a license in Wisconsin, despite their not having passed a clinical licensing examination with a periodontal part. In doing so, the Governor requested the Board adopt an emergency rule to permit these dentists to obtain licenses in Wisconsin under other reasonable and appropriate methods. The concern for the public health, safety and welfare is that this state’s citizens are currently being deprived of necessary dental services from qualified dentists who, themselves, are experiencing substantial and perhaps unnecessary hardship in becoming licensed in Wisconsin. These rules are required to assure that the public is not deprived of necessary dental services from qualified dental professionals and that adequate safeguards for protecting the health and safety of dental patients are part of the licensing process.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2), 447.02 (1) (e), and 447.04 (1) (b), Stats.

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

8 hours.

### ***Employment Relations***

**Subject:**

Ch. ER 18 – Relating to sick leave accrual rate, catastrophic leave and other changes in leave provisions for nonrepresented state employees.

**Description of policy issues:**

*Description of the objective of the rule:*

The rule will increase the amount of sick leave earned by nonrepresented state employees. The rule will also amend provisions relating to the catastrophic leave program that permit nonrepresented classified state employees to donate certain types and amounts of leave credits to other classified nonrepresented state employees. Minor technical changes will also be made as necessary in ch. ER 18, which relates to absences.

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

Section 230.35 (2), Stats., provides that sick leave for state employees shall be regulated by the administrative rules of the Secretary of the Department of Employment Relations. Rules governing sick leave are located in s. ER 18.03, Wis. Adm. Code.

Section ER 18.03 (2) provides that sick leave credits accrue at the rate of .05 hour for each hour in pay status, not to exceed 4 hours in any biweekly pay period. An employe working full time (i.e. 80 hours in a biweekly pay period) would thus earn 104 hours of sick leave in one year, or 13 days.

The Department plans to promulgate a rule to increase the accrual rate for sick leave from .05 hour to .0625 hour for each hour in pay status, not to exceed 5 hours in any biweekly pay period. Thus, the annual earning rate for a full-time employe would increase to 16.25 days per year. This increase will match the increase in sick leave credits earned by represented state employees covered by certain collective bargaining agreements.

Section 230.35 (2r), Stats., allows the Secretary to establish by rule a catastrophic leave program. Current rules regarding catastrophic leave are found in s. ER 18.15, Wis. Adm. Code. Current rules allow a donor to donate leave credits only to nonrepresented employes within the same employing unit, except that donations may be made to recipients in different employing units in the same agency with the approval of the appointing authority. Similarly, a recipient may receive credits only from other nonrepresented employes within the same employing unit. The proposed rule would allow a donor to donate leave to, and allow a recipient to receive leave from, any eligible classified employe — nonrepresented or represented — within the same agency. Leave may also be exchanged with any eligible classified employe in another agency with the approval of each affected agency.

These changes are necessary because of changes made in the catastrophic leave programs contained in certain collective bargaining agreements for represented state employees.

The only alternative to these policy changes is to maintain the status quo in terms of sick leave accrual and catastrophic leave. However, this would provide inconsistent treatment for nonrepresented employes and prevent the donation and receipt of leave between represented and nonrepresented employes under the catastrophic leave program. It would also create greater administrative complexity because two different catastrophic leave programs would need to be maintained.

The Department also intends to make minor technical changes to other provisions of ch. ER 18 as necessary.

**Statutory authority for the rule:**

Section 230.35 (2), Stats., provides that sick leave for state employes shall be regulated by the administrative rules of the Secretary of the Department of Employment Relations.

Section 230.35 (2r), Stats., allows the Secretary to promulgate rules for a catastrophic leave program.

Section 230.04 (5), Stats., grants the Secretary general authority to promulgate rules on all matters related to the Department (except those reserved to the Administrator of the Division of Merit Recruitment and Selection.)

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

Estimated time to be spent by state employees—100 hours. No other resources are necessary.

## ***Financial Institutions--Securities***

### **Subject:**

DFI--Sec Code – Relating to repeal of the Division's rules under the securities, take-over and franchise statutes prescribing photocopying charges.

### **Description of policy issues:**

#### *Description of the objective of the rule:*

The objective of the rule-making is to repeal the Division's existing rules prescribing photocopying charges because the Department of Financial Institutions is establishing a Department-wide photocopying fee policy applicable to all Divisions of the Department.

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

The Division has had existing rules in place for several years under the securities, take-over and franchise laws [in ss. DFI--Sec 7.01(6), 27.01 (5) and 35.01(4)] providing for photocopying fees at a rate of \$.25 per page for the first 10 pages and \$.10 per page thereafter. Because of the recent reorganization whereby the Division became part of the Department of Financial Institutions, which has several other constituent Divisions, it is appropriate to repeal the Division's photocopying fee rules because DFI is establishing a single, Department-wide photocopying fee applicable to all DFI Divisions.

### **Statutory authority for the rules:**

Sections 551.63 (1), 552.13 (2) and 553.58 (1), Stats.

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

Estimated time to be spent by state employees = 1 hour. No other resources are necessary.

## ***Funeral Directors Examining Board***

### **Subject:**

FD Code – Relating to clarification of administrative rules relating to the practice of funeral directors.

### **Description of policy issues:**

#### *Objective of the rule:*

Clarify and update administrative rules. Recommended changes relate to such issues as statutory authority; form, style and placement of provisions in the code; conflicts or duplication of existing rules; the adequacy of references to related statutes, rules and forms; and clarity, grammar, punctuation and use of plain language. Create a provision to address the Americans With Disabilities Act. Also, provisions relating to passing scores of the licensing examinations, examination reviews and dishonest acts by examination candidates will also be amended.

#### *Policy analysis:*

The proposed changes focus primarily on the form, placement, clarity, grammar, punctuation, plain language and related issues. Clarify how passing scores on examinations are determined. Create a provision to address the Americans With Disabilities Act.

### **Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) and 445.03 (2) (a), 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:**

20 hours

## ***Health & Family Services***

### **Subject:**

Ch. HFS 196 – Relating to regulation of restaurants by the Department of Health and Family Services (DHFS) or by local public health departments designated as agents of DHFS.

### **Description of policy issues:**

#### *Description of objective(s):*

1) To update the Department's rules for restaurants to current industry standards as expressed in the U.S. Food and Drug Administration (FDA) Model Food Code, which reflects the most current available science and trends in food safety.

2) To develop standards for restaurants that are the same as those that the Department of Agriculture, Trade and Consumer Protection (DATCP) will apply to retail food establishments, with the potential benefit of restaurants and retail food establishments being licensed by a single state agency rather than the current multiple agencies and licenses.

3) To develop rules that in their construction will parallel those of DATCP for retail food establishments to promote consistent application, interpretation and enforcement of food safety regulations administered by DHFS and DATCP.

*Description of policies -- relevant existing policies, proposed new policies and policy alternatives considered:*

Chapter HFS 196 provides standards for regulating restaurants, and ch. ATCP 75 provides standards for regulating retail food establishments. Because of the nature of the retail food industry, overlaps in applicability of the standards occur. The revised rules for restaurants will be developed in coordination with DATCP's revision of ch. ATCP 75 so that the two agencies will end up with similar rule requirements, language and interpretation.

#### Policy alternatives considered included:

- a) Allow DATCP and DHFS to act *independently* to revise their own rules;
- b) Consolidate regulation of restaurants *and* retail food establishments in one or the other agency;
- c) Allow local public health agencies to draft their own regulations which would result in different rules for each local public health department area;
- d) Develop a single chapter of rules for restaurants and retail food establishments; and
- e) Eliminate the regulatory programs.

### **Statutory authority:**

Section 254.74, Stats., gives the Department authority to prescribe rules for restaurants and to enforce those rules for the purpose of protecting public health and safety.

**Estimates of staff time and other resources needed to develop the rules:**

One FTE for 3 months.

An advisory group consisting of members of the industry and staff of regulatory agencies will be convened to review drafts of the revised rules.

## ***Commissioner of Insurance***

### **Subject:**

S. Ins 3.50 (9) (d) – Relating to continuity of access to providers in managed care organizations.

### **Description of policy issues:**

*A statement of the objective of the proposed rule:*

This rule will address issues related to providing enrollees of managed care organizations continued access to health care providers when those providers terminate their contract with the managed care organization during the term of the enrollees' contract.

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

Currently there are no rules that protect enrollees' access to certain providers when those providers become unavailable during the enrollees' contract term. This proposed rule will address this issue.

### **Statutory authority:**

SS. 601.41 (3) & 628.34 (12), Stats.

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

80–100 hours.

### ***Commissioner of Insurance***

**Subject:**

Ch. Ins 28 – Relating to continuing education requirements for insurance intermediaries.

**Description of policy issues:**

*A statement of the objective of the proposed rule:*

The proposed modifications follow the first reporting period since the implementation of this requirement on January 1, 1996, and are intended to enhance the current program.

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

This proposed rule seeks to modify the requirement for some nonresident licensees, to include additional professional designations as recognized programs of study for self–study courses, and to reduce renewal fees for existing courses pursuant to current vendor contract.

**Statutory authority:**

SS. 601.31 (1) (x) 2 and 628.04 (3), Stats.

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

80 hours.

### ***Commissioner of Insurance***

**Subject:**

S. Ins 3.39 – Relating to changes in the requirements for Medicare supplement policies to conform to recent federal laws.

**Description of policy issues:**

*A statement of the objective of the proposed rule:*

To require Medicare+Choice plans conform, as much as possible, to existing Wisconsin standards for Medicare Supplement policies.

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

Wisconsin has traditionally regulated the requirements for Medicare supplement policies sold. This included Medicare Risk and Medicare Replacement policies. Recent federal changes have created a new class of these policies, Medicare+Choice plans. Wisconsin can either attempt to have these plans conform, as much as possible, to existing standards, or let the federal government regulate these policies.

**Statutory authority:**

SS. 600.03, 628.34 (12) and 632.81, Stats.

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

It is difficult to estimate the time required, but it will probably be at least 40 hours.

### ***Commissioner of Insurance***

**Subject:**

Ch. Ins 26 – Relating to prelicensing education requirements for insurance intermediaries.

**Description of policy issues:**

*A statement of the objective of the proposed rule:*

The proposed rule is required to provide training that is current with existing products and laws relating to insurance.

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

This proposed rule seek to modify the course content outlines to remain in line with current policies, terms and concepts of existing insurance products, and to provide training relevant to current insurance laws.

**Statutory authority for the rule:**

S. 628.04 (3), Stats.

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

80 hours.

### ***Investment Board***

**Subject:**

Chs. IB 1 and 2 – Rules relating to restriction of Investment Board employees and general policies of the Investment Board.

**Description of policy issues:**

*Description of the objective of the rule:*

Chapters IB 1 and 2 were adopted in 1983 and have not been updated to reflect changes in related statutes, agency structure and general practices. The proposed rule changes would update existing rules to correct cross–references, clarify wording, and reflect evolution in agency structure and practices, as well as the investment community in general.

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

The proposed rule changes are primarily of a technical nature and do not reflect changes in Investment Board policies. Rule changes may amplify or, more specifically, implement policies currently set forth in chapters IB 1 and 2, relating to avoidance of conflicts between personal investments of employees and agency investment activities, prohibitions on receipt of gifts or favors which accrue to an employee's personal benefit, use of confidential information, conflicts arising from outside employment or service on boards of directors, and related internal reporting or disclosure requirements. Because the rule is primarily a technical update, an analysis of policy alternatives has not been conducted.

**Statutory authority:**

The rules are promulgated under s. 25.156 (4), Stats., which directs the Investment Board to promulgate rules restricting employees' potential personal financial and investment conflicts with the Board's interests and governing the receipt of gifts and favors. Section 227.11, Stats., also confers general rulemaking authority on the Investment Board.

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

It is estimated that state employees will spend 20 to 40 hours on the rulemaking process, including research, drafting, and related activities.

### ***Natural Resources***

**Subject:**

Ch. NR 20 – Fishing: inland waters; outlying waters.

**Description of policy issues:**

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

This rule revision establishes an automated interactive system of telephonic reporting for use by licensed Great Lakes charter captains. Captains may use the new system established by this order or may continue using the paper forms and monthly reporting system. Under the new system, licensees dial a toll–free number to reach an automated, interactive answering machine and in response to questions from the system, use a touch–tone phone to report

information regarding their charter fishing trips. The optional arrangement is an interim step toward eliminating written reporting in favor of a fully automated system. Some charter captains will have questions or concerns about the new system. The transitional arrangement, with reporting allowed either by phone or on paper forms, will help us educate captains about the advantages of the new system.

This action represents a change from past policy. In the past, Great Lakes charter fishing reports have been submitted on paper forms. This rule is the first step toward automating the reporting system through the use of transactional voice technology.

*Explain the facts that necessitate the proposed change:*

The change from written to telephone reporting will improve reporting accuracy, eliminate delays in reporting, decrease Department costs, and improve the enforcement of reporting requirements.

**Statutory authority:**

SS. 23.09 (2), 23.11 (1) and 227.11 (2) (a), Stats.

**Anticipated time commitment:**

The anticipated time commitment is 42 hours. One public hearing is proposed to be held during March, 1998 in Port Washington.

***Transportation***

**Subject:**

Ch. Trans 276 – Relating to operation of long combination vehicles on certain specified highways.

**Description of policy issues:**

*Description of the objective of the rule:*

This proposal will amend ch. Trans 276, a rule of the Department of Transportation which establishes a network of highways on which long combination vehicles may operate, by adding three highway segments to the network. The actual highway segments being proposed are STH 73 from USH 151 west of Columbus to STH 19 in Marshall, Dodge CTH "G" from STH 19 West of Hubbleton to STH 33 in Beaver Dam, and Dodge CTH "J" from STH 26 west of Clyman to STH 16/60 north of Reeseville.

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

Federal law requires the Department to react within 90 days to requests for additions to the long truck route network. Wisconsin state law requires that the Department use the administrative rule process to deal with changes to the long truck route network. Chapter Trans 276 is an existing rule set up for long truck routes. The Department has received a written request for the STH 73 route from the Wisconsin Motor Carriers Association and from the Dodge County Highway Commission for the Dodge County Highway routes.

**Statutory authority for the rule:**

S. 348.07 (4), Stats.

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

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

***Transportation***

**Subject:**

Ch. Trans 512 – Relating to the state Infrastructure Bank Program.

**Description of policy issues:**

*Description of the objective of the rule:*

1997 Wis. Act 27 enacted legislation for the implementation of a State Infrastructure Bank Program to provide uses of federal transportation funds to assist and enable states to expand and expedite transportation projects. This rule making will create ch. Trans 512 which will provide procedures for implementing a State Infrastructure Bank Program.

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

The program will establish revolving loans, loan guarantees, interest rate subsidies, lease buy-back options and other financial leveraging instruments to assist municipalities in providing for transportation infrastructure improvements needed to preserve, promote and encourage economic development in local communities.

**Statutory authority for the rule:**

S. 85.52, Stats.

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

The Department estimates that state employes will spend approximately 60 hours in developing the rule and holding public hearings.

---



---

## *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.*

#### **Health & Family Services**

##### **Rule Submittal Date**

On October 3, 1997, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, affecting chs. HFS 10, 67 and 118, Wis. Adm. Code, relating to hearings on relief from institutional charges, low-income standard for allocating state nutrition and senior volunteer funds; and confidentiality of health care information.

##### **Analysis**

###### *Statutory authority:*

Section 46.106 (4), 1983–84 Stats., s. 46.80 (5) (c), 1991–92 Stats., and ss. 227.11 (2) and 250.04 (7), Stats.

###### *Reason for rules, intended effects, requirements:*

This order repeals three obsolete chapters of Department administrative rules.

Chapter HFS 10 relates to hearings for counties disputing their liability for charges incurred for people receiving care and treatment at Department or county institutions. The statute requiring rules was repealed in 1985.

Chapter HFS 67 relates to a low-income standard for allocating state supplemental funds to counties and tribes for the nutrition program for the elderly and the senior companion/retired senior volunteer projects. The statute requiring rules was repealed in 1993.

Chapter HSS 118 relates to confidentiality of personally identifiable information included in certain health care records. The rules were created in 1950 before there were statutory protections for this information, and the last area of applicability of the rules was covered statutorily when 1993 Wis. Act 27 went into effect on January 1, 1994.

##### **Agency Procedure for Promulgation**

Notice published without public hearing unless petition for public hearing is received; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

##### **Contact Person**

Paul Menge  
Office of Legal Counsel  
Telephone (608) 266-5602

#### **Health & Family Services**

##### **Rule Submittal Date**

On October 17, 1997, the Wisconsin Department of Health and Family Services submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse, affecting ch. HFS 140, Wis. Adm. Code, relating to required services of local health departments.

##### **Analysis**

###### *Statutory authority:*

Sections 250.04 (7) and 251.20, Stats.

###### *Reason for rules, intended effects, requirements:*

These rules implement s. 251.20, Stats., which directs the Department to specify, by rule, required services for each of 3 levels of local health departments. There are about 104 local public health departments in the state, most organized as city, county or city-county departments under ch. 251, Stats.

The statutes impose some constraints on what the Department includes in the rules. Section 251.05 (2), Stats., states, in effect, that all local health departments are to provide at least the services of a Level I department, and Level II and III departments are to provide additional services. Section 251.05 (2) (a), Stats., further states that a Level I local health department is to provide at least the 4 types of services identified in that statute, and s. 251.20 (2) and (3), Stats., add that additional required services of Level II and III departments are to include services that address objectives from each section of the Department's 1990 publication, Healthier People in Wisconsin.

The rules identify the required services of local health departments and include a process by which the state health officer will designate the level of each local health department.

##### **Agency Procedure for Promulgation**

Public hearings under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

##### **Contact Person**

Margaret Schmelzer  
Division of Health  
Telephone (608) 266-0877

#### **Natural Resources**

##### **Rule Submittal Date**

On October 8, 1997, the Wisconsin Department of Natural Resources submitted a proposed rule order [AM-29-97] to the Wisconsin Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule order amends ch. NR 485, relating to emission limitations for motor vehicles.



*Agency Procedure for Promulgation*

The public hearings are scheduled for November 11 and 12, 1997.

*Contact Person*

Chris Bovee  
Bureau of Air Management  
Telephone (608) 266-5542

---



---

## NOTICE SECTION

---



---

### Notice of Hearings

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

► (Reprinted from 10-15-97 Wis. Adm. Register)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed Department rules related to the regulation of packaging and labeling (proposed ch. ATPC 90, Wis. Adm. Code), methods of sale of commodities (proposed ch. ATPC 91, Wis. Adm. Code), and weighing and measuring devices (proposed ch. ATPC 92, Wis. Adm. Code).

### Written Comments

The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rules. Following the public hearings, the hearing record will remain open until **November 14, 1997** for additional written comments.

### Copies of the Rules

Copies of the rules may be obtained, free of charge, from:

Division of Trade & Consumer Protection  
Telephone (608) 224-4947  
Wis. Dept. of Agriculture, Trade & Consumer Protection  
2811 Agriculture Dr.  
P.O. Box 8911  
Madison, WI 53708-8911

Copies will also be available at the public hearings.

An interpreter for the hearing-impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **October 17, 1997** either by writing to Judy Jung, P.O. Box 8911, Madison, WI 53708-8911 or by calling (608/224-4972) or via the Division's TDD telephone (608/224-5058). Handicap access is available at the hearings.

### Hearing Information

Four hearings are scheduled:

<p><b>October 27, 1997</b> <b>Monday</b> <b>Commencing</b> <b>at 9:30 am.</b></p>	<p><b>Suite C</b> <b>1st Floor Conference Room</b> <b>The Woods at Mayfair</b> <b>10930 W. Potter Road</b> <b>Wauwatosa, WI</b></p>
<p><b>October 27, 1997</b> <b>Monday</b> <b>Commencing</b> <b>at 2:00 pm.</b></p>	<p><b>Board Room SR-106</b> <b>Prairie Oak State Office Bldg.</b> <b>2811 Agriculture Drive</b> <b>Madison, WI</b></p>
<p><b>October 30, 1997</b> <b>Thursday</b> <b>Commencing</b> <b>at 9:30 am.</b></p>	<p><b>1st Floor Conference Room</b> <b>WDATCP State Office Bldg.</b> <b>3610 Oakwood Hills Parkway</b> <b>Eau Claire, WI</b></p>
<p><b>October 31, 1997</b> <b>Friday</b> <b>Commencing</b> <b>at 9:30 am.</b></p>	<p><b>Room 152</b> <b>Wis. District Office Bldg.</b> <b>200 N. Jefferson Street</b> <b>Green Bay, WI</b></p>

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

*Statutory authority:* ss. 93.07 (1), 97.09 (1) and (4), 97.42 (4) (j), 98.07(3) and (4), 98.26 (1) (b) and 100.20 (2)

*Statutes interpreted:* ss. 98.06, 98.07 and 98.26 (1) (b)

This rule modifies the Department's current rules related to weighing and measuring devices, fair packaging and labeling, and selling commodities by weight, measure or count.

#### *Weighing and Measuring Devices*

Current Department rules under ch. ATPC 92, Wis. Adm. Code, regulate weighing and measuring devices. The rules are designed to ensure the accuracy of commercial weights and measures. This rule amends the Department's current rules under ch. ATPC 92.

Section 98.26 (1) (b), Stats., currently prohibits any person from causing a weight or measure to be incorrect. This rule also prohibits any person from causing a weight or measure to be incorrect. A person who manufactures or distributes a weighing or measuring device is deemed to violate this prohibition if all of the following apply:

○ The person knows or reasonably should know that the weighing or measuring device has a defect that may cause an incorrect weight or measure.

○ The person fails to take steps which that person is reasonably capable of taking, which would prevent the defect from causing incorrect weights or measures.

○ The defective weighing or measuring device causes an incorrect weight or measure which is attributable, at least in part, to the defect.

#### *Fair Packaging and Labeling*

##### Overview

Current Department rules under ch. ATPC 90, Wis. Adm. Code, regulate the packaging and labeling of consumer commodities. Under the current rules, consumer commodities sold in package form must bear declarations of seller identity, product identity and net quantity. The current rules also spell out sampling methods used to determine whether packages contain the full amounts claimed on the package labels.

This rule modifies current rules as follows:

■ It establishes fair packaging and labeling standards for liquefied petroleum gas (LP gas) sold in portable refillable containers.

■ It modifies current sampling procedures used to determine whether packages contain the full amounts claimed on the package labels.

##### Liquefied Petroleum Gas

Current fair packaging and labeling rules do not apply to the sale of LP gas in portable refillable containers (cylinders). This rule establishes fair packaging and labeling rules for LP gas sold in portable refillable containers.

Under this rule:

✓ The tare weight of each container must appear on the outside of the container.

✓ The net quantity of LP gas in each container must be disclosed on the container label, or on a tag attached to the container.

✓ A declaration of responsibility (identifying the responsible seller) must be attached to the container or posted at the point of sale.

##### Enforcement Samples

Current rules spell out statistical sampling procedures and compliance standards used to determine whether packages contain

the full amounts claimed on the package labels. This rule modifies the current standards to conform to current standards specified by the National Institute of Standards and Technology (NIST) Handbook 133, "Checking the Net Contents of Packaged Goods."

#### *Selling Commodities By Weight, Measure or Count*

##### Overview

Under s. 98.06 (1), Stats., liquid commodities must ordinarily be sold by liquid measure and nonliquid commodities must ordinarily be sold by weight. Other methods of sale may be used if they are in general use and provide accurate information as to the quantity of commodity sold. For some commodities, however, a proliferation of alternative methods may result in deception, confusion and unfair competition.

Current Department rules under ch. ATPC 91, Wis. Adm. Code, spell out uniform methods of sale for certain commodities. This rule modifies current rules as follows:

- ▶ It incorporates the general requirements of s. 98.06, Stats.
- ▶ It clarifies current standards related to the sale of bulk commodities by weight.
- ▶ It gives retailers greater flexibility to sell "ready-to-eat" foods by weight, measure or count, at the retailer's option.
- ▶ It defines "weight" to exclude packaging materials and other extraneous materials.
- ▶ It modifies current standards related to fresh fruits and vegetables, meat and poultry, seafood, cheese and pizza.
- ▶ It incorporates, without change, current statutory standards related to sales of petroleum products and motor fuel.
- ▶ It makes organizational and drafting changes to streamline and clarify the current rule.

##### Bulk Commodities Sold by Weight

This rule clarifies current rules related to the sale of bulk commodities by weight.

Under this rule:

- Whenever a bulk or unpackaged commodity is offered for sale by weight, the price for that commodity must be declared per single whole unit of weight. The price may not be declared per fractional or multiple unit of weight.
- If a retailer displays more than one type of bulk or unpackaged commodity for sale by weight in the same retail display, the retailer must declare all of the prices of the displayed commodities per the same whole unit of weight.
- No person may sell a bulk or unpackaged commodity by weight at retail unless one of the following applies:
  - The commodity is weighed at the time of sale.
  - The weights of individual commodity units are accurately premarked on those units.
  - A placard stating the guaranteed minimum individual weight of the individual commodity units displayed for sale is conspicuously posted at the display location.
- The weight of a bulk or unpackaged commodity sold by weight may not include the weight of the containers or wrappers, if any, in which those commodities are sold.
- Whenever a bulk commodity sold by weight is delivered by vehicle to an individual purchaser, the bulk delivery must comply with s. 98.22, Stats. Under s. 98.22, the seller must provide the purchaser with a delivery ticket that shows the seller's name and address, the name and address of the purchaser, the net weight of the delivery in pounds, and the gross and tare weights of the delivery if gross and tare weights are used in determining the net weight.

##### Fresh Fruits and Vegetables

Under current rules, fresh fruits and vegetables must be sold by weight unless exemptions authorize other methods of sale. The current rules exempt 29 fruits or vegetables that may be sold by weight or count, 15 that may be sold by weight or "bunch," 11 that may be sold by weight or specified dry measure (e.g., berries sold by

1/2 pint, pint or quart), and 2 that may be sold by weight, count or specified dry measure.

This rule modifies the current exemptions, adding or deleting certain fruits or vegetables in each exemption category. Under this rule, 36 fruits or vegetables may be sold by weight or count, 18 may be sold by weight or "bunch," 9 may be sold by weight or specified dry measure, and 4 may be sold by weight, count or specified dry measure.

##### Meat, Poultry and Cheese

Under current rules, meat, poultry, cheese, and foods made from meat, poultry or cheese must ordinarily be sold by weight. This rule maintains the current requirement, but creates an exemption for certain "ready to eat" foods. This rule also provides that the declared weight of cheese coated with wax may not include the weight of the wax.

##### Seafood

Under current rules, seafood and seafood products must ordinarily be sold by weight, except that current rules authorize different methods of sale for mollusks, live fish and live shellfish. This rule maintains the current requirements, with minor modifications. This rule also creates an exemption for certain "ready to eat" foods.

##### Pizza

This rule clarifies that pizza must be sold by weight, except that "made to order" pizzas may be sold by weight or count.

##### Ready-to-Eat Foods

Supermarkets and convenience stores are currently offering more restaurant-style or "ready-to-eat" foods for consumption on or off the premises. Current rules unnecessarily restrict the methods by which many of these foods may be sold (e.g., by requiring weight declarations on restaurant-style foods which the consumer does not expect to purchase by weight).

In recognition of current market trends, this rule gives retailers greater flexibility to sell certain "ready-to-eat" foods by weight, measure or count. Under this rule, for example, a grocery store could sell individual "ready to eat" sandwiches or salads without having to weigh them. The grocery store could sell these items by count — e.g., \$2.00 per sandwich, or \$1.50 per individual salad. This treatment of "ready-to-eat" foods is consistent with allowed methods of sale in restaurants.

Under this rule, "ready-to-eat" food means food which is sold for immediate consumption without further washing, heating, thawing or other preparation. "Ready-to-eat food" does not include any of the following:

- ◆ Raw fruits or vegetables, except when sold as part of a ready-to-eat meal.
- ◆ Sliced meat or poultry, or other sliced luncheon products, except when sold as part of a ready-to-eat meal.
- ◆ Cheese, except when sold as part of a ready-to-eat meal.
- ◆ Candy or snack foods, except when sold as part of a ready-to-eat meal.
- ◆ Beverages in hermetically sealed containers.

Under this rule, the following foods may be sold by weight, measure or count (at the seller's option):

- Foods sold for immediate consumption on the premises where sold.
- Ready-to-eat foods sold from bulk.
- Ready-to-eat foods in single-serving packages that are sold as part of a meal.

This rule prohibits any person from misrepresenting the weight, measure or count of any ready-to-eat food. Weight declarations for cooked ready-to-eat foods are considered declarations of cooked weight unless they are identified as declarations of precooked weight.

## **Fiscal Estimate**

### *Assumptions Used in Arriving at Fiscal Estimate*

The proposed amendments alter the existing packaging and labeling and methods of sale rules for some commodities and expand the scope of the code to cover a number of commodities not discussed in the existing rules.

The proposed regulations affect enforcement activities in which the Trade and Consumer Protection Division's Weights and Measures staff are already engaged. Therefore no fiscal effect is estimated.

Under Chapter 98, Wisconsin Statutes, each municipality of more than 5,000 is charged with enforcing weights and measures laws within their respective jurisdictions. To the extent that these municipalities are enforcing chs. ATCP 90, ATCP 91, and ATCP 92, there should be no fiscal effect on them, as the amendments impose no additional responsibilities. The adoption of the proposed rule revisions will have no state or local fiscal effect.

### **Initial Regulatory Flexibility Analysis**

Proposed chs. ATCP 90, ATCP 91, and ATCP 92, Wis. Adm. Code (Fair Packaging and Labeling, Methods of Sale of Commodities, Weighing and Measuring Devices)

The Department's proposed rule amendments will have an impact on some retailers of various commodities. Many of these retailers are small businesses, as defined by s. 227.114 (1) (a), Stats.

In the area of marketing fruits and vegetables, the proposals increase the number of fruits and vegetables which can be sold by count rather than weight. And pizza, made to order for the customer, may be sold by weight or count under the new rules. As a result, some small businesses that might have had to buy and use scales under the current rules will not have to under the proposed rules, thereby decreasing their costs.

In the area of ready-to-eat foods, the proposals decrease the number of commodities that must be sold by weight, once again decreasing the costs of doing business for retailers of these products.

The proposed creation of packaging and labeling requirements on liquefied petroleum gas in portable cylinders should have little impact, since these standards have already been in existence in the marketplace for some time.

The remaining provisions of the proposed amendments to chs. ATCP 90, ATCP 91, and ATCP 92 should have no significant effect on small business.

The Division anticipates a period of education and information to assist business in compliance with the new revisions.

The essence of the three rules and the proposed amendments is to protect the consumer from unfair trade practices while also providing a level playing field for good businesses to prosper. The revisions do not create additional financial burdens and therefore are not expected to have an adverse impact on small business.

## **Notice of Public Hearings**

### *Natural Resources*

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

Notice is hereby given that pursuant to ss. 227.11 (2) (a), 285.11 (1) and 285.30 (2), Stats., interpreting ss. 285.11 (6) and 285.30 (2), Stats., the Department of Natural Resources will hold public hearings on revisions to Tables 1 and 3 of s. NR 485.04, Wis. Adm. Code, relating to emission limitations for motor vehicles.

### **Analysis**

These limitations are used in the state's motor vehicle emission inspection and maintenance (I/M) program, which is operating in seven southeastern Wisconsin counties (Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha).

Under the current rule, the final phase of motor vehicle emission limitations is scheduled to go into effect on December 1, 1997. Currently, less restrictive limitations are in effect through November 30, 1997. The proposed rule will relax the current rule's final phase of motor vehicle emission limitations for certain categories of 1986 and earlier model year vehicles. The proposed rule will also postpone by one year the effective date for the current rule's final phase of motor vehicle emission limitations for other 1990 and

older model year vehicles subject to the I/M program. Finally, the proposed rule will add a new set of fast-pass emission limitations which will apply to some model year 1994 and newer vehicles.

### **Fiscal Estimate**

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 small business in southeastern Wisconsin which owns or repairs motor vehicles subject to the I/M program.

*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. The 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:

**November 11, 1997**  
**Tuesday**  
**at 1:00 p.m.**

**Council Chambers**  
**Sheboygan City Hall**  
**828 Center Ave.**  
**SHEBOYGAN, WI**

**November 12, 1997**  
**Wednesday**  
**at 10:30 a.m.**

**Education Center**  
**Havenswoods State Forest**  
**6141 N. Hopkins**  
**MILWAUKEE, WI**

*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Christopher Bovee at (608) 266-5542 with specific information on your request at least 10 days before the date of the scheduled hearings.*

### **Written Comments**

Written comments on the proposed rule may be submitted to:

Mr. Christopher Bovee  
Bureau of Air Management  
P.O. Box 7921  
Madison, WI 53707

Written comments must be received no later than **November 24, 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 proposed rule No. [AM-29-97] 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**

*Summary of rule:*

The final phase of motor vehicle emission limitations (“final cutpoints”) in ch. NR 485, Wis. Adm. Code, is scheduled to go into effect on December 1, 1997. These cutpoints are to be used in the state’s motor vehicle emission inspection and maintenance (I/M) program, which is operating in seven southeastern Wisconsin counties. Currently less restrictive cutpoints are in effect through November 30, 1997. The proposed rule will relax the final cutpoints for some categories of 1990 and older model year vehicles and postpone by one year the effective date for the final cutpoints for the remaining 1990 and older vehicles. This rule is being postponed because recent technical information indicates that many older vehicles cannot reasonably maintain a level of emissions which would comply with the final cutpoints in the current rule. The proposed rule will also add a new set of fast-pass cutpoints to ch. NR 485.

*Fiscal impact:*

The proposed rule is not expected to change the state’s costs for

administering the I/M program; however, the proposed rule is expected to change the state and local government costs for repairing the vehicles that fail the I/M program’s emissions test. Under the proposed rule, the percentage of government vehicles that would fail the test would be less than the percentage that would fail under the “final cutpoints” in the current rule, but more than the percentage that are currently failing. As shown in the table following, over the three year period starting December, 1997, the annual repair costs under the proposed rule are estimated to exceed the current repair costs by \$4,000 to \$5,000 for all state government (\$800 to \$1,000 for DNR) and by \$15,000 to \$20,000 for all local governments. Under the current rule, after the final cutpoints go into effect on December 1, 1997, the annual repair costs over the next three years are estimated to exceed current costs by \$6,500 to \$10,000 for all state government (\$1,500 to \$2,000 for DNR) and by \$25,000 to \$40,000 for all local governments. Thus, the proposed rule will increase costs relative to current costs, but will decrease costs relative to future costs under the current rule.

Improved vehicle fuel efficiency resulting from the repairs may offset some of these increased costs; thus, these costs estimates likely overestimate the actual costs.

**Estimated Increases in Annual Repair Costs and Estimated Increases in Failure Percentages for Government Vehicles**

		Dec-97 to Nov-98	Dec-98 to Nov-99	Dec-99 to Nov-00
<b>All State Government</b>	<b>Current Rule</b>	\$10,000 (8%)	\$9,000 (7%)	\$6,500 (5%)
	<b>Proposed Rule</b>	\$4,000 (3%)	\$5,000 (4%)	\$5,000 (4%)
<b>DNR</b>	<b>Current Rule</b>	\$2,000 (8%)	\$2,000 (7%)	\$1,500 (5%)
	<b>Proposed Rule</b>	\$800 (3%)	\$1,000 (4%)	\$1,000 (4%)
<b>All Local Governments</b>	<b>Current Rule</b>	\$40,000 (8%)	\$35,000 (7%)	\$25,000 (5%)
	<b>Proposed Rule</b>	\$15,000 (3%)	\$20,000 (4%)	\$20,000 (4%)

Notes:

1. The current estimated annual repair costs are \$6,500 for all state government (\$1,500 for DNR) and \$25,000 for all local governments. The current failure rate for government vehicles is approximately 5%.
2. The cost estimates assume an average repair cost of \$180 for vehicles failing the emissions test and assume that the number of vehicles tested per year is 700 for all state government (150 for DNR) and 2800 for all local governments. No fuel efficiency improvements from the repairs is assumed, so the cost estimates likely overestimate actual costs.

*Long-range fiscal implications:*

After November, 2000, the increased annual repair costs (relative to current costs) under the proposed rule are expected to be no more than \$5,000 for all state government (\$1,000 for DNR) and no more than \$20,000 for all local governments.

---

---

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

---

---

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

**Administration (CR 96-164):**

Ch. Adm 66 – Relating to financial qualifications of manufactured home dealer license applicants.

**Administration (CR 96-165):**

Chs. Adm 67 and Trans 141 – Relating to manufactured home dealer trade practices, facilities and records.

**Administration (CR 96-166):**

Ch. Adm 68 – Relating to length, expiration date and fee for licenses issued to manufactured and mobile home dealers and salespeople and for registration plates issued to dealers.

**Commerce (CR 97-96):**

Chs. Comm 2, 5 and 18 – Relating to the inspection of elevators and mechanical lifting devices.

**Employe Trust Funds (CR 97-104):**

S. ETF 10.65 – Relating to the Department of Employe Trust Funds refunding contributions to the Wisconsin Retirement System (WRS) that exceed the contributions limits set forth in internal revenue code and Wisconsin Statutes.

**Employe Trust Funds (CR 97-105):**

S. ETF 10.79 – Relating to the Department of Employe Trust Funds procedures for locating missing participants and transferring the balances of abandoned accounts to the annuity reserve.

---

---

## 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.*

**Accounting Examining Board (CR 97-70):**

An order creating s. Accy 7.035, relating to the education required of candidates to take the examination leading to receipt of a credential as a certified public accountant after December 31, 2000.

Effective 12-01-97.

**Financial Institutions--Savings Banks (CR 97-28):**

An order affecting s. DFI-SB 3.08, relating to the definition of "primary liquid assets" in the liquidity rule for savings banks.

Effective 12-01-97.

**Commissioner of Insurance (CR 97-71):**

An order affecting ss. Ins 17.01 and 17.28, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 1997; adding certain physician specialties to those currently listed in the rule; and providing that UW hospital and clinics residents' fees be calculated on a full-time-equivalent (FTE) basis in the same manner as medical college of Wisconsin resident fees are currently calculated.

Effective 12-01-97.

**Law Enforcement Standards Board (CR 96-118):**

An order affecting chs. LES 1 to 6, relating to training and employment standards for law enforcement, tribal law enforcement, jail and secure detention officers and to administration of training.

Effective 12-01-97.

**Public Service Commission (CR 95-62):**

An order repealing and recreating ch. PSC 168, relating to establishing new and revised rules for the certification and regulation of alternative telecommunications utility (ATU) resellers and providers of operator services, also known as alternative operator services (AOS).

Effective 12-01-97.

**Revenue (CR 97-56):**

An order affecting ss. Tax 11.32 and 11.68, relating to Wisconsin sales and use taxes.

Effective 11-01-97.

**Transportation (CR 97-6):**

An order affecting chs. Trans 253 and 259 and s. Trans 255.06 (6), relating to overweight permits.

Effective 12-01-97.

**Transportation (CR 97-34):**

An order creating ch. Trans 177, relating to motor carriers.

Effective 12-01-97.

---



---

## RULES PUBLISHED IN THIS WIS. ADM. REGISTER

---



---

*The following administrative rule orders have been adopted and published in the **October 31, 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.*

**Commerce (CR 97-37):**

An order creating subchs. I, II and III of ch. DOD 6, and creating ch. Comm 108, relating to the Community Development Block Grant Program.

Effective 11-01-97.

**Financial Institutions—Credit Unions (CR 97-49):**

An order affecting ch. CU 54 (ch. DFI-CU 54), relating to real estate mortgage loans in credit unions.

Effective 11-01-97.

**Financial Institutions—Credit Unions (CR 97-50):**

An order repealing ch. CU 55 (ch. DFI-CU 55), relating to credit union check cashing, money orders, and traveler's checks.

Effective 11-01-97.

**Financial Institutions—Credit Unions (CR 97-51):**

An order repealing ch. CU 57 and creating ch. DFI-CU 57, relating to retention of credit union books and records.

Effective 11-01-97.

**Financial Institutions—Credit Unions (CR 97-52):**

An order affecting ch. CU 70 (ch. DFI-CU 70), relating to participation loan authority parity with federal credit unions.

Effective 11-01-97.

**Educational Approval Board (CR 97-35):**

An order affecting chs. EAB 1, 4, 5, 6, 7, 8, 9 and 10, relating to approving and licensing schools and programs, setting fees, advertising, setting bond levels, defining tuition refund policy and procedures, outlining complaint procedures, mandating records retention and all matters related to oversight of approved postsecondary educational institutions.

Effective 12-01-97.

**Funeral Directors Examining Board (CR 96-183):**

An order creating ch. FD 6, relating to the registration and regulation of agents authorized to represent funeral directors or funeral establishments in the sale or solicitation of burial agreements that are funded with the proceeds of a life insurance policy.

Effective 11-01-97.

**Health and Family Services (CR 97-91):**

An order repealing and recreating ch. HSS 163, relating to certification to perform lead (Pb) abatement, other lead hazard reduction work and lead management activities, accreditation of training courses for individuals performing those activities and approval of training course managers, principal instructors and guest instructors.

Effective 11-01-97.

**Insurance, Commissioner of (CR 97-76):**

An order repealing and recreating s. Ins 18.07 (5) (bg), relating to an increase in 1997-98 premium rates for the Health Insurance Risk-Sharing Plan (HIRSP).

Effective 11-01-97.

**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.

**Natural Resources (CR 97-15):**

An order affecting ss. NR 20.03, 20.04, 20.09, 20.10, 26.05, 26.08, 26.09 and 26.14, relating to sport fishing and fish refuges.

Effective 03-02-98.

**Natural Resources (CR 97-17):**

An order affecting ch. NR 809, relating to safe drinking water standards.

Effective 11-01-97.

**Natural Resources (CR 97-18):**

An order affecting ss. NR 10.01, 10.06, 10.103, 10.106, 10.145, 10.28, 10.29, 11.032 and 19.13, relating to hunting and trapping.

Part effective 11-01-97.

Part effective 12-01-97.

Part effective 03-01-98.

**Natural Resources (CR 97-19):**

An order affecting ss. NR 10.01, 10.07, 10.12, 10.13, 10.145, 10.27, 10.28, 10.29, 10.34, 10.35, 10.37, 10.40, 15.015 and 15.022, relating to hunting and trapping.

Part effective 11-01-97.

Part effective 01-01-98.

Part effective 03-01-98.

Part effective 05-01-98.

**Natural Resources (CR 97-59):**

An order affecting ss. NR 46.16, 46.18, 46.24 and 46.30, relating to the administration of the Forest Crop Law and the Managed Forest Law.

Effective 11-01-97.

**Revenue (CR 97-55):**

An order affecting ss. Tax 11.001, 11.002, 11.01, 11.35 and 11.97, relating to registering for and reporting Wisconsin sales and use taxes.

Effective 11-01-97.

**Revenue (CR 97-56):**

An order affecting ss. Tax 11.32 and 11.68, relating to Wisconsin sales and use taxes.

Effective 11-01-97.

**Revenue (CR 97-68):**

An order affecting ss. Tax 11.39 and 11.41, relating to the Wisconsin sales and use tax as it applies to manufacturers.

Effective 11-01-97.

**Revenue (CR 97-75):**

An order affecting s. Tax 11.14, relating to the use of exemption certificates.

Effective 11-01-97.



**Revenue (CR 97-90):**

An order affecting ss. Tax 11.05 and 11.86, relating to the Wisconsin sales and use tax treatment of landscaping services and sales and purchases by governmental units and the use of exemption certificates.

Effective 11-01-97.

**Transportation (CR 97-60):**

An order amending ss. Trans 206.02 (1) and 206.03 (12) (c) 3, relating to the local roads improvement program.

Effective 11-01-97.

**Transportation (CR 97-64):**

An order affecting ch. Trans 305, relating to standards for vehicle equipment.

Effective 11-01-97.

**Workforce Development (CR 97-54):**

An order renumbering ch. HSS 215 to be ch. DWD 15, creating ch. DWD 12, and affecting ss. DWD 15.03 and 56.04, relating to the Wisconsin Works (W-2) program.

Effective 11-01-97.

---



---

## *FINAL REGULATORY FLEXIBILITY ANALYSES*

---



---

### 1. Commerce (CR 97-37)

Chs. DOD 6 & Comm 108 – Community Development Block Grant Program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The rules were reviewed by the Assembly Committee on Urban and Local Affairs and the Senate Committee on Economic Development, Housing, and Government Operations. No comments were received.

### 2. Financial Institutions--Credit Unions (CR 97-49)

Ch. CU 54 (DFI-CU 54) – Real estate mortgage loans in credit unions.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will not have a direct adverse effect on small business.

Summary of Comments:

No comments were reported.

### 3. Financial Institutions--Credit Unions (CR 97-50)

Ch. CU 55 (DFI-CU 55) – Credit union check cashing, money orders, and traveler's checks.

Summary of Final Regulatory Flexibility Analysis:

Repealing the proposed rule will not have a direct adverse effect on small business.

Summary of Comments:

No comments were reported.

### 4. Financial Institutions--Credit Unions (CR 97-51)

Ch. CU 57 (DFI-CU 57) – Retention of credit union books and records.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will not have a direct adverse effect on small business.

Summary of Comments:

No comments were reported.

### 5. Financial Institutions--Credit Unions (CR 97-52)

Ch. CU 70 (DFI-CU 70) – Participation loan authority parity with federal credit unions.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will not have a direct adverse effect on small business.

Summary of Comments:

No comments were reported.

### 6. Educational Approval Board (CR 97-35)

EAB Code – Approving and licensing schools and programs, setting fees, advertising, setting, setting bond levels, defining tuition refund policy and procedures, outlining compliant procedures, mandating records retention and all matters related to the oversight of approved postsecondary educational institutions.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule is not expected to affect small businesses except those engaged in providing education and training as private schools.

In accordance with the requirements of s. 227.19(3)(e), Stats., the EAB provides the following analysis of the administrative rule:

1. The proposed rules already incorporated many of the methods suggested in s. 227.114 (2), Stats., for reducing the impact of a regulation upon a small business; i.e., on the private schools under the purview of the EAB. The rules as drafted establish less stringent compliance requirements and simplify reporting demands. They enable the consolidation of previous applications into a Single Application which will reduce administrative and planing demands on schools. In general, the proposed rule seeks simplification and streamlining in recognition that appropriate oversight by the EAB can ensure needed protection for students and quality programs without placing undue burdens on schools.

2. The summary of comments forwarded to the EAB, or offered at the public hearing, generally came from schools which are, as noted above, meet the definition of small businesses as noted in s. 227.114 (1), Stats.

3. The reports required of schools are contained in the body of proposed rules and have been designed to produce the least burden on schools.

4. No measures or investments are required of small businesses, or schools, to comply with this rule.

5. The methods suggested by s. 227.114(2) are already incorporated into EAB practice and procedures and should result in additional cost to the EAB.

6. There is no apparent impact on public health, safety and welfare of including the methods specified in s. 227.114(2).

Summary of Comments:

No comments were reported.

## 7. Funeral Directors (CR 96-183)

Ch. FD 6 – Registration and regulation of agents authorized to represent funeral directors or funeral establishments in the sale or solicitation of burial agreements that are funded with the proceeds of a life insurance policy.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

## 8. Health and Family Services (CR 97-091)

Ch. HSS 163, Certification for Lead Abatement Work, Other Lead Hazard Reduction Work and Lead Management Activities, and Accreditation of Training Courses for Lead (Pb) Workers and Supervisors and Lead (Pb) Management Professionals.

Summary of Final Regulatory Flexibility Analysis:

Most of the 110 abatement or consulting firms are small businesses, as “small business” is defined in s. 227.114 (1) (a), Stats., as are 3 of the 10 training providers.

Every attempt was made to minimize the regulatory burden of the rule revisions. Changes will not add to reporting or recordkeeping requirements for lead abatement and consulting firms. The changes clarify the required notification of the start of a project, require that notification be earlier and permit revised and emergency notification by fax. Whenever feasible, persons are allowed to request approval of alternative forms and to contact the Department by fax.

The revisions provide financial relief to lead abatement firms and lead consulting firms by increasing the intervals between mandatory training.

One change in the rules is to add fees for accreditation of training courses. The fee for an initial course for any discipline is \$750 and for a refresher course \$250. The fees are to cover the costs to the Department for accrediting courses. Section 254.178 (2) (d), Stats., directs the Department to specify in rule its fees for accrediting training courses. The fees are established at the same amounts as the fees established under ch. HSS 159 for accreditation of asbestos training courses.

Summary of Comments:

No comments were received.

## 9. Insurance (CR 97-76)

S. Ins 18.07 (5) (bg) – HIRSP rate increase for fiscal year 1997-1998.

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.

## 10. Natural Resources (CR 96-132)

S. NR 20.03 (1)(k)7 – Daily bag limit for panfish.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules regulate individual anglers; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. On March 5, 1997, the Assembly Natural Resources Committee held a public hearing. No modifications were recommended as a result of this hearing.

## 11. Natural Resources (CR 97-15)

Chs. NR 20 & 26 – Sport fishing and fish refuges.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments by Legislative Review Committees:

The rule was reviewed by the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. There were no comments.

## 12. Natural Resources (CR 97-17)

Ch. NR 809 – Safe drinking water standards.

Summary of Final Regulatory Flexibility Analysis:

The expected financial impacts of the proposed rule changes are negligible. There are no additional compliance schedules, reporting requirements or deadlines in the proposed rule amendments. Therefore, the rule will not have a significant number of small businesses.

Summary of Comments by Legislative Review Committees:

The proposed rule was reviewed by the Assembly Environment Committee and the Senate Agriculture and Environmental Resources Committee. There were no comments.

## 13. Natural Resources (CR 97-18)

Ch. NR 10 – Hunting and trapping.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments by Legislative Review Committees:

The rule was reviewed by the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. There were no comments.

**14. Natural Resources (CR 97-19)**

Ch. NR 10 – Hunting and trapping.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments by Legislative Review Committees:

The rule was reviewed by the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. There were no comments.

**15. Natural Resources (CR 97-59)**

Ch. NR 46 – Administration of the forest crop law and the managed forest law.

Summary of Final Regulatory Flexibility Analysis:

This rule does affect small business. Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law are required to pay 10% and 5% respectively of the stumpage value adopted in the zone for the species and wood product volume cut from their land. Consultant foresters in business on their own are also affected by the deadline requirement for submitting management plans for the DNR foresters for approval. Failure to meet the deadline could mean liability on their own part.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Assembly Rural Affairs Committee and the Senate Agriculture and Environmental Resources Committee. There were no comments.

**16. Revenue (CR 97-55)**

Ch. Tax 11 – Registering for and reporting Wisconsin sales and use taxes.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**17. Revenue (CR 97-56)**

Ch. Tax 11 – Wisconsin sales and use taxes.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**18. Revenue (CR 97-68)**

Ch. Tax 11 – Wisconsin sales and use tax as it applies to manufacturers.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**19. Revenue (CR 97-75)**

Ch. Tax 11 – The use of exemption certificates.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**20. Revenue (CR 97-90)**

Ch. Tax 11 – The Wisconsin sales and use tax treatment of landscaping services and sales and purchases by governmental units and the use of exemption certificates.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

There were no comments.

**21. Transportation (CR 97-60)**

Ch. Trans 206 – The local roads improvement program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**22. Transportation (CR 97-64)**

Ch. Trans 305 – Standards for vehicle equipment.

Summary of Final Regulatory Flexibility Analysis:

This proposed rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

**23. Workforce Development (CR 97-54)**

Ch. DWD 12 – Wisconsin Works.

Summary of Final Regulatory Flexibility Analysis:

A detailed regulatory flexibility analysis of this rule is not required because it has no regulatory impact on small business.

Summary of Comments:

No comments were reported.

---

---

## *EXECUTIVE ORDERS*

---

---

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

**Executive Order 317.** Relating to the Implementation of the Federal Communication Commission's Universal Service Fund Order.

**Executive Order 318.** 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 Fire Fighters of this State Who Have Given Their Lives in the Line of Duty.



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!**