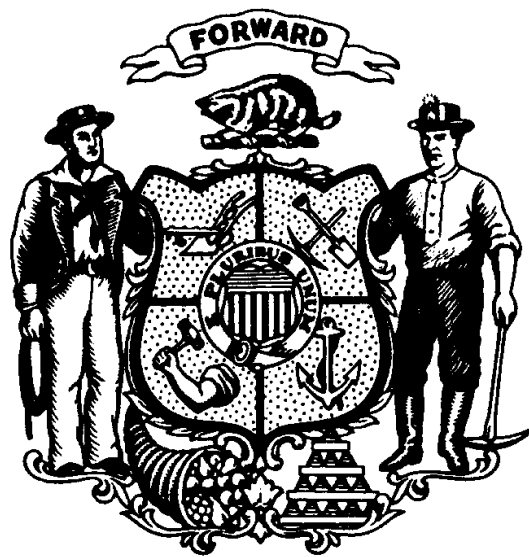


WISCONSIN ADMINISTRATIVE REGISTER

No. 506



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TABLE OF CONTENTS

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

Administration:	Rules relating to kennel owner licenses.
Commerce:	<u>Building and Heating, etc., Chs. 50-64</u> <u>Multifamily Dwellings, ch. 66</u> Rules adopted revising chs. ILHR/Comm 51, 57 and 66, relating to the commercial building and multi-family codes. [FIRST APPEARANCE]
Commerce:	<u>Financial Resources for Businesses and Communities, Chs. Comm 105 to 128</u> Rules relating to emergency grants under the CDBG program. Rules relating to the Brownfields Grant Program.
Corrections:	Rules relating to registration and community notification of sex offenders. Rule adopted relating to the inmate complaint review system. Rules relating to polygraph examinations for sex offenders.
Dentistry:	Rule relating to examination requirements for licensed out-of-state dentists.
Department of Employment Relations:	Rules relating to sick leave.
Wisconsin Gaming Board:	See <u>Administration</u> .
Insurance:	Rule relating to a decrease in premium rates for the Health Insurance Risk-Sharing Plan, effective January 1, 1998. Rules relating to life insurance solicitations. Rules relating to a decrease in premium rates for the Health Insurance Risk-Sharing Plan (HIRSP) and correcting errors in the published rate table. Rules relating to a deductible alternative to HIRSP.
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 reservations for state parks, forests and other lands.
Natural Resources:	<u>Environmental Protection--Air Pollution Control, Chs. NR 400--</u> Rule relating to emission limitations for motor vehicles.
Public Instruction:	Rules adopted creating ch. PI 36, relating to full-time open enrollment. [FIRST APPEARANCE] Rules adopted revising ch. PI 40, relating to the youth options program. [FIRST APPEARANCE]
Transportation:	Rules relating to the Transportation Infrastructure Loan Program.
Veterans Affairs:	Rules relating to the personal loan program.
Workforce Development:	<u>Economic Support, Chs. DWD 11 to 59</u> Rules relating to Learnfare.

Scope Statements.**Pages 12 to 15.**

Administration:	Adm Code - Relating to Wisconsin Land Information Board grants-in-aid to local government program.
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Commerce:	Ch. Comm 106 – Relating to Financial assistance programs for businesses under the Wisconsin Development Fund (WDF), including the Technology Development Fund, Customized Labor Training, Major Economic Development, and Small Business Innovation Research Bridge Financing programs.
Commerce:	Ch. Comm 114 – Relating to the Minority Business Development Fund Program.
Commerce:	Ch. Comm 115 – Relating to the Community-Based Economic Development Program.
Commerce:	Ch. Comm 116 – Relating to the Rural Economic Development Program.
Commerce:	Ch. Comm 119 – Relating to the Mining Economic Development Grants and Loans Program.
Natural Resources:	NR Code – Relating to the wildlife damage abatement and claims program and to the urban wildlife grant program rules.
Natural Resources:	NR Code – Relating to recycling grants to Responsible Units (RU's). (RU's are county and municipal governments responsible to manage recycling in their jurisdiction.)
Revenue:	S. Tax 11.99 – Relating to the adult entertainment tax as created by 1997 Wis. Act 27, effective April 1, 1998.
Transportation:	Ch. Trans 309 – Relating to ambulance inspections.
Workforce Development:	Ch. DWD 290 – Relating to nonapplicability limits for application of the state prevailing wage rate laws.

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

Agriculture, Trade & Consumer Protection:	Chs. ATCP 32, 33, 35 – Relating to the Department's fertilizer bulk storage, pesticide bulk storage and the agricultural chemical cleanup programs.
Arts Board:	Chs. AB 1 to 4 – Relating to the Arts Board grant and percent for Arts Programs.
Hearing and Speech Examining Board:	HAS Code – Relating to hearing instrument specialists.
Public Instruction:	Ch. PI 36 – Relating to the open enrollment program.
Public Instruction:	Ch. PI 40 – Relating to the youth options program.
Regulation & Licensing:	RL Code – Relating to real estate brokers and real estate salespeople.
Veterinary Examining Board:	VE Code – Relating to veterinarians and veterinary technicians.

Pages 16 to 17.

Notices of Hearings or of Proposed Rules.

Agriculture, Trade & Consumer Protection:	Hearings to consider revision to chs. ATCP 32, 33 and 35, relating to the department's bulk fertilizer and pesticide storage programs and agricultural chemical cleanup program. Hearing to consider ch. ATCP 143, relating to the corn marketing orders.
Arts Board:	Hearing to consider chs. AB 1 to 4, relating to grant programs and arts in public places.
Gaming Board:	Hearing to consider the emergency rule and the permanent rule amendments to ch. WGC 13, relating to license fees for kennel owners at greyhound racetracks.

Pages 18 to 38.

Hearing and Speech Examining Board:

Hearing to consider revision to chs. HAS 1 to 6, relating to hearing instrument specialists.

Regulation & Licensing:

Hearing to consider revisions to chs. RL 11 to 26, relating to real estate brokers and real estate salespersons.

State Fair Park Board:

Hearing to consider chs. SFP 2 and 7, relating to minimum age for certain criminal activities and bond schedule.

Veterinary Examining Board:

Hearing to consider revisions to chs. VE 1 to 10, relating to veterinarians and veterinary technicians.

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

Page 39.

Agriculture, Trade & Consumer Protection:

(CR 97-125) – Ch. ATCP 29

Commerce:

(CR 97-156) – S. Comm 108.21 (1)(f)

Corrections:

(CR 96-180) – Ch. DOC 308

Corrections:

(CR 97-79) – Ch. DOC 309

Medical Examining Board:

(CR 97-114) – S. Med 10.02 (2) (zb)

Tourism:

(CR 97-155) – Ch. Tour 1

Transportation:

(CR 97-144) – Ch. Trans 302

Administrative Rules Filed with the Revisor of Statutes Bureau.

Page 40.

Administration:

(CR 96-164) – Ch. Adm 66

Administration:

(CR 96-165) – Ch. Adm 67, Ch. Trans 141

Agriculture, Trade & Consumer Protection:

(CR 97-86) – Ch. ATCP 42

Commerce:

(CR 97-115) – Chs. Comm 5, 17 & ILHR 20 & 41

Corrections:

(CR 97-92) – ch. DOC 332

Higher Educational Aids Board:

(CR 97-111) – Ch. HEA 9

Insurance:

(CR 96-192) – S. Ins 2.80

Natural Resources:

(CR 97-20) – S. NR 10.02 (9)

Natural Resources:

(CR 97-120) – S. NR 102.10 (1m)6., 9., 9m., 11

Natural Resources:

(CR 97-122) – S. NR 25.03 (2)(b)

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 Administration (Gaming Board)

Rules adopted revising **ch. WGC 13**, relating to the license fees of kennel owners that own and operate kennels at Wisconsin greyhound racetracks.

Finding of Emergency

Statutory Authority: ss. 16.004(1), 562.02(1) and 562.05(2)

Statutes Interpreted: ss. 562.02(1)(am) and 562.05(2)

The Department of Administration's Division of Gaming finds that an emergency exists and the rule amendments are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is:

For CY 1998, the Wisconsin racetracks were unable to recruit kennels to operate at the state's three existing racetracks. The 1997 license fee of \$750.00 per kennel is too cost prohibitive to the kennels and therefore they pursue booking agreements in other states. By decreasing the cost to \$350.00 and allowing the license to be valid at all Wisconsin racetracks, the racetracks will be able to attract quality kennels.

As a result of the increased competition for the availability of greyhounds throughout the country, license fees and purse revenues are the only considerations that racetracks have to offer when attempting to recruit kennels. If the racetracks are unsuccessful in recruiting new kennels or maintaining existing kennels, then races or whole performances would have to be canceled due to the lack of greyhounds.

In conjunction with the canceled races or performances and the associated decrease in handle, the revenue generated for the state related to greyhound racing would decrease accordingly.

Publication Date: December 8, 1997

Effective Date: December 8, 1997

Expiration Date: May 7, 1998

Hearing Date: February 26, 1998

[See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Department of Commerce

(Building & Heating, etc., Chs. Comm/ILHR 50-64)

(Uniform Multifamily Dwellings, Ch. ILHR 66)

Rules adopted revising **chs. Comm 51, ILHR 57 and 66**, relating to commercial buildings and multifamily dwellings.

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that adoption of the rule is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under ss. 101.02 (15), 101.12, and 101.971 to 101.978, Stats., the Department protects public health, safety, and welfare by promulgating construction requirements for commercial and public buildings, including multifamily dwellings. Present requirements include methods for stopping fire in one area of a building from spreading to another area through service openings in walls, floors, and ceilings, such as penetrations for plumbing and electrical components. The methods that were specified have been shown to fail under fire testing conditions.

The proposed rule impacts all public buildings, which includes multifamily dwellings, and replaces the failed firestopping methods with techniques, materials, and methods that have been tested and nationally recognized. The rule essentially mandates use of tested and listed fire-stop systems for nearly all penetrations of every wall, floor, and ceiling that is required to provide area-separation protection consisting of either a fire-protective membrane or fire-resistive rated construction. The rule also clarifies some problematic, technical provisions that have resulted in confusion and unnecessary costs. Without the proposed rule revisions, firestopping methods that have been proven to be ineffective would still be allowed to be utilized, thereby putting public safety and health at risk.

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

Publication Date: January 28, 1998

Effective Date: January 28, 1998

Expiration Date: June 27, 1998

EMERGENCY RULES NOW IN EFFECT (2)

Department of Commerce

(Financial Resources for Businesses and Communities, Chs. Comm 105 to 128)

1. Rule adopted amending s. **Comm 108.21 (1) (f)**, relating to the emergency grants under the Community Development Block Grant (CDBG) program.

Finding of Emergency

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

A closer examination of the revised rules to take effect on November 1, 1997 will not allow Commerce to award emergency grants to local governments experiencing a natural disaster or catastrophic event using other state or federal grant funds as match. Those rules do not specify a source for the match funds, and up to the present time, many of the emergency grants did use state and/or federal grants as match. The most recent example of an emergency is the tornado that devastated the Village of Oakfield. In that case, the Federal Emergency Management Administration (FEMA) and state Division of Emergency Management (DEM) funds were used as match for a CDBG emergency grant.

The floods that occurred in June 1997 in the Milwaukee area may generate some emergency requests for repair and remediation activities. Under the rules that take effect November 1, 1997, Commerce would not be able to use the FEMA and DEM grants as match for these emergency projects.

The nature of the emergency program makes it impossible to anticipate future applications for obvious reasons. Commerce must have a program in place and ready to respond on short notice when an emergency occurs. The emergency rule will allow the use of other grant funds as match. It is very important that Commerce be ready to respond in a timely manner to the needs of the citizens of this state in times of emergency.

Publication Date: October 30, 1997
Effective Date: November 1, 1997
Expiration Date: March 31, 1998
Hearing Date: January 13, 1998

2. Rule adopted creating **ch. Comm 110**, relating to the Brownfields Grant Program.

Exemption From Finding of Emergency

On October 14, 1997, 1997 Wis. Act 27 took effect. That act created s. 560.13, Stats., which appropriated \$5.0 million in funds for each of the state fiscal years of the biennium that can be distributed by the Department of Commerce in the form of grants for brownfields redevelopment or associated environmental remediation. The act requires the department to promulgate administrative criteria for issuing grants for brownfields redevelopment and associated environmental remediation, prescribing the amounts of grants that may be awarded, and including criteria for the awarding of grants on the basis of projects that promote economic development, positive effects on the environment, the total of and quality of the recipient's contribution to their project and innovative proposals for remediation and redevelopment. The act directs the department to promulgate an emergency rule to begin implementing the Brownfields Grant Program before permanent rules may be promulgated under ch. 227,

Stats., and exempts the department from making a finding of emergency. This emergency rule was developed in consultation with the Department of Natural Resources and the Department of Administration.

Publication Date: December 31, 1997
Effective Date: December 31, 1997
Expiration Date: May 30, 1998

EMERGENCY RULES NOW IN EFFECT (3)

Department of Corrections

1. 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
Extension Through: February 26, 1998

2. 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
Extension Through: March 2, 1998

3. Rules adopted revising **chs. DOC 328 and 332**, relating to polygraph examinations for sex offenders.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that rules included in this order are necessary for the immediate preservation of public safety. A statement of the facts constituting the emergency is: A recent session law, 1995 Wis. Act 440, created s. 301.132, Stats., which directs the department to establish a sex offender honesty testing program. Section 301.132, Stats., became effective June 1, 1997. Lie detector testing of probationers and parolees is recognized as an effective supervision tool for determining the nature and extent of deviant sexual behavior and developing appropriate intervention strategies. In addition, it is anticipated that testing will improve treatment outcomes by overcoming offender denial and by detecting behaviors that lead to re-offending.

The testing program cannot be implemented without rules. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to implement the program for the safety of the public while permanent rules are being developed.

This order:

1. Creates definitions for offender, probation and parole agent, and lie detector examination process.
2. Adopts the statutory definitions of lie detector, polygraph, and sex offender.
3. Establishes the authority, purpose and applicability of the lie detector examination process.
4. Requires an offender who is a sex offender to submit to a lie detector test if required by the department.
5. Establishes criteria for the selection of offenders who are required to participate in the lie detector examination process.
6. Requires that the department provide notice to the offender who is required to participate in the lie detector examination process of the lie detector program requirements, instructions to complete any necessary questionnaires and of the date, time and location of the scheduled test.
7. Provides that an agent and an examiner shall determine the questions the offender may be asked during the lie detector examination process.
8. Allows an agent to consult with a treatment provider regarding the questions the offender may be asked during the lie detector examination process.
9. Provides that the department may administer the lie detector tests or contract with an outside vendor to administer the tests.
10. Provides for sanctions if a sex offender refuses to participate in the lie detector examination process.
11. Provides that an offender's probation or parole may not be revoked based solely on a finding of deception as disclosed by a lie detector test.
12. Identifies the circumstances under which the department may disclose information regarding the lie detector tests or the information derived from the lie detector examination process.
13. Provides that the department may not use the lie detector examination process as a method of punishment or sanction.

14. Provides that an offender shall pay the costs of the lie detector test and a \$5.00 administrative fee with each payment. The cost of the lie detector test may vary depending on the type of test used.

15. Establishes procedures for the collection of lie detector fees.

16. Provides for sanctions for an offender's failure to pay the lie detector fees.

17. Provides the criteria for lie detector fee deferrals.

18. Provides for the reporting and notice to the offender when payment of lie detector fees is not received.

The order provides for including the rules for the lie detector program in the same chapter of the Wisconsin Administrative Code, ch. DOC 332, as the rules for registration and community notification of sex offenders, which were published as emergency rules on June 1, 1997.

Publication Date: December 15, 1997
Effective Date: December 15, 1997
Expiration Date: May 14, 1998

EMERGENCY RULES NOW IN EFFECT

Dentistry Examining Board

A rule was adopted revising **s. DE 2.04 (1) (e)**, relating to examination requirements for applicants licensed as dentists in other states.

Finding of Emergency

These rules are promulgated under s. 227.24 (1) (a), Stats. 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 put into effect prior to the time they would be effective under routine rulemaking procedures 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.

Publication Date: October 18, 1997
Effective Date: October 18, 1997
Expiration Date: March 17, 1997
Hearing Date: January 7, 1998

EMERGENCY RULES NOW IN EFFECT

Department of Employment Relations

Rules were adopted revising **ch. ER 18**, relating to sick leave credits, the adjustment of sick leave balances for state employes and catastrophic leave.

Finding of Emergency

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

It is the state's personnel policy to maintain a uniform system of fringe benefits for state employes in terms of retirement, insurance

and leave provisions. This policy is followed in order to facilitate movement of employes between agencies and different types of positions, to minimize the number of benefit systems that must be administered by personnel and payroll staff and to ensure employe equity in benefits. Two of the benefits available to most state employes are sick leave and catastrophic leave. Catastrophic leave programs allow the donation of certain types of unused leave to employes who are on an unpaid leave of absence because they have exhausted their available leave due to a catastrophic need.

The sick leave accrual rate for represented state employes is governed by the applicable collective bargaining agreement. Likewise, provisions regarding catastrophic leave are contained in the agreements. For nonrepresented state employes, the sick leave accrual rate and catastrophic leave are governed by administrative rules promulgated by the secretary of the Department of Employment Relations. Under current administrative rules and all of the 1995-97 collective bargaining agreements, employes earn sick leave at the identical rate of 4 hours per pay period for full-time employes. Under current agreements, catastrophic leave may be exchanged between employes only within bargaining units in the same employing unit, except that the appointing authority may allow exchange between employing units within the same agency. The catastrophic leave program in the current administrative rules for state employes allows exchange of leave only between nonrepresented employes within the same employing unit, except that the appointing authority may allow exchange within an agency.

The Department of Employment Relations recently negotiated new contracts with 11 bargaining units representing the majority of state employes. These contracts will increase the sick leave accrual rate for the covered represented employes and expand the exchange of catastrophic leave for represented employes. The sick leave accrual rate will increase from 4 to 5 hours per pay period for full-time employes, starting on the effective date of the contracts. (Sick leave balances for individual employes also will be adjusted on the effective dates of the contracts to apply the higher accrual rate to hours worked between July 6, 1997 and the effective date of the contracts.) The contracts also expand the catastrophic leave programs to allow exchange of leave between members of different bargaining units, between different employing units within the same agency and between represented and nonrepresented employes. Leave may also be exchanged across agency lines with the approval of each agency.

Without a change in the administrative rules, nonrepresented employes will not receive the increased sick leave, nor will they have the same broadened opportunities to donate and receive catastrophic leave as represented employes.

If the sick leave accrual rate for nonrepresented employes is not increased by this emergency rule, nonrepresented employes will accrue sick leave at a lower rate than those covered by collective bargaining agreements which provide a higher rate. This inconsistency will have the following negative impacts on state employes and agencies: (1) it will create inequitable treatment and morale problems between state employes; (2) it will discourage transfers and promotions by employes from represented to nonrepresented positions; and (3) it will require administration of two different sick leave accrual rates.

If the exchange of catastrophic leave is not broadened, nonrepresented employes will not be able to donate leave to or receive leave from represented employes, or to and from nonrepresented or represented employes in other agencies. Thus, there will be less opportunities for employes who face a catastrophic need to receive donated leave from other employes.

In order to avoid these negative consequences, the Department finds that there is an emergency affecting the public peace, health, safety or welfare. The Department further finds that it is necessary to provide the higher sick leave accrual rate and expanded

catastrophic leave to nonrepresented state employes as soon as possible through an emergency rule.

Publication Date: October 11, 1997
Effective Date: October 12, 1997
Expiration Date: March 11, 1998
Hearing Date: December 15, 1997

EMERGENCY RULES NOW IN EFFECT (4)

Insurance

1. A rule was adopted revising s. **Ins 18.07 (5) (b)**, relating to a decrease in premium rates for the Health Insurance Risk-Sharing Plan (HIRSP), effective January 1, 1998.

Exemption From Finding of Emergency

Pursuant to s. 619.14 (5) (e), Stats., the Commissioner is not required to make a finding of an emergency to promulgate this emergency rule.

Analysis Prepared by the Office of the Commissioner of Insurance

January 1, 1998 Premium Adjustments

The Commissioner of Insurance, based on the recommendations of the Health Insurance Risk-Sharing Plan ("HIRSP") board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles. This rule adjusts the non-subsidized premium rates effective January 1, 1998. This change in rates will result in a reduction of approximately 14.5%, and is mandated by plan financing changes in 1997 Wis. Act 27.

Publication Date: November 20, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998
Hearing Date: December 30, 1997

2. Rules adopted revising s. **Ins 2.14** and amending s. **Ins 2.16 (1) & (3) (a) 2.**, Wis. Adm. Code, relating to life insurance solicitations.

Finding of Emergency

Effective January 1, 1998 Wisconsin will adopt the National Association of Insurance Commissioners Life Illustrations Model Regulation as s. Ins. 2.17 Wis. Adm. Code. These changes are needed to adapt other rules pertaining to life illustrations to s. Ins. 2.17. These changes must be made by emergency rule to synchronize with s. Ins. 2.17.

The main changes proposed to s. Ins 2.14 include:

- Eliminating the requirement that a policy summary be provided at delivery, if a basic illustration was provided.
- Eliminating the requirement that cost indexes be shown on the policy summary.
- Prohibiting insurers from illustrating anything except guaranteed policy elements on the policy summary, and requiring that values be illustrated for years 1-20 and at least one year between age 60 and 65, or maturity, whichever is earlier.
- Requiring that only guaranteed elements be used in the calculation of cost comparison indexes. As a result, the formulas for calculating the net payment cost index and the surrender cost index have been revised and any reference to the equivalent level annual dividend has been deleted from the rule.
- Requiring that insurers use the latest published version of the NAIC Life Insurance Buyer's Guide.

The main changes proposed to s. Ins 2.16 include:

- Excluding the illustration as defined in s. Ins. 2.17 from the definition of an advertisement.
- Revising the purpose of the rule to indicate that the rule is in addition to, and not a substitute, for s. Ins 2.17.

Publication Date: December 10, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998

3. Rules were adopted amending **s. Ins 18.07 (5) (b)**, published as an emergency rule relating to a decrease in premium rates for the health insurance risk-sharing plan under s. 18.07 (5) (b), and correcting errors in the published rate table.

January 1, 1998 Premium Adjustment Correction

The Commissioner of Insurance, based on the recommendation of the Health Insurance Risk-Sharing Plan (HIRSP) board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles. An emergency rule, already promulgated and published, adjusts the non-subsidized premium rates effective January 1, 1998. This emergency amendment corrects 4 errors in the published rate table.

Exemption From Finding of Emergency

Pursuant to s. 619.14 (5)(e) Stats., the commissioner is not required to make a finding of an emergency to promulgate this emergency amendment to an emergency rule.

Publication Date: December 12, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998

4. Rules were adopted amending **s. Ins 18.07 (intro.)**, **(5) (a)** and **(5) (br)** and creating **s. Ins 18.07 (5) (bm)**, relating to the creation of a \$2500 deductible alternative to the health insurance risk-sharing plan effective January 1, 1998.

Exemption From Finding of Emergency

Pursuant to s. 619.14 (5)(e), Stats., the commissioner is not required to make a finding of an emergency to promulgate this emergency rule.

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 227.24, 601.41 (3), 619.11, 619.14 (5)(a) and (e), 619.17 (2) and 619.146

Statutes interpreted: s. 619.146

January 1, 1998 health insurance risk sharing plan with \$2500 deductible.

This change is mandated by 1997 Wis. Act 27 which created s. 619.146, Stats. This section requires that an alternative major medical expense coverage plan be offered with a \$2500 deductible as described in section 2744 (a) (1) (C) of P.L. 104-191. Under s. 619.146 (2) (a) premium reductions do not apply to this alternative plan. Section 619.146 (2) (b) prescribes how the rates for the alternative plan are to be determined. Since the alternative plan is

required by law to be offered by January 1, 1998 this emergency rule sets out the rates for that plan.

Publication Date: December 31, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998

EMERGENCY RULES NOW IN EFFECT (2)

Natural Resources

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

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

Exemption From Finding of Emergency

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

The proposed rule lists a number of organizations the department is familiar with as being interested in endangered and threatened species; a notification procedure to be used to notify them, and others, of a proposed taking; and a public comment procedure to be used for consideration of public comments. The notification procedure is not limited to mail distribution, but is broad to allow other forms of notification, such as electronic mail.

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

2. A rule was adopted revising **s. NR 45.10 (3)** and **(4)**, relating to reservations on state parks, forests and other public lands and waters under the Department's jurisdiction.

Exemption From Finding of Emergency

1997 Wis. Act 27, section 9137 (1) authorizes the department to promulgate these rules without a finding of emergency under s. 227.24, Stats.

Summary of Rules:

1. Creates a process for accepting telephone reservations for department camp sites.
2. Establishes time frame for making reservations.

Publication Date: December 15, 1997
Effective Date: April 1, 1998
Expiration Date: April 1, 1999

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted revising **s. NR 485.04**, relating to emission limitations for motor vehicles.

Finding of Emergency

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

Many 1980 to 1986 model year vehicles cannot reasonably maintain a level of emissions that would comply with the emission limitations scheduled to go into effect on December 1, 1997, under the current rule. In addition, the number of 1990 and older model year vehicles that would need to be repaired in order to comply with these limitations may exceed the number of vehicles the repair industry could effectively repair. Finally, after December 1, 1997, no fast-pass emission limitations will apply to some 1994 and newer model year vehicles. (Fast-pass limitations enable very clean vehicles to pass the I/M program's emission test in less time than the typical test.) Preservation of the public welfare necessitates the adoption of an emergency rule since: (1) the repairs that would need to be done on some 1990 and older model year vehicles attempting to comply with the emission limitations scheduled to go into effect on December 1, 1997, are likely to be costly and ineffective in keeping emissions low, and (2) the absence of fast-pass emission limitations for some newer vehicles would unnecessarily increase the time motorists would need to wait in line at the I/M test stations prior to having their vehicles tested.

Publication Date: December 29, 1997
Effective Date: January 1, 1998
Expiration Date: May 31, 1998

EMERGENCY RULES NOW IN EFFECT (2)

Public Instruction

1. Rules adopted creating **ch. PI 36**, relating to full-time open enrollment.

Finding of Emergency

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

1997 Wis. Act 27 created an inter-district public school open enrollment program in Wisconsin, beginning in the 1998-99 school year. Pupils in kindergarten to grade 12 may attend public school in a district other than the one in which they reside, if space is available (and subject to certain other limitations). A child may attend a prekindergarten or early childhood program in a nonresident school district if the resident district also offers the program and if the child is eligible for the program in the resident district.

The department is responsible for administering the program, including creating uniform application forms, administering school finance provisions, administering a transportation reimbursement program for low-income parents and collecting data and making reports to the legislature, deciding appeals and conducting outreach to inform parents about the program. Administrative rules are necessary to ensure uniform procedures throughout the state.

Parents must apply to the nonresident school district no earlier than February 2 and no later than February 20, 1998, for attendance in the 1998-99 school year. Therefore, the department is promulgating these emergency rules in order to notify pupils, parents, and school districts of the necessary timelines and requirements to participate in the program in time for the upcoming school year.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Publication Date: January 17, 1998
Effective Date: January 17, 1998
Expiration Date: June 16, 1998

2. Rules adopted revising **ch. PI 40**, relating to the youth options program.

Finding of Emergency

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

Effective the 1998-99 school year, 1997 Wis. Act 27 renames the postsecondary enrollment options (PSEO) program to be the youth options program. For institutions of higher education (IHEs), the youth options program will operate essentially the same as it did under the PSEO program. However, the program makes several changes to the program as it relates to technical colleges and pupils attending technical colleges as described in the analysis.

The emergency rules make several modifications to ch. PI 40 in order to clarify certain provisions and to comply with statutory language changes made as a result of the Act.

By January 30, school districts must notify pupils of program changes effective in the 1998-99 school year; by March 1, pupils must notify school districts of their intent to participate in the program. Therefore, the department is promulgating these emergency rules in order to notify pupils, school districts, IHEs and technical colleges of the necessary timelines and requirements to participate in the revised youth options program in time for the upcoming school year.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

Publication Date: January 16, 1998
Effective Date: January 16, 1998
Expiration Date: June 15, 1998

EMERGENCY RULES NOW IN EFFECT

Transportation

- Rules adopted creating **ch. Trans 512**, relating to the Transportation Infrastructure Loan Program.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, safety and welfare. A statement of the facts constituting the emergency is that federally authorized funds for the Transportation Infrastructure Loan Program will be withdrawn if participating states are unable to meet the requirement to have at least one eligible project authorized for construction on or before April 1, 1998. There is insufficient time to have a permanent rule in place to meet the federal deadline. The state has been authorized \$1.5 million in additional federal funds to capitalize the Transportation Infrastructure Loan Program. Without an emergency rule to implement the program, the state is in jeopardy of losing \$1.5 million in federal assistance.

Publication Date: January 5, 1998
Effective Date: January 5, 1998
Expiration Date: June 4, 1998
Hearing Date: January 15, 1998

EMERGENCY RULES NOW IN EFFECT

Veterans Affairs

Rules were adopted revising **ch. VA 12**, relating to the personal loan program.

Exemption From Finding of Emergency

1997 Wis. Act 27, s. 9154 authorizes the department to promulgate rules for the administration of the personal loan program using the emergency rule procedures without providing evidence of the necessity of preservation of the public peace, health, safety or welfare.

Analysis

By repealing and recreating ch. VA 12, Wis. Adm. Code, the department establishes the underwriting and other criteria necessary for the administration of the personal loan program. The personal loan program was authorized by the legislature and governor through the amendment of s. 45.356, Stats., upon enactment of 1997 Wis. Act 27.

Publication Date: October 17, 1997
Effective Date: October 17, 1997
Expiration Date: March 16, 1998
Hearing Date: January 9, 1998

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Economic Support, Chs. DWD 11 to 59)

Rules were adopted revising **s. DWD 12.25**, relating to amendments to the learnfare program.

Exemption From Finding of Emergency

The Department of Workforce Development promulgates a rule under the "emergency rule" procedure of s. 227.24, Stats., as authorized by section 9126 (5qh) of 1997 Wis. Act 27, which provides:

"Using the procedure under section 227.24 of the statutes, the department of workforce development may promulgate rules required under section 49.26 of the statutes, as affected by this act, for the period before the effective date of the permanent rules promulgated under section 49.26 of the statutes, as affected by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (2) (b) of the statutes, the department of workforce development need not provide evidence of the necessity of preservation of the public peace, health, safety or welfare in promulgating rules under this subsection."

Analysis

Statutory authority for rule: s. 49.26 (1) (gm) 2 and (h) 1
 Statute interpreted by the rule: s. 49.26

This rule implements changes to the learnfare program made by 1997 Wis. Act 27 by amending the existing rules on the learnfare program, s. DWD 12.25, Wis. Adm. Code, as follows:

Application of the school attendance requirement is changed from children aged 6 to 19 to children aged 6 to 17.

A child will not meet the learnfare attendance requirement if the child is not enrolled in school or was not enrolled in the immediately preceding semester.

Participation in case management is required for a child who does not meet the attendance requirements or who is a minor parent, a dropout, a returning dropout, or a habitual truant. If a child fails to meet the attendance requirements, or if the child and the child's parent fail to attend or reschedule a case management appointment or activity after two written advance notices have been given by the W-2 agency, the W-2 agency is required to impose a financial penalty unless an exemption reason or a good cause reason is verified.

The exemption reasons are the same criteria that have in the past been treated as good cause under learnfare. In addition, good cause for failing to participate in learnfare case management includes any of the following:

- Child care is needed and not available.
- Transportation to and from child care is needed and not available on either a public or private basis.
- There is a court-ordered appearance or temporary incarceration.
- Observance of a religious holiday.
- Death of a relative.
- Family emergency.
- Illness, injury or incapacity of the child or a family member living with the child.
- Medical or dental appointment for the minor parent or the minor parent's child.
- Breakdown in transportation.
- A review or fair hearing decision identifies good cause circumstances.
- Other circumstances beyond the control of the child or the child's parent, as determined by the W-2 agency.

The financial penalty will be imposed as a reduction of the benefit amount paid to a W-2 participant who is in a community service job (CSJ) or transitional placement and will be imposed as a liability against a W-2 participant who is in a trial job. The amount of the penalty will be \$50 per month per child, not to exceed \$150 per W-2 group per month. The financial penalty will be imposed each month until the child meets the school attendance or case management requirements or until exemption or good cause reason is verified.

Publication Date: January 2, 1998
Effective Date: January 2, 1998
Expiration Date: June 1, 1998

STATEMENTS OF SCOPE OF PROPOSED RULES

Administration

Wisconsin Land Information Board

(The Board is an administrative attachment)

Subject:

Adm Code – Relating to Wisconsin Land Information Board grants-in-aid to local government program.

Description of policy issues:

Section 227.135, Wis. Stats., (1995 Wis. Act 106) requires agencies to prepare a statement of scope for any rule it plans to promulgate before beginning work on the rule. The scope statement is filed with the Revisor of Statutes for publication in the *Wisconsin Administrative Register* and a copy is also sent to the DOA Secretary. The agency may not take any action on the rule until at least 10 days after publication of the scope statement by the Revisor.

Statement of objective of the proposed rule:

The Board proposes to repeal and recreate ss. Adm 47.01–47.07, Wis. Adm. Code, for the purpose of updating its grant-in-aid program, under which the Board has awarded money to counties for land records modernization activities since 1991. The update reflects the changing needs of the Board's customers over the last 8 years as presented to the Board in a resolution from the Wisconsin Land Information Association requesting the change subsequent to a poll of its statewide membership.

Description of existing and new policies:

Existing policies have become increasingly cumbersome for customers, administratively burdensome for staff and more complex in response to growing demand for land records modernization at the local level, increased competition for limited funds among grantees and rapidly increasing sophistication of land records information technologies. These policies were appropriate to launch a small initial program in 1989, but they are no longer appropriate to maintain the momentum of a much more fully-deployed program which administers 10 times as many grants today. Existing policies involve: high levels of detail, evaluation, scoring, ranking, review, checking, accounting, reporting and auditing which are impossible to sustain at the state level and unacceptable to implement at the local level.

New policies will restructure the grant-in-aid program by streamlining and simplifying the application and award process; putting funds to work more quickly at the local government level; and allocating funds based upon statewide initiatives designed to ensure timely completion of the foundational elements of the land information program as called for by the Wisconsin Legislature, consistent with a strategic plan developed in cooperation with the local government customers of the program.

Policy alternatives:

Policy alternatives considered were:

- 1) Divesting the Board's grant program and allowing counties to retain the funds;
- 2) A formula-based automatic allocation to counties;
- 3) A formula-based grant program; and
- 4) A modification of the current grant program.

Statement of statutory authority for the proposed rule:

Section 16.967 (3) (d), Stats., charges and authorizes the Board to conduct and administer a program of grants-in-aid to Wisconsin counties.

Staff time required:

The Board estimates that state employees will spend 320 hours to develop this rule beyond the time already invested in developing the statewide consensus recommendations brought to the Board, estimated to be about 640 hours.

Commerce

Subject:

Ch. Comm 106, Wisconsin Development Fund – Relating to:

Financial assistance programs for businesses under the Wisconsin Development Fund (WDF), including the Technology Development Fund, Customized Labor Training, Major Economic Development, and Small Business Innovation Research Bridge Financing programs.

Description of policy issues:

Objective of the rule:

The purpose of this rule is to update the Wisconsin Development Fund administrative rules to reflect changes that were enacted in 1997 Wis. Act 27, the Biennial Budget Bill. The specific changes relate to the Technology Development Fund and Customized Labor Training program.

Policy issues:

The budget bill states that, in making awards under most of the financing programs administered by the Department, priority shall be given to brownfields projects. This focus will assist in promoting economic development in areas that formerly were utilized for commercial purposes, but currently are not used due to environmental contamination. The development of these areas will reduce the pressure to develop land that is vacant and that is more suitable for agricultural, open-space, or recreational use. The rule will incorporate the brownfields initiative into the WDF program.

The various programs under the WDF previously had different match requirements. The budget bill provided for a standard minimum match requirement for the programs by changing the non-conforming requirements in the Customized Labor Training and Technology Development Fund programs to a minimum of 25 percent of the total project cost. This change eliminates confusion among applicants and allows the Department more flexibility in negotiating the terms for a project with applicants.

The Technology Development Fund program has two phases of funding: Phase 1 provided funds for research and development of a new product. Phase 2 provided funds for the commercialization of the product after successful completion of the Phase 1 project. The statutes have been changed to allow an award to be made for a Phase 2 project even if the applicant had not participated in the Phase 1 program. Many research companies utilize their own money to conduct the research portion of a project and then have difficulty obtaining funds to commercialize the product. Eliminating the requirement that an applicant must have utilized our Phase 1 program in order to obtain a Phase 2 award will allow the Department to help more businesses during the critical commercialization phase of new product development.

Subchapter VII of ch. Comm 106 relates to the Small Business Innovation Bridge Financing program. This program is being deleted. Projects that formerly were funded under this program may be funded under the Technology Development Fund.

The budget bill also allows the Department to charge a loan origination fee on Customized Labor Training and Major Economic Development projects of over \$200,000. The proceeds from the fee will be utilized to pay for the cost of one existing staff person and one new staff person who work with Wisconsin Development Fund projects.

Statutory authority:

Sections 560.02 (4) and 227.11 (2), Stats.

Estimate of time to develop the rule:

30 hours.

Commerce

Ch. Comm 114 – Relating to the Minority Business Development Fund Program.

Description of policy issues:*Objective of the rule:*

The purpose of this rule is to update the Minority Business Development Fund (MBDF) program administrative rules, and to create new rules, to reflect changes that were enacted in 1997 Wis. Act 27, the Biennial Budget Bill.

Policy issues:

The budget bill created two permanent minority incubator grant programs to be funded from the Minority Business Development Fund. The eligible applicants for one program are nonprofit organizations and, for the other program, any incubator that provides services primarily to minority group members or businesses. The programs will allow the MBDF to provide assistance to more small minority businesses through the funding of business incubators.

Local development corporations will be able to apply for a grant of up to \$200,000 to set up a revolving loan fund for minorities. The current cap on this program is \$100,000. In addition, a cap of \$50,000 has been instituted on the amount of funds a local development corporation may award for the existing program which allows them to utilize MBDF funds for business start-up or expansion projects. Previously, there was no limit on this activity, except that the corporation was only allowed to obtain \$100,000 a year for these types of projects. These two changes allow the Department to diversify the types of projects it funds and to leverage more private funds.

A new program was created under the MBDF. This allows the Department to make a grant to a nonprofit organization or private financial institution to make loans of up to \$5,000 for working capital or to pay origination fees or other administrative costs associated with making loans for working capital. The Department may also make an award to a minority nonprofit organization to fund an education and training project. This program will allow the Department to leverage significant additional private funds to help minority businesses succeed.

The budget also increased the percentage of the MBDF appropriation that can be used for Early Planning Grants (EPG's) from 10 percent to 25 percent. The EPG program is a key part of helping minority businesses become successful. The program provides grants for feasibility studies, business plans, and marketing plans. There has always been significantly more demand for this program than there has been funds. This change will allow the Department to meet that demand.

Statutory authority:

Sections 560.02 (4) and 227.11 (2), Stats.

Estimate of time to develop the rule:

60 hours.

Commerce

Ch. Comm 115 – Relating to the Community-Based Economic Development Program.

Description of policy issues:*Objective of the rule:*

The purpose of this rule is to update the Community-Based Economic Development administrative rules to reflect changes that were enacted in 1997 Wis. Act 27, the Biennial Budget Bill.

Policy issues:

The budget bill states that in making awards under most of the financing programs administered by the Department, priority shall be given to brownfields projects. This focus will assist in promoting economic development in areas that formerly were utilized for commercial purposes but currently are not used due to environmental contamination. The development of these areas will reduce the pressure to develop land that is vacant and that is more suitable for agricultural, open-space, or recreational use. The rule will incorporate the brownfields initiative into the WDF program.

The amount of the awards that can be made to political subdivisions and community-based organizations has been standardized at \$30,000. Previously, a political subdivision could receive \$10,000 to develop an economic diversification plan and a community-based organization could receive \$20,000 to provide assistance to entrepreneurs and businesses or to conduct an economic development project. The statutes have been changed to allow both political subdivisions and community-based organizations to conduct any of the activities. These provisions provide the Department the flexibility to provide appropriate assistance to either of the eligible applicants.

The budget bill expanded the program's capabilities in three other areas. A community-based organization is now eligible to apply for a grant to establish a revolving loan fund in order to make loans to small businesses. The Department also can provide a grant to a private, nonprofit foundation to teach business skills to economically disadvantaged or socially at-risk youth. In addition, the Department can make a grant to a community-based organization or private nonprofit organization to conduct a venture capital development conference. Each of these provisions will allow the Department to extend its services to address economic development needs in areas not traditionally served by the Department's programs.

Statutory authority:

Sections 560.02 (4), 560.14 (3m) and (3r) (b), 560.14, and 227.11 (2), Stats.

Estimate of time to develop the rule:

50 hours.

Commerce

Ch. Comm 116 – Relating to the Rural Economic Development Program.

Description of policy issues:*Objective of the rule:*

The purpose of this rule is to update the Rural Economic Development (RED) program administrative rules to reflect changes that were enacted in 1997 Wis. Act 27, the Biennial Budget Bill.

Policy issues:

The budget bill states that in making awards under most of the financing programs administered by the Department, priority shall be given to brownfields projects. This focus will assist in promoting economic development in areas that formerly were utilized for commercial purposes, but currently are not used due to environmental contamination. The development of these areas will reduce the pressure to develop land that is vacant and that is more suitable for agricultural, open-space, or recreational use. The rule will incorporate the brownfields initiative into the RED program.

The budget bill made numerous changes to the RED program. The changes included expanding the eligibility requirements relating to number of employees and population of the community so more businesses can be served under the program, and making the minimum match requirements the same as other Department financing programs. It also made changes in the amount of funds that can be awarded under the Early Planning Grant (EPG), s. 560.17 (3), Stats., and Micro-loan, s. 560.17 (5m), Stats., programs. The maximum award for an EPG was lowered to \$15,000 to make it consistent with the Department's other planning grant programs. The maximum award for a micro-loan was increased to \$100,000 in order to bridge a gap in amounts available under other state and federal loan and grant programs.

The statutes previously required an applicant to have received an EPG under the program in order to be eligible for a micro-loan. The purpose of the EPG is to assist businesses with business plans and other technical assistance required to determine the feasibility of establishing or expanding a business. This requirement prohibits the Department from providing micro-loans to businesses that have developed business plans without utilizing the RED program. The statutory changes in the budget bill allows the Department to provide a micro-loan to a business that has not utilized the EPG program.

The budget bill created a program under the RED program specifically for dairy farms and agricultural businesses. The maximum amount of funds that can be spent on this program is \$200,000 per year. In addition, a provision was included in the budget bill that limits the amount of the funds that can be spent on agricultural projects under the regular RED program to 50 percent of the amount awarded in the biennium. This provision will ensure that the RED funds are spread among several industries, and do not focus on one specific industry.

Statutory authority:

Sections 560.02 (4) and 227.11 (2), Stats.

Estimate of time to develop the rule:

60 hours.

Commerce

Ch. Comm 119- Relating to the Mining Economic Development Grants and Loans Program.

Description of policy issues:

Objective of the rule:

The purpose of this rule is to create administrative rules for the mining economic development grants and loans program that was created in 1997 Wis. Act 27, the Biennial Budget Bill.

Policy issues:

This program was created to provide economic assistance to areas that have been, or will be, affected by metallic mineral mining activities. Under the program, financial assistance can be provided to businesses, community-based organizations, local development corporations, or cities, villages, towns, and counties.

The types of assistance that will be provided include the following:

- ✓ Costs associated with the start-up, maintenance or expansion of a business that is not solely dependent on mining activity.
- ✓ Costs associated with a unit of government's development of an economic diversification plan.
- ✓ The establishment of a local revolving loan fund to provide loans to local businesses that will create long-term employment opportunities.
- ✓ Funds to conduct a local economic development project that will create long-term employment opportunities and to provide assistance to businesses or entrepreneurs.
- ✓ Funds for businesses to obtain assistance in conducting feasibility studies, financial plans, marketing plans, and managerial assistance after the start-up or expansion of the business.

The Department is statutorily required to promulgate administrative rules establishing the policies and standards for making awards, establishing the processes for grants and loans, and establishing the processes to be utilized for loans made from revolving loan fund projects.

Statutory authority:

Sections 560.02 (4), 560.135 (7), and 227.11 (2), Stats.

Estimate of time to develop the rule:

50 hours.

Natural Resources

Subject:

NR Code - Relating to the wildlife damage abatement and claims program and to the urban wildlife grant program rules.

Description of policy issues:

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

In the 1997 Wis. Act 27 the Legislature:

- 1) Approved significant changes to the existing wildlife damage abatement and claims program [s. 29.598, Stats.] and
- 2) Created an urban wildlife population control grant program.

As part of this legislation, the Department has been directed to formulate administrative rules for the implementation of both of these changes. To comply with these requirements, the Department will draft two administrative rule orders and initiate stakeholder input and develop plans for other extensive stakeholder input. This includes contacting all wildlife damage abatement and claims program participants, County damage program specialists, Department staff, the Wisconsin agricultural organizations, urban wildlife stakeholders, and other hunting organizations, providing these groups copies of preliminary draft administrative code language and soliciting their comments and recommendations for development of a rules package to take to the Natural Resources Board at the March meeting to seek the Board's approval to take the package to public hearings. The DNR hopes to take both rule orders, the wildlife damage abatement and claims program rule changes and the urban wildlife control grant program rule, back to the Natural Resources Board for its approval at the June meeting.

This action represents a change from past policy.

Explain the facts that necessitate the proposed change:

The DNR anticipates that the DNR needs to draft an emergency rule version of these orders so rules can be in place this calendar year. Rule implementation is essential so that new hunting access, abatement and claims procedures be available this program year and so that counties may implement them prior to the fall hunting seasons and fall appraisal seasons.

Statutory authority for the rule:

Section 29.598, Stats.

Anticipated time commitment:

The anticipated time commitment is 259 hours. Six hearings are proposed to be held in April, 1998 at Eau Claire, Spooner, Rhinelander, Green Bay, Stevens Point and Madison.

Natural Resources

Subject:

NR Code - Relating to recycling grants to Responsible Units (RU's). (RU's are county and municipal governments responsible to manage recycling in their jurisdiction.)

Description of policy issues:

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

None. This rule change would simply replace the grant formula in ch. NR 542, Wis. Adm. Code, with the current statutorily-specified grant formula.

This action does not represent a change from past policy.

Statutory authority for the rule:

Section 287.23 (5), Stats.

Anticipated time commitment:

The anticipated time commitment is 32 hours.

Revenue

Subject:

S. Tax 11.99 - Relating to the adult entertainment tax as created by 1997 Wis. Act 27, effective April 1, 1998.

Description of policy issues:

Objective of the proposed rule:

The objective of the rule order is to specify the products and services that are subject to the adult entertainment tax under subch. XIII of ch. 77, Stats.

Existing policies:

Since the adult entertainment tax is a new tax, there are no existing policies.

Policy alternatives:

The Department is required by s. 9143 (7k) of 1997 Wis. Act 27 to submit to the Legislative Council staff a rule relating to the adult entertainment tax.

Statutory authority:

Section 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates that it will take approximately 40 hours to develop this rule order. This includes drafting the rule order, review by appropriate parties, and preparing related documents. The Department will assign existing staff to develop this rule order.

Transportation**Subject:**

Ch. Trans 309 – Relating to ambulance inspections.

Description of policy issues:*Description of the objective of the rule:*

This proposal will amend ch. Trans 309, “Ambulance Inspections.” Amendment to this rule will assist the Inspector in assuring compliance with the rule and to reflect current federal and state medical equipment standards.

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 current rule does not address the issue of non-compliance to the vehicle and equipment standards beyond putting the unit “out of service.” It does not currently address when the service does not comply with the “out of service” order, nor does it address when the service obstructs the Inspector in his/her duties. The Department proposes a change to address the above issues, to help ensure the safe transportation of the patient(s) and the Emergency Medical Technicians.

In 1993, the equipment standards were brought up to what was then the current State of Art in medical standards. The medical field is always changing; the Department proposes a change to the rule to address the concerns voiced by the medical field.

Statutory authority for the rule:

Section 341.085, Stats.

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

It is estimated that state employees will spend 80 hours on the rulemaking process, including research, committee meetings, drafting and conducting public hearings.

Workforce Development**Subject:**

SS. DWD 290.15 and 290.155 – Relating to nonapplicability limits for application of the state prevailing wage rate laws.

Description of policy issues:*Description of the objective of the rule:*

The state prevailing wage rate laws require that, when a state agency or local governmental unit constructs a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under ss. 66.293 (5) and 103.49 (3g), Stats., as affected by 1995 Wis. Act 215, the state prevailing wage rate laws do not apply to any “single-trade public works project” (a project involving the employment of only one trade) whose estimated cost is below \$30,000, and it does not apply to any “multi-trade public works project” whose estimated cost is below \$150,000.

Also under ss. 66.293 (5) and 103.49 (3g), Stats., the Department is required to adjust the dollar amounts of the nonapplicability limits each year, in proportion to any change in construction costs since the limits were last determined.

The objective of the proposed rule is to amend the existing prevailing wage rate rules to provide that the Department will use the construction cost index published in the *Engineering News-Record*, a weekly national trade publication, to determine the annual adjustment, if any to the nonapplicability limits. In addition, the proposed rule would change the nonapplicability limits to \$32,000 for single-trade projects and \$160,000 for multi-trade projects, based on a 6.4% increase in the construction cost index between April, 1996 and November, 1997.

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 current rule provides that the nonapplicability limits shall be adjusted every two years “on the basis of changes in the U.S. Department of Commerce’s composite cost index, or similar index.” The Department believes that the proposed change to the Construction Cost Index of the *Engineering News-Record* will provide a more accurate method for measuring any increase in building costs.

Statutory authority for the rule:

Sections 66.293 (5) and 103.49 (3g), Stats.

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

Less than 20 hours.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

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

Agriculture, Trade & Consumer Protection

Rule Submittal Date

On January 30, 1998, the Wisconsin Department of Agriculture, Trade and Consumer Protection referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends chs. ATCP 32, 33 and 35, Wis. Adm. Code, relating to the Department's fertilizer bulk storage, pesticide bulk storage and the agricultural chemical cleanup programs.

Agency Procedure for Promulgation

Public hearings are required and will be held after the Wisconsin Legislative Council Rules Clearinghouse completes its review of the proposed rule. The Division of Agricultural Resource Management is primarily responsible for promulgation of this rule.

Contact Person

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

Duane Klein
Division of Agricultural Resource Management
Telephone (608) 224-4519

Attorney James Matson
Telephone (608) 224-5022

Arts Board

Rule Submittal Date

On January 28, 1998, the Wisconsin Arts Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates chs. AB 1 to 4, Wis. Adm. Code, relating to the Arts Board grant and percent for Arts Programs.

Agency Procedure for Promulgation

A public hearing is required and scheduled for Thursday, February 26, 1998 at 10:00 a.m. in the Pecatonica Meeting Room, 1st Floor, 101 East Wilson Street, Madison, Wisconsin.

Contact Person

For additional information or to obtain a copy of the proposed rule, contact:

Dennis Fay, General Counsel
Telephone (608) 266-6747

Hearing and Speech Examining Board

Rule Submittal Date

On January 23, 1998, the Hearing and Speech Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) and 459.12 (1), Stats.

The proposed rule-making order relates to hearing instrument specialists.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 3, 1998.

Contact Person

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

Public Instruction

Rule Submittal Date

On January 20, 1998, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates ch. PI 36, relating to the open enrollment program.

Agency Procedure for Promulgation

Public hearings will be scheduled. The Division for Finance and Management is primarily responsible for promulgation of this rule.

Contact Person

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

Mary Jo Cleaver, Policy and Budget Analyst
Telephone (608) 267-9101

Public Instruction

Rule Submittal Date

On January 20, 1998, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. PI 40, relating to the youth options program.

Agency Procedure for Promulgation

Public hearings will be scheduled. The Division for Learning Support: Instructional Services is primarily responsible for promulgation of this rule.

Contact Person

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

Preston Smeltzer, Education Consultant
Telephone (608) 266-3701

Regulation and Licensing***Rule Submittal Date***

On January 20, 1998, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 227.11 (2), 452.05, 452.07 and 459.09 (5), Stats.

The proposed rule-making order relates to real estate brokers and real estate salespeople.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled.

Contact Person

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

Veterinary Examining Board***Rule Submittal Date***

On January 20, 1998, the Veterinary Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 15.08 (5) (b), 227.11 (2) and 453.03, Stats.

The proposed rule-making order relates to veterinarians and veterinary technicians.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 12, 1998.

Contact Person

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

NOTICE SECTION

Notice of Hearings

Agriculture, Trade & Consumer Protection

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on proposed rule changes to chs. ATCP 32, 33 & 35, Wis. Adm. Code, relating to the department's bulk fertilizer & pesticide storage programs and agricultural chemical cleanup program. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule changes. Following the public hearings, the hearing record will remain open until March 19, 1998 for additional written comments.

A copy of this rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Agricultural Resource Management Division, 2811 Agriculture Drive, P. O. Box 8911, Madison, WI 53708, or by calling (608)224-4523. 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 **February 23, 1998** either by writing to Karen Ayers, 2811 Agriculture Drive, P. O. Box 8911, Madison, WI 53708, (608-224-4523), or by contacting the message relay system (TTY) at 608-266-4399 to forward your call to the Department at 608-224-5058. Handicap access is available at the hearings.

Hearing Information

All hearing times are from 1:00 – 5:00 PM and 6:30 – 9:00 PM

The first half hour of both afternoon and evening sessions will be an informational session where department staff will discuss provisions of the proposed rule.

March 3, 1998 Tuesday	Prairie Oaks State Office Bldg. 2811 Agriculture Drive Madison, WI 53718 Board Room
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March 4, 1998 Wednesday	Holiday Inn 150 Nicolet Road Appleton, WI 54914 Menasha Room
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March 5, 1998 Thursday	Quality Inn 809 W. Clairemont Avenue Eau Claire, WI 54701 Chippewa Valley Room
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Analysis by the Department of Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07(1), 94.645(3), 94.69 and 94.73(11)

Statutes interpreted: ss. 94.645, 94.69 and 94.73

This rule updates and amends the department's current rules related to fertilizer bulk storage, pesticide bulk storage, and the agricultural chemical cleanup program.

FERTILIZER BULK STORAGE

The department currently regulates fertilizer bulk storage under ch. ATCP 32, Wis. Adm. Code. The current rules are designed to prevent and contain fertilizer spills that could contaminate groundwater or surface water. This rule clarifies the current rules, and makes nonsubstantive drafting changes. This rule also makes the following substantive changes:

Definitions

This rule modifies current definitions to clarify coverage, and to clarify the responsibilities of storage facility operators. Under this rule:

- A "storage facility" means a place at which bulk fertilizer is held in storage. "Storage facility" does not include a field or other location at which a mobile container is temporarily parked while its fertilizer contents are unloaded for only one person's use, provided that the person is not a fertilizer manufacturer or distributor.

- An "operator" includes both of the following:

- A person who owns or controls a storage facility. (This does not include a farmer who stores fertilizer solely for his or her own use).

- A fertilizer manufacturer or distributor who contracts with another person (e.g., a farmer) to store bulk fertilizer for the manufacturer or distributor.

Storage Container Security

Under current rules, the operator of a fertilizer storage facility must take security measures to prevent unauthorized access to storage containers. This rule clarifies current security requirements. Under this rule, an operator must secure a storage container by doing at least one of the following whenever the storage facility is unattended:

- Keeping it in a locked building.

- Keeping it in a locked outdoor enclosure. The enclosure must be at least 5 feet tall, and must be free of gaps that would allow unauthorized persons to enter.

- Locking all valves on the storage container.

Sight Gauge Valves

Currently, many fertilizer bulk storage containers have external site gauges that are used to measure the level of liquid fertilizer in the containers. If the sight gauge breaks, liquid fertilizer may spill from the storage container through the broken sight gauge. Under this rule, a storage container with an external site gauge must be equipped with a valve that can stop the flow of liquid to the sight gauge. The operator must close and secure the valve when the sight gauge is not in use.

Measuring Liquid Fertilizer Levels

Under current rules, an operator must measure the amount of liquid fertilizer in a storage container at least weekly, except that the operator may make monthly measurements in April and May if the operator is "regularly" loading or unloading fertilizer from the storage container during those months. Under this rule, the operator must make weekly measurements, except that the operator may make monthly measurements between May 1 and July 31 if the operator is loading or unloading fertilizer from the storage container at least weekly during that period.

Under this rule, as under the current rule, an operator must inspect valves and other appurtenances for leaks at least weekly. The operator must also maintain facilities to minimize the risk of spills, and keep a written record of every inspection, measurement and maintenance operation.

Fertilizer Mixing and Loading: Spill Containment Surface

Under current rules, an operator must mix and load liquid bulk fertilizer over a spill containment surface that is adequate to catch and contain fertilizer spills. Under this rule, beginning on January 1, 2000, an operator must also mix and load nonliquid bulk fertilizer over a spill containment surface. This rule clarifies, but does not substantially alter, current requirements for spill containment surfaces.

Under this rule, an operator must recover fertilizer spilled onto a spill containment surface to maintain the effective capacity of that

surface. Containers used to hold recovered spills must be kept within a secondary containment structure. Recovered fertilizer spills may not be kept underground.

Secondary Containment Structures

Under current rules, fertilizer bulk storage containers must be enclosed in a secondary containment structure that will effectively contain spills from the storage containers. The current rules establish design and construction standards for secondary containment structures. This rule clarifies, but does not substantially alter, the current standards.

Under this rule, if a secondary containment structure includes a soil or bentonite clay liner, the operator must recompact or reconstruct the liner at least once every 15 years. An operator is not required to remove a storage container having a capacity of 50,000 gallons or more before recompacting or reconstructing the secondary containment structure that encloses that container.

The current rules exempt certain storage containers from secondary containment requirements. This rule modifies the current exemptions. Under this rule, secondary containment is not required for the following storage containers:

- A mobile storage container held for less than 15 days at a storage facility that has a spill containment surface complying with this rule.
- An empty and cleaned mini–bulk container.
- An empty rail car.

Underground Storage Prohibited

Current rules prohibit an operator from storing liquid bulk fertilizer underground, except in stainless steel or other approved containers. This rule prohibits all underground storage, regardless of the type of container used. This rule does not prohibit an operator from temporarily collecting fertilizer spills or rinsate in an underground catch basin that forms part of a spill containment surface required under this rule.

Inventory Reconciliation

Under current rules, a storage facility operator must perform semi–annual inventory reconciliations to discover unexplained inventory losses that may indicate spills. This rule requires annual, rather than semi–annual, inventory reconciliations. By August 15 of each year, an operator must complete an inventory reconciliation for the preceding one year period beginning July 1 and ending June 30.

Waivers

Under current rules, the department may waive compliance with a rule provision if compliance is not technically feasible and the operator takes alternative measures that provide substantially similar protection for the waters of the state. Under this rule, the department may waive compliance with a rule provision if an operator takes alternative measures that provide substantially similar protection, regardless of whether it is technically feasible for the operator to comply with the rule provision.

PESTICIDE BULK STORAGE

The department currently regulates pesticide bulk storage facilities under ch. ATPC 33, Wis. Adm. Code. The current rules are designed to prevent and contain pesticide spills that could contaminate groundwater or surface water. This rule clarifies the current rules, and makes nonsubstantive drafting changes. This rule also makes the following substantive changes:

Definitions

This rule modifies current definitions to clarify coverage, and to clarify the responsibilities of storage facility operators. Under this rule:

- A “storage facility” means a place at which bulk pesticide is held in storage. “Storage facility” does not include a field or other location at which a mobile container is temporarily parked while its pesticide contents are unloaded for only one person’s use, provided that the person is not a pesticide manufacturer or distributor.
- An “operator” includes both of the following:

–A person who owns or controls a storage facility. (This does not include a farmer who stores pesticide solely for his or her own use).

–A pesticide manufacturer or distributor who contracts with another person (e.g., a farmer) to store bulk pesticide for the manufacturer or distributor.

Storage Container Security

Under current rules, the operator of a pesticide storage facility must take security measures to prevent unauthorized access to storage containers. This rule clarifies current security requirements. Under this rule, an operator must do all of the following whenever a storage facility is unattended:

- Keep valves on outdoor storage containers locked.
- Keep valves on outdoor storage containers locked.

Storing Recovered Pesticide Spills

Under current rules, an operator must mix and load bulk pesticides over a spill containment surface that is adequate to contain pesticide spills. This rule clarifies, but does not change, the current standards for spill containment facilities. Under this rule, an operator must recover pesticides spilled onto a spill containment surface. Containers used to hold recovered pesticide spills must be kept within a secondary containment structure. Recovered pesticide spills may not be kept underground.

Secondary Containment Structures

Under current rules, pesticide bulk storage containers must be enclosed in a secondary containment structure that will effectively contain spills from the storage containers. The current rules establish design and construction standards for secondary containment structures. This rule does not substantially alter the current standards, except that it no longer allows earthen secondary containment structures for bulk pesticides.

The current rules exempt certain storage containers from secondary containment requirements. This rule modifies the current exemptions. Under this rule, secondary containment is not required for the following storage containers:

- A mobile storage container held for less than 15 days at a storage facility that has a spill containment surface that complies with this rule.
- A triple–rinsed mini–bulk container.
- An empty rail car.

Inventory Reconciliation

Under current rules, an operator must perform a monthly inventory reconciliations to discover unexplained inventory losses that may indicate pesticide spills. This rule requires annual, rather than monthly, inventory reconciliations. By October 30 of each year, an operator must complete an inventory reconciliation for the preceding one year period beginning October 1 and ending September 30.

Waivers

Under current rules, the department may waive compliance with a rule provision if compliance is not technically feasible and the operator takes alternative measures that provide substantially similar protection for the waters of the state. Under this rule, the department may waive compliance with a rule provision if an operator takes alternative measures that provide substantially similar protection, regardless of whether it is technically feasible for the operator to comply with the rule provision.

AGRICULTURAL CHEMICAL CLEANUP PROGRAM

The department currently administers an agricultural chemical cleanup program under s. 94.73, Stats. Under the current program, the department may order a “responsible person” to take corrective action to clean up environmental contamination resulting from the discharge of an agricultural chemical. The department may also reimburse a “responsible person” for certain corrective action costs. A “responsible person” includes a person who owns or controls a discharged agricultural chemical, a person who causes a discharge, or a person on whose property a discharge occurs.

The department has adopted rules under ch. ATPC 35, Wis. Adm. Code, to govern the agricultural chemical cleanup program. This rule modifies current rules as follows:

- It incorporates program changes made by 1997 Wis. Act 27 (biennial budget act).
- It changes cost reimbursement standards and procedures.
- It streamlines program operations, based on experience to date.
- It corrects cross-references to renumbered statutes and rules.
- It makes nonsubstantive organizational and drafting changes.

Definitions

This rule clarifies definitions under the current rules, and makes them consistent with 1997 Wis. Act 27.

Discharge Site

Current rules limit the amount of cleanup cost reimbursement which the department can pay per "discharge." 1997 Wis. Act 27 changed this reimbursement cap, and reformulated it as a limit per "discharge site." This rule modifies the current definition of "discharge site." Under this rule, a "discharge site" includes all contiguous land owned by the responsible person, regardless of who that person is. A reimbursement application must include an accurate description of the "discharge site" so the department can keep track of the total reimbursement paid for that site.

Landspreading Agricultural Chemicals Recovered from a Discharge Site

Currently, under s. 94.73(2)(d), Stats., the department may authorize a responsible person to "landspread" soil or water, removed from a discharge site, that contains agricultural chemicals. Landspreading is a method of destroying or recycling many discharged fertilizers and pesticides.

Under this rule, a responsible person wishing to "landspread" soil or water containing spilled agricultural chemicals must obtain a permit from the department. (The responsible person must also obtain a pollution discharge elimination system permit from the department of natural resources, if required under ch. 283, Stats.) The application must include all of the following:

- The name of the applicant.
- The source and quantity of soil or water that will be spread on land.
- The kinds and amounts of agricultural chemicals present in the soil or water.
- The proposed application rate for each agricultural chemical.
- The locations where the soil or water will be spread on land.
- Other relevant information which the department may require.

Under this rule, the department may approve landspreading which applies agricultural chemicals at rates that are comparable to those used in normal agronomic practice. The department must grant or deny a permit within 30 days after the department receives a complete permit application. The department may specify permit conditions, including any requirements under chs. 94, 281 to 285, and 289 to 299, Stats.

Within 30 days after a permit holder landspreads soil or water under a department permit, the permit holder must provide the department with documentation showing that:

- The landspreading was authorized by the owner of the land on which the landspreading occurred.
- The landowner was informed of the kinds and amounts of agricultural chemicals applied, and agreed to take account of those applications when considering the need for and amount of future applications of agricultural chemicals to the same land.

Reimbursement Application Forms

Under current rules, a responsible person seeking reimbursement of cleanup costs must submit a reimbursement application to the department. The person must apply on standard forms provided by the department. This rule consolidates application requirements, and clarifies the information that must be included.

Reimbursement Application: When Made

Under this rule, a responsible person may apply for reimbursement of eligible cleanup costs which that person has paid. If an applicant

fails to include eligible costs paid to date, the applicant may not include those costs in a subsequent application. A responsible person must file a reimbursement application by October 14, 2000, or within 3 years after that person incurs the cleanup costs, whichever is later.

Reimbursement Application: Identifying the Discharge Site

Under current rules, a reimbursement application must include the "address or location" of the discharge site. Under this rule, the application must include a map showing the discharge site. It must also include an accurate legal description of the land parcel on which the discharge occurred. The legal description must correspond to the legal description last filed with the register of deeds in the county where the parcel is located. Among other things, this will allow the department to track the amount of reimbursement paid per discharge site over time. (1997 Wis. Act 27 specifies a maximum amount payable per discharge site.)

Reimbursement Application: Documenting Cleanup Costs

Under this rule, a responsible person must include all of the following in a reimbursement application (the department will provide forms and examples):

- A summary statement identifying and explaining each cleanup cost. Costs must be allocated to the following categories:
 - Soil investigation.
 - Soil remediation.
 - Laboratory and other analysis.
 - Groundwater investigation.
 - Groundwater remediation.
 - Miscellaneous.
- Invoices or other information documenting the cleanup costs.
- Canceled checks or other information documenting that the applicant has paid the cleanup costs.
- A summary of every contractor's bid or estimate required by this rule (see below).
- A spreadsheet that matches each cost item with the documentation supporting that item.
- A substitute W-9 tax form.
- Other relevant information required by the department.

Reimbursing Equipment Costs

Under current rules, the department may not reimburse a responsible person for the cost of using that person's own equipment as part of a cleanup action (unless the responsible person buys and uses the equipment solely for the cleanup action). Under this rule, the department may reimburse a responsible person for the cost of using that person's own equipment if all of the following apply:

- The responsible person uses the equipment for excavating, trucking or landspreading purposes.
- The equipment is reasonably sized and designed for use in the cleanup.
- The hours (or units) of equipment use are reasonable and necessary for the task performed.
- The use costs are based on a reasonable cost allocation formula.
- The use costs do not exceed lease costs (including operator costs) for equivalent equipment.

Contract Services Defined

Responsible persons often contract with others to perform cleanup operations. This rule defines "contract services" to include all of the following:

- Excavating.
- Trucking.
- Landspreading.
- Waste disposal services.
- Drilling, including at-depth soil sampling and well installation.
- Laboratory services.
- Professional consulting services.

- General contractor services.
- Other services provided by contractors.

Contract Services: Competitive Bids

Under current rules, a responsible person must obtain 3 competitive bids for contract services that cost more than \$500. This rule requires 3 competitive bids for contract services that cost more than \$3,000. The department may require a responsible person to obtain additional bids if the department finds that existing bids are unreasonable. The department may also require a responsible person to explain that person's choice of contractors.

A responsible person is not required to contract with the lowest bidder. However, the department will not reimburse costs exceeding low bid costs for any of the following services:

- Excavating.
- Trucking.
- Landspreading and waste disposal services.
- Drilling, including at-depth soil sampling and well installation.

Costs Exceeding Bids

This rule clarifies that the department may not reimburse contract service costs that exceed the contractor's bid for those services. However, the department may reimburse a responsible person for contract services that were not included in the contractor's initial bid, or for additional hours or units of service beyond those included in the initial bid, if all of the following apply:

- The responsible person obtained at least 3 bids before initially choosing the contractor.
- The contractor bills for the additional services at the same per-unit price at which the contractor agreed to provide equivalent services, if any, in the contractor's initial bid.
- The contractor provides the responsible person with a cost estimate for the additional services before performing those services.
- The responsible person provides the department with the cost estimate for the additional services if the total cost of the additional services exceeds \$1,500. The department may require the responsible person to obtain competitive bids for the additional services if the department finds that the cost estimate is unreasonable.
- The responsible person, after receiving the contractor's cost estimate for the additional services, authorizes the contractor to proceed with those services.
- The cost of the additional services does not exceed the contractor's cost estimate for those services.
- The additional services do not involve the selection, design or installation of active groundwater remediation.

Separate Contractors

This rule clarifies current rules prohibiting "tie-ins" of contract services. Under this rule, no contractor who provides any of the following contract services for an agricultural chemical cleanup may provide any services other than the following:

- Excavating.
- Trucking.
- Landspreading and other waste treatment or disposal services.
- Drilling, including at-depth soil sampling and well installation.

Under this rule, no contractor who provides laboratory services for a cleanup, other than immuno assay services or field testing services using hand-held devices, may provide other contract services related to that cleanup.

Workplan Required

Under current rules, the department may not reimburse cleanup costs over \$20,000 (for non-emergency cleanups initiated on or after August 12, 1993) unless the department approves a workplan before the responsible person starts the cleanup. Under this rule, the

department may not reimburse any of the following costs unless the department approves a cleanup workplan:

- Costs over \$7,500 for non-emergency cleanups performed after October 13, 1997.
- Costs over \$20,000 for non-emergency cleanups performed on or after August 12, 1993 but on or before October 13, 1997.

Partial Corrective Action: Reimbursement

Under current rules, a responsible person may seek reimbursement at any of several stages in a cleanup operation. This rule modifies the current rules. Under this rule, a responsible person may apply for reimbursement upon completing any of the following portions of a corrective action:

- An emergency response, if any.
- A soil investigation approved by the department. If the soil investigation concludes that active soil remediation is necessary, the department must approve an active soil remediation plan before reimbursing the responsible person for the soil investigation.

The department may not reimburse any cleanup costs unless the responsible person demonstrates, to the department's satisfaction, that the responsible person is proceeding in a timely manner with the remainder of the cleanup. If the responsible person fails to complete the cleanup, the department may order the responsible person to return any reimbursement paid. The department may withhold reimbursement pending department approval of a workplan for the remainder of the cleanup.

Reimbursement Per Discharge Site

This rule modifies cleanup reimbursement rates to conform with 1997 Wisconsin Act 27. Under this rule the department will reimburse a responsible person, for each discharge site, an amount equal to 80 percent of eligible cleanup costs that are greater than \$3,000 but less than \$400,000. The maximum reimbursement per discharge site, including added interest costs, is \$317,600.

A different reimbursement formula applies in some cases. The department will reimburse a responsible person, for each discharge site, an amount equal to 80 percent of the eligible cleanup costs that are greater than \$7,500 and less than \$400,000 (up to a maximum of \$314,000 including reimbursed interest costs) if any of the following applies at the time the discharge occurs or is discovered:

- The responsible person is required to be licensed under ss. 94.67 to 94.71, Stats.
- The responsible person employs more than 25 persons.
- The responsible person has gross annual sales of more than \$2,500,000.

Transportation Discharges

For reimbursement purposes under this rule, whenever an agricultural chemical is discharged while being transported from a site owned or controlled by the same person who owns or controls the agricultural chemical, the discharge is deemed to occur at that site.

Maximum Reimbursement Per Discharge

Current rules prohibit the department from reimbursing more than \$100,000 per discharge unless the department or the department of natural resources orders active groundwater remediation. Under this rule, the department may reimburse more than \$100,000 per discharge if the department does both of the following:

- Determines that the additional costs are reasonable and necessary based on the nature, size and complexity of the corrective action.

•Approves the additional costs before the responsible person incurs them. The department may specify conditions and limitations on its approval. Prior approval is not required for reasonable and necessary corrective action costs incurred before October 14, 1997.

A "discharge," for purposes of this formula, includes all discharges that occur at a discharge site before the responsible person initiates corrective action in response to any of those discharges. A subsequent "discharge" is considered a separate discharge, subject to a separate \$100,000 limit.

Reimbursement Priorities and Payments

Current rules require the department to withhold reimbursement of most cleanup costs until the last day of the state fiscal year. This rule allows the department to make payments throughout the year on a first-in, first-out basis, unless the agricultural chemical cleanup fund balance drops below \$1,000,000. If the balance drops below \$1,000,000, the department may continue to make initial payments of up to \$50,000 per discharge site on a first-in, first-out basis, but may not make any further payments until the last day of each state fiscal year.

Fiscal Estimate

Assumptions used in arriving at Fiscal Estimate:

The Department of Agriculture, Trade and Consumer Protection anticipates no fiscal effect.

The proposed revisions to ATCP 32 and 33 will require expanded inspections of some agrichemical facilities by department staff. However, inspections are already being performed, and modifying them to include the new areas will not affect the time spent or costs incurred on the inspections.

Any of the proposed changes to ATCP 35 having fiscal impacts are the result of changes to s. 94.73, Stats., which have been incorporated into these rules.

One change included in ATCP 35 which is not the result of statutory changes is to reimburse responsible persons a reasonable rate for the use of their own equipment if it was used to cleanup contamination. We are assuming this will not have a fiscal impact because we are substituting the cost of the responsible person's equipment for the cost of other equipment we have reimbursed in the past (rental equipment, etc.).

Initial Regulatory Flexibility Analysis for revisions to chs. ATCP 32, 33 and 35, Wis. Adm. Code.

The proposed changes to ATCP 32 and ATCP 33, Wis. Adm. Code, will have impacts to small businesses that will cause them to have some increases in expenditures. The proposed changes in ATCP 35, Wis. Adm. Code, will allow greater reimbursement of business expenses when a business cleans up a spill of fertilizer or pesticide.

Expected Business Expense Increases

Business expenses for dry fertilizer distributors would increase due to an added requirement that all loading and unloading of dry bulk fertilizer be performed over a surface that allows for the recovery of all spilled material (s. 32.03). According to licensee records and tonnage reports, there are 151 different facilities from which dry bulk fertilizer is distributed in Wisconsin. Approximately 40% of those, or 60, would classify as small businesses. The department estimates that of those 60 sites, approximately 15%, or 9, currently do not utilize some method of spill containment at their dry fertilizer load-out area. Approximately 85%, or 51 of the 60 dry fertilizer sites, do not utilize some method of spill containment at their dry fertilizer load-in area. Virtually all the small businesses that distribute dry fertilizer would need to provide for a dry fertilizer spill containment surface for load-in, load-out or both. The impacts to these small businesses would be minimized because the use of tarpaulins, in addition to constructed load pads, would be permitted. Tarpaulins of sufficient size and strength to contain any spill and recover all spilled material are estimated to cost \$500 per year. Facilities which choose to construct or install a permanent dry fertilizer load in/out pad are estimated to expend approximately \$3,000 to \$3,500. The department estimates the construction of a permanent dry fertilizer rail-unload pad to be approximately \$1,000.

Business expenses for liquid fertilizer distributors would increase due to an added requirement that all soil liners within containment structures must be physically analyzed for permeability and mechanical properties and chemically analyzed for the nutrient stored within the containment structure over the previous 15 years. In addition, the soil liners must be reconstructed. The department estimates there are fewer than 10 facilities currently utilizing compacted clay liners in Wisconsin and 5 or fewer small businesses with clay liners. The department estimates the cost for performing this

action on a small containment structure to be approximately \$3,000 to \$3,500.

Expected Business Income

The proposed changes to ATCP 35, Wis. Adm. Code, will decrease business costs for cleaning up spills. Most of these proposed changes are the result of changes to s. 94.73, Stats., which have been incorporated into the rules. These statutory changes are outlined below.

- The cost-share rate was modified from 75% to 80% of all eligible costs above the deductible and below \$100,000.
- The reimbursement cap was modified from \$300,000 for each discharge at a site to a life-time cap of \$400,000 per discharge site. Modifications have also been made to the \$100,000 cap. The changes to the reimbursement caps have two significant impacts:

1. A "deductible" is only paid once for each discharge site because the cap is based upon a discharge site and not every time a discharge occurs. As a result, costs for cleaning up subsequent discharges at a site will be reimbursed at a rate of 80%. Prior to this change, subsequent discharges could only be reimbursed at a rate of 50%.

2. In the past, the \$100,000 cap could only be exceeded if groundwater remediation was ordered for a specific discharge. The \$100,000 cap is still in effect for each discharge, but in the future, the \$100,000 cap can be exceeded if approved by the department prior to incurring costs.

- Additional reimbursement for transportation-related spills can be received. Transportation-related spills were each treated individually in the past and thus, each was required to pay a separate deductible. Because of this, many claims for these spills did not get submitted. The proposed language for transportation spills does not require small businesses to pay a separate deductible and thus allows more of these costs to be reimbursable in the future, subject to the \$400,000 limit for the site from which the product was distributed.

One change included in ATCP 35 which is not the result of statutory changes is to reimburse responsible persons a reasonable rate for the use of their own equipment if it was used to cleanup contamination. This will allow small businesses to get reimbursed for using their own equipment rather than hiring another contractor or renting equipment to complete the job and should provide small businesses with additional cost savings at no added expense to the state.

Alternative Options Considered

The department considered several options for the requirement of a dry fertilizer loading pad. Not requiring dry fertilizer loading area-containment is not a viable option based on the cost of cleaning up fertilizer contamination from the chronic discharges. Alternate options could require that a permanent mix/load surface constructed of concrete or asphalt, or that a permanent structure constructed of steel or wood be installed or constructed to contain all dry fertilizer released during loading or unloading. The department feels that a permanent surface or structure is a more sound way of limiting fertilizer discharges to the environment, but the department also realizes that such a requirement could create a serious hardship for small businesses. Therefore, the proposal allows the use of a tarpaulin which would contain and allow for the recovery of all dry fertilizer spilled during dry fertilizer loading or unloading operations.

The department also considered prohibiting the use of clay or soil liners for fertilizer secondary containment structures. This prohibition has been proposed for pesticide secondary containment structures because there are no known facilities in Wisconsin that use a soil liner for pesticide secondary containment purposes and because pesticide manufacturers do not view soil liners as acceptable for pesticide secondary containment purposes. However, for liquid bulk fertilizer, prohibiting the use of soil liners could cause serious hardships for some businesses that currently use them. For small businesses, prohibition of soil liners would require that a completely new secondary containment structure be constructed at an estimated minimum cost of \$10,000 to \$12,000. The estimated cost of the current proposal for testing and re-compaction is significantly less than the cost of building a completely new containment structure.

Most of the fiscal impacts for small businesses contained in proposed revisions to ch. ATPC 35, Wis. Adm. Code, are costs savings and are a result of implementing statutory changes. No alternatives were considered.

Notice of Hearing

Agriculture, Trade & Consumer Protection

► Reprinted from 01-31-98 Wis. Adm. Register.

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold one additional public hearing on amending the Corn Marketing Order (ch. ATPC 143).

The proposed amendment increases the assessment rate under the corn marketing order from one-tenth of one cent (\$0.001) per bushel to one-half of one cent (\$0.005) per bushel.

Written Comments

The public hearing will be held on February 12 in Madison. In addition to the public hearing, the Department will accept written public comments from **February 12 – 20, 1998**. The public is invited to attend the public hearing and/or submit written comments on the proposed rule.

Hearing Information

The public hearing is scheduled as follows:

February 12, 1998	Room 106 (Board Room)
Thursday	Prairie Oak Office Bldg.
11:00 a.m. to	Wis. Dept. of ATPC
3:00 p.m.	2811 Agriculture Dr.
	MADISON, WI
	<i>Handicapped Accessible</i>

Copies of Rule

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

Marketing Order Program
Telephone 1 (800) 462-2765
Wis. Dept. of Agriculture, Trade & Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911

Copies will also be available at the public hearing.

An interpreter for the hearing-impaired will be available upon request for these hearings. Please make reservations for a hearing interpreter by **February 11, 1997** by contacting Margaret Fay at 1 (800) 462-2765 (Voice) or by contacting the Department at (608) 224-5058 (TDY Telephone).

Analysis

Statutory authority: ss. 96.05 and 96.08

Statutes interpreted: ss. 96.11 and 227.14 (6) (c)

The proposed rule amends s. ATPC 143.06 (1) by increasing the assessment rate under the corn marketing order from one-tenth of one cent (\$0.001) per bushel to one-half of one cent (\$0.005) per bushel.

The proposed amendment must be approved by more than 50% of the affected corn producers voting in a referendum before the increased assessment rate becomes effective. If corn growers or affected producers approve the referendum, the Department intends to have the amended marketing order in effect in the fall of 1998 for the harvest and sale of corn grown in 1998 and subsequent years. The rate of assessment has not changed since the marketing order became effective on February 1, 1983.

The Wisconsin Corn Growers Association has petitioned the Department Secretary to amend the marketing order to increase the assessment rate to one-half of one cent (\$0.005) per bushel. The

increase is projected to generate an additional \$500,000 in assessment revenue annually.

BACKGROUND

The corn marketing order (ch. ATPC 143, Wis. Adm. Code) was created in 1983 and requires all producers of corn sold into commercial channels to pay an assessment at the rate of one-tenth of one cent (\$0.001) per bushel. The funds are used for financing research, market development, and educational programs related to corn sales. Each producer selling corn into commercial channels is liable for payment of the assessment under the corn marketing order. Handlers and dealers taking title to corn sold to them by producers are responsible for collecting the assessment from amounts due the producers. Under the marketing order, a producer may request a refund of the assessment which the producer paid into the marketing order.

The rate of assessment has not changed since the marketing order became effective on February 1, 1983. The Wisconsin Corn Growers Association petitioned the Department Secretary on May 20, 1996, to amend the marketing order to increase the assessment rate to \$0.005 per bushel. The Secretary granted the petition and the rulemaking process was begun. It included five hearings held in December, 1996 at various locations throughout the state. The Department may only adopt and amend agricultural marketing orders under ch. 96, Stats., with the approval of affected producers. Producer approval is determined in a referendum of affected producers.

The Department conducted a mail ballot referendum from June 10 to 30, 1997, in which Wisconsin corn growers did not approve amending the corn marketing order to increase the assessment rate. Adoption of the amendment required approval by more than 50% of the producers voting in the referendum. The percentage of affected producers who voted "Yes" was 41.3%. The Wisconsin Corn Growers Association petitioned the Department on August 15, 1997, to continue the current rulemaking process to amend the corn marketing order's assessment rate. The Department Secretary granted the petition.

Under s. 227.14 (6) (c), Stats., a proposed rule is an active proposal until December 31 of the fourth year after the year in which it is submitted for Legislative Council Rules Clearinghouse (LCRH) review, unless withdrawn by the agency before that date. The proposed corn marketing order amendment was submitted to LCRH on October 10, 1996. Despite not being approved in the June, 1997 referendum, it is still an active proposal until December 31, 2000, since the Department has not yet withdrawn the proposal.

The proposed amendment of ch. ATPC 143 is not changed from the hearing draft approved by the Board on October 4, 1996. In order for the Department to continue the proposed rulemaking, Board approval to hold one or more additional hearings is required. The Board gave approval at its meeting on October 3, 1997. After the hearing(s), the Department Secretary will issue Findings of Fact and a Decision on whether to hold a second referendum. Grower approval in a referendum is required before an amendment becomes effective.

Fiscal Estimate

The Department would incur costs of \$12,000 to cover administrative costs related to the rule amendment process. The Wisconsin Corn Growers Association has signed an agreement with the Department to fully reimburse the agency for the cost of adoption. There will be no net fiscal impact to the Department.

The net fiscal impact will be zero as ch. 96, Stats., requires the sponsoring party, Wisconsin Corn Growers Association, to cover the Department's cost in amending the marketing order. Sections 96.05 and 96.98, Stats., provide that a marketing order may be amended after public hearings, approval by the Secretary and with the approval of the affected producers in a producer referendum.

Initial Regulatory Flexibility Analysis

The proposed amendment will not have a significant economic impact on small businesses. The corn marketing order provides for a refund which enables a producer to receive a refund upon submitting

proof satisfactory to the Marketing Board that the assessment for which the refund is requested has been paid.

Notice of Hearing

Arts Board

Notice is hereby given that pursuant to ss. 44.53 (1)(e), 44.565 (4) and 44.62 (4), Stats., the Wisconsin Arts Board will hold a hearing at the time and place shown below to consider a proposed order to create chs. AB 1 to 4 relating to the criteria and procedures under which the Wisconsin Arts board shall administer the funds available for grants to individual artists and arts organizations, and to administer the program of arts in public buildings.

Hearing Information

February 26, 1998
Thursday
10:00 a.m.

Pecatonica Meeting Room
101 E. Wilson St., 1st Floor
Madison, WI

Written Comments

Written comments on the proposed rules may be sent to the contact person by **Thursday, March 12, 1998**. Written comments will receive the same consideration as written or oral testimony presented at the hearing.

Analysis Prepared by the Wisconsin Arts Board

Statutory authority: ss. 44.53 (1)(e), 44.565 (4), 44.62 (4), 227.10 (1) and 227.11 (2) (a)

Statutes interpreted: ss. 44.51, 44.53, 44.56, 44.565, 44.57 and 44.62

Chapters AB 1 to 3 establish the criteria and procedures relating to grant applications administered by the Wisconsin Arts Board, including eligibility requirements, application guidelines, review criteria and procedures, and the disbursement of funds to grantees. Chapter AB 1 contains the procedures and criteria applicable to all of the grant programs administered by the Arts Board. Chapter AB2 contains additional criteria specifically related to the Arts Challenge Initiative Grant Program that meet the requirements of s. 44.565, Stats., the section that created the Arts challenge Initiative Grants. Chapter AB 3 similarly contains additional criteria specifically related to the Wisconsin Regranting Program created by s. 44.62, Stats.

The Wisconsin Arts Board administers a variety of programs and services for individual artists and arts organizations. Funds are provided by the state legislature and the National Endowment for the Arts. The Wisconsin Arts Board awards grants to individual artists, nonprofit arts organizations, schools and other non-profit community organizations encompassing every artistic discipline for the creation and presentation of art to the public. The Wisconsin Arts Board appoints panels of arts professionals to review grant applications and to advise the board on funding decisions. For most programs, recipients must match state awards with cash or donated services.

Section 44.57, Stats., provides that not less than two tenths of 1 % of the cost of construction of certain state owned buildings shall be used to acquire art works that will be located in the building or on the surrounding grounds. Chapter AB 4 contains the procedures and criteria for the selection of art in public buildings.

Initial Regulatory Flexibility Analysis

Notice is hereby given that pursuant to 227.14 Stats., the proposed rule will have minimal impact on small businesses. The initial regulatory flexibility analysis as required by 227.17 (3)(f), Stats., is as follows:

- (1) Type of small business affected by the rule: None.

(2) The proposed reporting, bookkeeping and other procedures required for compliance with the rule: None.

(3) The types of professional skills necessary for compliance with the rule: None.

Fiscal Estimate

The proposed rule has no fiscal effect.

Contact Person

For additional information about or copies of the proposed rules contact:

Dennis Fay
General Counsel
Wisconsin Department of Tourism
P.O. Box 7976
Madison, WI 53707-7976
Phone (608) 266-6747

Notice of Hearing

Gaming Board

Notice is hereby given that pursuant to ss. 16.004 (1), 562.02 (1) and 562.05 (2), Stats., and interpreting ss. 562.02 (1) (am) and 562.05 (2), Stats., the Department of Administration will hold a public hearing at the time and place indicated below to consider the emergency rule and the permanent rule amendments to ch. WGC 13, relating to license fees for kennel owners at greyhound racetracks. The emergency rule became effective on **December 8, 1997**.

Written Comments

Interested people are invited to present information at the hearing. People appearing may make an oral presentation, but are also urged to submit facts, opinions and arguments in writing as well. Written comments from people unable to attend the public hearing, or who wish to supplement testimony offered at the hearing, should be directed to:

Donna Sorenson
Dept. of Administration
P.O. Box 7864
Madison, WI 53707-7864

Written comments must be received by **February 26, 1998**, to be included in the record of rule-making proceedings.

Hearing Information

The hearing will be held at:

February 26, 1998
Thursday
At 2:00 p.m.

Room 201
2005 W. Beltline Hwy.
MADISON, WI

The hearing site is accessible to people with disabilities.

Analysis Prepared by the Dept. of Administration

Statutory authority: SS. 16.004 (1), 562.02 (1) and 562.05 (2)

Statutes interpreted: SS. 562.02 (1) (am) and 562.05 (2)

For calendar year 1998, the Wisconsin racetracks were unable to recruit kennels to operate at the state's three existing racetracks. The 1997 license fee of \$750 per kennel is too cost-prohibitive to the kennels and therefore they pursue booking agreements in other states. By decreasing the license fee to \$350 and allowing the license to be valid at all Wisconsin racetracks, the racetracks will be able to attract quality kennels and conduct full schedules of racing.

Text of Rule

SECTION 1. WGC 13.05 (3) (a) is amended to read:

(a) Kennel Owner ~~\$750.00~~ **\$350.00**

SECTION 2. WGC 13.15 (4) (c) is repealed.

Initial Regulatory Flexibility Analysis

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

Fiscal Estimate

For 1997, \$38,250 was collected for the fifty-one (51) kennel owner licenses that were issued at \$750 each. If the license fee is reduced to \$350, the amount collected would be \$17,850, a decrease of \$20,400. In addition to the loss of revenues identified, the Division of Gaming will allow kennel owners to use a single kennel owner's license at any racetrack in Wisconsin. Previously, the license was track-specific. If all three tracks remain open in the coming years, the revenues collected from kennel owner license fees will remain consistent.

Contact Person

Donna Sorenson, (608) 266-2887
Department of Administration
101 E. Wilson St., 10th Floor
P.O. Box 7864
Madison, WI 53707-7864

Notice of Hearing

Hearing & Speech Examining Board

Notice is hereby given that pursuant to authority vested in the Hearing and Speech Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 459.12 (1), Stats., and interpreting ss. 459.06 and 459.10, Stats., the Hearing and Speech Examining Board will hold a public hearing at the time and place indicated below to consider an order to revise chs. HAS 1 to 6, relating to hearing instrument specialists.

Hearing Information

The hearing will be held at:

March 2, 1998	Room 179A
Monday	1400 East Washington Ave.
At 2:00 p.m.	MADISON, WI

Written Comments

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

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

Written comments must be received by **March 16, 1998** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation & Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 459.12 (1)

Statutes interpreted: ss. 459.06 and 459.10

In this proposed rule-making order, the Hearing and Speech Examining Board amends numerous provisions contained in ch. HAS 3, relating to the examination requirements for individuals applying for a hearing instrument specialist license. The proposed rules clarify the nature of the written and practical examinations, identify the standards to be used by the board in determining passing scores, and identify the procedure to be followed by applicants when claiming examination errors.

In addition, the board creates and amends certain provisions in ch. HAS 5 to clarify that it is unprofessional conduct for hearing instrument specialists to fail to document certain information in client records. The term "patient records" is being changed to "client records" and is being further defined to include documentation of all pertinent client contracts, except those relating to the sale of batteries or product accessories, and to include copies of medical evaluation waivers.

Additional minor and technical changes are made to the rules for purposes of clarity, grammar, form, style and placement in the administrative code.

Text of Rule

SECTION 1. Chapter HAS 1 (title) is amended to read:

Chapter HAS 1

DEFINITIONS

LICENSURE OF HEARING INSTRUMENT SPECIALISTS

SECTION 2. HAS 1.005 is created to read:

HAS 1.005 Authority. The rules in chs. HAS 1 to 5 are adopted pursuant to ss. 15.08 (5) (b), 227.11 (2) and 459.12 (1), Stats.

SECTION 3. HAS 1.01 (1), (2a) (a), (b) and (2m) are amended to read:

HAS 1.01 (1) "Audiology ~~intern~~ student" means a student who engages in the practice of audiology as part of a supervised course of study, including internship or clinical practicum, leading to a degree in audiology at a college or university.

(2a) (a) For purposes of supervising individuals other than audiology ~~intern~~ students, being physically present at the time the ~~trainee~~ student makes ear impressions or measurements of human hearing for the purpose of fitting or selling a hearing instrument or fits or sells a hearing instrument.

(b) For purposes of supervising audiology ~~interns~~ students, providing appropriate direct observations of the clinical services rendered at the time the ~~trainee~~ student makes ear impressions or measurements of human hearing for the purpose of fitting or ~~selling~~ selling a hearing instrument or fits or sells a hearing instrument.

(2m) "Full terms of sale" means the conditions of a sale agreed to by a hearing instrument specialist and the purchaser of a hearing aid ~~instrument~~.

SECTION 4. HAS 1.01 (2n) is created to read:

HAS 1.01 (2n) "Hearing instrument" means a hearing aid, as defined in s. 459.01 (2), Stats.

SECTION 5. HAS 1.01 (3), (4) and (5m) are amended to read:

HAS 1.01 (3) "License" means a license issued ~~pursuant to s. 459.05 or 459.06, Stats., authorizing the holder thereof to engage in the practice of fitting and dealing in hearing instruments by the department under s. 459.05, Stats., to hearing instrument specialists.~~

(4) "Permit" means a permit issued pursuant to s. 459.07, Stats., authorizing the holder ~~thereof~~ to practice fitting of hearing instruments for one year, under the direct supervision of a licensee.

(5m) "Seller's guarantee" means a promise made by a hearing instrument specialist to a hearing aid instrument purchaser to provide the minimum product warranty offered by a manufacturer.

SECTION 6. HAS 1.01 (5n) is created to read:

HAS 1.01 (5n) "Sufficient cause" means continued participation in a supervised course of study leading to a degree in audiology at a college or university, illness or other hardship.

SECTION 7. HAS 2.01 (3) and (4) are amended to read:

HAS 2.01 (3) A trainee permit may be renewed or regranted only once and then only when the trainee shows sufficient cause for not having completed the requirements for a permanent license. ~~Sufficient cause means continued participation in a supervised course of study leading to a degree in audiology at a college or university, illness or other hardship.~~

(4) (a) Except as provided in par. (b), only one trainee at any given time may hold a trainee permit to practice the fitting of hearing instruments under the direct supervision of a given licensee.

(b) No more than 20 audiology ~~interns~~ students at any given time may hold a trainee permit to practice the fitting of hearing instruments under the direct supervision of a given licensee. No more than a total of 3 licensees on any single day may supervise the practice of fitting of hearing instruments by an audiology ~~intern~~ student.

SECTION 8. HAS 2.02 is created to read:

HAS 2.02 Accommodations relating to a disability. A qualified applicant with a disability shall be provided with reasonable accommodations requested in connection with the completion of an application for a credential.

SECTION 9. Chapter HAS 3 is repealed and recreated to read:

Chapter HAS 3

EXAMINATIONS

HAS 3.01 Examinations. (1) WRITTEN EXAMINATION. An applicant shall pass a written examination designed to test the applicant's knowledge in the subject areas described in s. HAS 3.02.

(2) PRACTICAL EXAMINATION. An applicant shall pass a practical examination that shall consist of 2 parts, audiometric and ear mold. The practical examination is designed to test the applicant's proficiency in the techniques and procedures described in s. HAS 3.03.

(3) CONTENT. Examinations may include objective questions, or practical demonstrations, or a combination of the foregoing, in any of the subject areas in which an applicant is to be examined.

HAS 3.02 Written examination. The written examination may cover the following subjects:

- (1) Basic physics of sound and the anatomy and physiology of the ear.
- (2) The function of hearing instruments, including assistive listening devices.
- (3) Chapter 459 of the Wisconsin statutes.
- (4) Techniques of fitting hearing instruments.
- (5) Chapters HAS 1 to 5.

HAS 3.03 Practical examination. (1) Subjects covered in the practical portions of the examination may include tests of proficiency in the following techniques as they pertain to the fitting of hearing instruments:

- (a) Pure tone audiometry, including air conduction testing and bone conduction testing.
 - (b) Live voice or recorded voice speech audiometry including speech reception threshold testing and most comfortable loudness measurements and measurements of tolerance thresholds.
 - (c) Masking when indicated.
 - (d) Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaption of a hearing instrument.
 - (e) Taking ear mold impressions.
- (2) In addition to the topics listed under sub. (1), the board may examine an applicant as to his or her proficiency in the following procedures and use of equipment commonly employed in the fitting and selling of hearing instruments and taking of ear mold impressions:
- (a) Otoloscope or equivalent illuminator for the visual observation of the entire ear canal.
 - (b) Pure tone discrete or sweep frequency threshold type audiometer with air and bone conduction and appropriate masking.
 - (c) Appropriate equipment for establishing speech reception threshold and speech discrimination scores through headphones or sound field media by recorded or live voice.
 - (d) Use of a master hearing instrument.
 - (e) Equipment designed for the evaluation and testing of hearing instrument performance.

(f) Post fitting care and problem solving.

HAS 3.04 Identifying marks. An applicant may not place any identifying marks upon his or her examination papers which reveals his or her identity.

HAS 3.05 Removal of examination. An applicant may not take from the examination room any records of the examination questions.

HAS 3.06 Rules of conduct. The board may deny release of scores or issuance of a credential if the board determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

Note: The rules of conduct of an examination are provided to candidates prior to the administration of an examination.

HAS 3.07 Time limits. The board may set time limits for the examination parts.

HAS 3.08 Passing scores. (1) To pass the written and practical examinations, each applicant shall receive a grade determined by the board to represent minimum competence to practice. The board shall determine the passing grade after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics.

(2) A passing score is required on each of the 3 parts of the examination in order to successfully complete the examination. If an applicant fails to receive a passing score on one part, he or she may retake only the part failed. If an applicant fails to receive a passing score on more than one part, upon reapplication he or she shall be required to retake the entire 3-part examination.

HAS 3.09 Failure and review. An applicant who fails all or part of the examination may review those parts of the examination failed according to the following procedures and within the following limitations:

(1) The applicant must file a written request for review with the board within 30 days from the date that notice of examination results have been sent to the applicant.

(2) At the arranged time at the board office the applicant will be provided an opportunity to review those parts of the examination failed.

(a) The applicant may not take notes and may not copy the examination in any manner whatsoever.

(b) No person other than the applicant and a board representative may be present during review of an examination.

(c) The time for review shall be limited and shall not exceed one hour.

(d) An applicant will not be allowed to review an examination more than once.

(3) An applicant may request that the board review the grading of one or more examination questions by completing a form which will be provided to the applicant by the board representative. The form must be completed and returned to the board representative at the time of review.

(4) Any comments or claims of error regarding specific questions or procedures in the examination may be placed in writing on the form provided. These comments shall be retained and made available to the board for review.

HAS 3.10 Claim of examination error. (1) An applicant wishing to claim examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

(a) The applicant's name and address.

(b) The type of license applied for.

(c) A description of the perceived error, including specific questions or procedures to be in error.

(d) The facts which the applicant intends to prove, including reference text citations or other supporting evidence for the applicant's claim.

(2) The board shall review the claim and notify the applicant in writing of the board's decision and any resulting grade change.

(3) If the board's decision does not result in the applicant passing the examination, the applicant may retake the examination, as provided under s. HAS 3.08 (2).

SECTION 10. HAS 4.02 (1) and (5) are amended to read:

HAS 4.02 (1) Otosopic observation, ~~pre and post pre-and-post~~ impression.

(5) ~~Demonstrating knowledge of proper~~ Proper ear mold selection.

SECTION 11. HAS 4.03 (1) is amended to read:

HAS 4.03 (1) Pure tone audiometry must be conducted with a pure tone audiometer which conforms to the American National Standards Institute, Standard ANSI S3.6 ~~1969 (R1996)~~ approved January 12, 1996. Such audiometer shall be capable of generating a minimum of 9 discrete frequencies, ranging from 250 Hz through 8 Khz (250, 500, 1000, 1500, 2000, 3000, 4000, 6000, 8000 Hz). Output levels over the frequency range shall conform to standard ANSI S3.6 specified above.

SECTION 12. HAS 4.04 is amended to read:

HAS 4.04 Appropriate time frame for hearing tests prior to fitting hearing instruments. Appropriate procedures for the measurement of human hearing as defined described in s. HAS 4.01 should be performed ~~and/or~~ and documented within 6 months prior to the selling and fitting of a hearing instrument.

SECTION 13. HAS 5.01 is amended to read:

HAS 5.01 Authority. The rules in this chapter are adopted pursuant to the authority in ss. 15.08 (5) (b), 227.11, 459.10 ~~(4)~~ (1)(k), and 459.12 (1), Stats.

SECTION 14. HAS 5.02 (1) is repealed and recreated to read:

HAS 5.02 (1) In this section, "client records" include:

- The results of all tests required under ch. HAS 4.
- Copies of all contracts, receipts and guarantees involving the sale of hearing instruments.
- Documentation of all pertinent client contacts, except those relating to the sale of batteries or product accessories.
- Copies of all written statements waiving medical evaluations, as required under 21 CFR 801.421.

Note: Hearing instrument specialists must comply with the recordkeeping requirements adopted by the U.S. Food and Drug Administration (FDA), as set forth in 21 CFR 801.421.

SECTION 15. HAS 5.02 (2) (intro.), (c) and (d) are amended to read:

HAS 5.02 (2) The following, without limitation because of enumeration, are violations of standards of professional conduct and constitute unprofessional conduct under s. 459.10 ~~(4)~~ (1)(k), Stats.

- Knowingly placing false information in a patient's client's records or otherwise making a patient's client's record false.
- Failing to maintain patient client records for a period of 5 years.

SECTION 16. HAS 5.02 (2) (dm) is created to read:

HAS 5.02 (2) (dm) Failing to record all of the following information in each client record:

- The date of entry of pertinent information.
- The name of the licensee.
- Information sufficiently legible to allow interpretation by other individuals for the benefit of the client.

SECTION 17. HAS 5.02 (2) (g) 2. is amended to read:

HAS 5.02 (2) (g) 2. The date, place and method of delivery.

SECTION 18. HAS 5.02 (2) (h) is created to read:

HAS 5.02 (2) (h) Soliciting from or knowingly disclosing to any person or entity the content of an examination conducted under ch. HAS 3.

SECTION 19. HAS 6.02 (10) is created to read:

HAS 6.02 (10) "Verification of clinical competence" means written confirmation submitted directly to the board by AHSA stating

that an applicant holds a certificate of clinical competence ("CCC") in speech-language pathology or audiology.

SECTION 20. HAS 6.03 (3) is repealed.

SECTION 21. HAS 6.04 (3) is repealed.

SECTION 22. HAS 6.04 (7) is amended to read:

HAS 6.04 (7) Evidence satisfactory to the board that the applicant has completed a postgraduate clinical fellowship in audiology approved by the board or has completed education or training that the board has determined is substantially equivalent to the completion of such a fellowship.

SECTION 23. A Note following s. HAS 6.05 is created to read:

Note: The board accepts the Certificates of Clinical Competence ("CCC") in speech-language pathology and audiology granted by ASHA as evidence of completion of education and training that is substantially equivalent to passing the NESPA examination.

SECTION 24. HAS 6.06 (4) is amended to read:

HAS 6.06 (4) The application and required documents for a temporary license will be reviewed by 2 members of the board to determine eligibility. The board may issue a temporary license prior to regular licensure to an applicant who meets the requirements under sub. ~~(2)~~ (1).

SECTION 25. HAS 6.08 (1) (c) is repealed.

SECTION 26. HAS 6.08 (1) (d) and (e) are created to read:

HAS 6.08 (1) (d) Subject to ss. 111.321, 111.322 and 111.335, Stats., evidence satisfactory to the board that the applicant does not have a conviction record.

(e) Evidence satisfactory to the board that the applicant has completed one of the following:

- If applying for a permit to practice speech-language pathology, submit evidence that the applicant has completed a supervised clinical practicum and received a master's degree in speech-language pathology from a college or university approved by the board, or has completed education or training that the board determines is substantially equivalent to the completion of those requirements.

- If applying for a permit to practice audiology, submit evidence that the applicant has completed a supervised clinical practicum and received a master's degree in audiology from a college or university approved by the board, or has completed education or training that the board determines is substantially equivalent to the completion of those requirements.

SECTION 27. HAS 6.08 (2) (b) and (3) are amended to read:

HAS 6.08 (2) (b) The fee specified in s. 440.05 ~~(6)~~ (2), Stats.

(3) A license granted to an applicant applying under sub. (1) shall be valid for a period not to exceed 10 days in any calendar year. A license granted to an applicant applying under sub. (2) shall be valid for a period not to exceed 45 days in any calendar year. In determining whether to grant a license under sub. (2), the board shall determine whether the requirements for licensure in the other state or jurisdiction is are substantially equivalent to the requirements for licensure under s. HAS 6.03 or 6.04.

SECTION 28. HAS 6.085 is created to read:

HAS 6.085 Accommodations relating to a disability. A qualified applicant with a disability shall be provided with reasonable accommodations requested in connection with the completion of an application for a credential.

SECTION 29. HAS 6.09 (1) (b) is created to read:

HAS 6.09 (1) (b) Engaged in conduct in the practice of speech-language pathology or audiology which evidences a lack of knowledge or ability to apply professional principles or skills.

SECTION 30. HAS 6.09 (1) (g) is amended to read:

HAS 6.09 (1) (g) Violated ss. 459.20 to 459.34, Stats., or this chapter, ~~or ch. HAS-6~~.

SECTION 31. HAS 6.09 (2) (k) is amended to read:

HAS 6.09 (2) (k) Failing to evaluate the effectiveness of services rendered ~~and~~ or products dispensed.

SECTION 32. A Note following s. HAS 6.09 (2) (p) is created to read:

Note: Speech-language pathologists and audiologists are also required to maintain patient health care records in accordance with ch. 146, Stats.

SECTION 33. HAS 7.03 (1) (intro.), (2) (intro.) and (b) are amended to read:

HAS 7.03 (1) In order to renew a hearing instrument specialist license ~~granted under ss. 459.05 and 459.06, Stats.,~~ on or before the renewal date, the licensee shall submit the following:

(2) In order to renew a speech-language pathologist or an audiologist license ~~granted under ss. 459.24 and 459.28, Stats.,~~ on or before the renewal date, the licensee shall submit the following:

(b) The renewal fee specified in s. 440.08 (2) (a) 15 ~~and or~~ 68v, Stats., as appropriate.

SECTION 34. HAS 7.05 (1), (b) (intro.), 1., (2), (b) (intro.) and 1. are amended to read:

HAS 7.05 (1) A licensee hearing instrument specialist who fails to renew a his or her license ~~granted under ss. 459.05 and 459.06, Stats.,~~ by the renewal date may ~~restore~~ renew the license by satisfying the following requirements.

(b) If applying 5 years or more after the renewal date, satisfying the requirements in par. (a), and submitting proof of all of the following:

1. Successful completion of educational coursework required by the board to ensure protection of the public health, safety and welfare; ~~and,~~

(2) A licensee speech-language pathologist or audiologist who fails to renew a his or her license ~~granted under ss. 459.24 and 459.28, Stats.,~~ by the renewal date may ~~restore~~ renew the license by satisfying the following requirements.

(b) If applying 5 years or more after the renewal date, satisfying the requirements in par. (a), and submitting proof of all of the following:

1. Successful completion of educational coursework required by the board to ensure protection of the public health, safety and welfare; ~~and,~~

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

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

Notice of Hearing Regulation and Licensing

Notice is hereby given that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2), 452.05,

452.07 and 452.09 (5), Stats., and interpreting ss. 452.01, 452.09, 452.10, 452.11, 452.12, 452.13 and 452.14, Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to revise chs. RL 11 to 26, relating to real estate brokers and real estate salespeople.

Hearing Information

February 26, 1998
Thursday
10:30 a.m.

Room 180
1400 E. Washington Ave.
MADISON, WI

Written Comments

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

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

Written comments must be received by **March 13, 1998** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation & Licensing

Statutes authorizing promulgation: ss. 227.11 (2), 452.05, 452.07 and 452.09 (5)

Statutes interpreted: ss. 452.01, 452.09, 452.10, 452.11, 452.12, 452.13 and 452.14

This proposed rule-making order of the Department of Regulation and Licensing contains many amendments which relate to the definitions, the statutory authority, and the form, style, placement, clarity, grammar, punctuation and plain language of the current rules.

The following sections contain changes of a more substantive nature:

SECTIONS 9 to 15 amend provisions relating to the prelicense examinations and make the provisions similar to other rules of the Department and boards in the Department. These provisions relate to accommodations for persons with disabilities, an exemption from retaking the licensing examination that applies to persons serving in the armed forces of the United States of America who fail to renew their credential in a timely manner, and cheating on examinations. Sections 9, 10 and 11 amend provisions relating to the passing score on the broker's and salesperson's prelicense examination. These sections establish procedures that testing experts agree are acceptable for establishing valid and reliable examinations.

SECTION 18 repeals ch. RL 13, relating to petitions for declaratory rulings. Procedures for declaratory rules are governed by the provisions in s. 227.41, Stats.

SECTIONS 30 to 39 repeal provisions which require applicants for a temporary salesperson's permit to practice as an apprentice to either have graduated from an accredited high school or to pass a written examination covering general knowledge, including the ability to read and write the English language, a knowledge of arithmetic and the terminology used in the real estate business.

Text of Rule

SECTION 1. RL 11.01 is amended to read:

RL 11.01 Authority. The rules in chs. RL 11 ~~through to~~ 26 are adopted by the department pursuant to ss. 227.11 (2), 440.03 (1), and 452.07, Stats.

SECTION 2. RL 11.02 (intro.) is amended to read:

RL 11.02 Definitions. As used in these rules chs. RL 11 to 26:

SECTION 3. RL 11.02 (2) is renumbered s. RL 11.02 (4).

SECTION 4. RL 11.02 (2), (3) and (5) are created to read:

RL 11.02 (2) "Business entity" has the meaning under s. 452.01 (3j), Stats.

(3) "Business representative" has the meaning under s. 452.01 (3k), Stats.

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

SECTION 5. RL 12.005 is created to read:

RL 12.005 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 440.05, 440.06, 440.07, 440.08, 452.07, 452.09, 452.10, 452.11 and 452.12, Stats.

SECTION 6. RL 12.01 (1) (a) is amended to read:

RL 12.01 (1) (a) *Forms.* Applications for licenses and accompanying documents required by the provisions of ch. 452, Stats., and the rules of the department shall be made on forms provided by the department and shall be delivered through the mails or otherwise to the department's office.

SECTION 7. RL 12.01 (1) (b) is repealed and recreated to read:

RL 12.01 (1) (b) *Action on completed applications.* The department shall review and make a determination on an original application for a license within 60 business days after a completed application is received by the department. An application is completed when all materials necessary to make a determination on the application and all materials requested by the department have been received.

SECTION 8. RL 12.01 (1) (c) 1. (title), 1., 2. (title) and 2. are amended to read:

RL 12.01 (1) (c) 1. 'Individuals.' All applications for licenses a license as an individual shall be affirmed or verified by the applicant.

2. 'Business entities.' Applications for a license made by a corporation business entity must be verified by the president, except that in the event the president is unable to act and the vice-president has been authorized in his or her stead, the department may accept the application verified by the vice-president a business representative of the business entity.

Note: Applications are available upon request to the department offices located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 9. RL 12.01 (2) (a) is amended to read:

RL 12.01 (2) (a) *Non-resident brokers and salespersons.* No application for a real estate broker's or salesperson's license from any non-resident person not a resident of the state of Wisconsin will be processed prior to receipt by this office the department of an irrevocable consent to be sued as specified in s. 452.11, Stats.

SECTION 10. RL 12.02 (1) (intro.) is amended to read:

RL 12.02 (1) WRITTEN EXAMINATIONS. Each applicant for examination to obtain a broker's or salesperson's license shall read and write a comprehensive examination in English, testing that person's competency to transact the business of a real estate broker or salesperson. The examination shall be in conformity with s. 452.09 (3), Stats., and may consist of one or 2 parts. If the examination consists of 2 parts, the parts they shall be designated as the uniform part and the state part, and are described as follows:

SECTION 11. RL 12.02 (2) is repealed and recreated to read:

RL 12.02 (2) COMPETENCY. (a) The score required to pass an examination, or each part of a 2-part examination, shall be based on the department's determination of the level of examination performance required for minimum acceptable competence in the profession. The department shall make the determination after consultation with subject matter experts who have received a representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point which represents minimum acceptable competence in the profession.

(b) An applicant for examination, for the first time, who passes one part of a 2-part examination shall be conditionally credited with the part on which the passing grade was received, and may, upon application, be reexamined on the part failed at any examination administered during the 12 months following the first examination. A person who does not pass the part retaken at one of the examinations

administered during the 12 months following the first examination shall revert to the status of a new applicant, and shall rewrite both parts, if reapplication is made. In addition to a passing grade, the department may require further supplemental proof of competency. In all cases, a failing grade received on the written examination shall be controlling on the question of competency and cannot be supplemented by other proof.

SECTION 12. A Note following s. RL 12.02 (3) (c) is created to read:

Note: An otherwise qualified applicant with a disability shall be provided with reasonable accommodations.

SECTION 13. RL 12.02 (4) and (5) are repealed.

SECTION 14. RL 12.025 (3) is repealed.

SECTION 15. RL 12.026 is created to read:

RL 12.026 Cheating on examination. An applicant may not give or receive unauthorized assistance during an examination, violate the rules of conduct of the examination, or otherwise act dishonestly. The action taken by the department shall be related to the seriousness of the offense. These actions may include withholding the score of the applicant, entering a failing grade for the applicant, and suspending the ability of the applicant to sit for the next scheduled examination after the examination at which the conduct occurred.

SECTION 16. RL 12.04 (2) (intro.) is amended to read:

RL 12.04 (2) MORE THAN 5 YEARS. If an applicant files an application for renewal of a real estate license 5 or more years after the renewal date and the applicant is not registered as an inactive licensee, the applicant shall pay the late renewal fee specified in s. 440.05 (1) 440.08 (3), Stats., the examination fee specified in s. 440.05 (1) (b), Stats., and satisfy education and examination requirements, as follows:

SECTION 17. RL 12.04 (2) (a) 4. is created to read:

RL 12.04 (2) (a) 4. An applicant completing the education described in subs. 1. and 2. satisfies the requirements in s. 452.12 (5) (c), Stats.

SECTION 18. Chapter RL 13 is repealed.

SECTION 19. RL 15.03 (1) is amended to read:

RL 15.03 (1) At the time of closing a real estate transaction, the listing broker or the broker's designee shall ensure that a complete copy of the seller's portion of the closing statement is delivered to the seller and a complete copy of the buyer's portion of the closing statement is delivered to the buyer. These closing statements shall accurately account for all funds received and paid by the broker in connection with the transaction. For the purpose of this chapter, a closing statement is a detailed computation of the balance of the purchase price due to the seller and the balance of the purchase price due from the buyer at the time of closing.

SECTION 20. RL 16.02 (title) is amended to read:

RL 16.02 Definitions.

SECTION 21. RL 16.02 (2) is repealed.

SECTION 22. RL 16.02 (3) is renumbered s. RL 16.02 (6).

SECTION 23. RL 16.02 (3), (4) and (5) are created to read:

RL 16.02 (3) "Exclusive agency listing" means a written listing agreement containing all of the elements of an exclusive right to sell listing, except that the owner retains the right to sell the property himself or herself without owing the listing broker a commission.

(4) "Exclusive right to sell listing" means a written listing agreement appointing a broker the exclusive agent for the sale of property for a specific period of time, and which entitles the listing broker to a commission if the property is sold by the owner, by the broker or by anyone else.

(5) "Open listing" means a written listing agreement, which may be given to any number of brokers, with the first broker to secure a buyer under the terms of the listing agreement earning the commission.

SECTION 24. RL 16.06 (4) is amended to read:

RL 16.06 (4) A licensee may use a pre-prepared addendum or otherwise set forth on attached pages provisions relating to the blanks on an approved form or which alters or supplants optional secondary

offer provisions or optional contingencies for financing, sale of buyer's property or inspection which are set forth in an offer, offer to exchange or option prepared and approved by the department, ~~if the~~ The licensee shall properly incorporate incorporate the attachment by reference into the approved form and relates the approved form and the attached pages to one another. For purposes of this subsection a pre-prepared addendum may be prepared by the broker or the broker's attorney.

SECTION 25. RL 16.07 is amended to read:

RL 16.07 Violation of this chapter. A licensee who violates this chapter demonstrates incompetency to act as a real estate licensee in a manner that, for purposes of s. 452.14 (3) (i), Stats., safeguards the interests of the public and ~~shall be in violation of~~ violates s. 452.14 (3) (m), Stats.

SECTION 26. RL 17.025 is amended to read:

RL 17.025 Applicability. For the purposes of this chapter, ~~an officer of a corporation or a partner in a partnership a business representative~~ is not an employe of the ~~corporation or partnership~~ business entity.

SECTION 27. RL 18.02 (3) is repealed.

SECTION 28. RL 18.02 (5) (intro.) is amended to read:

RL 18.02 (5) "Real estate trust account" means an account for real estate trust funds maintained at a depository institution ~~for from~~ which withdrawals or transfers can be made without delay, subject to any notice period that the depository institution is required to observe by law, and includes:

SECTION 29. RL 22.005 is created to read:

RL 22.005 Authority. The following rules are adopted pursuant to ss. 227.11 (2) and 452.09 (5), Stats.

SECTION 30. RL 22.01 (1) is repealed and recreated to read:

RL 22.01 (1) REQUIREMENTS. A broker may employ a person as an apprentice under a temporary salesperson's permit on the following conditions:

SECTION 31. RL 22.01 (1) (a) and (b) are amended to read:

RL 22.01 (1) (a) Only persons who are a resident of this state, ~~and~~ 18 years of age or over, may apply for an apprentice license a temporary salesperson's permit.

(b) ~~Any A~~ person desiring to act as an apprentice real estate salesperson shall file with the department an application for a ~~license~~ temporary salesperson's permit. ~~Said The~~ application shall be in ~~such~~ the form as ~~prescribed by~~ the department ~~prescribes~~ and in accordance with ss. 452.09 and 452.10, Stats.

SECTION 32. RL 22.01 (1) (c) and (d) are repealed.

SECTION 33. RL 22.01 (1) (e) is amended to read:

RL 22.01 (1) (e) An applicant for ~~an apprentice license a permit~~ must be indentured to a licensed real estate broker of ~~this the~~ department in good standing, ~~which broker who~~ has agreed, in writing, to ~~said an~~ indenture agreement according to the rules of the department before the application for ~~said an~~ apprentice ~~license~~ permit will be accepted by the department.

Note: Applications are available upon request to the department offices located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 34. RL 22.01 (2), (3) and (4) are amended to read:

RL 22.01 (2) NUMBER. Only one apprentice ~~shall may~~ be employed for each individual holding a broker's license ~~including~~ corporate officer broker's license unless said the broker shall employ employs full time salesperson salespersons, in which case an additional apprentice shall be allowed for each 5 full time salespersons employed ~~but~~ However, in no case will ~~may~~ an individual, ~~partnership or corporate~~ or business entity broker be ~~allowed to~~ employ more than 3 apprentice salespersons.

(3) FEE. Each application for ~~an~~ apprentice ~~license~~ permit shall be accompanied by a fee of \$10 ~~the fee specified in s. 440.05 (6), Stats.~~

(4) PERIOD. An apprentice ~~license or licenses~~ shall ~~permit~~ may not be granted for a period to exceed one year from the date of issuance by the department and ~~shall may~~ not be ~~renewable~~ renewed.

SECTION 35. RL 22.01 (5) is repealed.

SECTION 36. RL 22.01 (6) and (7) (a) to (f) are amended to read:

RL 22.01 (6) TERMINATION. An apprentice who ~~shall leave~~ leaves the employ of the sponsoring broker for any reason shall ~~surrender said the~~ apprentice ~~license~~ permit to ~~said the~~ broker immediately upon the termination of ~~said the~~ apprenticeship by the apprentice, the broker or the department.

(7) (a) An apprentice ~~shall may~~ not at ~~any time be allowed to~~ close a real estate sale.

(b) An apprentice ~~shall may~~ not be ~~allowed to~~ advertise in the ~~news paper~~ newspapers, telephone directories, ~~by~~ signs or ~~by~~ any other means, nor ~~shall may~~ the broker be ~~allowed to~~ advertise the name of the apprentice in any manner.

(c) ~~The An~~ apprentice may use business cards, but ~~said the~~ business cards shall clearly state "Apprentice Salesperson" in type as large as the type used for the apprentice's name.

(d) ~~The An~~ apprentice, at no time, ~~shall may~~ be paid a portion of a commission based upon sales or on listings secured nor ~~shall may~~ he or she be ~~allowed to be~~ paid on a percentage basis for any other services performed.

(e) ~~The An~~ apprentice shall be paid on an hourly basis only and ~~said the~~ rate of pay shall be included in the apprenticeship contract.

(f) ~~Said An~~ apprentice shall spend a minimum of 20 hours work each week; ~~said the~~ 20 hours to be spent in no less than 3 days each week, performing apprenticeship duties. A minimum of 6 hours of the 20 hours work each week shall be spent pursuing a course of study of real estate laws and procedures.

SECTION 37. RL 22.01 (7) (g) is repealed.

SECTION 38. RL 22.01 (7) (h) is amended to read:

RL 22.01 (7) (h) Enrollment in a real estate course at a school ~~recognized~~ approved by the department ~~shall meet pursuant to~~ s. RL 25.05 or 25.06, meets the requirement of a course of study for a maximum of 4 hours per week.

SECTION 39. RL 22.01 (7) (j) to (L), (m) (intro.) and (n), (8) (a) to (e), (9) (b) to (d) and (10) (b) to (d) are amended to read:

RL 22.01 (7) (j) During the first 6 months of ~~said the~~ apprenticeship, the apprentice ~~shall may~~ not be ~~allowed to~~ secure listing contracts, offers to purchase or any other contracts except if accompanied by a fully licensed real estate salesperson or broker.

(k) During the first month of ~~said the~~ apprenticeship, the apprentice ~~shall may~~ not be ~~allowed to~~ negotiate with the public, but shall spend the apprenticeship time becoming acquainted with the operation of the real estate office.

(L) After the first month ~~of the apprenticeship~~, the apprentice may handle open houses and rentals, but may not draft or negotiate offers to purchase or earnest money receipts.

(m) After six months of ~~the~~ apprenticeship, the apprentice may secure listing contracts, provided ~~said the~~ listing contracts are reviewed and approved by the broker within 24 hours after they are secured and further provided ~~said the~~ listing contracts contain the following clause:

(n) The apprentice ~~shall may~~ not execute or have executed any rental agreement until the broker ~~shall have~~ has approved ~~said the~~ rental agreement ~~in writing~~ on the face of ~~said the~~ contract.

(8) BROKER'S DUTIES. (a) The broker shall at all times be responsible for the acts of ~~said the~~ apprentice ~~salesperson~~ and shall properly supervise ~~said the~~ apprentice.

(b) The broker shall make available suitable instructions and a course of study for ~~said the~~ apprentice, including real estate procedures, real estate law, office procedures and sales techniques.

(c) The broker shall pay ~~said the~~ apprentice an hourly rate of pay which ~~shall may~~ not be less than \$1 ~~per hour~~ the minimum wage required by law.

(d) The broker shall repair and ~~have executed~~ execute an apprenticeship contract which shall include the rate of pay, the hours to be spent by the apprentice, the instructions or course of study that will be offered to the apprentice and a schedule of commissions ~~to be~~ paid after ~~the~~ apprentice has obtained a salesperson's ~~or broker's~~ license. A copy of ~~said the~~ contract shall be filed with the department.

(e) The broker may include in said the apprenticeship contract, reasonable employment requirements after termination of said the apprenticeship, but in no case, shall said may the employment right extend beyond 2 years after the termination of the year's apprenticeship.

(9) (b) The apprentice shall obey all office rules of the broker and also special any other rules set forth in the apprentice contract.

(c) The apprentice shall may not engage in any real estate activities outside of the scope of his or her apprenticeship employment.

(e) The apprentice shall keep and maintain a log book in the broker's office, ~~a log book entering therein~~ containing the date, activity and hours spent each day while working on said the apprenticeship, including time spent at school or attending a course of instruction. The entries on each page of said the log book shall be thoroughly reviewed and initialed by the broker.

(10) (b) Upon informal written complaint filed with the department by either the broker or apprentice, the board may hold a formal or informal hearing to review an apprentice license permit or apprenticeship program.

(c) The department may suspend or revoke an apprentice license permit if the apprentice has violated any of the rules of apprenticeship, statutes or rules of the department in this chapter or any other law substantially related to real estate practice.

(d) The department may suspend or revoke a broker's license if the broker has violated any of the apprenticeship rules, statutes or rules of the department rules in this chapter or any other law substantially related to real estate practice.

SECTION 40. RL 23.02 (title) and 23.02 are amended to read:

RL 23.02 Change of name or address. Any person licensed under ch. 452, Stats., who ~~wishes to change~~ changes the name appearing on a current license or moves from the last address provided to the department shall notify the department in writing of the new name or address within 30 days after of the change of name.

SECTION 41. RL 23.04 (1) and (2) are amended to read:

RL 23.04 (1) APPLICATION. A licensed broker who intends to conduct business under a different form of business organization entity, as provided in s. 452.12 (2), Stats., shall apply for a new license. Upon payment of the fee specified in s. 440.05 (8) (1), Stats., the department shall issue to the applicant, without examination, a license under the new form of organization entity.

(2) NEW LICENSE REQUIRED. A broker shall not engage in real estate activities under a different form of business organization entity until a new license is issued.

Note: Applications are available upon request to the department offices located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 42. RL 23.05 is repealed.

SECTION 43. RL 24.02 (7) is amended to read:

RL 24.02 (7) "Commonly controlled corporation" means one of 2 or more corporations in which the same person or persons own stock in both 2 or more of the corporations, possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of both the corporations.

SECTION 44. RL 24.02 (11) is repealed.

SECTION 45. RL 24.03 (2) (a) is amended to read:

RL 24.03 (2) (a) Licensees shall not provide services which the licensee is not competent to provide unless the licensee engages the assistance of one who is competent. ~~Any person engaged to provide such assistance shall be identified and that person's contribution shall be described.~~

SECTION 46. A Note following s. RL 24.03 (2) (d) is created to read:

Note: Paragraph (d) recognizes that licensees are not required to have the knowledge, skills or training possessed by, for example, persons such as home inspectors, plumbers, electricians or land surveyors.

SECTION 47. A Note following s. RL 24.07 (2) is created to read:

Note: Certain "material adverse facts", as defined in s. RL 24.02 (12), may not be disclosed by law. For example, unless specifically authorized by a seller, a licensee may not disclose to a potential buyer the actual minimum sales price the seller will accept. See s. 452.133 (1) (d), Stats.

SECTION 48. RL 24.17 (3) is amended to read:

RL 24.17 (3) VIOLATION OF STATUTES, ADMINISTRATIVE CODE AND DISCIPLINARY ORDERS. Licensees shall not violate any provisions or terms or conditions of, or aid or abet the violation of ch. 452, Stats., chs. RL, Wis. Adm. Code 11 to 26 or any formal disciplinary order of the real estate board.

SECTION 49. RL 25.01 (1) is amended to read:

RL 25.01 (1) "Accredited institution of higher education" means a law school accredited by the American bar association or other schools accredited by one of the regional institutional accrediting commissions or associations which have been recognized by the U.S. ~~commissioner~~ department of education.

SECTION 50. RL 25.02 (1) (a) is amended to read:

RL 25.02 (1) (a) Present evidence satisfactory to the department of successful completion, within 5 years before application for a license, of the 36-hour educational program in sub. (2) which has been approved in accordance with this chapter and either satisfy educational requirements in s. RL 25.03 (3) or present evidence satisfactory to the department of licensure as a salesperson in Wisconsin; or

SECTION 51. RL 25.03 (3) (r) 9. is amended to read:

RL 25.03 (3) (r) 9. Mortgage banking – ss. 440.71 s. 224.71, Stats., and s. RL 40.03 (4) (b).

SECTION 52. RL 25.035 (1) is amended to read:

RL 25.035 (1) An applicant who has held an active real estate salesperson's license in another licensing jurisdiction within the 2-year period prior to filing an application for an original real estate salesperson's license may satisfy the requirements of s. RL 25.03 (3) if the applicant submits evidence of attendance at no less than 13 hours of education in sub. (2) at a school approved by the department under s. RL 25.05 or 25.06. ~~Some or all contents in s. RL 25.03 (3) may be completed at any school.~~ all of the following:

SECTION 53. RL 25.035 (1) (a) and (b) are created to read:

RL 25.035 (1) (a) Attendance at no less than 13 hours of education in sub. (2) at a school approved by the department under s. RL 25.05 or 25.06.

(b) Attendance at 59 hours of education on some or all contents of s. RL 25.03 (3), completed at any school.

SECTION 54. RL 25.06 (2) (a) 2. is amended to read:

RL 25.06 (2) (a) 2. Be a properly licensed or certified person by the department or other governmental agency who is engaged in the real estate aspects of appraising, financing, marketing, brokerage management, real property management, real estate counseling, real property law, or other related subjects and has been for at least 5 years continuously engaged in such practice.

SECTION 55. The Note following s. RL 25.065 (1) is amended to read:

Note: The contents of the continuing education programs and courses are not designated in ~~this chapter~~ the Wisconsin administrative code, pursuant to an exemption under s. 227.01 (13) (zj), Stats. This information may be obtained from the Wisconsin Department of Regulation and Licensing, 1400 East Washington Avenue, Room 281, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 56. RL 25.065 (7) is amended to read:

RL 25.065 (7) A licensee may complete less than the complete continuing education program designated by the department under s. 452 452.05 (1) (d) and (g), Stats., and subsequently take the continuing education examination conducted by the department.

SECTION 57. RL 25.066 (2) (b) is amended to read:

RL 25.066 (2) (b) Be a properly licensed or certified person by the department or other governmental agency who engaged in the real

estate aspects of appraising, financing, marketing, brokerage management, real property management, real estate counseling, real property law, or other related subjects and has been for at least 5 years continuously engaged in such practice.

SECTION 58. RL 26.01 is repealed and recreated to read:

RL 26.01 Authority. The rules in this chapter are adopted pursuant to ss. 227.11 (2), 452.07 and 452.12 (6), Stats.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

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

Notice of Hearing

State Fair Park Board

► Reprinted from 01-31-98 *Wis. Adm. Register*.

The State of Wisconsin, State Fair Park Board announces that it will hold a public hearing on proposed rules (proposed ss. SFP 2.07 (2) and (3), 2.16 (4) (b) and (5) (b), 2.18 and ch. SFP 7), relating to the required age to do certain things and a bond schedule.

Hearing Information

The hearing will be held at:

February 11, 1998
Wednesday
At 4:00 p.m.

Room 172
Wis. Dept. of Agriculture Bldg.
2811 Agriculture Dr.
MADISON, WI 53718
Handicapped accessible

Written Comments and Copies of Rule

The public is invited to attend the hearing and make comments on the proposed rule. Following the public hearing, the hearing record will remain open until **February 18, 1998**, for additional written comments.

A copy of this rule may be obtained free of charge, from the State Fair Park Board at:

State Fair Park Board
P. O. Box 14990
West Allis, WI 53214-0990

Copies will also be available at the public hearing.

An interpreter for the hearing-impaired will be available on request for this hearing. Please make reservations for a hearing interpreter by contacting Margaret Cain at (414) 266-7000. Handicap access is available at the hearing.

Analysis Prepared by the State Fair Park Board

Statutory authority: s. 42.01 (3) (a)

Statute interpreted: s. 42.01 (1), (2) and (3)

The current rule contains 6 instances in which specific actions are prohibited if a person is under 18 years of age.

1. It prohibits persons under 18 years of age from carrying, possessing, receiving possession or transferring possession of paint in a spray can.

2. It prohibits selling spray cans of paint to any person under 18 years of age; and requires display of a sign stating "It is unlawful to sell spray paint to persons under 18."

3. It prohibits selling or transferring spray paint containing a harmful substance to any person under 18 years of age.

4. It prohibits selling or transferring toxic glue to any person under 18 years of age, except it does not prohibit transferring one tube or container of toxic glue to a person under 18 years of age when the glue is provided along with a model kit as long as the model kit needs approximately that amount of glue to assemble the kit.

5. It prohibits a lessee who has a contract permitting the sale of alcoholic beverages from employing a person under 18 years of age for serving, selling or vending alcoholic beverages.

6. It prohibits employing a person under 18 years of age unless the employer has on file a child labor permit authorizing the employment.

This proposed rule changes each reference from 18 years of age to 17 years of age except it does not change the age requirement for persons selling, serving or vending alcoholic beverages. The current requirement that persons serving, selling or vending alcoholic beverages be 18 years of age or older is not changed. These changes will bring the rule into conformity with current statutes and local ordinances.

The proposed rule also repeals and recreates the bond deposit schedule. The current rule establishing a bond deposit schedule does not address several violations which were identified in SFP rules promulgated in 1996. This proposed rule establishes bond deposits for additional types of violations and changes the amount of bond required for some violations and continues the policy of expelling anyone camping at the State Fair Park after revocation of a RV permit.

Fiscal Estimate

Assumptions Used in Arriving at Fiscal Estimate

This proposed rule addresses two portions of the rules of the State Fair Park Board. First, it addresses several subsections of ch. SFP 2 in which a minimum age for doing some specific thing is 18 years of age. Under the amendment, most of these references to age are changed from 18 years of age to 17 years of age. The Board does not believe this change will cause any fiscal impact. The existing staff have enforced the 18 year age requirement in the past, so the Board does not expect any additional fiscal impact with the new age level.

The second portion of the rules affected by this proposed order is the bond schedule. In September, 1996, new SFP rules numbered chs. SFP 1 through 6 were published in the *Wisconsin Administrative Register*. Chapter SFP 7 was also published, but it did not include changes which were needed under the newly-published chs. SFP 1-6. This proposed order changes the bond schedule to provide bond amounts for violations of provisions created in the 1996 rules. Since this order does not create new violations, there should be no additional fiscal impact. The persons who enforce chs. SFP 1-6 will simply have an accurate bond schedule to use.

There is no local government fiscal impact.

Initial Regulatory Flexibility Analysis

This rule proposal has minimal effect on small businesses in Wisconsin. To the extent that it does affect small businesses, it grants them additional rights without imposing any additional costs.

This rule changes several references in SFP rules from 18 years of age to 17 years of age. This means that if something was previously prohibited for persons under 18 years of age, it is now prohibited for

persons under 17 years of age. There is one exception to this lowering of age. Current rules require persons serving, selling or vending alcoholic beverages to be 18 years of age or older. That provision was not changed. These changes do not have a negative impact on small businesses.

The other thing this rule does is establish a bond schedule for persons who violate provisions of chs. SFP 1-6. Since this will only apply to persons who violate the rules, it is not anticipated that this will have an effect on small businesses. While it is true that small businesses may be faced with paying a forfeiture, that is completely within their control because they are able to determine whether they will violate the rules and, therefore, whether they will be subject to the bond.

Notice of Hearing

Veterinary Examining Board

Notice is hereby given that pursuant to authority vested in the Veterinary Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 453.03, Stats., and interpreting ss. 453.02, 453.06, 453.065, 453.068 and 453.07, Stats., the Veterinary Examining Board will hold a public hearing at the time and place indicated below to consider an order to revise chs. VE 1 to 10, relating to veterinarians and veterinary technicians.

Hearing Information

March 12, 1998
Thursday
11:30 a.m.

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

Written Comments

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

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

Written comments must be received by **March 26, 1998** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation & Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 453.03

Statutes interpreted: ss. 453.02, 453.06, 453.065, 453.068 and 453.07

This proposed rule-making order of the Veterinary Examining Board contains many amendments which relate to the definitions, the statutory authority, and the form, style, placement, clarity, grammar, punctuation and plain language of the rules. Also, the requirement that an applicant furnish a picture as part of an application is repealed. Pictures no longer are a useful check of personal identification. Testing administration firms and Department proctors routinely require a picture ID, usually a driver's license, at the exam site. Requiring that an applicant send a picture to the Department creates unnecessary administrative processing for staff.

The following are changes of a more substantive nature: The term "animal technician" is replaced by the term "veterinary technician" as amended by 1995 Wis. Act 321. Provisions relating to the passing score on examinations are amended to establish procedures that testing experts agree are acceptable for establishing valid and reliable licensing examinations. A Note is created to address the Americans With Disabilities Act. Also, changes are made to several other notes.

Text of Rule

SECTION 1. VE 1.02 (1m) is created to read:

VE 1.02 (1m) "AVMA" means the American veterinary medical association.

SECTION 2. The Note following s. VE 1.02 (2) is amended to read:

Note: The board office is located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53702, telephone (608) ~~266-2814~~ 53708.

SECTION 3. The Notes following ss. VE 1.02 (4), VE 1.02 (8) and (9) are repealed.

SECTION 4. VE 1.02 (11) is repealed and recreated to read:

VE 1.02 (11) "Veterinarian-patient-client relationship" has the meaning set forth at s. 453.02 (8), Stats.

SECTION 5. VE 1.02 (11m) is created to read:

VE 1.02 (11m) "Veterinary prescription drug" has the meaning set forth at s. 453.02 (11), Stats.

SECTION 6. VE 2.01 (1) and (2) are amended to read:

VE 2.01 (1) The board or its designee shall administer the examinations required of applicants for licensure as a veterinarian by s. VE 3.02 and of applicants for certification as ~~an animal~~ a veterinary technician by s. VE 8.02 at least once each year.

(2) To be qualified to sit for the national board examination and clinical competence test, an applicant must have either graduated from or be a last year student at a school of veterinary medicine approved by the board or a foreign school of veterinary medicine listed by the ~~American veterinary medical association~~ AVMA. To be qualified to sit for the ~~state board examination on state laws and rules~~, an applicant must meet the requirements of s. VE 3.03.

SECTION 7. A Note following s. VE 1.02 (5) is created to read:

Note: Qualified applicants with disabilities shall be provided with reasonable accommodations.

SECTION 8. VE 2.03 (1), (2) and (3) are amended to read:

VE 2.03 (1) Passing scores for veterinary applicants for the national board examination, and the clinical competency test, and the state board examination shall be no less than 70 for each examination based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession. The board shall make the determination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point that represents minimum acceptable competence in the profession.

(2) The passing score for ~~animal~~ veterinary technician applicants on the written national examination ~~and the state board examination shall average no less than 70 shall be based on the board's determination of the level of examination performance required for minimum acceptable competence in the profession. The board shall make the determination after consultation with subject matter experts who have reviewed a representative sample of the examination questions and available candidate performance statistics, and shall set the passing score for the examination at that point that represents minimum acceptable competence in the profession.~~

(3) The passing score for an examination on state laws and rules related to the practice of veterinary medicine or ~~animal~~ veterinary technology shall be no less than 90.

SECTION 9. VE 2.04 (1) and (3) are amended to read:

VE 2.04 (1) An applicant who fails the ~~state board examination on state laws and rules~~ may request a review of that examination by filing a written request with the board within 30 days of the date on which examination results were mailed.

(3) The time for review shall be limited to ~~4 hours~~ one hour.

SECTION 10. VE 2.05 (1) (intro.), (a), (b), (c) and (3) are amended to read:

VE 2.05 (1) An applicant wishing to claim examination error shall file a written request for board review in the board office within 30 days of the date the examination was reviewed. The request shall include all of the following:

- (a) The applicant's name and address;
- (b) The type of license for which the applicant applied;

(c) A description of the mistakes the applicant believes were made in the examination content, procedures, or scoring, including the specific questions or procedures claimed to be in error; and

(3) ~~If the decision does not result in the applicant passing the examination, a notice of denial of license shall be issued. If the board issues a notice of denial confirms the failing status following its review, the application shall be deemed incomplete, and the applicant may request a hearing under s. RL 1.05 be reexamined under s. VE 2.01.~~

SECTION 11. VE 3.02 (intro.), (1) and (2) are amended to read:

VE 3.02 Qualifications for licensure. The board may issue a license to practice veterinary medicine to an applicant who satisfies all of the following:

(1) Has met the requirements of s. 453.06 (1), Stats.;

(2) Has passed the national board examination and clinical competency test as evidenced by documents submitted directly to the board by the department's office of examinations or by the interstate reporting professional examination service;

SECTION 12. VE 3.02 (3) is repealed.

SECTION 13. VE 3.02 (4) is amended to read:

VE 3.02 (4) Has successfully completed an examination on state laws and rules related to the practice of veterinary medicine; and

SECTION 14. VE 3.03 (intro.) and (1) are amended to read:

VE 3.03 Application procedures for veterinary applicants to take the state board examination. An applicant shall file a completed application with the board at least 30 days prior to the date of the scheduled examination. All supporting documents shall be provided in English. An application is not complete until the board receives all of the following:

(1) An application form provided by the board and completed by the applicant which includes the applicant's notarized signature;

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 15. VE 3.03 (2) is repealed.

SECTION 16. VE 3.03 (3), (4) and (5) are amended to read:

VE 3.03 (3) The fees ~~specified in~~ required under s. 440.05 (1), Stats.;

(4) Verification of licensure records and status which has been sent directly to the board by every state or country in which the applicant has ever held a license or certificate to practice veterinary medicine;

(5) A certificate of graduation from a board approved veterinary college which shall be signed and sealed by the dean of the school and submitted directly to the board by the school. Applicants who graduated from a veterinary college which is not a board approved veterinary college shall provide a certificate of graduation which is signed and sealed by the dean of the school and submitted directly to the board by the school, and evidence of successful completion of the educational commission for foreign veterinary graduates certification program which shall be submitted directly to the board by the American veterinary medical association AVMA.

SECTION 17. VE 3.04 is repealed.

SECTION 18. VE 3.05 (1) (intro.) is repealed.

SECTION 19. VE 3.05 (1) (a), (b), (c) and (d) are renumbered s. VE 3.05 (1), (2), (3) and (4) and amended to read:

VE 3.05 (1) An applicant may be granted a temporary permit before the board receives notice of successful completion of the national board examination and clinical competency test, if the applicant provides evidence that the applicant is either scheduled to take the national board examination and the clinical competency test for the first time, or is awaiting results of the national board examination and clinical competency test;

(2) An applicant shall complete an application for temporary permit and submit the fee ~~specified in~~ required under s. 440.05 (6), Stats.;

(3) The board shall receive written verification of employment signed and sent directly to the board by the preceptor; and

(4) The application and verification required by ~~pars. (b) and (c) subs. (2) and (3)~~ shall be received by the board office at least 2 weeks prior to the date the applicant intends to begin work.

SECTION 20. VE 3.05 (2) (intro.) is renumbered s. VE 3.05 (5) (intro.) and, as renumbered, s. VE 3.05 (5) (intro.) and (a) are amended to read:

VE 3.05 (5) In order to provide supervision for a holder of a temporary permit, a preceptor shall do all of the following:

(a) Delegate only those tasks commensurate with demonstrated abilities of the temporary permit holder; and

SECTION 21. VE 3.05 (3) (intro.) is renumbered s. VE 3.05 (6) (intro.) and, as renumbered, s. VE 3.05 (6) (intro.), (a) and (b) are amended to read:

VE 3.05 (6) A temporary permit shall expire upon any of the following:

(a) Notification of failure of any examination;

(b) Failure to take the next scheduled examination; or

SECTION 22. VE 3.05 (4) is renumbered s. VE 3.05 (7).

SECTION 23. VE 3.05 (5) is renumbered s. VE 3.05 (8) and amended to read:

VE 3.05 (8) Any change or addition of preceptor shall be reported to the board by filing a new verification as specified in sub. ~~(1)-(e)~~ (3).

SECTION 24. VE 4.01 (1), (2) (intro.), (a) to (g) and (3) are amended to read:

VE 4.01 (1) Any applicant who has previously failed and has not subsequently passed a ~~veterinary licensing examination in this state~~ the examinations required under s. VE 3.02 (2) shall not be issued a license by endorsement.

(2) A person holding a current license to practice veterinary medicine in another state or U.S. territory or province of Canada may become licensed in Wisconsin without examination, except an examination on state laws and rules related to the practice of veterinary medicine, if the applicant meets all of the following:

(a) Has actively practiced for 4000 hours during the 5 years preceding application;

(b) Has never been disciplined by the veterinary licensing authority in any other state, territory or country;

(c) Does not have a conviction record or pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of veterinary medicine. An applicant who has a conviction record or pending criminal charge shall request appropriate authorities to provide information about the record or charge directly to the board in sufficient specificity to enable the board to make a determination whether the record or charge substantially relates to the practice of veterinary medicine;

(d) Is not a party in pending litigation in which it is alleged that the applicant is liable for acts committed in the course of practice which evidences a lack of ability or fitness to practice, as determined by the board;

(e) Is not currently under investigation by another veterinary licensing authority related to the license to practice veterinary medicine for acts which would provide a basis for disciplinary action in this state, as determined by the board;

(f) Has never been found liable for damages for acts committed in the course of practice of veterinary medicine which evidenced a lack of ability or fitness to practice, as determined by the board;

(g) Has never had United States drug enforcement administration privileges restricted or revoked; and

(3) A person holding a current unrestricted license to practice veterinary medicine in a country other than the United States or Canada, who is not a graduate of an approved veterinary college, in addition to the requirements of sub. (2), shall submit evidence that the applicant has successfully completed the certification program of the

educational commission for foreign veterinary graduates of the American veterinary medical association AVMA.

SECTION 25. VE 4.01 (5) is repealed.

SECTION 26. VE 4.02 (2) is repealed.

SECTION 27. VE 4.02 (3) is amended to read:

VE 4.02 (3) The fee ~~specified in~~ required under s. 440.05 (2), Stats.;

SECTION 28. VE 5.02 (1) (intro.) and (a) are amended to read:

VE 5.02 (1) APPLICATION. An applicant for a faculty license shall file a completed application with the board. All supporting documents shall be submitted in English. An application is not complete until the board receives all of the following:

(a) An application form provided by the board and completed by the applicant, which includes the applicant's notarized signature;

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 29. VE 5.02 (1) (b) is repealed.

SECTION 30. VE 5.02 (1) (c), (d) and (e) are amended to read:

VE 5.02 (1) (c) The fee ~~specified in~~ required under s. 440.05 (6), Stats.;

(d) Verification of employment by a school of veterinary medicine in this state which has been submitted directly to the board by the dean of the school;

(e) A certificate of graduation from an approved veterinary college signed and sealed by the dean of the school submitted directly to the board by the school, or evidence of substantially equivalent qualifications; ~~and~~.

SECTION 31. VE 5.03 (1) (intro.) and (a) are amended to read:

VE 5.03 (1) An applicant for a post graduate training permit under s. 453.06 (2m) (b), Stats., shall file a completed application with the board. All supporting documents shall be provided in English. An application shall not be considered complete until the board receives all of the following:

(a) An application form provided by the board and completed by the applicant, including the applicant's notarized signature;

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 32. VE 5.03 (1) (b) is repealed.

SECTION 33. VE 5.03 (1) (c) and (d) are amended to read:

VE 5.03 (1) (c) The fee ~~specified in~~ required under s. 440.05 (6), Stats.;

(d) Evidence that the applicant has successfully completed the national board examination and the clinical competency test or is scheduled to take the national board examination and clinical competency test for the first time, or is awaiting results of the national board examination and clinical competency test; ~~and~~.

SECTION 34. VE 6.02 (2) is amended to read:

VE 6.02 (2) A temporary consulting permit may be used up to ~~sixty~~ 60 total days per calendar year.

SECTION 35. VE 6.03 (1) (intro.) and (a) are amended to read:

VE 6.03 (1) An applicant for a temporary consulting permit shall file a completed application with the board. All supporting documents shall be provided in English. An application is not complete until the board receives all of the following:

(a) An application form provided by the board and completed by the applicant which includes the applicant's notarized signature;

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 36. VE 6.03 (1) (b) is repealed.

SECTION 37. VE 6.03 (1) (c) and (d) are amended to read:

VE 6.03 (1) (c) The fee ~~specified in~~ required under s. 440.05 (6), Stats.;

(d) Verification of licensure records and status which has been sent directly to the board by every state or country in which the applicant has ever held a license or certificate to practice veterinary medicine; ~~and~~.

SECTION 38. VE 6.04 is repealed and recreated to read:

VE 6.04 Expiration and disciplinary action. (1) A temporary consulting permit shall automatically expire upon notice to the board that the consultation has been completed.

(2) After hearing, a temporary consulting permit may be denied, suspended, limited or revoked, or the permittee may be reprimanded, for any of the following reasons:

(a) Revisiting the patient or client or communicating directly with the client without the knowledge of the attending veterinarian.

(b) Taking charge of a case or problem without the consent of the attending veterinarian and the client.

(c) Violating any law or regulation related to the practice of veterinary medicine.

SECTION 39. VE 7.02 (1) (intro.), (3) (intro.), (a) to (c), (4) (intro.), (a) and (b), (5) (a) and (b), (6) (a) to (c), (7), (8) (intro.) and (a) to (g) are amended to read:

VE 7.02 (1) The following acts are limited to those holding a license under ~~ss. s.~~ s. 453.06 (1), 453.06 (2m) (a), or 453.072, Stats., a permit under ~~ss. s.~~ s. VE 3.05, 5.03 or 6.02; or active status as a student at a college of veterinary medicine approved by the board, and may not be delegated to or performed by ~~animal~~ veterinary technicians or other persons not holding such license or permit:

(3) Except as provided under s. 95.21 (2), Stats., veterinarians may delegate to certified ~~animal~~ veterinary technicians the provision of the following veterinary medical services under the direct supervision of the veterinarian:

(a) Nonsurgical veterinary treatment of animal diseases and conditions, including administration of vaccines;

(b) Observations and findings related to animal diseases and conditions to be utilized by a veterinarian establishing a diagnosis or prognosis, including routine radiographs, nonsurgical specimen collection, drawing of blood for diagnostic purposes, and laboratory testing procedures;

(c) Administration of sedatives and presurgical medications;

(d) Obstetrical treatment; ~~and~~.

(4) Veterinarians may delegate to certified ~~animal~~ veterinary technicians the provision of the following veterinary medical services under the direct supervision of the veterinarian when the veterinarian is personally present on the premises where the services are provided:

(a) Administration of local or general anesthesia, including induction and monitoring;

(b) Performing diagnostic radiographic contrast studies; ~~and~~.

(5) (a) Basic diagnostic studies, including routine radiographs, nonsurgical specimen collection, and laboratory testing procedures;

(b) Monitoring and reporting to the veterinarian changes in the condition of a hospitalized animal patient; ~~and~~.

(6) (a) Nonsurgical veterinary treatment of animal diseases and conditions, including administration of vaccines, and administration of sedatives and presurgical medications;

(b) Observations and findings related to animal diseases and conditions to be utilized by a veterinarian in establishing a diagnosis or prognosis, including the drawing of blood for diagnostic purposes;

(c) Dental prophylaxis; ~~and~~.

(7) Notwithstanding subs. (1) to (6), a veterinary student, certified ~~animal~~ veterinary technician or unlicensed assistant employed by a veterinarian may, under the direct supervision of the veterinarian and pursuant to mutually acceptable written protocols, perform evaluative and treatment procedures necessary to provide an appropriate response to life-threatening emergency situations for the purpose of stabilizing the patient pending further treatment.

(8) In delegating the provision of veterinary medical acts to veterinary students, certified ~~animal~~ veterinary technicians and others, the veterinarian shall do all of the following:

(a) Delegate only those tasks commensurate with the education, training, experience and demonstrated abilities of the person supervised;

(b) Provide the supervision required under subs. (2) to (7);

(c) Where the veterinarian is not required to be personally present on the premises where the delegated services are provided, be available at all times for consultation either in person or within 15 minutes of contact by telephone or by two-way radio or television communication;

(d) Observe and monitor the activities of those supervised on a daily basis;

(e) Evaluate the effectiveness of delegated acts performed under supervision on a daily basis;

(f) Establish and maintain a daily log of each delegated patient service which has been provided off the premises of the supervising veterinarian; ~~and~~

(g) Notify the client that some services may be provided by a veterinary student, certified ~~animal~~ veterinary technician or an unlicensed assistant.

SECTION 40. VE 7.03 (2) (a) to (o) and (3) (a) to (i) are amended to read:

VE 7.03 (2) (a) Patient identification;

(b) Complaint;

(c) Present illness;

(d) Vaccination record;

(e) History;

(f) Physical examination findings;

(g) Provisional diagnosis;

(h) Clinical laboratory reports;

(i) Radiographic reports;

(j) Consultation, (if any);

(k) Treatment – medical, surgical;

(l) Drugs prescribed or dispensed;

(m) Tissue examination report;

(n) Final diagnosis;

(o) Necropsy findings;

(3) (a) Client name;

(b) Date;

(c) Type of call;

(d) Number of patients examined;

(e) Individual diagnosis;

(f) Treatment and drugs used;

(g) Drugs dispensed;

(h) Lab work and tests;

(i) Meat or milk withholdings; ~~and~~

SECTION 41. VE 7.06 (10) is amended to read:

VE 7.06 (10) Selling veterinary prescription ~~legend~~ animal ~~drugs~~ without establishing and maintaining a valid veterinarian, patient, or veterinary-patient-client relationship.

SECTION 42. Chapter VE 8 (title) is amended to read:

Chapter VE 8

CERTIFICATION FOR ANIMAL VETERINARY TECHNICIANS

SECTION 43. VE 8.01 (2) is amended to read:

VE 8.01 (2) "Certificate" means a document issued to a person by the board, after the person has met the requirements of s. 453.06 (3),

Stats., signifying that the person has met the statutory requirements to practice ~~animal~~ veterinary technology in Wisconsin.

SECTION 44. VE 8.02 (intro.), (1) to (4) are amended to read:

VE 8.02 Qualification for certification. The board may issue a certificate to practice as ~~an animal~~ a veterinary technician to an applicant who does all of the following:

(1) Meets the age and training requirements of s. 453.06 (3), Stats.;

(2) Has passed an examination consisting of a national written examination and a state board examination under ch. VE 2. Proof that an applicant has passed the national written examination and the state board examination shall be submitted directly to the board by the department's office of examinations or the interstate reporting service;

(3) Has successfully completed an examination on state laws and rules related to the practice of ~~animal~~ veterinary technology; ~~and~~

(4) Does not have a conviction record or pending criminal charge relating to an offense the circumstances of which substantially relate to the practice of ~~animal~~ veterinary technology. An applicant who has a conviction record or pending criminal charge shall request appropriate authorities to provide information directly to the board to enable the board to make its determination.

SECTION 45. VE 8.03 (title), (1) (intro.) and (a) are amended to read:

VE 8.03 Application procedures for veterinary technician applicants. (1) An applicant for ~~an animal~~ a veterinary technician certificate shall file a completed application with the board at least 30 days prior to the date of the scheduled examination. All supporting documents shall be in English. An application is not complete until the board receives all of the following:

(a) An application form provided by the board and completed by the applicant which includes the applicant's notarized signature;

Note: Applications are available upon request to the board office located at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

SECTION 46. VE 8.03 (1) (b) is repealed.

SECTION 47. VE 8.03 (1) (c), (d) and (e) are amended to read:

VE 8.03 (1) (c) The fees ~~specified in~~ required under s. 440.05 (1), Stats.

(d) Verification of licensure records and status which has been sent directly to the board by every state or country in which the applicant has ever held a license or certificate to practice ~~animal~~ veterinary technology; ~~and~~

(e) A certificate of completion of the 4 semester program in animal veterinary technology at a board approved technical school or college shall be provided by presentation of certification signed and sealed by the dean of the school submitted directly to the board by the school, or the applicant shall provide evidence of meeting the employment requirement under s. 453.06 (3) (b), Stats.

SECTION 48. Chapter VE 9 (title) is amended to read:

Chapter VE 9

STANDARDS OF PRACTICE AND UNPROFESSIONAL CONDUCT FOR ANIMAL VETERINARY TECHNICIANS

SECTION 49. VE 9.01 (intro.) is amended to read:

VE 9.01 Prohibited acts. The following acts are limited to veterinarians and therefore prohibited for ~~animal~~ veterinary technicians:

SECTION 50. VE 9.02 (1), (2) (intro.), (a), (b) and (c) are amended to read:

VE 9.02 (1) Animal Veterinary technicians may perform delegated veterinary acts set forth under s. VE 7.02 (3), (4) and (7).

(2) In the performance of delegated veterinary acts ~~an animal~~ a veterinary technician shall:

(a) Accept only those delegated veterinary acts for which there are mutually approved protocols, written standing orders or verbal directions;

(b) Accept only those delegated veterinary acts for which the animal veterinary technician is competent to perform based on education, training or experience;

(c) Consult with a veterinarian in cases where the animal veterinary technician knows or should know a delegated veterinary act may harm a patient; and.

SECTION 51. VE 9.03 is amended to read:

VE 9.03 Change of name and address. Every animal veterinary technician shall notify the board of a change of name or address within 30 days. Failure of notification may result in the loss of certificate and may result in a fine under s. 440.11 (3), Stats.

SECTION 52. VE 9.035 (2) is amended to read:

VE 9.035 (2) If the certificate holder applies for renewal of the credential 5 or more years after its expiration, the board shall inquire as to whether the applicant is competent to practice as an animal a veterinary technician in this state and shall impose any reasonable conditions on reinstatement of the certificate including reexamination, as the board deems appropriate. An applicant under this subsection is presumed to be competent to practice as an animal a veterinary technician in this state if at the time of application for reinstatement the applicant holds a full unexpired certificate issued by a similar licensing board of another state or territory of the United States or of a foreign country or province whose standards, in the opinion of the board, are equivalent to or higher than the requirements for certification in this state. Notwithstanding any presumption of competency under this subsection, the board shall require each applicant under this subsection to pass the examination specified under s. VE 8.02 (2) and (3).

SECTION 53. VE 9.04 is amended to read:

VE 9.04 Display of certificate. Each animal veterinary technician shall display a current certificate in a manner conspicuous to the public view.

SECTION 54. VE 9.05 (intro.), (1) to (9) and (12) are amended to read:

VE 9.05 Unprofessional conduct. The following acts constitute unprofessional conduct by an animal a veterinary technician and are prohibited:

(1) Performing as an animal a veterinary technician unless supervised as specified under s. VE 7.02 (3), (4) and (7).

(2) Misrepresentation in obtaining an animal a veterinary technician certificate or in performing as an animal a veterinary technician.

(3) Conduct in the practice of animal veterinary technology which evidences a lack of knowledge or ability to apply professional principles or skills.

(4) Gross negligence while performing as an animal a veterinary technician. Gross negligence shall have the meaning specified in s. VE 7.01 (4).

(5) The personal use, misuse or sale other than for medical treatment of patients, of drugs listed in the U.S. controlled substances act of 1970, as amended, or ch. 161, Stats., 1977, other than drugs prescribed by a physician for use by the animal veterinary technician.

(6) Practicing or attempting to practice while the animal veterinary technician has a physical or mental impairment, including impairment related to drugs or alcohol, which is reasonably related to the applicant's ability to adequately undertake the practice of animal veterinary technology in a manner consistent with the safety of a patient or the public.

(7) Being convicted of a crime the circumstances of which substantially relate to the practice of animal veterinary technology.

(8) Violating or aiding and abetting the violation of any law or administrative rule substantially related to the practice of animal veterinary technology.

(9) Having an animal a veterinary technician certificate limited, suspended or revoked or subject to any other disciplinary action in another state or U.S. jurisdiction.

(12) Falsely certifying to the board that the animal veterinary technician is exempt from the requirements of ss. VE 10.03 and 10.04

or falsely certifying that the animal veterinary technician has met certification or continuing veterinary education requirements relating to the use, handling, distribution and disposal of pesticides.

SECTION 55. VE 9.06 is amended to read:

VE 9.06 Board action. The board may reprimand the certificate holder or deny, suspend, limit or revoke the certificate of any person to practice animal veterinary technology who engages in any of the acts prohibited by this chapter.

SECTION 56. Chapter VE 10 (title) is amended to read:

Chapter VE 10

CONTINUING VETERINARY EDUCATION FOR VETERINARIANS AND ANIMAL VETERINARY TECHNICIANS

SECTION 57. VE 10.01 is amended to read:

VE 10.01 Authority and purpose. The rules in this chapter are adopted by the veterinary examining board pursuant to the authority delegated by ss. 15.08 (5), 227.11 (2), 453.03 (1), 453.03 (2) and 453.07 (1) (fm), Stats., and govern the certification and biennial training requirements for veterinarians and animal veterinary technicians relating to the use, handling, distribution and disposal of pesticides.

SECTION 58. VE 10.02 (1) and (2) are amended to read:

VE 10.02 (1) A veterinarian or an animal a veterinary technician who does not personally use or direct the use of pesticides and who does not repackage pesticides for use by others shall be exempt from the requirements of ss. VE 10.03 and 10.04.

(2) Each veterinarian and each animal veterinary technician claiming exemption from the requirements of ss. VE 10.03 and 10.04 shall at the end of the first registration period following March 1, 1992 or at the end of the first registration period following initial registration, and shall at the end of each following registration period, include a statement on his or her application for a certificate of registration certifying that the veterinarian or animal veterinary technician does not personally use or direct the use of pesticides and does not repackage pesticides for use by others. Each veterinarian and each animal veterinary technician so certifying who is associated with or employed by a clinic holding a veterinary clinic permit issued under s. 94.702, Stats., shall include the permit number with the certification.

SECTION 59. VE 10.03 is amended to read:

VE 10.03 Training and certification in the use, handling, distribution, and disposal of pesticides required. Each veterinarian and each animal veterinary technician not exempt under s. VE 10.02 shall at the end of the first registration period following March 1, 1992 or at the end of the first registration period following initial registration, include a statement on his or her application for a certificate of registration certifying that the veterinarian or animal veterinary technician has satisfactorily completed a certification program or other training program acceptable to the board in the use, handling, distribution and disposal of pesticides.

SECTION 60. VE 10.04 (intro.), (1) and (2) are amended to read:

VE 10.04 Continuing education in the use, handling, distribution, and disposal of pesticides required. Each veterinarian and each animal veterinary technician not exempt under s. VE 10.02 shall at the end of the second registration period following March 1, 1992 or at the end of the second registration period following initial registration, and shall at the end of each following registration period, include a statement on his or her application for a certificate of registration as follows:

(1) That the veterinarian or animal veterinary technician has satisfactorily completed 4 credits of acceptable continuing veterinary education in the use, handling, distribution and disposal of pesticides within the 2-year period immediately preceding the application for a certificate of registration; or,

(2) That the veterinarian or animal veterinary technician is currently certified by a certification program acceptable to the board in the use, handling, distribution and disposal of pesticides, and that

the veterinarian or ~~animal~~ veterinary technician intends to maintain his or her certification in lieu of the biennial continuing veterinary education requirement.

SECTION 61. VE 10.06 is amended to read:

VE 10.06 (1) Evidence of compliance with the requirements of ss. VE 10.03 and 10.04 shall be retained by each veterinarian or ~~animal~~ veterinary technician through the biennium following the biennium in which the credit or certification was acquired.

(2) The board may audit compliance by requiring a veterinarian or ~~animal~~ veterinary technician to submit his or her evidence of compliance to the board for the biennium immediately preceding the biennium in which the audit is performed.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

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

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

***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.

Agriculture, Trade & Consumer Protection**(CR 97-125):**

Ch. ATCP 29 – Relating to pesticide use and control.

Commerce (CR 97-156):

S. Comm 108.21 (1) (f) – Relating to funding of emergency grants under the community development block grant program.

Corrections (CR 96-180):

Ch. DOC 308 – Relating to administrative confinement of inmates.

Corrections (CR 97-79):

Ch. DOC 309 – Relating to inmate mail, property and phone calls.

Medical Examining Board (CR 97-114):

S. Med 10.02 (2) (zb) – Relating to dispensing or prescribing of controlled substances for the treatment of obesity.

Tourism (CR 97-155):

SS. Tour 1.02, 1.03 and 1.05 – Relating to the joint effort marketing program.

Transportation (CR 97-144):

Ch. Trans 302 – Relating to vehicle marking.

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.

Administration (CR 96-164):

An order creating ch. Adm 66, relating to financial qualifications of manufactured home dealer license applicants.

Effective 03-01-98.

Administration (CR 96-165):

An order repealing ch. Trans 141 and creating ch. Adm 67, relating to manufactured home dealer trade practices, facilities and records.

Effective 03-01-98.

Agriculture, Trade & Consumer Protection (CR 97-86):

An order affecting ss. ATCP 42.01 and 42.04, relating to commercial feed.

Effective 03-01-98.

Commerce (CR 97-115):

An order affecting chs. Comm 5 and 17 and ss. ILHR 20.09, 20.10 and 41.16, relating to credentials.

Effective 04-01-98.

Corrections (CR 97-92)

An order creating ch. DOC 332, relating to registration and community notification of sex offenders.

Effective 3-1-98.

Higher Educational Aids Board (CR 97-111):

An order repealing and recreating ch. HEA 9, relating to the academic excellence higher education scholarships.

Effective 03-01-98.

Insurance, Commissioner of (CR 96-192):

An order creating s. Ins 2.80, relating to valuation of reserve liabilities for life insurance.

Effective 01-01-99 (corrected).

Natural Resources (CR 97-20):

An order creating s. NR 10.02 (9), relating to adding the timber rattlesnake as a protected wild animal.

Effective 04-01-98.

Natural Resources (CR 97-120):

An order affecting s. NR 102.10 (1m) 6., 9., 9m. and 11., relating to waters classified as outstanding resource waters.

Effective 03-01-98.

Natural Resources (CR 97-122):

An order affecting s. NR 25.03 (2) (b), relating to relicensing Lake Michigan commercial fishers.

Effective 04-01-98.

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