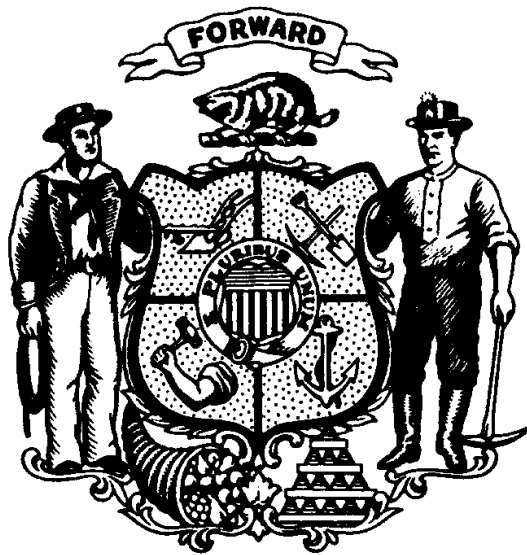


# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 508**



Publication Date: April 30, 1998  
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## EMERGENCY RULES NOW IN EFFECT

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

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

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### 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

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### EMERGENCY RULES NOW IN EFFECT (2)

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

1. Rules adopted creating **Ch. ATCP 36**, relating to the sale and use of pesticides containing the active ingredient clomazone.

#### Finding of Emergency

(1) Pesticides containing the active ingredient clomazone are used at spring planting on soybeans, tobacco, peppers, pumpkins, peas, cabbage and cucumbers. Clomazone is an effective herbicide which inhibits the formation of chlorophyll in target weeds.

(2) Clomazone is volatile. Off-target movement from clomazone applications can affect non-target plants located hundreds of feet from the application site. Off-target movement from clomazone applications can damage non-target plants by inhibiting the formation of chlorophyll in those plants.

(3) Off-target movement has occurred in many clomazone applications to date. Non-target plants exposed to off-target movement from clomazone applications turn yellow or white. Damage from 1997 clomazone applications was apparently more severe and long lasting than in prior years. In 1997, the department received 49 complaints of off-target movement to non-target plants. These complaints comprised 20% of all pesticide complaints received by the department in 1997. Department field staff report that these complaints represented only a fraction of the total number of clomazone off-target movement incidents that occurred. Off-target movement incidents have caused widespread public anger and concern, and have impaired public confidence in pesticide applications.

(4) The department proposes to adopt rules restricting the use of clomazone herbicides. The proposed restrictions are reasonably designed to reduce or eliminate damage to non-target plants from clomazone applications. Without these restrictions, continued clomazone applications will likely result in continued incidents of off-target movement and nontarget damage during the 1998 planting and growing season.

(5) Clomazone herbicides are commonly applied during spring planting. The department must adopt restrictions by emergency rule in order for those restrictions to take effect prior to the 1998 spring planting and application period. The department finds that an emergency rule under s. 227.24, Stats., is imperatively required to preserve the public peace and welfare in 1998, pending completion of normal rulemaking procedures under ch. 227, Stats.

**Publication Date:** March 15, 1998

**Effective Date:** March 15, 1998

**Expiration Date:** August 12, 1998

**Hearing Date:** April 28, 1998

2. Rules adopted creating **ss. ATCP 10.68** and **11.58**, relating to fish farms and imports of live fish and fish eggs.



## Exemption From Finding of Emergency

(1) The department of agriculture trade and consumer protection is adopting this emergency rule to implement s. 95.60, Stats., which was created by 1997 Wis. Act 27.

(2) Section 9104(3xr) of 1997 Wis Act 27 authorizes the department to adopt this emergency rule without the normal finding of emergency. It further provides that the emergency rule will remain in effect until January 1, 1999 or until a permanent rule takes effect, whichever comes first.

## Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07(1), 95.60(4s)(e) and (5)

Statutes interpreted: s. 95.60

This emergency rule implements s. 95.60, Stats., by doing all of the following:

Establishing an interim procedure for registering fish farms in 1998. The department plans to adopt permanent rules, which may differ from this emergency rule, relating to registration of fish farms after 1998.

Establishing interim permit requirements for importing live fish or fish eggs into Wisconsin.

Requiring fish farm operators and fish importers to keep records.

### Fish Farms

#### Registration

Under s. 95.60, Stats., as enacted by 1997 Wis. Act 27 effective October 14, 1997, the Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for registering fish farms in Wisconsin. The new annual registration program replaces an annual licensing program previously administered by the Department of Natural Resources (DNR).

DNR licensed more than 2000 fish farms for calendar year 1997. Fish farms previously licensed by DNR must now be registered with DATCP. DATCP's 1998 registration requirement takes effect immediately after DNR's 1997 license requirement expires.

#### Registration Procedures: General

This emergency rule establishes interim fish farm registration procedures. Under this emergency rule:

- No person may operate a fish farm without a DATCP registration certificate. A registration certificate expires on December 31, 1998.

- A registration certificate is effective on the day it is issued except that, if a fish farm operator licensed by DNR in 1997 files a renewal application with DATCP by April 10, 1998, the DATCP registration certificate is retroactive to January 1, 1998.

- Fish farm registrations are not transferable between persons or locations. A person who operates 2 or more fish farms at non-contiguous locations must obtain a separate registration certificate for each location.

#### Registration Categories

A fish farm operator must hold a type A, B, C or D registration certificate for that fish farm:

- A type A registration is normally required for a fish farm at which the operator does any of the following:

- \*Hatches fish or produces fish eggs at that fish farm for sale or trade to any person.

- \*Allows public fishing, for a fee, for fish hatched at that fish farm.

- A type B registration is normally required if the fish farm operator does any of the following and does not hold a type A registration:

- \*Allows public fishing at the fish farm for a fee.

- \*Sells or trades fish, from the fish farm, to any person.

- A type C registration authorizes the registrant to operate a fish farm. It does not authorize activities for which a type A or B registration is required, except that a type C registrant may do either of the following without a type A or B registration:

- \*Sell minnows to any person

- \*Sell fish or fish eggs to a type A registrant.

- A type D registration authorizes the registrant to sell or trade fish from a fish farm without a type A or B registration if all of the following apply:

- \*The operator does not hatch fish, produce fish eggs or permit public fishing for a fee at that fish farm.

- \*The fish farm consists solely of ponds used to hold or grow fish.

- \*The operator holds a type A or B registration certificate for another fish farm located on a nonadjacent parcel of land.

#### Registration Fees

This emergency rule establishes the following registration fees:

· Type A registration	\$50.00
· Type B registration	\$25.00
· Type C registration	\$ 5.00
· Type D registration	\$ 5.00

School systems operating fish farms must register with DATCP but are exempt from fees. The operator of a fish farm registered for less than a full year must pay the full year's fee.

If an operator was licensed by DNR in 1997, but files a renewal application with DATCP after April 10, 1998, the operator must pay a late renewal fee equal to 20% of the registration fee or \$5.00, whichever is greater.

#### Deadlines for DATCP Action on Registration Applications

If a person licensed by DNR to operate a fish farm in 1997 applies to register that fish farm with DATCP, DATCP must grant or deny the application within 30 days after the applicant files a complete application, including the correct fee, with DATCP. DATCP will deny the application, if the applicant has not filed a 1997 "private fish hatchery annual report" with the department of natural resources.

If a person applying to register a fish farm was not licensed by the department of natural resources to operate that fish farm in 1997, DATCP must grant or deny that person's registration application within 30 days after all of the following occur:

- The applicant files a complete application including the correct fee.

- DNR informs DATCP that DNR has approved the facility.

#### Recordkeeping

This emergency rule requires a fish farm operator to keep the following records for all fish and fish eggs which the operator receives from or delivers to another person:

- The name, address, and fish farm registration number if any, of the person from whom the operator received or to whom the operator delivered the fish or fish eggs.

- The date on which the operator received or delivered the fish or fish eggs.

- The location at which the operator received or delivered the fish or fish eggs.

- The size, quantity and species of fish or fish eggs received or delivered.

A fish farm operator must make these records available to DATCP, upon request, for inspection and copying.

#### Denying, Suspending or Revoking a Registration

DATCP may deny, suspend or revoke a fish farm registration for cause, including any of the following:

- Violating ch. 95, Stats., or applicable DATCP rules.

- Violating the terms of the registration

- Preventing a DATCP employee from performing his or her official duties, or interfering with the lawful performance of those duties.

- Physically assaulting a DATCP employee performing his or her official duties.
- Refusing or failing, without just cause, to produce records or respond to a DATCP subpoena.
- Paying registration fees with a worthless check.

### Fish Imports

#### Import Permit Required

This rule prohibits any person from importing into this state, without a permit from DATCP, live fish or fish eggs for any of the following purposes:

- Introducing them into the waters of the state.
- Selling them as bait, or for resale as bait.
- Rearing them at a fish farm, or selling them for rearing at a fish farm.

A copy of the import permit must accompany every import shipment. An import permit may authorize multiple import shipments. There is no fee for an import permit. A person importing a non-native species of fish or fish eggs must also obtain a permit from the department of natural resources.

#### Import Permit Contents

An import permit must specify all of the following:

- The expiration date of the import permit. An import permit expires on December 31 of the year in which it is issued, unless DATCP specifies an earlier expiration date.
- The name, address and telephone number of the permit holder who is authorized to import fish or fish eggs under the permit.
- The number of each fish farm registration certificate, if any, held by the importer.
- Each species of fish or fish eggs which the importer is authorized to import under the permit.
- The number and size of fish of each species, and the number of fish eggs of each species, that the importer may import under the permit.
- The purpose for which the fish or fish eggs are being imported.
- The name, address and telephone number of every source from which the importer may import fish or fish eggs under the permit.
- The name, address, telephone number, and fish farm registration number if applicable, of each person in this state who may receive an import shipment under the permit if the person receiving the import shipment is not the importer.

#### Applying for an Import Permit

A person seeking an import permit must apply on a form provided by DATCP. The application must include all of the following:

- All of the information which must be included in the permit (see above).
- A health certificate for each source from which the applicant proposes to import fish or fish eggs of the family salmonidae.

DATCP must grant or deny a permit application within 30 days after it receives a complete application and, in the case of non-native fish DNR approval.

#### Denying, Suspending or Revoking an Import Permit

DATCP may deny, suspend or revoke an import permit for cause, including any of the following:

- Violating applicable statutes or rules.
- Violating the terms of the import permit, or exceeding the import authorization granted by the permit.
- Preventing a department employe from performing his or her official duties, or interfering with the lawful performance of his or her duties.
- Physically assaulting a department employe while the employe is performing his or her official duties.
- Refusing or failing, without just cause, to produce records or respond to a department subpoena.

#### Import Records

A person importing fish or fish eggs must keep all of the following records related to each import shipment, and must make the records available to the department for inspection and copying upon request:

- The date of the import shipment.
- The name, address and telephone number of the source from which the import shipment originated.
- The name, address, telephone number, and fish farm registration number if applicable of the person receiving the import shipment, if the person receiving the import shipment is not the importer.
- The location at which the import shipment was received in this state.
- The size, quantity and species of fish or fish eggs included in the import shipment.

#### Salmonidae Import Sources: Health Certificates

DATCP may not issue a permit authorizing any person to import fish or fish eggs of the family salmonidae (including trout, salmon, grayling, char, Dolly Vardon, whitefish, cisco or inconnu) unless a fish inspector or an accredited veterinarian certifies, not earlier than January 1 of the year preceding the year in which the applicant applies for the permit, that the fish and fish eggs from the import source were determined to be free of all of the following diseases:

- Infectious hematopoietic necrosis.
- Viral hemorrhagic septicemia.
- Whirling disease, except that eggs from wild stocks need not be certified free of whirling disease.
- Enteric redmouth.
- Ceratomyxosis.

A fish inspector issuing a health certificate must be a fish biologist who is certified, by the American Fisheries Society or the state of origin as being competent to perform health inspections of fish.

The accredited veterinarian or fish inspector must issue a health certificate in the state of origin, based on a personal inspection of the fish farm from which the import shipment originates. In the inspection, an accredited veterinarian or a fish inspector must examine a random statistical sample of fish drawn from each lot on the fish farm. From each lot, the veterinarian or inspector must examine a number of fish which is adequate to discover, at the 95% confidence level, any disease that has infected 5% of the lot.

**Publication Date:** March 16, 1998

**Effective Date:** March 16, 1998

**Expiration Date:** See section 9104 (3xr) 1997 Wis. Act 27

**Hearing Date:** April 27, 1998

## **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  
**Hearing Date:** March 11, 1998

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**EMERGENCY RULES NOW IN EFFECT**

**Department of Commerce  
 (Financial Resources for Businesses and  
 Communities, Chs. Comm 105 to 128)**

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  
**Hearing Date:** February 12, 1998

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

**Department of Corrections**

1. 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  
**Hearing Date:** March 16, 1998

2. Rule adopted amending s. DOC 328.22 (5), relating to custody and detention of felony probationers and parolees.

### 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 Milwaukee County Jail has experienced severe overcrowding. The Department of Corrections and the Milwaukee County Sheriff have worked cooperatively to alleviate the crowded conditions that continue to prevail. This rule amendment will serve the purpose of further alleviating overcrowding by allowing any felony probationer to be detained in a Department of Corrections institution. Presently, only felony probationers with imposed and stayed sentences may be detained in a Department facility.

The Wisconsin Supreme Court rule in *Sullivan v. Kliesmet*, that the Sheriff of Milwaukee may refuse to accept Department of Corrections detainees when severe overcrowding results in dangerous conditions. The Supreme Court delayed the effective date of the Kliesmet decision one year or until June 25, 1998.

Under the authority vested in the Department of Corrections by ss. 227.11 (2), and 973.10, Stats., the Department of Corrections hereby amends s. DOC 328.22 (5), relating to the custody and detention of felony probationers and parolees.

**Publication Date:** March 23, 1998  
**Effective Date:** March 23, 1998  
**Expiration Date:** August 20, 1998

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## 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

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## EMERGENCY RULES NOW IN EFFECT (2)

### *Health and Family Services* (Health, Chs. HSS/HFS 110--)

1. Rules adopted revising s. HFS 196.03 (22), relating to an exemption from regulation as a restaurant.

### Finding of Emergency

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

The current Budget Act, 1997 Wisconsin Act 27, effective October 14, 1997, created s. 254.61 (5) (g), Stats., to exempt a concession stand at a "locally sponsored sporting event" from being regulated under ch. HFS 196 as a restaurant. Following enactment of the State Budget, the Department received several inquiries from its own region-based inspectors and local health departments serving as the Department's agents for enforcement of the Department's environmental sanitation rules, including rules for restaurants, about the meaning of "locally sponsored sporting event." What did the term cover? Did it cover food stands at facilities of locally-owned sports franchises? Were these now to be exempt from regulation under the restaurant rules?

This rulemaking order adds the new exemption to the Department's rules for restaurants and, in this connection, defines both "locally sponsored sporting event" and "concession stand." The order makes clear that the exemption refers only to concession stands at sporting events for youth, that is, for persons under 18 years of age. That interpretation is supported by the statutory phrase, "such as a little league game," that follows the term, "locally sponsored sporting event," in s. 254.61 (5) (g), Stats. The order further narrows the applicability of the exemption by building into the definitions the Department's understanding of who organizes or sponsors an exempt sporting event and on whose behalf a concession stand at the event is operated.

Although the Department's understanding of what "locally sponsored sporting event" should be taken to mean has been communicated to its field-based inspectors and agent local health departments, this is no more than an interpretive guideline, lacking the force of law, until the Department has set out that understanding in its rules for restaurants. Because the process for making the permanent rule change will take several months, the Department is publishing the rule change now by emergency order in the interests of protecting the public's health. The emergency rule order will ensure that, pending promulgation of the permanent rule change, there will be uniform statewide enforcement of the statute change that will prevent any local inspector from exempting from regulation food stands at locally sponsored sporting events for adults.

**Publication Date:** March 14, 1998  
**Effective Date:** March 14, 1998  
**Expiration Date:** August 11, 1998  
**Hearing Date:** May 11, 1998

[See Notice this Register]

- Rules were adopted revising **ch. HSS 138**, relating to subsidized health insurance premiums for certain persons with HIV.

### Finding of Emergency

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

Sections 252.16 and 252.17, Stats., direct the Department to operate a program that provides subsidies to cover the cost of health insurance premiums for persons with human immunodeficiency virus (HIV) infection who, because of a medical condition resulting from that infection, must take an unpaid leave from their jobs or are unable to continue working or must reduce their hours of work. The Department has been operating this program since November 1990 under ch. HSS 138 rules.

This order revises ch. HSS 138 to incorporate changes made in the program by the current Budget Act, 1997 Wisconsin Act 27. Act 27 amended s. 252.16, Stats., to change the program in the following ways for individuals who are unable to continue working or who must reduce their hours of work:

The Department is directed to pay the premium costs for any health insurance coverage for an eligible individual, whether group coverage or an individual policy, and not only, as formerly, for continuation coverage under a group health plan if available to the individual.

Program participation is expanded from individuals in families with incomes up to 200% of the federal poverty line to individuals in families with incomes up to 300% of the poverty line, but individuals in families with incomes between 201% and 300% of the federal poverty line are expected to contribute toward payment of the insurance premium.

The Department is directed to pay an individual's premiums for as long as the individual remains eligible for the program and not only, as formerly, for a maximum of 29 months.

The rule changes add rule definitions for dependent, individual health policy, Medicare, subsidy under s. 252.16, Stats., and subsidy under s. 252.17, Stats., and modify rule definitions for employe and group health plan; raise the maximum family income for eligibility for the program to 300% of the federal poverty line; permit an individual to be eligible if covered or eligible for coverage under either a group health plan or an individual health policy; delete the provision that prohibits Medicare-eligible individuals from participating in the program since a Medicare supplement policy is now considered a type of individual health policy; require eligible individuals whose family income exceeds 200% of the federal poverty line to contribute 3% of the annual policy premium toward payment of the premium; and delete the time limit of 29 months after which the Department's payments are to end.

All of the rule changes, except the changes to the definitions, apply only in the case of subsidies under s. 252.16, Stats., that is, for individuals who because of a medical condition related to HIV infection are unable to continue working or must reduce their hours of work.

The rule changes are being published by emergency order so that the program changes made by Act 27 can be implemented quickly for the benefit of persons with HIV infection who are newly eligible for the subsidy or for continuation of the subsidy. Act 27 was effective on October 14, 1997. Implementation of the statutory changes, which is expected to increase the caseload from 50 to about 300, depends upon rule changes. Following determination of what changes were needed in the rules, a statement of scope of proposed rules was published on November 15, 1997. After that the rulemaking order was drafted and decisions were made about language and the expected contribution of some eligible individuals toward payment of the annual premium. The proposed permanent rule changes were sent to the Legislative Council's Rules Clearinghouse for review on March 3, 1998, but because of the length of the permanent rulemaking process will not take effect until

August 1, 1998 at the earliest. Earlier implementation of the statutory changes will allow some prospective program clients to maintain health insurance policies they otherwise could not afford. Not having the coverage could result in deterioration of their health.

**Publication Date:** March 28, 1998  
**Effective Date:** March 28, 1998  
**Expiration Date:** August 25, 1998  
**Hearing Dates:** April 22 & 23, 1998

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## EMERGENCY RULES NOW IN EFFECT (3)

### Insurance

- 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

- 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

- 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  
**Hearing Date:** May 15, 1998

### EMERGENCY RULES NOW IN EFFECT (3)

#### *Natural Resources*

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

1. 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  
**Hearing Date:** January 12, 1998

2. Rules adopted creating ch. NR 47, subch. VIII, relating to the forest fire protection grant program.

### Exemption From Finding of Emergency

Under Section 9137 (10x) of 1997 Wis. Act 27, the Department is not required to make a finding of emergency for these rules.

**Publication Date:** February 16, 1998  
**Effective Date:** February 16, 1998  
**Expiration Date:** July 15, 1998  
**Hearing Date:** March 13, 1998

3. Rules adopted creating ch. NR 47, subch. VII, relating to the private forest landowner grant program.

### Exemption From Finding of Emergency

Under Section 9137 (10n) of 1997 Wis. Act 27, the Department is not required to make a finding of emergency for these rules.

**Publication Date:** February 20, 1998  
**Effective Date:** February 20, 1998  
**Expiration Date:** July 19, 1998  
**Hearing Date:** March 13, 1998

### EMERGENCY RULES NOW IN EFFECT

#### *Natural Resources*

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

Rules adopted creating ch. NR 166, relating to the Safe Drinking Water Loan Program.

### Exemption From Finding of Emergency

Statutory authority: ss. 281.61 (2),(6), (12)(a)(b) and 227.24  
 Statute interpreted: s. 281.61

SECTION 1 creates ch. NR 166, Wis. Adm. Code, entitled "Safe Drinking Water Loan Program."

The federal Safe Drinking Water Act Amendments signed by President Clinton on August 6, 1996 created a new state revolving loan fund for drinking water infrastructure. The program creates a capitalization grant to states that enables states to provide loans to community water systems as well as nonprofit non-community water systems that build, upgrade, or replace water supply infrastructure to protect public health and address federal and state drinking water requirements.

The state budget bill, Wisconsin Act 27, s. 281.61, Stats., directs the Department of Natural Resources to promulgate rules establishing eligibility criteria, priority, and application procedures to administer the Safe Drinking Water Program, and to promulgate rules needed for the Department to exercise its responsibilities under the Safe Drinking Water Loan Program.

In order for the Department to meet deadlines for the capitalization grant, the rules providing eligibility criteria, priority, and application procedures must be in place by March 1, 1988. Accordingly, section 9137(3x) of Act 27 authorizes the Department to promulgate emergency rules for the Safe Drinking Water Loan Program without providing proof that an emergency rule is needed to preserve public peace, health, safety, or welfare. The Department intends to promulgate ch. NR 166 as an emergency rule effective March 1, 1998 and to have the permanent rule in place by August 1, 1988.

The eligibility criteria and project priorities in ch. NR 166 reflect the overarching intention of s. 281.61 and the amendments to the federal Safe Drinking Water Act - to help fund projects that will facilitate compliance with national primary drinking water standards or otherwise significantly further the health protection objectives of the Safe Drinking Water Act.

The federal and state statutes also require that the rules that determine project ranking give priority, to the extent possible, to projects that address the most serious risks to human health (especially acute health risks related to microbial organisms), that are needed to ensure compliance with the Safe Drinking Water Act, and that assist communities that are most in need on a per household basis. Ch. NR 166 therefore assigns points to projects based on criteria that include: the severity of the human health risks that can

be reduced or lessened by the project, the size and median household income of the population served by the water system, secondary contaminant violations or system compliance addressed by the project, and the technical, financial, and managerial capacity of the water system. Ch. NR 166 also establishes interest rates based on financial eligibility criteria that reflect the priorities in s. 281 .61 and the Safe Drinking Water Act.

Ch. NR 166 establishes the types of financial assistance available as authorized by s. 281.61, Stats., establishes eligibility criteria for types of projects and costs, and excludes types of projects listed as ineligible in s. 281 .61 and the Safe Drinking Water Act.

Ch. NR 166 details the procedures and requirements to apply for assistance, the conditions that will apply to assistance agreements, the options available to the Department in the event of noncompliance, and the review of Department decisions available to applicants.

**Publication Date:** March 18, 1998  
**Effective Date:** March 18, 1998  
**Expiration Date:** August 15, 1998  
**Hearing Dates:** March 13 and 16, 1998

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**EMERGENCY RULES NOW IN EFFECT**

*Natural Resources*

**(Environmental Protection–Water Regulation,  
 Chs. NR 300--)**

Rules adopted revising **ch. NR 300**, relating to fees for waterway and wetland permit decisions.

**Finding of Emergency**

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

Land development and public infrastructure projects that affect water resources are being delayed as a result of extreme workload and high staff vacancy rate in southeastern Wisconsin and elsewhere. Fee revenue must be generated immediately in order to support positions authorized in the recent budget to address the delays.

The foregoing rules were approved and adopted by the State of Wisconsin Natural Resources Board on March 25, 1998.

The rules contained herein shall take effect on April 1, 1998, following publication in the official state newspaper pursuant to authority granted by s. 227.24(1)(c), Stats.

**Publication Date:** April 1, 1998  
**Effective Date:** April 1, 1998  
**Expiration Date:** August 29, 1998

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**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  
**Hearing Date:** January 14, 1998

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**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  
**Hearing Dates:** February 17, 18 and 19, 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  
**Hearing Dates:** February 17, 18 and 19, 1998

## EMERGENCY RULES NOW IN EFFECT

### Public Service Commission

Rules adopted amending **ss. PSC 160.05, 160.11 (6) and 160.17**, relating to the provision of universal telecommunications service and administration of the universal service fund and creating **ch. PSC 161**, establishing the Education Telecommunication Access Program.

### ANALYSIS PREPARED BY THE PUBLIC SERVICE COMMISSION OF WISCONSIN

The Technology for Educational Achievement in Wisconsin (TEACH) initiative culminated in comprehensive legislation in 1997 Wis. Act 27 (Act 27). Newly enacted s. 196.2 18(4r)(b), Stats., mandates that the Public Service Commission (Commission), in consultation with the Department of Administration (Department) and Technology for Educational Achievement (TEACH) in Wisconsin Board (Board), promulgate rules—under the usual ch. 227, Stats., rulemaking procedures—establishing the Educational Telecommunications Access Program. Section 9141 of Act 27 mandates that the Commission promulgate emergency rules establishing the Educational Telecommunications Access Program, to provide school districts, private schools, technical college districts, private colleges and public library boards with access to data lines and video links, for the period before the effective date of permanent rules promulgated under s. 196.218(4r)(b), Stats., but not to exceed the period authorized under s. 227.24(1)(c) and (2), Stats.

These emergency rules establish the Educational Telecommunications Access Program to provide access to data lines and video links for eligible school districts, private schools, technical college districts, private colleges and public library boards at low monthly prices. These rules implement the TEACH legislation by:

- ◆ Defining the entities which may be eligible under this program, i.e., “private college,” “private school,” “public library board,” “school district” and “technical college district.”
- ◆ Defining a “data line” as a data circuit which provides direct access to the internet.
- ◆ Defining a “video link” as a 2-way interactive video circuit and associated services.
- ◆ Establishing technical specifications for a data line, including that such a line shall terminate at an internet service provider, unless the Board determines that an alternative is acceptable.
- ◆ Establishing technical specifications for a video link which exclude television monitors, video cameras, audio equipment, any other classroom equipment or personnel costs associated with scheduling.
- ◆ Including privacy protections as required by s. 196.218(4r)(c)5., Stats.
- ◆ Providing an application procedure which (1) allows a school district that operates more than one high school to apply for access to a data line and video link or access to more than one data line or video link, but not to more than the number of high schools in that district, (2) prohibits a school district from applying if it has received an annual grant from the Board in the current state fiscal year under an existing contract with the Department, (3) prohibits a technical college district from applying before April 1, 1998, and (4) prohibits a school district, private school, technical college district, private college or public library board from applying if it is receiving partial support funding through rate discounts under s. PSC 160.11.
- ◆ Requiring that the Board determine eligibility by applying criteria, including availability of funds and impact of the requested access on available funds, reasonableness of the requested access, readiness of the applicant to utilize the requested access and proposed uses of the requested access.
- ◆ Requiring the Board to determine by April 1, 1998, whether there are sufficient monies in the appropriation to include technical college districts in the program on or after that date.



◆ Establishing criteria for the Board to consider in prioritizing applications if monies in the universal service fund are insufficient to approve all pending applications.

◆ Providing for "alternative access," defined as a service architecture or technology not available through the Department at the time of the application.

◆ Requiring monthly payments from the applicant to the Department for each data line or video link, not to exceed \$250 per month, except that the payment may not exceed \$100 per month for each line or link which relies upon a transport medium operating at a speed of 1.544 megabits per second.

◆ Providing that assessments for this program shall be made by the Commission under ch. PSC 160.

**Exemption From Finding of Emergency**

In Section 9141 of 1997 Wis. Act 27, the legislature specifically exempted the Commission from the finding of emergency required by ss. 227.24, Stats.

**Publication Date:** February 27, 1998  
**Effective Date:** February 27, 1998  
**Expiration Date:** July 26, 1998  
**Hearing Date:** May 5, 1998

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**EMERGENCY RULES NOW IN EFFECT**

*Technical College System Board*

Rules adopted creating **ch. TCS 15**, relating to Faculty Development Grants.

**Finding of Emergency**

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

1997 Wis. Act 27 (the 1997-99 biennial budget bill) took effect on October 14, 1997, which was three and a half months into fiscal year 1997-98. That act created ss. 20.292(1)(eg) and 38.33, Stats. An annual appropriation of \$832,000 in each of the state fiscal years of the 1997-99 biennium was established. These funds are to be awarded by the technical college system board as grants to technical college district boards to establish faculty development programs.

The Act requires the technical college system board to promulgate rules establishing specific criteria for awarding these grants. The technical college system board has just begun the permanent rule making process for establishing administrative rules for the faculty development grants program. However, there is insufficient time to have the permanent rules in place before the local technical college districts must submit their proposals for faculty development grants under s. 38.33, Stats. It is imperative that the program be implemented and the funds be distributed before the end of the fiscal year or else the appropriated funds will lapse to the general fund. The loss of funds, including local matching funds, will

have a detrimental effect on the ability of district boards to establish faculty development programs.

**Publication Date:** April 1, 1998  
**Effective Date:** April 1, 1998  
**Expiration Date:** August 29, 1998

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**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

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**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  
**Extension Through:** May 14, 1998

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**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

**Hearing Date:** March 16, 1998

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## EMERGENCY RULES NOW IN EFFECT

### *Workforce Development*

#### **(Wage Rates, chs. DWD 290-294)**

Rule adopted revising **ch. DWD 290**, relating to prevailing wage rates for state or local public works projects.

### **Finding of Emergency**

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

As explained in more detail in the analysis below, the Department of Workforce Development, acting under its statutory authority to adjust threshold limits in accordance with changes in construction costs, has determined that the increase in construction costs between April 1996 and November 1997 requires that the threshold limits for prevailing wage rate determinations be raised from \$30,000 to \$32,000 for single-trade projects and from \$150,000 to \$160,000 for multi-trade projects.

If these new threshold limits are not put into effect by an emergency rule, the old limits will remain in effect for approximately six months, until the conclusion of the regular rulemaking process. The practical effect of this would be that, between now and 7/1/98, a single-trade project costing more than \$30,000 but less than \$32,000, or a multi-trade project costing more than \$150,000 but less than \$160,000, would not be exempt from the requirement to get a prevailing wage rate determination. A local unit of government or state agency proceeding with a public works project in this cost range during this period would incur the added cost and difficulty of complying with the state prevailing wage laws, despite the fact that the threshold limit adjustment is based on national construction cost statistics and is very unlikely to be changed by the regular rulemaking process. The Department is proceeding with this emergency rule to avoid imposing this potential added cost on local governments and state agencies.

**Publication Date:** February 13, 1998

**Effective Date:** February 13, 1998

**Expiration Date:** July 12, 1998

**Hearing Date:** March 27, 1998

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## STATEMENTS OF SCOPE OF PROPOSED RULES

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### *Natural Resources*

**Subject:**

NR Code – Relating to unit boundary changes for Deer Management Units 73C and 75 (Lafayette and Iowa counties) and the deer hunting season and population management goal for Unit 67A (Marquette County).

**Description of policy issues:**

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

Deer management operations for deer management units. Interest groups include local conservation organizations, Conservation Congress and farm organizations.

This action does not represent a change from past policy.

**Statutory authority for the rule:**

Section 29.174, Stats.

**Anticipated time commitment:**

The anticipated time commitment is 48.5 hours. Three public hearings are proposed to be held in Mid–August, 1998 at Dodgeville, Montello and Shawano.

### *Natural Resources*

**Subject:**

NR Code – Relating to disabled turkey hunting special hunt opportunity rules.

**Description of policy issues:**

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

Pursuant to s. 29.174 (2) (f), the Department has the authority to establish special hunting opportunities for physically– and visually–disabled people. Turkey hunting has become very popular in Wisconsin, and interest is growing among disabled hunters. Several disabled hunters and the Disabled Advisory Committee have expressed desire to expand the disabled turkey hunting opportunities in Wisconsin. The Wisconsin State Chapter of the National Wild Turkey Federation is supportive of this change. The number of permits available through the regular spring drawing process will not be changed by this rule change.

This action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

Special turkey hunting opportunities for the disabled in Wisconsin are currently limited to 5 state parks. The only other option for disabled hunters is to enter the regular turkey permit drawing. As a result of the drawing system, the time period and zone in which a

disabled hunter may hunt are variable and unpredictable. This rule change would allow disabled hunters to team with a landowner to set up a special hunt in a zone and time period of their choice. The hunter and landowner would be required to fill out an application similar to the special disabled deer hunt, and a turkey hunting permit would be issued. The number of special permits allowed under this hunt would be limited to 1,000 per year and 50 in any one turkey hunting zone. The special hunt would be available only in the spring season.

**Statutory authority for the rule:**

Section 29.174 (2) (f), Stats.

**Anticipated time commitment:**

The anticipated time commitment is 25 hours. One public hearing is proposed to be held in July, 1998 at Madison.

### *Transportation*

**Subject:**

Ch. Trans 132 – Relating to issuing a temporary license plate in certain circumstances.

**Description of policy issues:**

*Description of the objective of the rule:*

1997 Wis. Act 27, the Biennial Budget, enacted a new law that requires Wisconsin residents to have either a valid metal license plate or a temporary plate on an automobile, station wagon or light truck, within 2 business days of vehicle purchase or transfer. The law requires DOT to establish by administrative rule several design specifications and the system to identify issuance dates of temporary plates. This rule amendment to ch. Trans 132 makes those required changes.

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

Currently, DMV and motor vehicle dealers may issue a temporary plate in certain circumstances, for a fee. Chapter Trans 132 specifies these situations. This rule amendment will make changes necessary to implement the mandatory use of a metal or temporary plate by purchasers of automobiles, station wagons and light trucks as established in the new law.

**Statutory authority for the rule:**

Sections 85.16 (1), 227.11 and 341.09 (1) (b), Stats., as created by 1997 Wis. Act 27.

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

50 hours of staff time.

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## *SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE*

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### **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.*

#### **Controlled Substances Board**

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

On April 7, 1998 the Controlled Substances Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

##### **Analysis**

*Statutory authority:* ss. 961.11 and 961.19, Stats.

The proposed rule-making order relates to adding butorphanol to the classification of controlled substances in schedule IV of chapter 961, Stats., the Uniform Controlled Substances Act.

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

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

##### **Contact Person**

If you have any questions, you may contact:

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

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

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

On April 15, 1998 the Funeral Directors Examining Board submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

##### **Analysis**

*Statutory authority:* ss. 15.08 (5) (b), 227.11 (2), 445.04, 445.045 and 445.06, Stats.

The proposed rule-making order relates to the practice of funeral directors.

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

A public hearing is required and will be held on May 19, 1998.

##### **Contact Person**

If you have any questions, you may contact:

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

#### **Natural Resources**

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

On April 7, 1998 the Wisconsin Department of Natural Resources submitted a proposed rule [FH-18-98] to the Wisconsin Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule-making order affecting ch. NR 16, subch. II, relates to the development of fees, criteria and procedures to use when permitting the use of natural waters as fish farms.

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

A public hearing is required and public hearings will be held on May 12, 13, 19 and 20, 1998.

##### **Contact Person**

If you have any questions, you may contact:

Dale Simon  
Bureau of Fisheries Management and  
Habitat Protection  
Telephone (608) 266-1877

#### **Natural Resources**

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

On April 7, 1998 the Wisconsin Department of Natural Resources submitted a proposed rule [FR-25-98] to the Wisconsin Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule-making order affecting ch. NR 46, relates to the administration of the Forest Crop Law and the Managed Forest Law.

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

A public hearing is required and will be held on May 13, 1998.

##### **Contact Person**

If you have any questions, you may contact:

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

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## NOTICE SECTION

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### Notice of Hearing

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

► (Reprinted from April 15, 1998 *Wis. Adm. Register*)

### Emergency Rules related to Fish Farms

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a department emergency rule related to fish farms and live fish and fish egg imports (chs. ATCP 10 and 11, Wis. Adm. Code).

The hearing will be held at the time and place shown below. The public is invited to attend the hearing and make comments on the rule. An interpreter for the hearing-impaired will be available on request for this hearing. Please make reservations for a hearing interpreter by **April 19, 1998**, either by writing to Lynn Jarzombek, P. O. Box 8911, Madison, WI 53708-8911, or by calling 608-224-4883. TTY users call 608-224-5058.

### Hearing Information

**April 27, 1998**  
**Monday**  
**commencing at 5:00 p.m.**

**Dept. of Agriculture, Trade  
and Consumer Protection  
Board Room  
2811 Agriculture Drive  
Madison, WI**

Handicapped accessible

### Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection

*Statutory authority:* ss. 93.07(1), 95.60(4s)(e) & (5)

*Statute interpreted:* s. 95.60

This emergency rule implements s. 95.60, Stats., by doing all of the following:

- Establishing an interim procedure for registering fish farms in 1998. The department plans to adopt permanent rules, which may differ from this emergency rule, relating to registration of fish farms after 1998.
- Establishing interim permit requirements for importing live fish or fish eggs into Wisconsin.
- Requiring fish farm operators and fish importers to keep records.

#### Fish Farms

##### Registration

Under s. 95.60, Stats., as enacted by 1997 Wis. Act 27 effective October 14, 1997, the Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for registering fish farms in Wisconsin. The new annual registration program replaces an annual licensing program previously administered by the Department of Natural Resources (DNR).

DNR licensed more than 2000 fish farms for calendar year 1997. Fish farms previously licensed by DNR must now be registered with DATCP. DATCP's 1998 registration requirement takes effect immediately after DNR's 1997 license requirement expires.

##### Registration Procedures: General

This emergency rule establishes interim fish farm registration procedures. Under this emergency rule:

- No person may operate a fish farm without a DATCP registration certificate. A registration certificate expires on December 31, 1998.

- A registration certificate is effective on the day it is issued except that, if a fish farm operator licensed by DNR in 1997 files a renewal application with DATCP by April 10, 1998, the DATCP registration certificate is retroactive to January 1, 1998.

- Fish farm registrations are not transferable between persons or locations. A person who operates 2 or more fish farms at non-contiguous locations must obtain a separate registration certificate for each location.

##### Registration Categories

A fish farm operator must hold a type A, B, C or D registration certificate for that fish farm:

- A type A registration is normally required for a fish farm at which the operator does any of the following:

- \*Hatches fish or produces fish eggs at that fish farm for sale or trade to any person.

- \*Allows public fishing, for a fee, for fish hatched at that fish farm.

- A type B registration is normally required if the fish farm operator does any of the following and does not hold a type A registration:

- \*Allows public fishing at the fish farm for a fee.

- \*Sells or trades fish, from the fish farm, to any person.

- A type C registration authorizes the registrant to operate a fish farm. It does not authorize activities for which a type A or B registration is required, except that a type C registrant may do either of the following without a type A or B registration:

- \*Sell minnows to any person

- \*Sell fish or fish eggs to a type A registrant.

- A type D registration authorizes the registrant to sell or trade fish from a fish farm without a type A or B registration if all of the following apply:

- \*The operator does not hatch fish, produce fish eggs or permit public fishing for a fee at that fish farm.

- \*The fish farm consists solely of ponds used to hold or grow fish.

- \*The operator holds a type A or B registration certificate for another fish farm located on a nonadjacent parcel of land.

##### Registration Fees

This emergency rule establishes the following registration fees:

- Type A registration \$50.00
- Type B registration \$25.00
- Type C registration \$ 5.00
- Type D registration \$ 5.00

School systems operating fish farms must register with DATCP but are exempt from fees. The operator of a fish farm registered for less than a full year must pay the full year's fee.

If an operator was licensed by DNR in 1997, but files a renewal application with DATCP after April 10, 1998, the operator must pay a late renewal fee equal to 20% of the registration fee or \$5.00, whichever is greater.

##### Deadlines for DATCP Action on Registration Applications

If a person licensed by DNR to operate a fish farm in 1997 applies to register that fish farm with DATCP, DATCP must grant or deny the application within 30 days after the applicant files a complete application, including the correct fee, with DATCP. DATCP will deny the application, if the applicant has not filed a 1997 "private fish hatchery annual report" with the department of natural resources.

If a person applying to register a fish farm was not licensed by the department of natural resources to operate that fish farm in 1997,

DATCP must grant or deny that person's registration application within 30 days after all of the following occur:

- The applicant files a complete application including the correct fee.
- DNR informs DATCP that DNR has approved the facility.

#### Recordkeeping

This emergency rule requires a fish farm operator to keep the following records for all fish and fish eggs which the operator receives from or delivers to another person:

- The name, address, and fish farm registration number if any, of the person from whom the operator received or to whom the operator delivered the fish or fish eggs.
- The date on which the operator received or delivered the fish or fish eggs.
- The location at which the operator received or delivered the fish or fish eggs.
- The size, quantity and species of fish or fish eggs received or delivered.

A fish farm operator must make these records available to DATCP, upon request, for inspection and copying.

#### Denying, Suspending or Revoking a Registration

DATCP may deny, suspend or revoke a fish farm registration for cause, including any of the following:

- Violating ch. 95, Stats., or applicable DATCP rules.
- Violating the terms of the registration
- Preventing a DATCP employee from performing his or her official duties, or interfering with the lawful performance of those duties.
- Physically assaulting a DATCP employee performing his or her official duties.
- Refusing or failing, without just cause, to produce records or respond to a DATCP subpoena.
- Paying registration fees with a worthless check.

### **Fish Imports**

#### Import Permit Required

This rule prohibits any person from importing into this state, without a permit from DATCP, live fish or fish eggs for any of the following purposes:

- Introducing them into the waters of the state.
- Selling them as bait, or for resale as bait.
- Rearing them at a fish farm, or selling them for rearing at a fish farm.

A copy of the import permit must accompany every import shipment. An import permit may authorize multiple import shipments. There is no fee for an import permit. A person importing a non-native species of fish or fish eggs must also obtain a permit from the department of natural resources.

#### Import Permit Contents

An import permit must specify all of the following:

- The expiration date of the import permit. An import permit expires on December 31 of the year in which it is issued, unless DATCP specifies an earlier expiration date.
- The name, address and telephone number of the permit holder who is authorized to import fish or fish eggs under the permit.
- The number of each fish farm registration certificate, if any, held by the importer.
- Each species of fish or fish eggs which the importer is authorized to import under the permit.
- The number and size of fish of each species, and the number of fish eggs of each species, that the importer may import under the permit.
- The purpose for which the fish or fish eggs are being imported.

- The name, address and telephone number of every source from which the importer may import fish or fish eggs under the permit.

- The name, address, telephone number, and fish farm registration number if applicable, of each person in this state who may receive an import shipment under the permit if the person receiving the import shipment is not the importer.

#### Applying for an Import Permit

A person seeking an import permit must apply on a form provided by DATCP. The application must include all of the following:

- All of the information which must be included in the permit (see above).
- A health certificate for each source from which the applicant proposes to import fish or fish eggs of the family salmonidae.

DATCP must grant or deny a permit application within 30 days after it receives a complete application and, in the case of non-native fish DNR approval.

#### Denying, Suspending or Revoking an Import Permit

DATCP may deny, suspend or revoke an import permit for cause, including any of the following:

- Violating applicable statutes or rules.
- Violating the terms of the import permit, or exceeding the import authorization granted by the permit.
- Preventing a department employe from performing his or her official duties, or interfering with the lawful performance of his or her duties.
- Physically assaulting a department employe while the employe is performing his or her official duties.
- Refusing or failing, without just cause, to produce records or respond to a department subpoena.

#### Import Records

A person importing fish or fish eggs must keep all of the following records related to each import shipment, and must make the records available to the department for inspection and copying upon request:

- The date of the import shipment.
- The name, address and telephone number of the source from which the import shipment originated.
- The name, address, telephone number, and fish farm registration number if applicable of the person receiving the import shipment, if the person receiving the import shipment is not the importer.
- The location at which the import shipment was received in this state.
- The size, quantity and species of fish or fish eggs included in the import shipment.

#### Salmonidae Import Sources: Health Certificates

DATCP may not issue a permit authorizing any person to import fish or fish eggs of the family salmonidae (including trout, salmon, grayling, char, Dolly Vardon, whitefish, cisco or inconnu) unless a fish inspector or an accredited veterinarian certifies, not earlier than January 1 of the year preceding the year in which the applicant applies for the permit, that the fish and fish eggs from the import source were determined to be free of all of the following diseases:

- Infectious hematopoietic necrosis.
- Viral hemorrhagic septicemia.
- Whirling disease, except that eggs from wild stocks need not be certified free of whirling disease.
- Enteric redmouth.
- Ceratomyxosis.

A fish inspector issuing a health certificate must be a fish biologist who is certified, by the American Fisheries Society or the state of origin as being competent to perform health inspections of fish.

The accredited veterinarian or fish inspector must issue a health certificate in the state of origin, based on a personal inspection of the fish farm from which the import shipment originates. In the inspection, an accredited veterinarian or a fish inspector must examine a random statistical sample of fish drawn from each lot on the fish farm. From each lot, the veterinarian or inspector must examine

a number of fish which is adequate to discover, at the 95% confidence level, any disease that has infected 5% of the lot.

## Fiscal Estimate

The complete fiscal note is available on request.

For purposes of this fiscal estimate, it is estimated that 2,574 fish farms will register with the department during 1998.

Revenue:

Per s. 95.60, Stats., the department shall specify the fee for registration of fish farms. This proposal would establish a 1998 registration fee of \$50 for a Type A registration, \$25 for a Type B registration, and \$5 for a Type C registration and \$5 for a Type D registration. These fees are applicable as of January 1, 1998, for the calendar year 1998. Any private fish hatchery licensed by the Department of Natural Resources in 1997 would be eligible for renewal with the Department of Agriculture, Trade and Consumer Protection during 1998. Revenue for 1998 is estimated at \$23,900. Revenues from the fish farm registrations will be used to administer the fish farm program within the Division of Animal Health.

Expenses associated specifically with this rule follow:

Administrative expense will be incurred by the department with registering fish farms, issuing permits for the importation of live fish or fish eggs, investigatory and enforcement activities, veterinary services and in providing educational and technical assistance to the public by providing information and responding to questions on various aspects of the program, on statutory requirements related to fish farming and on aquaculture in general. Expenses for 1998 are estimated at \$74,000.

## Initial Regulatory Flexibility Analysis

See page 25 of the April 15, 1998 *Wis. Adm. Register*.

## Copies of Rule

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

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

## Notice of Hearing

### *Agriculture, Trade and Consumer Protection*

► (Reprinted from April 15, 1998 *Wis. Adm. Register*)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection will hold a public hearing on an emergency rule related to the use of herbicides containing clomazone, sold under the product name, "Command".

A "plain language" analysis and the emergency rule are set forth below. The emergency rule took effect on **March 14, 1998**, and will remain in effect until **August 11, 1998**.

## Hearing Information

The public hearing will be held:

April 28, 1998  
Tuesday  
1:00 p.m. to  
5:00 p.m.

Board Room  
Prairie Oak State Office Bldg.  
DATCP  
2811 Agriculture Dr.  
MADISON, WI

## Written Comments

The public is invited to attend the hearing and comment on the emergency rule. Following the public hearing, the hearing record will remain open until **May 15, 1998** to receive additional written comments.

An interpreter for the hearing-impaired will be available on request for this hearing. Please make reservations for a hearing interpreter by **April 22, 1998** either by writing to Karen Fenster, Agricultural Resource Management Division, P.O. Box 8911, Madison, WI 53708-8911 or by calling the Department TDD at (608) 224-5058. Handicap access is available at the hearing.

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

*Statutory authority:* ss. 93.07(1), 94.69 and 227.24

*Statutes interpreted:* ss. 94.67 to 94.71

This rule restricts the sale and use of pesticides containing the active ingredient clomazone. Clomazone is the pesticide active ingredient contained in "Command" herbicide, manufactured and distributed by FMC Corporation. "Command" is registered for use on soybeans, cotton, tobacco, peppers, pumpkins, and peas. It is also specially registered in Wisconsin for cabbage and cucumbers.

### Background

Clomazone is volatile and can move from applications to non-target plants hundreds of feet from the application site. Clomazone inhibits the formation of chlorophyll, causing non-target plants to turn yellow or white. While the damage is usually temporary, it has resulted in many complaints to the Department.

In 1997, after a new formulation of "Command" was widely used in Wisconsin, the Department received 49 complaints of movement to non-target plants. These complaints comprised 20% of all pesticide complaints received by the Department in 1997. Department field staff report that these complaints represented only a fraction of the total number of "Command" incidents that occurred. The damage to non-target plants was also more severe and long-lasting than in prior years.

### Emergency Rule

The Department is adopting this emergency rule to reduce non-target damage associated with the use of "Command." The Department believes that regulation can prevent non-target damage without halting the use of this highly-effective herbicide.

Soybeans are the primary crop on which "Command" is used. The herbicide is applied in the spring of the year when soybeans are being planted. The Department is adopting this rule as an emergency rule under s. 227.24, Stats., so that the rule will be in place prior to the 1998 soybean planting season. This would not be possible using normal rulemaking procedures. Early implementation of this rule is necessary to protect the public peace and welfare.

### General Restrictions

Under this rule:

- ♣ Individuals who purchase or use "Command" must be certified by the Department as commercial or private applicators. They must also be trained by the product manufacturer (registrant).
- ♣ An applicator must inspect each application site before applying the herbicide.
- ♣ An applicator may not apply the herbicide to fields where more than half of the surface area is classified, on soil maps published by the United States Department of Agriculture, as being "poorly drained" or "very poorly drained."

### Microencapsulated Formulations: Use Restrictions

According to federally-registered product labels, "Command" herbicide in microencapsulated formulations must be applied to the land surface and may not be incorporated into the soil. Under this rule, no microencapsulated formulation may be applied at a rate exceeding 0.75 pounds of active ingredient per acre.

Current labels prohibit surface applications within 1,200 feet of "towns and housing developments, commercial fruit/nut or vegetable production, commercial greenhouses or nurseries," but do not restrict applications near individual residences. This rule prohibits surface applications within 600 feet of any residential property (including residential structures, lawns, gardens and ornamental plantings) without the occupant's written permission.

Emulsifiable Concentrate Formulations: Use Restrictions

According to federally-approved product labels, "Command" herbicide in emulsifiable concentrate formulation must be incorporated into the soil to a depth of at least one inch within 8 hours of application. This rule includes the same requirement. It also prohibits soil-incorporated applications to overly-wet soil, and prohibits the use of a drill and drag to incorporate the herbicide into the soil. Under this rule, both the person making the herbicide application and the person tilling the land are responsible for ensuring that the herbicide is properly incorporated into the soil.

Current labels prohibit soil-incorporated applications within 1,000 feet of "towns and housing developments, commercial fruit/nut or vegetable production, commercial greenhouses or nurseries," but do not restrict soil-incorporated applications near individual residences. Under this rule, the herbicide must first be incorporated into the soil in those parts of the application site that are closest to residences or other sensitive areas. This rule does not prohibit soil-incorporated applications near individual residences.

**Text of Emergency Rulemaking Order**

See page 28 of the April 15, 1998 Wis. Adm. Register.

**Fiscal Estimate**

The Department does not expect this emergency rule to have any fiscal effect.

**Copies of Rule and Contact Person**

A copy of the emergency rule and fiscal estimate can be obtained at no charge by making a written request to:

Karen Fenster, (608) 224-4542  
Agricultural Resource Mgmt. Division, DATCP  
P.O. Box 8911  
Madison, WI 53708-8911

**Initial Regulatory Flexibility Analysis**

A regulatory flexibility analysis as required under s. 227.114, Stats., will be prepared and published as part of a proposed permanent rule to create ch. ATCP 36, Wis. Adm. Code.

**Notice of Hearing***Controlled Substances Board*

Notice is hereby given that pursuant to authority vested in the Controlled Substances Board in ss. 961.11 and 961.19, Stats., and interpreting s. 961.20, Stats., the Controlled Substances Board will hold a public hearing at the time and place indicated below to consider an order to create s. CSB 2.24, relating to adding butorphanol to the classification of controlled substances in schedule IV of ch. 961, Stats., the Uniform Controlled Substances Act.

**Hearing Information**

The public hearing will be held:

June 3, 1998  
Wednesday  
9:30 A.M.

Rm. 179A  
1400 East Washington Ave.  
MADISON, WI

**Written Comments**

Interested people are invited to present information at the hearing. People appearing may make an oral presentation, but are urged to submit facts, opinions and argument in writing as well. Facts,

opinions and argument may also be submitted in writing without a personal appearance by mail addressed to:

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

Written comments must be received by **June 17, 1998** to be included in the record of rule-making proceedings.

**Analysis Prepared by the Dept. of Regulation & Licensing**

*Statutes authorizing promulgation:* ss. 961.11 and 961.19

*Statute interpreted:* s. 961.20

This proposed order of the Controlled Substances Board classifies the prescription drug, butorphanol, as a schedule IV controlled substance in the state of Wisconsin. Effective October 1, 1997, the federal Drug Enforcement Administration (DEA) placed butorphanol, including its salts and isomers, into schedule IV of the federal Controlled Substances Act (CSA). The purpose of this rule is to bring the treatment of butorphanol in this state into conformity with that given under federal law.

Butorphanol is classified as an opioid agonist-antagonist analgesic that is marketed as a prescription drug for the relief of moderate to severe pain in humans. It is also marketed as a veterinary product for use in horses and dogs. Based on scientific and medical evaluation, as well as consideration of the federal counter-parts to the factors listed in s. 961.11 (1m), Stats., the DEA determined that butorphanol, whether administered orally, intravenously, or intranasally, had an abuse potential consistent with federal control within schedule IV of the CSA. Reports of abuse and diversion previously had led Canada and seven U.S. states to classify butorphanol as a controlled substance. Classifying butorphanol as a schedule IV controlled substance under the Uniform Controlled Substances Act, Chapter 961, Stats., will bring this state's treatment of butorphanol into conformity with that accorded at the federal level.

**Text of Rule**

SECTION 1. CSB 2.24 is created to read:

CSB 2.24 Addition of butorphanol to schedule IV. Paragraph (c) of s. 961.20 (4), is created to read:

(c) Butorphanol, including any of its isomers and salts of isomers.

**Fiscal Estimate**

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

**Initial Regulatory Flexibility Analysis**

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

**Copies of Rule and Contact Person**

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

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



## Notice of Hearing

### Funeral Directors Examining Board

Notice is hereby given that pursuant to authority vested in the Funeral Directors Examining Board in ss. 15.08 (5) (b), 227.11 (2), 445.04, 445.045 and 445.06, Stats., and interpreting s. 445.03 (2) (a), Stats., the Funeral Directors Examining Board will hold a public hearing at the time and place indicated below to consider an order to revise chs. FD 1 to 5, relating to the practice of funeral directors.

### Hearing Information

The public hearing will be held:

May 19, 1998  
Tuesday  
10:00 A.M.

Rm. 291  
1400 East Washington Ave.  
MADISON, WI

### Written Comments

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

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

Written comments must be received by **June 4, 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), 445.04, 445.045 and 445.06

*Statute interpreted:* s. 445.03 (2) (a)

The Funeral Directors Examining Board amends and repeals existing rules in chs. FD 1 to 5. The amendments relate to: statutory authority; form, style and placement of provisions in the rules; conflicts or duplication of existing rules; the adequacy of references to related statutes, rules and forms; and the clarity, grammar, punctuation and use of plain language. Language is being added concerning accommodations for persons with disabilities. Provisions relating to passing scores of the licensing examinations, examination reviews and dishonest acts by examination candidates are also amended.

### Text of Rule

**SECTION 1.** FD 1.02 is amended to read:

**FD 1.02 Examination applications.** Applications for taking the examination for a funeral director or embalmer must be on file at least 30 days before the date of the examination. The board may accept applications after the 30-day limit if the circumstances warrant such procedure.

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

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

**SECTION 2.** FD 1.03 is repealed and recreated to read:

**FD 1.03 Examination grade.** (1) To pass the initial licensure examination 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, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

(2) The release of grades or the issuance of a funeral director license may be denied if the board determines that an applicant violated the rules of conduct of the examination or otherwise acted dishonestly.

**SECTION 3.** FD 1.035 is created to read:

**FD 1.035 Examination review.** (1) An applicant who fails the state board examination may request a review of that examination by filing a written request with the board within 30 days of the date on which the examination results were mailed.

(2) Examination reviews are by appointment only.

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

(4) An applicant may not be accompanied during the review by any person other than the proctor.

(5) An applicant shall be provided with a copy of the questions, a copy of the applicant's answer sheet and a copy of the master answer sheet.

(6) An applicant may review the examination in the presence of a proctor. An applicant shall be provided with a form on which to write comments, questions or claims of error regarding any items in the examination. Bound reference books shall be permitted. An applicant shall not remove any notes from the area. Notes shall be retained by the proctor and made available to the applicant for use at a hearing, if desired. The proctor shall not defend the examination nor attempt to refute claims of error during the review.

(7) An applicant may not review the examination more than once.

**SECTION 4.** A Note following s. FD 1.08 is created to read:

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

**SECTION 5.** FD 1.10 (1) and (2) are repealed and recreated to read:

**FD 1.10 Requirements for renewal; restoration of licenses.** (1) To renew a funeral director license a licensee shall, by January 1 of each even-numbered year following initial licensure, provide all of the following to the board:

(a) An application for renewal on a form provided by the department.

(b) Evidence that the licensee has, during the biennial period immediately preceding application, completed the continuing education requirements specified in s. FD 4.03.

(c) A fee in the amount required under s. 440.08 (2) (a), Stats.

(2) A licensee who fails to meet the requirements of sub. (1) by the renewal date shall cease and desist from practicing as a funeral director. A licensee who fails to meet the requirements of sub. (1) and who applies for renewal less than 5 years after the expiration date of his or her license may renew by furnishing the following to the board:

(a) An application for renewal on a form provided by the department.

(b) Evidence that the licensee has completed at least 15 hours of continuing education during the previous 2 year licensure period as required under s. 445.06, Stats., and s. FD 4.03.

(c) The renewal fee specified in s. 440.08 (2) (a) and (3) (a), Stats.

**SECTION 6.** FD 1.10 (3) is amended to read:

FD 1.10 (3) A funeral director who files an application for renewal more than 5 years after the ~~renewal~~ expiration date of his or her license may be reinstated by filing with the board an application and fees ~~under specified~~ in s. 440.08 (2) and (3) (a) 2., Stats., and the ~~The~~ board may also require demonstration of competence by various methods, including, but not limited to, written or oral examination, documentation of funeral directing work in other jurisdictions, or documentation of current education or experience in the field. Any examination or education required under this section shall not be more extensive than the educational or examination requirements for an initial credential from the board.

**SECTION 7.** A Note following s. FD 2.01 is created to read:

**Note:** Funeral directors must comply with the standards adopted by the Federal Trade Commission and set forth in 16 CFR 453.

**SECTION 8.** FD 2.02 (1) is amended to read:

FD 2.02 (1) "Funeral arrangements" means the provision of information or advice on selection and cost of merchandise, facilities, equipment or personal services provided for final ~~deposition~~ disposition of a dead human body in the course of formulating a contractual agreement between a funeral director or funeral home and client.

**SECTION 9.** FD 2.09 is amended to read:

**FD 2.09 Commissions prohibited.** ~~Paying~~ Except as provided in s. 445.125 (3m), Stats., paying or accepting a commission or a salary based upon the selling price or number of funeral services sold shall be considered unethical and is therefore prohibited.

**SECTION 10.** FD 2.10 (2) is amended to read:

FD 2.10 (2) All post-mortem procedures shall be performed and all preparation rooms, equipment, instruments and supplies in funeral establishments shall be maintained in compliance with the terms and conditions set forth in the United States occupational safety and health administration requirements standard for occupational exposure to blood borne pathogens, 29 CFR 1910.1030. In cases of HIV infection, after the body has been prepared in accordance with s. HSS 316.04 HFS 136.04, the usual and customary procedures may be followed for restoration and cosmetology. Following embalming and body preparation, no special precautions need to be observed during visitation.

**SECTION 11.** FD 2.12 is renumbered s. FD 1.11 and, as renumbered, s. FD 1.11 (2) is amended to read:

FD 1.11 (2) **RECOGNIZED FUNERAL ESTABLISHMENT.** For purposes of renewal of licenses under s. ~~455.06~~ 445.06, Stats., "recognized funeral establishment" means any building or part of a building used and held out to the public as being used in the care and preparation for burial and transportation of dead human bodies or for holding or conducting of funeral services.

**SECTION 12.** FD 3.02 (4), (7), (11) and (13) are amended to read:

FD 3.02 (4) Performing of any funeral ~~or embalming duty during the planning or conducting of services~~ director duty while under the influence of alcohol or controlled substances. ~~(Controlled substances are listed in ch. 464.961, Stats.)~~

(7) Disclosing confidential information ~~gained obtained in the performance of official duties outside of family members or official persons performing duly authorized duties.~~

(11) Failing to provide to the depositor, within 15 working days of receipt of a payment, written confirmation of receipt and deposit of payment made pursuant to a funeral trust agreement in accordance with s. 445.125 ~~(2)~~ (1) (b), Stats. Such written confirmation shall include the name of the bank, trust company, savings and loan association or credit union, the account number, the date of deposit, and a copy of the deposit slip or other documentary evidence of a payment deposited.

(13) Engaging in inappropriate sexual contact with clients of the funeral establishment ~~when acting as a grief counselor.~~

**SECTION 13.** FD 4.03 (7) is amended to read:

FD 4.03 (7) No more than 10 hours of the 15-hour requirement may be acquired through participation in ~~non-contract non-contact~~ home study programs.

**SECTION 14.** FD 4.04 (1) (a) 4. and (b) are amended to read:

FD 4.04 (1) (a) 4. Technical or practical aspects of the profession;

(b) The program is available to all funeral directors regardless of membership in or affiliation with any organization; ~~and;~~

**SECTION 15.** FD 5.01 is amended to read:

**FD 5.01 Qualifications.** A person licensed as a funeral director in another state may obtain a license as a funeral director under this chapter if the applicant:

(1) Has met requirements in another state substantially equal to those in this state;

(2) Has never been disciplined by the licensing authority in any other state, territory or country for any misconduct or violations which ~~evidence~~ demonstrate lack of competence to practice as a funeral director in Wisconsin as determined by the board;

(3) Is not under any current investigation and is not a party in a proceeding involving a complaint against the applicant which relates to the applicant's practice as a funeral director;

(4) Does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335, Stats.

(5) Has satisfactorily completed 9 months or more of instruction in a prescribed curriculum in funeral service education offered by an educational institution accredited by the American board of funeral service education or deemed to be equivalent by the board; ~~and;~~

(6) ~~Completes the~~ Successfully passes the board's examination on Wisconsin law ~~with a score of at least 75.~~ 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, and shall set the passing grade for the examination at that point which represents minimum acceptable competence in the profession.

**SECTION 16.** A Note following s. FD 5.02 (1) (b) is created to read:

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

### **Fiscal Estimate**

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

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

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

### **Initial Regulatory Flexibility Analysis**

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

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

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

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

### **Notice of Hearing**

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

#### **(Health, Chs. HFS 110--)**

Notice is hereby given that, pursuant to s. 254.61 (5) (g), Stats., as created by 1997 Wis. Act 27, and s. 254.74 (1), Stats., the Department of Health and Family Services will hold a public hearing to consider the amendment of s. HFS 196.03 (22) (e) and (f), Wis. Adm. Code, and the creation of s. HFS 196.03 (22) (g), Wis. Adm. Code, relating to exemption of concession stands at locally sponsored sporting events from being regulated as restaurants, and the emergency rules now in effect on the same subject.

## Hearing Information

The public hearing will be held:

May 11, 1998  
Monday  
Beginning at  
1:00 p.m.

Rm. 260  
Municipal Building  
215 Martin L. King, Jr. Blvd.  
MADISON, WI

*The hearing site is fully accessible to people with disabilities.*

## Analysis Prepared by the Dept. of Health & Family Services

The current Budget Act, 1997 Wis. Act 27, effective October 14, 1997, created s. 254.61 (5) (g), Stats., to exempt a concession stand at a "locally sponsored sporting event" from being regulated under ch. HFS 196 as a restaurant. Following enactment of the State Budget, the Department received several inquiries from its own region-based inspectors and local health departments serving as the Department's agents for enforcement of the Department's environmental sanitation rules, including rules for restaurants, about the meaning of "locally sponsored sporting event." What did the term cover? Did it cover food stands at facilities of locally-owned sports franchises? Were these now to be exempt from regulation under the restaurant rules?

This rulemaking order adds the new exemption to the Department's rules for restaurants and, in this connection, defines both "locally sponsored sporting event" and "concession stand." The order makes clear that the exemption refers only to concession stands at sporting events for youth, that is, for persons under 18 years of age. That interpretation is supported by the statutory phrase, "such as a little league game," that follows the term, "locally sponsored sporting event," in s. 254.61 (5) (g), Stats. The order further narrows the applicability of the exemption by building into the definitions the Department's understanding of who organizes or sponsors an exempt sporting event and on whose behalf a concession stand at the event is operated.

Because the process for making permanent rule changes takes several months, the Department published the rule changes by emergency order effective **March 14, 1998**. The Department is now proposing to replace the emergency rules with identical permanent rules.

## Text of Rule

**SECTION 1.** HFS 196.03 (22) (e) and (f) are amended to read:

HFS 196.03 (22) (e) Bed and breakfast establishments; or

(f) A private individual selling food from a moveable or temporary stand at a public farm sale; or

**SECTION 2.** HFS 196.03 (22) (g) is created to read:

HFS 196.03 (22) (g) *A concession stand at a locally sponsored sporting event, such as a little league game.* In this paragraph, "concession stand" means a food stand which serves meals and is operated exclusively for the benefit of a participating youth sports team or program or the governing youth sports organization, and "locally sponsored sporting event" means a competitive game, taking place inside or outside, specifically for youth under the age of 18, which is organized or sponsored by one or more local business, governmental or other civic organizations, or by parents of the youth, including a school-sponsored interscholastic sports competition.

**Note:** Examples of locally sponsored sporting events are peewee, midget and little league baseball games, youth soccer games, minicycle races and time trials for youth, youth basketball games, youth football games, track and field competitions for youth, youth hockey tournaments and youth swimming meets.

## Contact Person

To find out more about the hearing, write or phone:

Edward Rabotski, (608) 266-8294 or,  
if you are hearing-impaired, 608-266-1511 (TTY)  
Environmental Epidemiology and Prevention Section  
Division of Health  
P.O. Box 309  
Madison WI 53701-0309

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

## Written Comments

Written comments on the proposed rules received at the above address no later than **May 14, 1998**, will be given the same consideration as testimony presented at the hearing.

## Fiscal Estimate

This order amends the Department's rules for restaurants to add concession stands at locally sponsored sporting events to a list of food service operations that are exempt under s. 254.61 (5), Stats., from being regulated as restaurants, and for this purpose to define "concession stand" and "locally sponsored sporting event." The addition of "a concession stand at a locally sponsored sporting event, such as a little league game," was made to the list of exempt food service operations in s. 254.61 (5), Stats., by 1997 Wis. Act 27.

At the beginning of February 1998 the Department and agent county, city and city-county local health departments together regulated 19,635 restaurants under ch. HFS 196. The new exemption applies to very few food service operations, and will mean for both the Department and agent local health departments a very modest reduction in workload and permit fee revenues. But those reductions are the consequence of the statute change. The rulemaking order itself will not affect the expenditures or revenues of state government or local governments.

## Initial Regulatory Flexibility Analysis

This rule change, exempting concession stands at locally sponsored sporting events from being regulated as restaurants and in this connection defining "locally sponsored sporting event" and "concession stand," will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. This is because, although virtually all of the affected food service operations are business entities in the sense that they are intended to make a profit, and all are small, the exemption is statutory (s. 254.61 (5) (g), Stats., as created by 1997 Wis. Act 27).

The Department has defined "concession stand," in part, as a food stand operated exclusively for the benefit of a participating youth sports team or program or the governing youth sports organization, and has defined "locally sponsored sporting event," in part, as an event that is specifically for youth under the age of 18 and is organized or sponsored by one or more local business, governmental or other civic organizations or by a school or schools.

The Department and agent local government health departments as of February 1, 1998 regulated 19,635 restaurants in the state under ch. HFS 196. Very few of these food service operations are exempt from being regulated as restaurants because of the statutory change that this rulemaking order is implementing.

## Notice of Hearing

### Commissioner of Insurance

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedures set forth in ss. 227.18, &

227.24 (4) Stats., OCI will hold a public hearing to consider the adoption of proposed rulemaking orders affecting ss. Ins 18.05 (5) and 18.07 (intro.), (5) (a), (br) and (bm), Wis. Adm. Code, relating to Wisconsin health insurance risk-sharing plan (HIRSP) creditable coverage and \$2500 deductible policy. This hearing will also concern emergency rules now in effect which are identical to the proposed rules.

### Hearing Information

The public hearing will be held:

May 15, 1998  
Friday  
11:00 A.M.

Rm. 23, OCI  
121 East Wilson St.  
MADISON, WI

### Written Comments

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to:

Stephen Mueller, OCI  
P.O. Box 7873  
Madison, WI 53707

### Analysis Prepared by the Office of the Commissioner of Insurance

*Statutory authority:* ss. 149.115 and 601.41 (3)

*Statutes interpreted:* ss. 149.115 and 149.10 (2t) (a)

This change is mandated by 1997 Wis. Act 27 which, among other things, transferred the responsibility of the state health insurance risk sharing plan ("HIRSP") to the Department of Health and Family Services as of January 1, 1998. The HIRSP statutes were renumbered from ch. 619, Stats., to ch. 149, Stats., and amended in ways that require promulgation of new rules. Responsibility for promulgation of most of these rules was placed with the Department and, in fact, the HIRSP rules, formerly ch. Ins 18, are expected to be transferred to the Department and renumbered ch. HFS 119 on March 1, 1998. However, s. 149.115, Stats., requires the Commissioner after consultation with the Department to promulgate rules with respect to the term "creditable coverage" and requires that those rules comply with section 2701 (c) of P.L. 104-191, the federal health insurance portability and accountability act ("HIPAA"). HIPAA supercedes portions of state law, is manifested in much of 1997 Wis. Act 27, and originated the term "creditable coverage". Following passage of HIPAA, the Federal Health and Human Services Administration promulgated their own rules concerning, among other things, methods of counting creditable coverage; therefore, this rule simply incorporates the federal rule to satisfy the legislative mandate that the Commissioner promulgate rules that specify how creditable coverage be aggregated (counted) under HIRSP.

### Analysis Prepared by the Office of the Commissioner of Insurance

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

*Statute 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), Stats., premium reductions do not apply to this alternative plan. Section 619.146 (2) (b), Stats., 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 proposed rule follows an emergency rule and sets out the rates for that plan.

### Fiscal Estimate

There will be no state or local government fiscal effect.

### Initial Regulatory Flexibility Analysis

These rules do not impose any additional requirements on small businesses.

### Contact Person

A copy of the full text of the proposed rules and fiscal estimates may be obtained from:

Meg Gunderson, Services Section  
Telephone (608) 266-0110  
Office of the Commissioner of Insurance  
121 East Wilson St.  
P.O. Box 7873  
Madison, WI 53707-7873

### Notice of Hearings

#### Natural Resources

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

Notice is hereby given that pursuant to s. 29.521 (2) (f), Stats., interpreting s. 29.521, Stats., the Department of Natural Resources will hold public hearings on the creation of ch. NR 16, subch. 2, Wis. Adm. Code, relating to the development of fees, criteria and procedures to use when permitting the use of natural waters as fish farms.

### Analysis

The rule applies to privately-owned fish farms and state-owned fish hatcheries. The types of water bodies that can be permitted are those that were licensed as a private fish hatchery by the Department in 1997 and freeze-out ponds. A freeze-out pond is a natural, self-contained body of water in which freezing or anoxic conditions prevent the body of water from naturally sustaining a fish population at least twice every five years.

The rule provides a three-tiered fee structure:

1. For natural waters licensed by the Department in 1997, the Department will issue a 10-year permit without making an initial determination. The fee is \$50.

2. For natural waters that are freeze-out ponds, the Department will make an initial determination regarding whether public or private rights would be damaged by this use. The fee is \$500 for the 10-year permit.

3. The fee to transfer the permit is \$100.

Applications may be made 60 days after the effective date of the rule. Renewal applications may be made within 16 months before the expiration date. The Department will issue, renew or deny the permit within 3 months of receiving the application; however, if the natural water body is ice-covered, the Department may delay its action until May 31.

### Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.14, Stats., the proposed rule may be an impact on small businesses. The initial regulatory flexibility analysis is as follows:

a. *Types of small businesses affected:* Fish farms

b. *Description of reporting and bookkeeping procedures required:* Application for the permit

c. *Description of professional skills required:* Building barriers at the inlet/outlet of the water body.

### Environmental Assessment

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

review document would summarize the Department's consideration of the impacts of the proposal and reasonable alternatives.

**Hearing Information**

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

**May 12, 1998**  
**Tuesday**  
**At 6:00 p.m.**  
**Rm. A271, Bldg. A**  
**Madison Area Tech. College**  
**2125 Commercial Ave.**  
**MADISON, WI**

**May 13, 1998**  
**Wednesday**  
**At 6:00 p.m.**  
**Rm. 104, Main Complex**  
**Washington Co. Courthouse**  
**432 East Washington**  
**WEST BEND, WI**

**May 19, 1998**  
**Tuesday**  
**At 6:00 p.m.**  
**Council Chambers**  
**Wausau City Hall**  
**407 Grant St.**  
**WAUSAU, WI**

**May 20, 1998**  
**Wednesday**  
**At 6:00 p.m.**  
**Cafeteria**  
**Spooner High School**  
**500 College St.**  
**SPOONER, WI**

*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Susan Marcquenski at (608) 266-2871 with specific information on your request at least 10 days before the date of the scheduled hearing.*

**Written Comments**

Written comments on the proposed rule may be submitted to:

Ms. Susan Marcquenski  
 Bureau of Fisheries Mgmt. & Habitat Protection  
 P.O. Box 7921  
 Madison, WI 53707

Written comments must be received no later than **May 22, 1998**, and will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [FH-18-98] and fiscal estimate may be obtained from Ms. Marcquenski.

**Fiscal Estimate**

The Department estimates that there will be a fiscal effect; however, the fees have been set so that revenues will equal costs.

*Assumptions used in arriving at fiscal estimate:*

1. There are 40-50 natural waters currently being used as fish farms. As directed by s. 29.521 (2) (b), Stats., permits for these water bodies will be issued @ \$50 per permit without a determination by the Department. This will create \$2000-\$2500 in revenue.

2. The Department estimates that 1-10 new applications will be made in any one year. These applications will require a determination by the Department. At \$500 per application, this would generate \$500-\$5,000 per year.

3. The Department estimates that 5 or fewer applications to transfer natural water body permits will be made in a 10-year period. At \$100 per application, this would generate \$100-\$500.

*Permit fees for use of natural water bodies as fish farms:*

1. Previous annual permit fee schedule (pre-1998):

ITEM	CLASS A	CLASS B	CLASS C	CLASS D
License	\$50.00	\$25.00	\$ 5.00	\$ 5.00
Travel	\$29.00	\$29.00	\$29.00	\$29.00
Meals	\$ 6.00	\$ 6.00	\$ 6.00	\$ 6.00
<b>TOTAL</b>	<b>\$85.00</b>	<b>\$60.00</b>	<b>\$40.00</b>	<b>\$40.00</b>

Fee structures have remained the same for 30 years.

2. Previous annual renewal fees:

ITEM	CLASS A	CLASS B	CLASS C	CLASS D
License	\$50.00	\$25.00	\$ 5.00	\$ 5.00

3. Previous total fees over a 10 year period:

	CLASS A	CLASS B	CLASS C	CLASS D
	\$535.00	\$285.00	\$85.00	\$85.00

**Previous law prohibited DNR from charging costs associated with staff time.**

4. Proposed renewal fee: \$50.00

Administrative and consultation expenses (\$16.00 x 2 hours) =	\$32.00
Fringe benefit (salary x 38.02%) =	\$12.00
Shipping and handling =	\$ 5.00
<b>TOTAL</b>	<b>\$ 49.00*</b>

\* Cost will increase by \$82.00 if a public notice is required.

5. Proposed fee schedule (post-1998) paid once every 10 years, for natural water bodies: \$500.00

Staff time (\$16.00 x 5 hours x 3 staff**)	\$240.00
Fringe benefit (salary x 38.02%)	\$ 91.00
Travel (100 miles x 0.29/mile x 3 staff)	\$ 87.00
Meals (\$6.00/meal x 3 staff)	\$ 18.00
Applicant consult (\$16.00 x 3 hours)	\$ 48.00
Fringe benefit (salary x 38.02%)	\$ 18.00
Permit processing (computer time, mailing, public notice)	\$ 50.00
<b>TOTAL</b>	<b>\$552.00 per 10 years or \$55.00 per year</b>

\*\* Fisheries Manager, Wildlife Manager, Water Management Specialist. Staff time will vary, depending on the size of waterbody and the time of year the application is received.

## 6. Proposed transfer fee: \$100.00

Permit administrative and consultation expenses =	\$ 50.00
File transfer review and verification (3 hours x \$16.00/hour) =	\$ 48.00
Fringe benefit (salary x 38.02%) =	\$ 18.00
<b>TOTAL</b>	<b>\$116.00</b>

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

Notice is hereby given that pursuant to ss. 77.06 (2), 77.91 (1), 77.82 (1) (bn), Stats., interpreting ss. 77.06 (2), 77.82 (1) (b) 3. and 77.91 (1), Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 46, Wis. Adm. Code, relating to administration of the Forest Crop Law and the Managed Forest Law.

**Analysis**

The proposed order makes three modifications to the rule:

1. The sawlog specifications are modified to reflect the current standards of the forest industry in Wisconsin. The small end diameter has been made smaller for both hardwoods and conifers. Logs that were previously considered to be cordwood will now be sawlogs.
2. The definition of "human residence" has been amended to include primary and secondary residences of forest tax law landowners. With the new definition, a landowner will be required to file a statement on the attributes of any buildings on their tax law lands. Once a building exceeds the minimum specifications for a "human residence" the land would be subject to withdrawal and assessed a penalty.
3. For purposes of the Forest Crop Law and the Managed Forest Law, the annual stumpage values are revised for the period from November 1, 1998 through October 31, 1999. Twelve separate zones reflect varying stumpage values for different species and products across the state. The average price change for sawtimber is an 11.63% increase over current rates. The pulpwood proposed prices are, on the average, 13.96% higher, compared to current prices.

**Initial Regulatory Flexibility Analysis**

Notice is hereby further given that pursuant to s. 227.14, Stats., the proposed rule may have an impact on small businesses. The initial regulatory flexibility analysis is as follows:

*a. Types of small businesses affected:*

Small private forest landowners and forest industries enrolled under the Forest Crop Law and the Managed Forest Law.

*b. Description of reporting and bookkeeping procedures required:*

No new procedures.

*c. Description of professional skills required:*

No new skills.

**Environmental Assessment**

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

**Hearing Information**

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

**May 13, 1998**  
**Wednesday**  
**At 11:00 a.m.**

**Council Chambers**  
**Wausau City Hall**  
**407 Grant St.**  
**WAUSAU, WI**

*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Ken Hujanen at (608) 266-3545 with specific information on your request at least 10 days before the date of the scheduled hearing.*

**Written Comments**

Written comments on the proposed rule may be submitted to:

Mr. Ken Hujanen  
Bureau of Forestry  
P.O. Box 7921  
Madison, WI 53707

Written comments must be received no later than **May 13, 1998**, and will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [FR-25-98] and fiscal estimate may be obtained from Mr. Hujanen.

**Fiscal Estimate**

*Assumptions used in arriving at fiscal estimate:*

The proposed 1999 stumpage rate schedule includes an average 11.63% increase in sawtimber prices and a 13.96% average net change in cordwood prices. The severance and yield tax collection in CY '97 (Calendar Year 1997) was \$1,203,032. Of this, about 20% of the gross revenue is from sawtimber harvests. Eighty percent of the revenue was related to cordwood harvests. As a result, an 11.63% increase in sawtimber prices will produce an increase in gross revenue of about \$27,980. A 13.96% increase in cordwood values will generate about \$134,350 in additional revenue. The gross receipts are shared, the towns receiving roughly 50% and the state 50% of the revenue.

The change in specifications on minimum small end diameter of hardwood and softwood sawlogs may have a fiscal impact. It does not mean more timber will be harvested, but that more of the timber harvested will fall into the sawlog category than before and less will be classified as cordwood. Typically sawlogs carry a higher value than cordwood, which could mean a net increase in the taxes collected. The actual change in volumes is expected to appear in withdrawal and expiring contract estimates to a greater extent than harvest volumes, since harvested sawlogs are already being reported. The net increase in sawlog volume is expected to be 5%, which, due to the size of the material affected, results in no change in taxes being received.

The other aspects of the rule change, a new definition of "human residence", along with the requirement of a landowner to file a statement on buildings on his or her lands, have no fiscal effects on state or local costs or revenues.

The net fiscal effect of the rule change will be about an \$81,165 increase in state revenue and an \$81,165 increase in local revenue.

**Notice of Hearings***Natural Resources**(Environmental Protection--  
General, Chs. NR 100--)*

Notice is hereby given that pursuant to s. 295.12, 295.20 (4) and 227.11 (2) (a), Stats., interpreting ch. 295, subch. I, Stats., the Department of Natural Resources will hold public hearings on creating ch. NR 135, Wis. Adm. Code, relating to nonmetallic mining reclamation.

## Analysis

The Department is required to promulgate these rules under provisions of 1993 Wis. Act 464, as amended by the 1997-99 Biennial Budget ss. 3731-3784. The proposed rule requires reclamation of nonmetallic mining reclamation sites by locally-administered programs in accordance with statewide reclamation standards. The proposed rule also creates procedures and requirements for registration to preserve certain marketable nonmetallic mineral deposits. An accompanying amendment to ch. NR 340, Wis. Adm. Code, clarifies that reclamation of nonmetallic mines in or adjacent to navigable waters shall meet the statewide standards to be created by ch. NR 135.

## Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is anticipated that although the proposed rule-making would impose compliance and reporting requirements on small businesses that engage in nonmetallic mining, they will not have an adverse economic impact.

## Environmental Assessment

Notice is hereby further given that the Department has completed a preliminary Environmental Assessment (or EA) pursuant to ch. NR 150, Wis. Adm. Code, which concludes that this action is not a major state action that would significantly affect the quality of the human environment, so that an environmental impact statement is not required prior to adoption of the proposed rules.

The preliminary EA may be obtained by writing or calling:

Tom Portle, (608) 267-0877  
WDNR Bureau of Waste Management  
P. O. Box 7921  
Madison, WI 53707-7921

Public comments on it are welcome, and should be submitted to Mr. Portle at the above address no later than **June 10, 1998**.

## Hearing Information

Notice is hereby further given that hearings will be held on the proposed rules and preliminary EA at the following locations:

May 13, 1998 Wednesday At 1:00 p.m.	Rm. 027, GEF#2 101 South Webster St. MADISON, WI
May 14, 1998 Thursday At 1:00 p.m.	Rm. 120 State Office Bldg. 141 N.W. Barstow St. WAUKESHA, WI
May 18, 1998 Monday At 1:00 p.m.	Veterans Community Ctr. [Intersection of Main Street and U.S. Hwy. 63] 40 South Main St. HAYWARD, WI
May 26, 1998 Tuesday At 1:00 p.m.	Rm. 30A [Eau Claire River Rm.] Chippewa Valley Tech. College 620 West Clairmont Ave. EAU CLAIRE, WI
May 27, 1998 Wednesday At 1:00 p.m.	Council Chambers, 2nd Flr. Rhinelander City Hall 135 South Stevens St. RHINELANDER, WI
May 28, 1998 Thursday At 1:00 p.m.	Rm. 2327 Northeast Wis. Tech. College 2740 West Mason GREEN BAY, WI

All of these meetings will begin at **1:00 p.m. with informal presentation** by Department staff and a question-and-answer session. This will be followed by the formal public hearing on the proposed rule. People who wish to testify at the public hearing, but who do not wish to participate in the informal session, should plan on being present for the public hearing **not later than 2:30 p.m.**

*Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Tom Portle at (608) 267-0877 with specific information on your request at least 10 days before the date of the scheduled hearing.*

## Written Comments and Contact Person

Written comments on the proposed rule may be sent to:

Tom Portle  
WDNR Bureau of Waste Mgmt.  
P. O. Box 7921  
Madison, WI 53707-7921

Written comments must be received no later than **June 10th, 1998**, and will have the same weight and effect as oral statements presented at the hearings.

## Copies of Proposed Rules and Fiscal Estimate

A copy of the proposed rules [SW-18-95] and fiscal estimate may be obtained by writing Mr. Portle at the above address or calling (608) 267-0877.

## Fiscal Estimate

*Assumptions used in arriving at fiscal estimate:*

### Rule summary:

Proposed ch. NR 135, Wis. Adm. Code, implements 1993 Wis. Act 464 and parts of 1997 Wis. Act 27, which established a statewide nonmetallic mining reclamation program to be implemented at the county or local level and funded by fees on active nonmetallic mining operations. The statute mandates that the Department write rules which establish uniform reclamation standards, a fee structure, requirements for mandatory county and permissive local programs, and a framework for the registration of nonmetallic mineral deposits. The proposed rule requires that county or local governments issue reclamation permits for all nonmetallic mining operations (based on a review which determines that the reclamation plan submitted by mine operators is capable of meeting the success standards for a beneficial post-mining land use) and to obtain a financial surety from operators to guarantee that reclamation is carried out in accordance with an approved reclamation plan. Proposed ch. NR 135 also provides the structure for Department oversight of county and local programs. All county and local regulatory authorities will perform site inspections, respond to the public's concerns and complaints, collect fees to cover their administrative costs and forward a portion of these fees to the Department.

### State government costs:

The total annualized cost to state government is estimated to be \$172,000. This estimate is based on the following assumptions:

1. Fees will be collected from mine operators by the county and local government regulatory authorities, who will forward the Department's portion. All Department costs will be covered by these fees.
2. All counties will promptly enact and enforce an ordinance which establishes a program to ensure compliance with the Uniform Reclamation Standards contained in this rule. Counties and local governments who enact an ordinance and administer a nonmetallic mining reclamation program will collect fees and forward these fees to the Department in a timely manner.
3. The Department workload under the above assumptions will be limited to 3.0 FTE (Full Time Equivalent), as authorized in the 1997-99 biennial budget.

Local government costs:

The total estimated annualized costs to local government is estimated to be \$660,000. This estimate is based on the following assumptions:

1. All costs to county and local government will be covered by annual permit fees and by plan review fees, as authorized by legislation. County and local fees must be established by ordinance.

2. Counties and local government will regulate about 2,000 nonmetallic mining operations by permit. It is assumed that continuing annual costs for county and local program administration of nonmetallic mining reclamation permit programs, including operator assistance, fee collection, site inspections and compliance activities and recordkeeping, will be 12 hours per permit per year. If the average county or local government employe cost is equal to \$50,000 per year per employe for salary, fringe and travel, then the statewide annualized county and local government costs can be estimated as follows:

12 hrs./permit x 2,000 mines = 24,000 hrs./yr. statewide

24,000 hrs./1820 hrs. (available per employe per year) =

13.2 FTE standards

\$50,000 per FTE x 13.2 FTE = per year statewide =

\$660,000

These costs would be offset by equivalent county and local revenue from fees on active nonmetallic mining operations.

In addition to the continuing costs documented above, there will be one-time costs for county and local governments to review reclamation plans for existing mines. All existing mines are required to submit and have approved an approved reclamation plan. This must occur during the first 3 years of the program. It is assumed that 75% of existing mines will have no existing reclamation plan or one which requires major revision to meet the standards in ch. NR 135. For these 1500 mines, it is estimated that the costs will average 30 hours of staff time per plan. For the remaining 25% of the mines, it is assumed that there is an existing plan which may require minor modification and updating, but for which there is a significantly smaller workload. For these 500 mines, it is estimated that the costs will average 8 hours of staff time per plan; therefore, the total one-time costs can be estimated as follows:

(30 hrs./mine x 1500 mines) +  
(8 hrs./mine x 500 mines) =

45,000 hrs. + 4,000 hrs. = 49,000 hrs.

(49,000 hrs.) / 1820 hrs. /FTE = 26.9 FTE

(26.9 FTE) x (50,000/FTE) = \$1,346,000

or 1,346,000/3 = \$449,000 for a one-time cost

(for the initial 3-year period)

These one-time plan review costs will be offset by revenue from plan review fees or temporary surcharges permit surcharges.

## Notice of Hearing

### *Social Workers, Marriage & Family Therapists and Professional Counselors Examining Board*

Notice is hereby given that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2), 457.03 (3) and 457.22, Stats., and interpreting ss. 457.03 (3) and 457.22, Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to create ch. SFC 8, relating to biennial continuing education requirements for social worker certification renewal.

## Hearing Information

The public hearing will be held:

May 19, 1998  
Tuesday  
9:30 A.M.

Rm. 179A  
1400 East Washington Ave.  
MADISON, WI

## Written Comments

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

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

Written comments must be received by **June 5, 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), 457.03 (3) and 457.22

*Statutes interpreted:* ss. 457.03 (3) and 457.22

Sections 457.03 (3) and 457.22, Stats., authorize the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors, upon the advice of the Social Worker Section, to promulgate rules establishing requirements and procedures for social work certificate holders to complete continuing education programs or courses of study in order to qualify for renewal. Under s. 457.22, Stats., the rules may not require an individual to complete more than 30 hours of continuing education programs or courses of study in order to qualify for certification renewal. Under s. 457.22, Stats., the Social Worker Section may determine to waive all or part of the requirements established in the rules promulgated if it determines that prolonged illness, disability or other exceptional circumstances have prevented a certificate holder from completing the requirements.

In this proposed rule-making order, the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors creates ch. SFC 8, relating to biennial continuing education requirements for social worker certification renewal.

Under this proposed rule, every social worker, advanced practice social worker, independent social worker and independent clinical social worker certificate holder is required to complete continuing education in order to qualify for certification renewal on July 1 of every odd-numbered year. Social worker certificate holders are required to complete in each biennial certification period at least 30 hours of approved continuing education with at least 2 hours in social work ethics. The Social Worker Section may also require that another 2 hours out of the minimum 30 hours required of continuing education be acquired within other specified topic areas. The proposed rule establishes qualifying subject matter and criteria for approval of continuing education programs that may count toward the continuing education renewal requirement. If the continuing education requirements are not met, certificate holders must cease and desist practice under their social worker certificate unless the Social Worker Section grants a postponement or waiver for prolonged illness or disability, or on other grounds constituting extreme hardship. The Social Worker Section may grant an exemption to persons who certify that he or she has permanently retired from active social work practice, and the rule requires such individuals who return to active social work practice to fulfill the 30 hour continuing education requirement for each biennium the certificate holder was granted such exemption. Certificate holders must retain documentary evidence of continuing education hours completed for a minimum period of 4 years. The rule provides an exemption to the continuing education renewal requirement for certificate holders who received



initial social worker certification within the certification biennium immediately preceding their first certification renewal date. Persons who have held a similar certificate as social workers in another state and who are applying for social worker certification in Wisconsin are required to have completed 30 hours of continuing education within the 2 years immediately prior to application.

The rule also establishes requirements, criteria and procedures by which sponsors of continuing education programs may apply for and obtain section approval for continuing education credit under this chapter. Sponsors seeking continuing education program approval are required to apply for approval at least 75 days prior to the program date. Sponsors are required to submit detailed information on the program subject matter, the program sponsor, the qualifications of the program instructors and/or presenters, and are required to agree to monitor attendance, furnish each participant with a certificate of attendance and retain attendance records for a minimum period of 4 years. The rule provides that continuing education programs and courses sponsored or co-sponsored by a presenter approved by the national association of social workers, a state chapter of the national association of social workers, or the university of Wisconsin extension are acceptable to the section and need not be submitted for approval. The rule establishes requirements and procedures by which a certificate holder may apply for continuing education approval if the program sponsor has not applied for approval. The rule also establishes requirements and procedures for continuing education approval for "self-developed programs," such as social work courses and seminars taught by a certificate holder for the first time, published books or articles authored by the certificate holder, or formal papers presented at professional meetings. The rule provides that not more than 10 hours of continuing education credit may be approved for self-developed programs in each biennium, and also specifies maximum continuing education hours that may be approved for books and articles.

The Social Worker Section intends that the rules will go into effect on **July 1, 1999**, the next certification renewal date.

## **Text of Rule**

**SECTION 1.** Chapter SFC 8 is created to read:

### **Chapter SFC 8**

#### **CONTINUING EDUCATION**

**SFC 8.01 Continuing education required for certification renewal.** On or before July 1 of every odd-numbered year following issuance of certification, every social worker, advanced practice social worker, independent social worker, and independent clinical social worker certificate holder shall, upon his or her application for certificate renewal submitted under s. SFC 1.08 (1), attest to having met the continuing education requirements specified under this chapter.

**SFC 8.02 Biennial continuing education requirements.** (1) **REQUIREMENTS FOR CONTINUING EDUCATION.** (a) Unless granted a postponement or waiver under par. (g), every social worker, advanced practice social worker, independent social worker, and independent clinical social worker certificate holder shall complete at least 30 hours of section-approved continuing education, at least 2 hours of which shall be in the subject area of social work ethics, in each biennial certification period as specified in s. 457.20 (2), Stats. The section may require that up to 2 continuing education hours in each biennial registration period be acquired within other specified topic areas.

(b) Continuing education hours shall apply only to the certification period in which the hours are acquired. If a certificate has been allowed to lapse, the section may grant permission to apply continuing education hours acquired after lapse of the certificate to a previous biennial period of certification during which required continuing education was not acquired. In no case may continuing education hours be applied to more than one biennial period.

(c) To meet the continuing education requirement, a certificate holder shall attest to the section completion of 30 hours of approved continuing education. Every certificate holder shall retain for a

minimum period of 4 years, and make available to the section or its designee, the original documentary evidence of attendance, or completion of self-developed programs, for each continuing education program for which he or she claims credit under this chapter.

(d) Unless granted a postponement or waiver under par. (g), a certificate holder who fails to meet the continuing education requirements by the renewal deadline shall cease and desist from practice under the certificate.

(e) During the time between initial certification and commencement of a full 2-year certification period, a new certificate holder shall not be required to meet continuing education requirements for the first renewal of his or her certification.

(f) Applicants from other states applying under s. 457.15 (1), Stats., shall submit proof of completion of at least 30 hours of continuing education substantially meeting the requirements of this chapter within the 2 year period prior to application.

(g) A certificate holder may apply to the section for a postponement or waiver of the requirements of this chapter on grounds of prolonged illness or disability, or on other grounds constituting extreme hardship. The section shall consider each application individually on its merits, and the section may grant a postponement, partial waiver or total waiver as deemed appropriate in the circumstances.

(h) The section may grant an exemption from the requirements of this chapter to a certificate holder who certifies to the section that he or she has permanently retired from the active practice of social work under his or her certificate.

(i) A certificate holder who has been granted an exemption from the requirements of this chapter based on retirement from the active practice of social work under his or her certificate may not return to the active practice of social work without submitting evidence satisfactory to the section of having completed at least 30 credits of approved continuing education for each biennium during which the certificate holder was granted an exemption.

(2) **APPROVAL OF CONTINUING EDUCATION PROGRAMS SUBMITTED BY SPONSORS.** (a) To apply for approval of a continuing education program, a sponsor shall submit to the section at least 75 days prior to the program date the title, a general description, a detailed outline or syllabus of the program indicating the hourly schedule for the program, the learning objectives of the program, the target participants and intended audience, a copy of the program evaluation form or a description of the evaluation plan, the dates, the location, and the name and qualifications of the instructor of the program.

(b) An application for a continuing education program approval shall be approved if all of the following criteria are met:

1. The subject matter is in one or more of the following:

a. Social work practice, knowledge and skills.

b. A field or subject area allied with and relevant to the practice of social work as determined by the section.

c. Theories and concepts of human behavior and the social environment.

d. Social work research, social policy and program evaluation, or social work practice evaluation.

e. Social policy and program administration or management.

f. Social work ethics.

g. A subject of current importance as designated by the section.

2. The program has a competent, responsible sponsor as approved by the section.

3. The instructors or presenters of the program are properly qualified by education, training and experience to teach or present the subject matter of the program, as determined by the section.

4. The sponsor agrees to monitor attendance, furnish to each participant a certificate of attendance, and retain and make available for inspection by the section or its designee attendance records for a minimum period of 4 years.

(c) A separate application shall be submitted for each continuing education program approval request.

(d) Continuing education programs may include subject matter other than those specified in sub. (2) (b) 1.; however, only the parts of the program that qualify under sub. (2) (b) 1., shall be eligible for approval.

(e) Decisions regarding approval shall be made within 60 days after the regularly scheduled section meeting following receipt of the request for program approval.

(f) Continuing education programs and courses sponsored or co-sponsored by a presenter approved by the national association of social workers, a state chapter of the national association of social workers, or the university of Wisconsin extension are acceptable to the section and need not be submitted to the section for approval.

(3) **APPROVAL OF CONTINUING EDUCATION PROGRAMS SUBMITTED BY CERTIFICATE HOLDERS.** To obtain approval of a continuing education program for which the sponsor has not sought approval, a certificate holder shall submit to the section information including the title, general description, a detailed outline or syllabus of the program, the learning objectives of the program, the target participants and intended audience, a copy of the program evaluation form or a description of the evaluation plan, the dates, the location, and the name and qualifications of the instructor of the program.

(4) **APPROVAL OF SELF-DEVELOPED PROGRAMS FOR CONTINUING EDUCATION CREDIT.** (a) The section shall consider granting continuing education approval for self-developed programs relating to one or more of the subject areas specified in sub. (2) (b) 1., submitted by a certificate holder, including social work courses and seminars taught for the first time by a certificate holder, published books or articles published in professional journals authored by a certificate holder, or formal papers presented by a certificateholder at meetings of a professional association.

(b) An application for a self-developed continuing education program shall include the following information as applicable:

1. A detailed description of the self-developed program, including the subject matter, detailed outline, dates and hourly schedule, participants, bibliography of readings and other resources studied or consulted, and the sponsoring organization or professional group.

2. An explanation of the manner in which the self-developed program is relevant to the certificate holder's professional practice of social work.

3. For courses and seminars taught, the title, a general description, a detailed outline or syllabus, the learning objectives, the intended audience or participants, a copy of the evaluation form or a

description of the evaluation plan, and the initial presentation date and location of the course or seminar.

4. For published books, a copy of the title page, table of contents and abstract.

5. For published articles, a copy of the cover of the professional journal, table of contents, and the article.

6. For formal papers presented at a professional meeting, a copy of the meeting schedule and the formal paper presented.

(c) The section shall grant approval for no more than 10 hours of continuing education per biennium for self-developed continuing education programs. The section may grant approval for no more than 10 hours of continuing education for published books authored by a certificate holder, and no more than 5 hours of continuing education for published articles authored by a certificate holder. Approval may be given only for the biennium in which the book or article was published.

**SFC 8.03 Compliance.** The section may conduct audits or investigations to monitor or determine compliance by certificate holders with this chapter.

### **Fiscal Estimate**

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

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

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

### **Initial Regulatory Flexibility Analysis**

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

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

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

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

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

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

**Hearing & Speech Examining Board (CR 98-12):**

Chs. HAS 1 to 7 – Relating to hearing instrument specialists.

**Natural Resources (CR 98-25):**

Ch. NR 166 – Relating to the safe drinking water loan program.

**Regulation & Licensing (CR 98-8):**

Chs. RL 11 to 13, 16 to 18 and 22 to 26 – Relating to real estate brokers and real estate salespeople.

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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

**Corrections (CR 97-30):**

An order repealing and recreating ch. DOC 311, relating to the placement of inmates in observation status for mental or medical health reasons.

Effective 06-01-98.

**Natural Resources (CR 96-113):**

An order affecting ss. NR 103.02, 103.06, 103.07, 103.08, 299.05 and 504.04, relating to water quality standards for wetlands, water quality certification and landfill location, performance, design and construction criteria.

Effective 06-01-98.

**Natural Resources (CR 97-57):**

An order affecting ss. NR 182.07, 182.075, 182.08 and 182.14, relating to regulation of groundwater quality at metallic mining sites.

Effective 06-01-98.

**Natural Resources (CR 97-123):**

An order amending s. NR 20.13 (2) (a) and (c), relating to ice fishing shelters.

Effective 07-01-98.

**Natural Resources (CR 97-153):**

An order creating ch. NR 47, subch. VIII, relating to the forest fire protection grant program.

Effective 06-01-98.

**Regulation & Licensing (CR 97-118):**

An order affecting chs. RL 70 to 73, relating to the certification and regulation of acupuncturists.

Effective 06-01-98.

**Tourism (CR 97-155):**

An order affecting ss. Tour 1.02, 1.03 and 1.05, relating to the joint effort marketing program.

Effective 07-01-98.

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## RULES PUBLISHED IN THIS WIS. ADM. REGISTER

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*The following administrative rule orders have been adopted and published in the April 30, 1998 Wisconsin Administrative Register. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

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

**Agriculture, Trade & Consumer Protection (CR 97-113):**

An order affecting ch. ATCP 30 Appendix A and s. ATCP 30.31, relating to atrazine use restrictions. Effective 05-01-98.

**Commerce (CR 97-93):**

An order affecting chs. Comm 18 and ILHR 51 and ss. Comm 82.33 and 82.36 and ILHR 50.12 and 55.20, relating to the design and construction of elevators and other mechanical lifting devices. Effective 05-01-98.

**Commerce (CR 97-156):**

An order amending s. Comm 108.21 (1) (f), relating to emergency grant funding under the community development block grant program. Effective 05-01-98.

**Corrections (CR 97-106):**

An order affecting ch. DOC 310, relating to the inmate complaint review system. Effective 05-01-98.

**Elections Board (CR 96-106):**

An order creating s. ElBd 1.855, relating to contributions from conduit accounts. Effective 05-01-98.

**Elections Board (CR 96-107):**

An order creating s. ElBd 1.30 (3), relating to political parties' maintenance of exempt status in campaign finance report filing, notwithstanding receipt of party dues in excess of \$100. Effective 05-01-98.

**Elections Board (CR 96-108):**

An order creating s. ElBd 1.655 (1) (bm) and (5), relating to identification of the source of communications in polls and surveys conducted for political purposes. Effective 05-01-98.

**Elections Board (CR 96-109):**

An order amending s. ElBd 1.85 (1) and (4), relating to conduit registration and reporting requirements. Effective 05-01-98.

**Financial Institutions--Securities (CR 97-148):**

An order repealing ss. DFI-Sec 7.01 (6), 27.01 (5) and 35.01 (4), relating to Division photocopying fee charges. Effective 05-01-98.

**Natural Resources (CR 96-169):**

An order creating s. NR 27.07, relating to notice of receipt of an application to incidentally take an endangered or threatened species. Effective 05-01-98.

**Transportation (CR 97-107):**

An order repealing and recreating s. Trans 201.15, relating to erecting outdoor advertising signs where messages may be changed by electronic process. Effective 05-01-98.

**Transportation (CR 97-116):**

An order creating s. Trans 261.155, relating to multiple trip mobile home permits. Effective 05-01-98.

**Transportation (CR 97-144):**

An order affecting ch. Trans 302, relating to vehicle marking. Effective 05-01-98.

**Veterans Affairs (CR 97-147):**

An order repealing and recreating ch. VA 12, relating to the personal loan program. Effective 05-01-98.

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## SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

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The following administrative rule revisions and corrections have taken place in April, 1998, and will be effective May 1, 1998. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

### REVISIONS

#### Agriculture, Trade & Consumer Protection:

##### Ch. ATCP 30

- S. ATCP 30.31 (entire section)
- Appendix

#### Commerce:

##### *Elevators, Ch. Comm 18*

##### Ch. Comm 18

- S. Comm 18.02 (1) (h)
- S. Comm 18.09 (2), (3) (intro.), (j), (k), (L)
- S. Comm 18.14 (entire section)
- S. Comm 18.18 (1) (e) and (f)
- S. Comm 18.20 (entire section)
- S. Comm 18.21 (entire section)
- S. Comm 18.23 (entire section)
- S. Comm 18.24 (1)
- S. Comm 18.31 (entire section)
- S. Comm 18.362 (3) (b) and (c)
- S. Comm 18.41 (entire section)
- S. Comm 18.58 (entire section)
- S. Comm 18.69 (2) (a) and (e)
- S. Comm 18.70 (4) (b)
- S. Comm 18.71 (entire section)
- S. Comm 18.73 (6) and (8)
- S. Comm 18.74 (2)
- S. Comm 18.75 (2)
- S. Comm 18.77 (3)
- S. Comm 18.80 (entire section)
- S. Comm 18.82 (entire section)

##### *Building and Heating, etc., Chs. Comm 50-64*

##### Ch. Comm 50

- S. Comm 50.12 (4) (dm)

##### Ch. Comm 51

- S. Comm 51.02 (22) (b)
- S. Comm 51.161 (7) (b)
- S. Comm 51.23 (3)

##### Ch. Comm 55

- S. Comm 55.20 (entire section)

##### *Plumbing, Chs. Comm 82-87*

##### Ch. Comm 82

- S. Comm 82.33 (9) (f)
- S. Comm 82.36 (11) (a)

#### *Financial Resources for Businesses & Communities, Chs. Comm 105-128*

##### Ch. Comm 108

- S. Comm 108.21 (1) (f)

#### Corrections:

##### Ch. DOC 310

- S. DOC 310.01 (2)
- S. DOC 310.015 (entire section)
- S. DOC 310.02 (entire section)
- S. DOC 310.025 (entire section)
- S. DOC 310.03 (entire section)
- S. DOC 310.04 (entire section)
- S. DOC 310.05 (entire section)
- S. DOC 310.06 (entire section)
- S. DOC 310.07 (entire section)
- S. DOC 310.08 (entire section)
- S. DOC 310.09 (entire section)
- S. DOC 310.10 (entire section)
- S. DOC 310.11 (entire section)
- S. DOC 310.12 (entire section)
- S. DOC 310.13 (entire section)
- S. DOC 310.14 (entire section)
- S. DOC 310.15 (entire section)
- S. DOC 310.16 (entire section)
- S. DOC 310.17 (entire section)
- S. DOC 310.18 (entire section)
- S. DOC 310.19 (entire section)
- Appendix

#### Elections Board:

##### Ch. EIBd 1

- S. EIBd 1.30 (3)
- S. EIBd 1.655 (1) (bm) and (5)
- S. EIBd 1.85 (1) and (4)
- S. EIBd 1.855 (entire section)

#### Financial Institutions--Securities:

##### Ch. DFI--Sec 7

- S. DFI--Sec 7.01 (6)

##### Ch. DFI--Sec 27

- S. DFI--Sec 27.01 (5)

##### Ch. DFI--Sec 35

- S. DFI--Sec 35.01 (4)

**Natural Resources:***Fish, Game, etc., Chs. NR 1--***Ch. NR 27**

S. NR 27.07 (entire section)

**Transportation:****Ch. Trans 201**

S. Trans 201.15 (entire section)

**Ch. Trans 261**

S. Trans 261.155 (entire section)

**Ch. Trans 302**

S. Trans 302.01 (1) and (2)

S. Trans 302.02 (entire section)

S. Trans 302.03 (1), (2) and (3) to (7)

S. Trans 302.04 (1) (intro.) and (c)

S. Trans 302.05 (entire section)

S. Trans 302.06 (entire section)

S. Trans 302.07 (1) (intro.), (2) and (4)

S. Trans 302.08 (2)

S. Trans 302.09 (3) to (5)

Appendix I

**Veterans Affairs****Ch. VA 12 (entire chapter)****EDITORIAL CORRECTIONS**

Corrections to code sections under the authority of s. 13.93 (2m) (b) are indicated in the following listing:

**Commerce:***Plumbing, Chs. Comm 82--87***Ch. Comm 82**

S. Comm 82.30 (11) (f) and (12) (g)

S. Comm 82.33 (9) (i)

**Corrections:****Ch. DOC 310**

S. DOC 310.04 (entire section)

**Financial Institutions--Securities:****Ch. DFI--Sec 5**

S. DFI--Sec 5.05 (2) (a)

**Ch. DFI--Sec 9**

S. DFI--Sec 9.01 (1) (intro.) and (2)

**Ch. DFI--Sec 28**

S. DFI--Sec 28.01 (entire section)

**Natural Resources:***Fish, Game, etc., Chs. NR 1--***Ch. NR 50**

S. NR 50.11 (4)

**Public Instruction:****Ch. PI 11**

S. PI 11.07 (1)

S. PI 11.10 (11)

S. PI 11.24 (10)

S. PI 11.37 (2) (f)

**ERRATA**

Several sections have been reprinted to correct printing errors such as dropped copy, and are indicated in the following listing:

**Commerce:***Barrier-Free Design, Ch. Comm 69***Ch. Comm 69**

Appendix B

**Financial Institutions--Securities:****Ch. DFI--Sec 4**

S. DFI--Sec 4.04 (1) (a)

**Natural Resources:***Fish, Game, etc., Chs. NR 1--***Ch. NR 50**

S. NR 50.03 (10)

**Public Instruction:****Ch. PI 11**

S. PI 11.14 (4)

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## *FINAL REGULATORY FLEXIBILITY ANALYSES*

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### 1. Agriculture, Trade & Consumer Protection (CR 97-113)

Ch. ATPC 30 – Atrazine use restrictions.

#### Summary of Final Regulatory Flexibility Analysis:

##### *Businesses Affected:*

The amendments to the atrazine rule will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition areas contain approximately 13,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 3,250 acres of corn will be affected. This acreage would represent between 20 and 50 producers, depending on their corn acreage. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

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

##### *Reporting, Recordkeeping and other Procedures Required for Compliance:*

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

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

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

##### *Professional Skills Required to Comply:*

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

#### Summary of Comments From Legislative Committees:

The rule was referred to the Senate Committee on Agriculture and Environmental Resources on December 17, 1997 and to the Assembly Committee on Agriculture on December 23, 1997. Neither the Assembly Committee on Agriculture nor the Senate Committee on Agriculture and Environmental Resources took any action on the rule during their review period.

### 2. Commerce (CR 97-93)

Chs. Comm 18, 82, ILHR 50, 51 & 55 – Elevators and mechanical lifting devices.

#### Summary of Final Regulatory Flexibility Analysis:

The work of small business people such as architects, engineers and fire sprinkler installers will be simplified by changing the sprinkler and fire alarm requirements to be consistent with National Standards and by updating the elevator construction and installation requirements.

#### Summary of Comments by Legislative Standing Committees:

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

### 3. Commerce (CR 97-156)

S. Comm 108.21 (1) (f) – Emergency Grant Funding.

#### Summary of Final Regulatory Flexibility Analysis:

No comments or issues were received at public hearings from small business. Federal and state rules require that government units that receive grants be responsible for recordkeeping, reporting, auditing, close-out, payment and reimbursement activities related to the grant. Small business must use basic accounting and bookkeeping skills and use the same skills in the conduct of their business.

#### Summary of Comments of Legislative Standing Committees:

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

### 4. Corrections (CR 97-106)

Ch. DOC 310 – The inmate complaint review system.

#### Summary of Final Regulatory Flexibility Analysis:

This proposed rule is not expected to impact on small businesses as defined in s. 227.114 (1), Stats.

#### Summary of Comments:

##### *Public Hearings:*

The Department held three public hearings on the proposed rule. The public hearings were held in Madison, on October 15, 1997; in Eau Claire on October 16, 1997; and in Madison on October 17, 1997. No one appeared to testify at the public hearings. The open comment period was held open until October 21, 1997. No one submitted written comments during the open comment period.



*Modifications Made as a Result of Public Hearing Testimony:*

No modifications were made to the proposed rule in response to comments received during the public review of this rule because there were no comments from the public. Modifications have been made to the proposed rule based on comments the agency received from Rep. Goetsch after publication of the emergency rule. As a result of the comments received from Rep. Goetsch, the department clarified some sections of the rule and changed the sentences in the rule from passive voice to active voice.

**5. Elections Board (CR 96-106)**

S. EIBd 1.855 – Contributions from conduit accounts.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**6. Elections Board (CR 96-107)**

S. EIBd 1.30 – Filing campaign finance reports.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**7. Elections Board (CR 96-108)**

S. EIBd 1.655 – Identification of the source of communications paid for with money raised for political purposes.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**8. Elections Board (CR 96-109)**

S. EIBd 1.85 – Conduit registration and reported requirements.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**9. Financial Institutions (CR 97-148)**

Ch. DFI–Sec 7.01 (6), 27.01 (5) & 35.01 (4) – Division photocopying fee charges.

Summary of Final Regulatory Flexibility Analysis:

The Division of Securities has determined that the proposed rule amendments will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments:

No comments were reported.

**10. Natural Resources (CR 96-169)**

Ch. NR 27 – Incidental take of an endangered or threatened species.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments by Legislative Review Committees:

The proposed rule was submitted to the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. On January 28, 1998, the Senate Agriculture and Environmental Resources Committee held a public hearing. No comments or recommendations were received by the Department as a result of this hearing.

**11. Transportation (CR 97-107)**

S. Trans 201.15 – Erecting outdoor advertising signs where messages may be changed by electronic process.

Summary of Final Regulatory Flexibility Analysis:

This rule will have no adverse impact on small businesses.

Summary of Comments:

No comments were reported.

**12. Transportation (CR 97-116)**

Ch. Trans 261.155 – Multiple Trip Mobile Home Permits.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**13. Transportation (CR 97-144)**

Ch. Trans 302 – Vehicle marking.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

**14. Veterans Affairs (CR 97-147)**

Ch. VA 12 – Personal loan program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments reported.

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## *EXECUTIVE ORDERS*

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

**Executive Order 327.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Deputy Sheriff Richard A. Weinke of the Sauk County Sheriff's Office.



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