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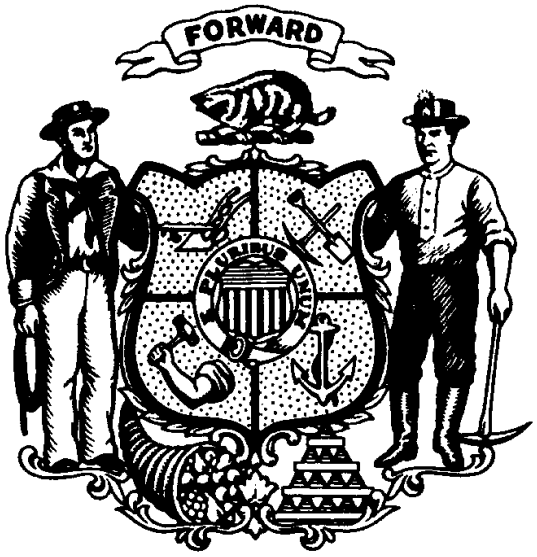

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EMERGENCY RULES NOW IN EFFECT

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

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

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

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

EMERGENCY RULES NOW IN EFFECT

Department of Administration (Gaming Board)

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

Finding of Emergency

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

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

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

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

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

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

Publication Date: December 8, 1997
Effective Date: December 8, 1997
Expiration Date: May 7, 1998
Hearing Date: February 26, 1998
Extension Through: June 5, 1998

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

Commerce

(Petroleum Environmental Cleanup Fund, Ch. ILHR 47)

Rules adopted revising **ch. ILHR 47**, relating to the petroleum environmental cleanup fund.

Finding of Emergency and Rule Analysis

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

The facts constituting the emergency are as follows. Under ss. 101.143 and 101.144, Stats., the Department protects public health, safety, and welfare by promulgating rules for and administering the Petroleum Environmental Cleanup Fund (PECFA fund). The purpose of the fund is to reimburse property owners for eligible costs incurred because of a petroleum product discharge from a storage system or home oil tank system. Claims made against the PECFA fund are currently averaging over $15,000,000 per month. Approximately $7,500,000 per month is allotted to the fund for the payment of claims. The fund currently has a backlog of $250,000,000 representing almost a 30−month backlog of payments to be made to claimants. linmediate cost saving measures must be implemented to mitigate this problem.

The rules make the following changes to manage and reduce remediation costs:

Administrative Elements.

These changes include updating the scope and coverage of the rules to match current statutes, clarifying decision making for remedial action approvals and providing new direction to owners, operators and consulting firms.

Progress Payments.

Progress payments are proposed to be reduced for some owners and sites. The criteria that trigger payments will now also be based on outcomes. The timing of payments from the fund is designed to benefit those that get sites successfully remediated and to create incentives for the use of the flexible closure tools and natural attenuation tools that were created by the Department of Natural Resources. Applications submitted before the effective date of the new rules would still be subject to the current rules.

Remedial Alternative Selection.

These provisions would create two different paths for funding for sites. Through the use of a group of environmental factors, the risk of a site will be determined. Active treatment systems that use mechanical, engineered or chemical approaches would not be approved for a site without one or more environmental factor present. Approved treatments for sites without environmental factors would be limited to non−active approaches, excavation, remediation by natural attenuation and monitoring of the contamination. The five environmental factors are:

· A documented expansion of plume margin;

· A verified contaminant concentration in a private or public potable well that exceeds the preventive action limit established under ch. 160;

· Soil contamination within bedrock or within 1 meter of bedrock;

· Petroleum product, that is not in the dissolved phase, present with a thickness of .01 feet or more, and verified by more than one sampling event; and

· Documented contamination discharges to a surface water or wetland.

Reimbursement Provisions.

Several incentives are added to encourage owners and consultants to reduce costs whenever possible. Provisions are added for the bundling of services at multiple sites to achieve economy of scale and for using a public bidding process to reduce costs. In addition, owners are encouraged to conduct focused remediations that utilize all possible closure tools. To encourage this approach, if a site can be investigated and remedied to the point of closure for $80,000 or less, the consultant can complete the action without remedial alternative approvals or the risk of the site being bundled or put out for bidding. The consultant is provided additional freedom under the structure of the fund in order to facilitate remediation success. Special priority processing of these cost−effective remediations would also be provided.

Review of Existing Sites.

These changes give the Department more ability to redirect actions and impose cost saving measures for sites that are already undergoing remedial actions. Reevaluations including, the setting of cost caps would be done on sites chosen by the Department.

Pursuant to section 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: **April 21, 1998**
Effective Date: **April 21, 1998**
Expiration Date: **September 18, 1998**
Hearing Date: **May 29, 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**

EMERGENCY RULES NOW IN EFFECT

Commerce

(Barrier–Free Design, Ch. Comm 69)

Rule adopted creating s. Comm 69.18 (2) (a) 2. c., relating to vertical access to press box facilities.

Finding of Emergency and Rule Analysis

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

Chapter Comm 69, establishes design and construction requirements for accessibility in all buildings and facilities. Chapter Comm 69 is based on the federal Americans with Disabilities Act Accessibility Guidelines (ADAAG) and Titles II and III of the federal Americans with Disabilities Act. A number of public school districts are in the process of constructing press boxes at athletic fields. In accordance with both the federal and state rules, an elevator must be used to provide access to a press box. This requirement causes a serious financial hardship on the school districts, since the press boxes involved will be very small and will accommodate only a few people. The federal ADAAG standards are in the process of being revised to exempt state and local government buildings that are not open to the general public from providing elevator access to floor levels that are less than 500 square feet and accommodate less than 5 persons.

The Joint Committee for Review of Administrative Rules (JCRAR) held a hearing on March 31, 1998 to receive public comments on the rules in chapter Comm 69 that requires vertical access to press box facilities. On May 6, 1998, the JCRAR held an executive session to consider this issue and has requested the agency to promulgate an emergency rule adopting the federal exemption for certain publicly controlled facilities, such as press boxes, from vertical access for people with disabilities. The emergency rule is to be promulgated no later than May 15, 1998.

The proposed rule eliminates the requirement that in government owned or operated buildings an elevator must be used to provide access to certain small areas with low capacity. The emergency rule benefits not only school districts, but other small state and local government buildings as well.

Publication Date: **May 15, 1998**
Effective Date: **May 15, 1998**
Expiration Date: **October 12, 1998**

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**

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**
Extension Through: **July 12, 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**

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**

2. 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**

EMERGENCY RULES NOW IN EFFECT (3)

Insurance

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

Exemption From Finding of Emergency

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

Analysis Prepared by the Office of the Commissioner of Insurance

January 1, 1998 Premium Adjustments

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

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

2. 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**
Extension Through: **June 30, 1998**

3. 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**
Extension Through: **June 30, 1998**

EMERGENCY RULES NOW IN EFFECT (2)

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. 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 91 37(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**

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, 1 998, 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**
Hearing Dates: **May 27 and 28, 1998**

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**

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**
Extension Through:	**August 14, 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**
Extension Through:	**August 14, 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. 196.2l8 (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

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

EMERGENCY RULES NOW IN EFFECT

Transportation

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

Finding of Emergency

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

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

EMERGENCY RULES NOW IN EFFECT

Veterans Affairs

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

Exemption From Finding of Emergency

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

Analysis

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

Publication Date: October 17, 1997
Effective Date: October 17, 1997
Expiration Date: March 16, 1998
Hearing Date: January 9, 1998
Extension Through: May 14, 1998

EMERGENCY RULES NOW IN EFFECT

Workforce Development
(Economic Support, Chs. DWD 11 to 59)

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

Exemption From Finding of Emergency

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

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

Analysis

Statutory authority for rule: s. 49.26 (1) (gm) 2 and (h) 1

Statute interpreted by the rule: s. 49.26

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

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

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

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

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

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

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

Publication Date: **January 2, 1998**
Effective Date: **January 2, 1998**
Expiration Date: **June 1, 1998**
Hearing Date: **March 16, 1998**
Extension Through: **July 30, 1998**

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**

STATEMENTS OF SCOPE OF PROPOSED RULES

Agriculture, Trade & Consumer Protection

Subject:

Ch. ATCP 15 – Relating to humane officers.

Description of policy issues:

Preliminary objective:

Comply with s. 173.27, Stats., addressing the following:

- ❑ Establishing standards for the training and certification of humane officers.
- ❑ Establishing deadlines by which humane officers must obtain certification.
- ❑ Establishing training programs or approving training programs for humane officers.
- ❑ Establishing an examination and certification program for humane officers.
- ❑ Maintaining a humane officer registry.
- ❑ Establishing fees, as authorized.

Preliminary policy analysis:

Under s. 173.27, Stats., created by 1997 Wis. Act 192, the Department of Agriculture, Trade and Consumer Protection must promulgate rules related to each of the preliminary objectives identified above. The Department must promulgate these rules in order to comply with the statute.

Policy alternatives:

There is no alternative. The statute requires the Department of Agriculture, Trade and Consumer Protection to address each of the identified objectives by rule.

Statutory authority:

The Department proposes to develop these rules under authority of ss. 93.07 (1) and 173.27, Stats. The rules would interpret ch. 173, Stats.

Staff time required:

The Department estimates that it will use approximately 0.75 FTE (Full Time Equivalent) staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions and communicating with affected persons and groups. The Department believes that, in the long run, the rule will save staff time and increase program efficiency. The Department will assign existing staff to develop this rule.

Agriculture, Trade and Consumer Protection

Subject:

Ch. ATCP 50 – Relating to soil and water resource management.

Description of policy issues:

Preliminary objectives:

Establish policies for the Department's administration of the state's soil and water resource management program and the nonpoint source water pollution abatement program under Chs. 92 and 281, Stats.

Revise the rules to accommodate recent changes to Chs. 92 and 281, Stats., the state's soil and water conservation and animal waste management law and the state's nonpoint source water pollution abatement law.

Ensure that the revised rule is consistent with the Department of Natural Resources' rules, chs. NR 120 and 243, for administering the state's nonpoint source water pollution abatement program.

Update technical standards referenced in the current rules as needed.

Preliminary policy analysis:

Chapter ATCP 50 governs the state's soil and water resource management program administered by the Department of Agriculture, Trade and Consumer Protection. Chapters NR 120 and NR 243 govern the state's nonpoint source water pollution abatement program administered by the Department of Natural Resources. 1997 Wis. Act 27 created significant changes to both the state's nonpoint source water pollution abatement program, under Ch. 281, Stats., and the soil and water resource management program, under Ch. 92, Stats. The two departments are directed by statute to work together in the development and implementation of these programs.

The following changes to Chs. 92 and 281, Stats., are made in 1997 Wis. Act 27:

☛ The Department is required to establish, by rule, a nutrient management program that includes incentives, educational and outreach provisions, and compliance requirements (S. 92.05 (3) (k), Stats.).

☛ The state's soil erosion control planning program has been redesigned into a county land and water resource management planning program. Department responsibilities for this program include:

1) Providing funds to cover up to fifty percent of the costs of preparing the plans;
2) Assisting county land conservation committees in preparing the plans; and
3) Reviewing and approving the final plans (S. 92.10, Stats.).

☛ The Department of Natural Resources, in consultation with the Department of Agriculture, Trade and Consumer Protection, is required to establish, by rule, performance standards and prohibitions for agricultural facilities and practices that are nonpoint sources of pollution to meet water quality standards. The Department of Agriculture, Trade and Consumer Protection, in consultation with the Department of Natural Resources, is required to establish, by rule, conservation practices and technical standards for these practices that can be used to implement the performance standards and prohibitions. These practices and standards must cover, at a minimum, animal waste management, nutrient management and cropland sediment delivery. Cost sharing of at least 70 percent must be provided to existing agricultural facilities, as of October 14, 1997, if they are to be required to implement the practices, performance standards and prohibitions (S. 281.16 (3), Stats.).

☛ Local units of government have been empowered to regulate livestock operations. The local regulations may not exceed the performance standards, prohibitions, conservation practices and technical standards established by the Department of Agriculture, Trade and Consumer Protection and the Department of Natural Resources unless approved by either department. The departments must specify, by rule, the procedures for reviewing and approving these local ordinances. The local regulations may not be applied to any existing livestock facility, as of October 14, 1997, unless cost sharing is available. The rules must establish the process for determining if cost sharing is available and must establish the process for DNR or DATCP to approve local livestock regulations if they are more restrictive than the state's performance standards and prohibitions (SS. 92.15 and 281.16 (3) (b) and (e), Stats.).

Policy alternatives:

No action. If the Department takes no action, the current version of the ch. ATCP 50 soil and water resource management rule (promulgated in December, 1996) would continue to apply. This version of the rule, however, does not address the changes to Chs. 92 and 281, Stats., enacted by 1997 Wis. Act 27. Many of these legislative changes direct the Department to develop rules to implement the program. In these cases, the Department would be in direct violation of the law if no action were taken. In other cases where legislation changed the program but did not direct the Department to promulgate rules, sufficient detail is not provided in the legislation to clearly guide the administration of the program. Rules are needed to interpret the law and provide clear and definite guidance to the Department, county land conservation committees and departments, cooperating agencies and organizations, and citizens of the state who may be affected by the rule. Taking no action could result in ambiguous and inaccurate interpretation of the law and vague guidance for its implementation.

Statutory authority:

The Department proposes to revise ch. ATCP 50, Wis. Adm. Code, under authority of ss. 93.07, 92.05 (3), 92.15 (3), and 92.18 (1), Stats.

Staff time required:

The Department estimates that it will use approximately 3.0 FTE (Full Time Equivalent) staff to develop this rule. This includes staff time to:

1) Investigate and analyze alternative strategies for redesigning the nonpoint source water pollution abatement and soil and water resource management programs;
2) Prepare for, meet with, and follow up with an advisory committee and five work groups;
3) Draft program concepts and rule language;
4) Prepare support documentation and other related papers;
5) Coordinate activities with the Department of Natural Resources and ensure that the revised ch. ATCP 50 conforms with ch. NR 120, Wis. Adm. Code, DNR's administrative rule for the nonpoint source water pollution abatement program; and
6) Conduct public meetings, listening sessions and hearings with affected persons and groups.

The Department will use existing program, management and legal staff to develop this rule. It is anticipated that it will take approximately two years to redesign the program and promulgate the rule.

Commerce

Subject:

Chs. Comm 5, 82 and 84 and ILHR 20–25 – Relating to credentials issued by the Department of Commerce and to combined residential fire sprinkler/plumbing systems in one– and 2–family dwellings.

Description of policy issues:

1. Description of the objective of the rule:

The objectives of this rule revision, incorporated into one or more rule packages, are to:

a) ▶ Establish or incorporate the appropriate national standards for design and installation of a combined residential sprinkler/plumbing system; and

▶ Establish a certification for the design and installation of a combined residential fire sprinkler/plumbing system to ensure this new technology will be used and will function properly.

b) Establish reasonable penalties for failing to fulfill continuing education obligations required to renew various credentials.

c) Establish experience and/or training qualifications for individuals applying for the automatic fire sprinkler contractor examination to be consistent with qualifications for other fire sprinkler credentials.

d) Evaluate continuing education requirements for several credential categories, including those associated with automatic fire sprinkler systems and boiler inspections, required to renew the credentials to assist individuals in keeping apprised of technological and product changes.

e) Recognize fire chiefs as deputies of the Department pursuant to s. 101.14 (2), Stats., and clarify their responsibilities under this statutory subsection.

f) Recognize other types of experience or training in lieu of passing a Department exam to qualify for the automatic fire sprinkler system tester registration.

g) Develop rules that would improve the Department's efficiency in processing credential applications and renewals.

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

The existing policies associated with the contemplated rules include:

The Uniform Dwelling Code, chs. ILHR 20–25, that establishes standards for the construction of one– and 2–family dwellings is silent on provisions for the design and installation of automatic fire sprinkler systems. Although the code would not mandate the use or installation of automatic fire sprinkler systems, the code would include design and installation criteria for these systems if voluntarily utilized.

Under s. 145.06, Stats., all plumbing must be installed by licensed plumbers with a few noted exceptions that do not include this new combined residential fire sprinkler/plumbing system. The statute, s. 145.15, Stats., also requires all automatic fire sprinkler systems to be installed by licensed individuals. The new combined residential fire sprinkler/plumbing system does not fall under the current statutory definition of automatic fire sprinkler system and, therefore, defaults to being plumbing because the system provides water directly to plumbing fixtures. The issues associated with the new combined system concern not just the protection of public health, but also life/safety.

The Plumbing Code, chs. Comm 82–87, establishes minimum standards for the design and installation of plumbing, including criteria for water distribution pipe sizing, cross connection control and materials.

The current rules under ch. Comm 5 mandate that individuals who fail to fulfill their continuing education obligations must take and pass the initial credential examination in order to regain their credential.

Presently, under s. Comm 5.51 (2) any individual may apply for and take the license examination for automatic fire sprinkler contractor. However, an individual who wishes to take the licensed journeyman automatic fire sprinkler fitter examination must first have completed a sprinkler system apprenticeship.

Most of the inspector credentials are obtained by passing an examination. The renewal requirements for the inspector categories that require the passage of an examination include the contingency of fulfilling continuing education obligations. However, there is one exception: an individual who holds a boiler inspector credential merely has to return the renewal application with the appropriate fee.

Currently, under ch. Comm 5 subch. V, the rules to renew the credentials associated with the installation and testing of automatic fire sprinkler systems merely require individuals to return the renewal applications with the appropriate renewal fees.

Pursuant to s. 101.14 (2), Stats., fire chiefs are designated as deputies of the Department and are required to provide inspections of public buildings and document these inspections. However, the statutory provisions do not provide great detail as to the scope and depth of the inspections and the reports other than the purpose of fire prevention.

Under s. Comm 5.56, individuals may now only obtain an automatic fire sprinkler system tester registration by taking and passing a Department exam.

An alternative policy would be to not revise any of the rules relating to credentials and combined sprinkler/plumbing systems. This alternative would result in not obtaining the objectives listed in part 1 above.

Statutory authority for the rule:

The following citations from the statutes provide the Department the authority for the various credentials and establishing standards for sprinkler systems:

SS. 101.02 (1), 101.09 (3) (c), 101.122 (2) (c), 101.14 (2), 101.63 (1), (2) and (2m), 101.73 (5), 101.82 (2), 101.87 (1), 145.02 (4), 145.045 (1), 145.165 (1), 145.17 (2), 145.175 and 167.10 (6m) (e), Stats.

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

It is estimated that these rule revisions relating to changes, credentials and automatic fire sprinkler standards will require the resources of about 6 individual staff members from the Department as follows:

Administrative time	80	Hours
Code Consultant's time	220	Hours
Program Managers' time	220	Hours
Rules Coordination time	40	Hours
Program Support time	120	Hours
TOTAL TIME:	**680**	**HOURS**

Commerce

Subject:

Chs. Comm/ILHR 11, 12, 13 and 43 – Relating to gas systems.

Description of policy issues:

Description of the objective of the rule:

The objective of the rule is to update several related Administrative Codes to current national standards and to combine these codes into one chapter to be titled "Gas Systems". The codes to be updated and combined are chs. Comm 11 - "Liquefied Petroleum Gases", ILHR 12 - "Liquefied Natural Gas", Comm 13 - "Compressed Natural Gas", and ILHR 43 - "Anhydrous Ammonia".

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

The codes to be updated and combined establish minimum technical standards for the safe design, construction, installation, operation and maintenance of the respective gas systems. The codes either adopt national standards by reference or closely follow national standards. Chapters Comm 11, ILHR 12 and Comm 13 adopt by reference national standards issued by the American Petroleum Institute and the National Fire Protection Association. Chapter ILHR 43 is based on a standard issued by the American National Standards Institute (ANSI).

This rule project will update the respective codes to the current national standards, and it will evaluate combining the codes into one chapter. These codes are similar in format and contain many of the same provisions. By combining the codes, the administration and enforcement provisions will not need to be repeated several times. The rule project will also evaluate adopting by reference the ANSI standard for anhydrous ammonia rather than reprinting the provisions in the code.

The alternative of not revising these codes would result in not being up–to–date with current national standards and in unnecessarily reprinting code provisions.

Statutory authority for the rule:

The statutory authority for the liquefied petroleum gases code is section 101.16, Stats. The statutory authority for the other codes is sections 101.02 (15) (h) to (j), 101.17 and 101.19 (1) (b), Stats.

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

The Department estimates that it will take approximately 500 hours to develop this rule. This time includes forming and meeting with an advisory council, then drafting the rule and processing the rule through public hearings and legislative review. The Department will assign existing staff to develop the rule. There are no other resources necessary to develop the rule.

Commerce

Subject:

Chs. ILHR 41–42 – Relating to boilers and pressure vessels.

Description of policy issues:

Description of the objective of the rule:

The objective of the rule is to update chs. ILHR 41–42 - "Boiler and Pressure Vessel Code", including the adoption by reference of the current boiler and pressure code published by the American Society of Mechanical Engineers (ASME).

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:

Since 1957 the state boiler and pressure vessel code has adopted by reference the ASME boiler and pressure vessel code. Currently, the 1995 edition of the ASME code is adopted in chapters ILHR 41–42. This rule project will update the state code to the 1998 edition of the ASME code.

Because the Department is considering adopting the new International Building Code (IBC), this rule project will also review and evaluate the boiler requirements in the IBC.

Additionally, this rule project will evaluate the role of the federal Nuclear Regulatory Commission in Wisconsin as it relates to the need for the nuclear power plant rules in the state boiler and pressure vessel code.

The alternative of not updating chapters ILHR 41–42 would result in the state code not being up–to–date with current nationally recognized standards for the design, installation, operation and repair of boilers and pressure vessels.

Statutory authority for the rule:

The statutory authority for chs. ILHR 41–42 is s. 101.17, Stats.

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

The Department estimates that it will take approximately 400 hours to develop this rule. This time includes forming and meeting with an advisory council, then drafting the rule and processing the rule through public hearings and legislative review. The Department will assign existing staff to develop the rule. There are no other resources necessary to develop the rule.

Commerce

Subject:

Ch. Comm 113 – Relating to allocation of volume cap on tax–exempt private activity bonds for calendar year 1999.

Description of policy issues:

Description of the objective of the rule:

Section 56.032, Stats., requires the Department of Commerce to submit annually a system for the allocation of volume cap on the issuance of private activity bonds. This statement of scope relates to the creation of a volume cap allocation system for calendar year 1999. Without the proposed rule, the availability of a system for distribution of volume cap would be uncertain.

The private activity bonding available under the volume cap in Wisconsin during calendar year 1998 is approximately $258.5 million. The volume cap during calendar year 1999 will be based upon Wisconsin's 1998 population and is expected to be somewhat higher. Of the total, the Department's proposed rules will allocate approximately:

- $125 million to the Wisconsin Housing and Economic Development Authority (WHEDA);
- $10 million will be allocated to the State Building Commission; and
- The remaining $123.5 million will be allocated to the Department of Commerce to be distributed to local users for a variety of economic development and other projects.

In 1997, the process of allocating volume cap changed from a first–come, first–serve basis to allocating volume based on the merits of each project, including numerous factors. In addition, the Department created an advisory Volume Cap Allocation Council under s. 15.04 (1), Stats., to consider applications and make recommendations as to the allocation of the volume cap among different economic development projects based on merit, as well as distress in the vicinity of the project. Similar rules applied to the distribution of volume cap for the calendar year 1998.

After approximately one and a half years of experience working with the rules, the Volume Cap Allocation Council, and the new process of allocating volume cap based on merit, some fine–tuning is needed (particularly with those elements of the rules and program directly related to determining the economic factors associated with allocating volume cap for economic development projects) to provide Commerce some ability to react to certain rapid response situations.

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

The current rules allocate volume cap based on the merit of each economic development project. No major change to that method of distributing volume cap is anticipated; however, some fine–tuning changes are needed to the criteria the Department uses to assess the economic factors associated with individual economic development projects.

Statutory authority for the rule:

Section 560.032, Stats., requires the Department have established by rule the system and rules for the allocation of volume cap on the issuance of private activity bonds for next year.

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

The time estimated to develop the rule is as follows:

Rule drafting and internal processing to announce public hearings	50	hours
Conducting public hearings and summarizing hearing comments	20	hours
Preparing rules in final draft form for legislative review	15	hours
Meet with Legislators on subject rules	8	hours
Prepare rule for adoption and file adopted rule	4	hours
Total	**97**	**hours**

Dentistry Examining Board

Subject:

DE Code – Relating to:

1. The list of oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a licensed dental hygienist; and

2. The educational requirements for a licensed dental hygienist to be granted a certificate to administer local anesthesia.

Description of policy issues:

Objective of the rule:

To fulfill the mandate of 1997 Wis. Act 96 (the "Act"), which requires the Board to promulgate administrative rules specifying:

- ☞ The oral systemic premedications and subgingival release chemotherapeutic agents that may be administered to patients by a licensed dental hygienist.
- ☞ The education required of licensed dental hygienists to receive a certificate to administer local anesthesia to patients.

Policy analysis:

The Dentistry Examining Board is required to promulgate rules listing the oral systemic premedications and subgingival release chemotherapeutic agents that may be administered to patients by a licensed dental hygienist, as well as the education required of licensed dental hygienists to receive a certificate to administer local anesthesia to patients.

The effect of the Act is to expand the functions that may be performed in a dental office by a licensed dental hygienist. Under the Act, a qualified dental hygienist may administer authorized substances only pursuant to a treatment plan approved by a dentist who is present in the dental facility when the substances are administered by a dental hygienist and is available to the patient throughout the completion of the appointment.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2), Stats., and 447.02 (2) (d) and (e), Stats., as created by 1997 Wis. Act 96.

Estimate of the amount of state employe time and any other resources that will be necessary to develop the rule:

15 hours.

Elections Board

Subject:

S. ElBd 1.28 – Relating to defining activity which is subject to campaign finance regulation in Wisconsin.

Description of policy issues:

The proposed rule affects s. ElBd 1.28, relating to defining the term "express advocacy" for purposes of limiting the term "political purpose" for use in ch. 11 of the Wisconsin Statutes.

Description of objective(s):

To amend the Elections Board's existing rule to more clearly define that activity which is subject to regulation by chapter 11 of the Wisconsin Statutes, for the purpose of reaching pre–election activity in which clearly–identified candidates are discussed.

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

Under the existing statute (s. 11.01 (16), Stats.) and rule (s. ElBd 1.28), individuals and organizations that do not spend money to expressly advocate the election or defeat of a clearly identified candidate, or a vote "Yes" or vote "No" at a referendum, are not subject to campaign finance regulation under ch. 11 of the Wisconsin Statutes. The term "expressly advocate" has been limited to so–called "magic words", such as "vote for" or "elect" or their verbal equivalents. The Dane County Circuit Court has opined that if the Elections Board wishes to adopt a more inclusive interpretation of the term "express advocacy", it must do so by way of a rule. The new rule will more clearly specify which communications are subject to regulation and which are not.

Statutory authority for the rule:

Sections 5.05 (1) (f) and 227.11 (2) (a), Stats.

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

50 hours of staff time.

Employe Trust Funds

Subject:

ETF Code – The Department of Employe Trust Funds gives notice pursuant to s. 227.135, Stats., that it proposes to create an administrative rule concerning the proper reporting of creditable service, earnings and participating employes of instrumentalities of two or more units of government when the joint instrumentality does not qualify as a separate employer for WRS (Wisconsin Retirement System) purposes. One example of such an instrumentality is a joint library district.

Description of policy issues:

Employes who meet the qualifications of "participating employes" as defined by s. 40.22, Stats., are covered by the Wisconsin Retirement System (WRS). They are granted "creditable service" under the WRS as provided by s. 40.02 (17), Stats. A percentage of their "earnings", as defined by s. 40.02 (22), Stats., are contributed to the Public Employe Trust Fund to pay for their retirement benefits as those benefits are accrued.

Under state law, some local units of government are permitted to join together to create instrumentalities. If two or more WRS–participating employers create such a joint instrumentality, which is not recognized as a separate unit of government for purposes of Titles II and XVIII of the federal Social Security Act and for WRS purposes, then questions arise over:

1) How to determine whether an employe of the instrumentality qualifies as a participating employe under the WRS and
2) How to apportion responsibility among the participating employers for payment of the employer–required contributions and for reporting earnings and services rendered by the employe.

The situation may be further complicated by the possibility that the joint instrumentality is created by two or more local units of government, including one or more units which are not participating employers under the WRS.

Objectives of the rule:

The purpose of this rule–making is to codify the criteria to be used to determine whether an employe qualifies as a participating employe for WRS purposes when that employe works for an instrumentality created by two or more units of government, at least one of which is a participating employer, when the instrumentality itself is not a separate and distinct "employer" for WRS purposes. In addition, the proposed rule–making will codify responsibility for reporting such participating employes and their earnings and service, and making required contributions, to the Department of Employe Trust Funds.

The rule will specify that an employe of a joint instrumentality, which itself is not a separate and distinct "employer" for WRS purposes, is a participating employe under the Wisconsin Retirement System if any of the units of government forming the joint instrumentality is a participating employer under s. 40.21, Stats., unless the employe is excluded by s. 40.22 (2), Stats.

In determining whether an employe is not expected to work at least one–third of what is considered full time employment by s. ETF 20.015, the employe's work for the joint instrumentality shall be considered as a whole, without regard for the number of separate units of government which created the joint instrumentality or any agreement among them apportioning responsibility for the retirement contributions. Thus, a librarian working 900 hours per year for a joint library district created by six towns and villages, at least one of which is a participating employer, would qualify as a participating employe under the WRS.

Among the units of government which formed the joint instrumentality, each unit which is a participating employer under s. 40.21, Stats., shall report each employe of the joint instrumentality who qualifies as a participating employe to the DETF as its own employe. Each participating employer shall transmit as required contributions to the DETF the same percentages of the employe's earnings as is required for its other employes.

The amount of earnings to be reported by each participating employer with respect to an employe of the joint instrumentality shall be determined by first determining the gross amount paid to the employe for services rendered to the joint instrumentality which would qualify as "earnings" under s. 40.02 (22), Stats., if the joint instrumentality were itself the employer, then prorating the earnings among the employer which created the joint instrumentality. If the proration is not specified by the agreement establishing the joint instrumentality, it shall be in accord with the agreed proration of other expenses. If no such proration is provided in the agreement, each employer shall report as earnings the total amount divided by the number of units of government forming the joint instrumentality.

The employe's hours of service shall be handled in the same manner for creditable service purposes. Thus, if the librarian worked 1,800 hours annually and was paid $20,000 per year by a joint library district created by a town and a village, both of which are participating employers, and they had agreed to split the expenses, with the town paying 80% and the village 20%, then the town would report 1,440 hours of service and $16,000 in earnings, while the village reported 360 hours of service and $4,000 in earnings, with each making the associated contributions. If the village was not a participating employer, it would have no obligation whatsoever, while the town's responsibilities would be exactly the same.

Policy analysis:

The policies intended to be reflected by this rule–making are as follows:

1) Each participating employer in a joint instrumentality (which is not itself a separate employer for WRS purposes) ought to be responsible for its share of the retirement benefits of the instrumentalities' employes who meet the qualifications for participating employes.
2) What that share should be is initially best determined by the units of government forming the joint instrumentality, but if they fail to address the issue expressly or implicitly, then their appropriate share will be determined by assuming each unit is equally responsible.
3) The employe of such a joint instrumentality should not be penalized by the number of different units of government which formed the instrumentality. So, for example, a librarian working more than 600 hours per year for a joint library district should be treated the same for WRS purposes, regardless of the number of towns and villages which formed the joint library district.

Policy alternatives to the proposed rule:

Doing nothing is not an alternative, as this situation has already arisen and a policy must be adopted, both to resolve existing known situations and foreseeable variations.

A policy alternative might be to make it more difficult for employes to qualify for WRS participation by determining whether an employe meets the participating employe criteria on a unit–by–unit basis. In effect, the total services of the employe would be divided among the various units of government forming the joint instrumentality before deciding whether the employe met the requirement to be working one–third of full–time employment (600 hours for non–teachers). This would mean, for example, that a librarian employed by a joint library district formed by six villages would need to work at least 3,000 hours per year to be considered to be working one–third of full–time employment by any one village.

A policy alternative might be to restrict the ability of employers forming joint instrumentalities to apportion responsibility for retirement benefits among themselves.

Statutory authority:

Sections 40.03 (2) (i) and 40.22 (5), Stats.

Staff time required:

The Department estimates that state employes will spend 20 hours to develop this rule.

Employe Trust Funds

Subject:

ETF Code –The Department receives qualified domestic relations orders that divide Wisconsin Retirement System (WRS) accounts and annuities pursuant to s. 40.08 (1m), Stats. The proposed rule would clarify how accounts and annuities are divided, pursuant to qualified domestic relations orders for marriages terminated between January 1, 1982 and April 27, 1990.

Description of policy issues:

Objectives of the rule:

As of May 2, 1998, the effective date of 1997 Wis. Act 125, the Department can honor qualified domestic relations that divide the WRS accounts and annuities for participants whose marriages were legally terminated between January 1, 1982 and April 27, 1990. The division does not apply to benefit payments issued prior to the date the Department receives the order. The purpose of the proposed rule is to define precisely how WRS accounts and annuities would be divided and the effects of the order on the participant's WRS benefits when the participant's status has changed between the decree date and the date the qualified domestic relations order would be applied to the participant's benefits.

Policy analysis:

The Department can now honor qualified domestic relations orders for marriages legally terminated between January 1, 1982 and April 27, 1990. Per the language in 1997 Wis. Act 125, if the participant is a WRS annuitant when the Department receives the qualified domestic relations order, the division does not apply to benefit payments issued prior to the date that the Department receives the order. However, the effective date of recomputation of the participant's account and/or annuity is still retroactive to the decree date.

A participant's status (active, inactive, annuitant, rehired annuitant with reestablished account, deceased) may have changed between the decree date and the date the order is applied to the account or annuity (the first payment issued on or after the date the Department receives the order), and determining the effects of a qualified domestic relations order on both the participant's and alternate payee's rights and benefits may be extremely complex. The proposed rule would specify how the participant's benefits would be divided in each of the numerous possible combinations of participant status changes.

Policy alternatives to the proposed rule:

The alternative to promulgating this rule would be that for qualified domestic relations orders received for marriages legally terminated between January 1, 1982 and April 27, 1990, there would be no clear definition of how to calculate an account or annuity division retroactive to the decree date, but only apply the division prospectively to benefit payments issued on or after the date the Department receives the order. This would be likely to result in inconsistent application of the new statute and appeals on how the Department has divided an account or annuity.

Statutory authority for rule–making:

S. 40.03 (2) (i), Stats.

Staff time required:

The Department estimates that state employes will spend 100 hours developing this rule.

Natural Resources

Subject:

S. NR 20.037 (2) – Relating to mid–season readjustments of walleye daily bag limits after spring spearing by Chippewa Bands.

Description of policy issues:

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

Since 1985 the bulk of tribal harvest has been through spearing in the spring season. While quotas have been reserved for harvest later in the year, very few walleye have been taken by the tribes in the summer or fall (0––250 walleye on 0––4 lakes). After spring spearing, some of the tribes have released walleye back to the state in some years, while some have never made a release of walleye. By allowing the Secretary to raise walleye bag limits to 3 on those lakes which have been declared at a level requiring a 2–bag or lower and which still have remaining walleye to allow a 3–bag, based on the expectation of the number of walleye to be harvested in the rest of the year, anglers would have increased opportunity on those waters which have not been harvested at the quota level set by the tribes. The Chippewa Tribes would also be impacted, in that the Department is assuming that they will not harvest the remainder of their quota on these waters. If the tribes do harvest additional fish on these waters, the Department may have to implement additional restrictions on anglers to accommodate that harvest.

The proposed rule change represents a change from past policy.

Explain the facts that necessitate the proposed change:

The Department would like the authority to adjust bag limits after the end of the spearing season, based on the actual harvest taken by Chippewa Bands, rather than the initial declarations made by the Tribes. The adjustment up to a 3–bag level, where possible, would usually still provide some tribal harvest opportunities. A 3–bag for state anglers still provides for tribal harvest. Most years, a large proportion of the lakes declared at a 2–bag level are not speared in the spring.

Statutory authority for the rule:

Section 29.174, Stats.

Anticipated time commitment:

The anticipated time commitment is 18 hours. One public hearing is proposed to be held in June, 1998 at Rhinelander.

Natural Resources

Subject:

Ch. NR 25 – Relating to commercial fishing – outlying waters.

Description of policy issues:

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

To keep the incidental harvest of lake trout within acceptable limits, commercial gill netting for chubs is limited to prescribed areas. This rule will expand areas open to chub fishing during the winter season (January 15 through the end of February). The expansion of

fishing areas during winter will allow more chubs to be harvested with less effort and less risk. The incidental harvest of lake trout will increase somewhat. The proposed rules will be in effect only for the winters of 1999 and 2000, with extensions to be considered when more data are available in mid−1999.

This rule will affect commercial fishers directly and sport fishers indirectly.

The proposed rule change does not reflect a fundamental change in policy. It modifies current geographic limitations on where commercial fishing for chubs can take place during the winter fishing period (January 15 through the end of February).

Explain the facts that necessitate the proposed change:

The rule will expand commercial fishing opportunities. Changes to the northern chub fishing zone adopted by the Natural Resources Board in 1996 limited chub fishing in the Northern Chub Fishing Zone during winter to waters deeper than 60 fathoms and the closure of the Lake Michigan yellow perch fishery in 1996 sharply limited fishing opportunities for a number of commercial fishers.

Statutory authority for the rule:

Sections 29.085, 29.174, 29.33, 29.62 and 29.625, Stats.

Anticipated time commitment:

The anticipated time commitment is 47 hours. Two public hearings are proposed to be held in August, 1998 at Sturgeon Bay and Port Washington.

Natural Resources

Subject:

Chs. NR 233, 252 and 284 – Relating to amending existing state wastewater standards and requirements for point sources, to conform with changes in the corresponding federal regulations.

Description of policy issues:

The following administrative codes will be affected:

- Ch. NR 233 (Pesticide Chemicals) will be amended to conform with 40 CFR Part 455.
- Ch. NR 252 (Leather Tanning and Finishing) will be amended to conform with 40 CFR Part 425.
- Ch. NR 284 (Pulp and Paper Manufacturing) will be amended to conform with 40 CFR Part 430.

In addition to amending the above codes, a "Notice of Intent" to implement these federal regulations will be published in the *Wisconsin Administrative Register* as required by s. NR 211.34.

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

The purpose of this action is to establish effluent limitations and requirements for the direct discharge of pollutants to waters of the state, and to establish pretreatment standards for the introduction of pollutants into publicly−owned treatment works. This will result in the adoption of state standards and limitations for industrial wastewater discharges from these industry sectors that would comply with federal regulations.

These amendments will follow federal format and language, except for changes to reflect state rule drafting conventions. These chapters will impose no requirements beyond the federal regulations, and make no changes to Department policy. No controversy is expected.

This action does not represent a change from past policy.

Explain the facts that necessitate the proposed change:

Section 283.11, Stats., requires the adoption of state wastewater codes that parallel the federal rules. This action will bring these state codes into compliance with federal rules which have been codified in 40 CFR Parts 425, 430 and 455.

This action represents an opportunity for pollution prevention and/or waste minimization.

Statutory authority for the rule:

Section 283.11, Stats.

Anticipated time commitment:

The anticipated time commitment is 492 hours. One public hearing will be held in October, 1998 at Madison.

Public Service Commission

Subject:

PSC Code – Relating to various dispute resolution procedures under federal and state law.

Description of policy issues:

Objective of the rule:

The objective of the proposed rule is to implement the Commission's federal and state statutory authority to resolve various disputes between providers and between providers and their customers.

1. Procedures for Negotiations, Mediation, Arbitration and Approval of Agreements.

   The federal Telecommunications Act of 1996 (Act) established procedures for negotiation, arbitration and approval of agreements (47 U.S.C. s. 252). Among other duties and responsibilities, state commissions were granted authority to mediate, arbitrate and approve interconnection agreements under the Act. On May 23, 1996, the Commission issued its Interim Procedures for Negotiations, Mediation, Arbitration, and Approval of Agreements (Interim Procedures) to implement state participation in developing competitive local exchange markets, as contemplated by the Act. These Interim Procedures need to be modified, based on the Commission's experience and codified into permanent rules.

2. 1997 Wis. Act 218.

   This new law grants the Commission express authority to resolve disputes, under interconnection agreements between providers, and to impose forfeitures for failure to comply with the terms of an interconnection agreement. (See Section 10 or newly−created s. 196.199, Stats.) It becomes effective on January 1, 1999.

   Section 50 (nonstatutory provisions) states:

   > (1) The public service commission shall submit in proposed form the rules required under section 196.199 (2) (c) of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than November 1, 1998.

   Newly−created s. 196.199 (2) (c), Stats., states:

   > (c) The commission shall promulgate rules that specify the requirements for determining under sub. (3) (a) 1m. a. whether a party's alleged failure to comply with an interconnection agreement has a significant adverse effect on the ability of another party to the agreement to provide telecommunications service to its customers or potential customers.

   In addition, s. 196.199 (2) (b), Stats., creates the following discretionary rulemaking authority:

   > (b) The commission may promulgate rules that require an interconnnection agreement to include alternate dispute resolution provisions.

   The scope of the proposed rule includes subjects contemplated under s. 196.199 (2) (b) and (c), Stats.

3. Alternate Dispute Resolution.

Section 196.219 (5), as modified by 1997 Wis. Act 218, reads as follows:

> ALTERNATE DISPUTE RESOLUTION. The commission shall establish by rule a procedure for alternative dispute resolution to be available for complaints filed against a telecommunications utility or provider.

The commission has not yet promulgated a rule pursuant to this statutory section. The scope of the proposed rule will include alternative dispute resolution (ADR) procedures to fulfill this legislative directive, i.e., the timely resolution of complaints against a utility or provider, whether filed by other providers or end users.

Existing policies relevant to the rule:

Since the passage of the Act, the Commission has gained considerable experience under its Interim Procedures. The proposed rule will modify those Interim Procedures, where appropriate, based on the Commission's experience. It will also codify the previously informal procedures as part of the Wisconsin Administratie Code. The Commission has some limited experience resolving disputes under interconnection agreements. Although the Commission handles many complaints, the Commission's experience using ADR procedures to resolve complaints is also somewhat limited. New policies will have to be developed and proposed in these areas particularly.

New policies proposed:

As mentioned above, new ADR policies and procedures will have to be developed to resolve disputes under interconnection agreements and complaints filed against utilities or providers. Absent the development of new ADR policies and procedures, policies will continue to be developed using traditional methods of dispute resolution before the Commission and the courts.

Analysis of alternatives:

Analyzing alternatives is inherent in the subject matter of this proposed rule. The Commission fully expects numerous ADR procedures to be examined during the course of this rulemaking process before one or more methods are chosen.

Statutory authority:

Sections 196.219 (5) and 227.11 (2), Stats., 1997 Wis. Act 218 (specifically Sections 10 and 50) and 47 U.S.C. s. 252.

Time estimates for rule development and other resources necessary to develop the rule:

Completing the rulemaking proceeding is estimated to take at least 300 staff hours. No additional staff or other agency resources are anticipated for this rulemaking. If you have specific questions or comments regarding this proposed rulemaking, please contact Nick Linden, Assistant Administrator, Telecommunications Division, at (608) 266–8950.

Public Service Commission

Subject:

Ch. PSC 5 – Relating to assessment of utilities for Public Service Commission services.

Description of policy issues:

Objective of the rule:

The existing ch. PSC 5, Wis. Adm. Code, was created to provide procedural guidance to s. 196.85 (1) and (5), Stats. These statutes provide the authority for the Commission to recover its costs via direct and remainder assessments to public utilities, as defined in s. 196.01, Stats.

Existing policies relevant to the rule, new proposed policies in the rule and an analysis of policy alternatives:

As a general policy, the Commission has intended the cost causer pay the cost of whatever work was being done. This principle has been one that is more and more difficult to maintain as regulation is modified to reflect changes in the telecommunications, gas and electric industries. One of the major changes is the increasing number of new participants in these industries, many of which have different characteristics from the typical regulated utility. For all of the above reasons, the current rule, which was created years ago, will not work well in the future.

For the future, the Commission believes that, as a part of any restructuring legislation in any industry regulated by the Commission, the direct and remainder assessments should be made more fair for all participants in these industries and suggests the following general principles for guidance:

Principles for Assessment Policy Going Forward

- The Assessment Team recommends as a **general principle** and long–term goal that, as part of any restructuring legislation in any industry regulated by the Commission, the **direct and remainder assessments** should be broadened to include all industry participants, whether they are regulated or not. The Commission should also be given the authority to determine a fair and appropriate basis for assessment within each industry and should retain the authority to determine a fair allocation of general costs among the industry groups.

- **"Interim"** refers to the period from the present until the time that the assessment statute is changed legislatively as part of legislation to restructure an industry. As an **interim** measure to improve fairness in the **direct assessment**, the Commission should continue and further the policy of charging the full costs of Commission regulation in direct assessments for proceedings by including any costs and overheads reasonably attributable to a proceeding in the direct assessment.

- As an **interim** measure to improve fairness in the direct assessment, the Commission should adopt the policy that all parties to a proceeding who are subject to the direct assessment shall share the costs of that proceeding in some reasonable proportion to each other.

- As an **interim** measure to improve fairness in the **remainder assessment** by minimizing cross–subsidization of costs between industries, the Commission will develop a process within existing law that moves toward a cost center approach for the remainder assessment.

To improve the fairness of the **direct assessment** process, the Commission should develop a mechanism to ensure that participants other than complainants are not stuck with the costs of complaint proceedings that are found to be frivolous. If it is possible, the Commission should try to make this improvement through internal changes, or through administrative rulemaking processes. If not, the Commission should seek authorizing legislation. The Commission proposes to conduct a rulemaking proceeding to consider rule changes consistent with these principles.

Statutory authority for the rule:

The authority for the PSC to initially create this rule was provided in ss. 196.85 and 227.11 (2), Stats.

Estimated amount of state employe time and estimated resources to develop the rule:

Based on time estimates collected for other Commission rulemaking dockets, it is probable that staff will spend about $15,000 – $20,000 in equivalent staff time to create a draft of the rule and complete the public process of the rulemaking. The time would be absorbed by existing staff, and no new resources will be needed. The Commission believes the time spent by staff on this effort will ultimately provide a fair assessment process for the entities regulated by the Commission. If you have specific questions or comments regarding this proposed rulemaking, please contact Gordon Grant, Director of Fiscal Services, at (608) 267–9086.

Regulation and Licensing

Subject:

RL Code – Relating to administrative warnings issued to credential holders.

Description of policy issues:

Objective of the rule:

1997 Wis. Act 139 created s. 440.205, Stats., which authorizes the issuance and use of administrative warnings by Department of Regulation and Licensing credentialing authorities. The objective of the rule is to comply with the Act by establishing uniform procedures for the issuance and use of administrative warnings; to describe what is a first occurrence of a minor violation; to determine what is evidence of misconduct; and for personal appearances by credential holders before a credentialing authority.

Policy analysis:

Section 440.205, Stats., as created by 1997 Wis. Act 139, mandates the Department to promulgate rules establishing uniform procedures for issuing and using administrative warnings. An administrative warning does not constitute formal disciplinary action against credential holders. Rather, it is a formal warning issued upon the closing of an investigation to a credential holder that specific conduct is prohibited. It places the credential holder on formal notice that if such misconduct is committed in the future, the investigation may be reopened and, for subsequent violations, the warning may be used to prove that the person warned knew the conduct was prohibited. Under the Act, the fact that an administrative warning has been issued is a matter of public record. However, the contents of the administrative warning is not due to the fact that the warning is issued without bringing formal charges and without providing an opportunity for a hearing to the credential holder.

The administrative warning provides credentialing authorities with an additional tool with which to assure that the public is protected upon the closing of an investigation, despite the fact that disciplinary proceedings were not commenced against the credential holder. Administrative rules are necessary in order to assure that administrative warnings are utilized in a manner that foster the desired result of protecting the public, and to reduce the possibility for inappropriate use. Under the statutes, administrative warnings may be issued only after a credentialing authority determines that an investigation has yielded "evidence of misconduct," involving a "first occurrence of a minor violation." Rules must be developed defining these requirements.

Also, the procedures by which an administrative warning may be issued must be established, as well as the format under which they will be prepared and issued. Finally, procedures for the right of a credential holder to "obtain a review" through personal appearance before a credentialing authority must be established.

Statutory authority:

Section 227.11 (2), Stats., and s. 440.205, Stats., as created by 1997 Wis. Act 139.

Estimate of the amount of state employe time and any other resources that will be necessary to develop the rule:

40 hours.

Revenue

Subject:

SS. Tax 11.26 and 11.32 – Relating to gross receipts and sales price;

S. Tax 11.41– Relating to the sales or use tax exemption for property consumed or destroyed in manufacturing; and

S. Tax 11.83 – Relating to the sales and use tax treatment of motor vehicles.

Description of policy issues:

Objective of the proposed rule:

The objective of the rule order is to update various sales and use tax rules to reflect law changes contained primarily in 1997 Wis. Act 27.

Existing policies:

The rule order reflects the Department of Revenue's existing policy of providing accurate information to taxpayers, practitioners, and Department employes.

No new policies are proposed.

Policy alternatives:

* Do nothing. The rules will be incorrect in that they do not reflect current law.

Statutory authority:

S. 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 40 hours to develop this rule order. This includes drafting the rule order, review by appropriate parties, and preparing related documents. The Department will assign existing staff to develop this rule order. If you have any questions regarding this scope statement, please contact Mark Wipperfurth at (608) 266–8253.

Revenue

Subject:

S. Tax 11.19 – Relating to the sales or use tax exemption for printed materials; and

S. Tax 11.70 – Relating to the sales and use tax treatment of advertising agencies.

Description of policy issues:

Objective of the proposed rule:

The objective of the rule order is to update various sales and use tax rules to reflect law changes contained primarily in 1997 Wis. Act 27.

Existing policies:

The rule order reflects the Department of Revenue's existing policy of providing accurate information to taxpayers, practitioners, and Department employes.

No new policies are proposed.

Policy alternatives:

* Do nothing. The rules will be incorrect in that they do not reflect current law.

Statutory authority:

S. 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 40 hours to develop this rule order. This includes drafting the rule order, review by appropriate parties, and preparing related documents. The Department will assign existing staff to develop this rule order. If you have any questions regarding this scope statement, please contact Mark Wipperfurth at (608) 266–8253.

Revenue

Subject:

S. Tax 11.68 –Relating to the sales and use tax treatment of construction contractors.

Description of policy issues:

Objective of the proposed rule:

The objective of the rule order is to:

1) Update various sales and use tax rules to reflect law changes contained primarily in 1997 Wis. Act 27;

2) Provide consistent treatment for property used to carry on a trade or business at a service station; and

3) Clarify the treatment of services resold.

Existing policies:

The rule order reflects the Department of Revenue's existing policy of providing accurate information to taxpayers, practitioners, and Department employes.

New policies proposed:

The change in treatment of underground storage tanks at service stations is new. The Department makes this change due to concerns expressed by contractors that property used at a service station is not treated consistently as real property and tangible personal property.

Policy alternatives:

* Do nothing. The rules will be incorrect in that they do not reflect current law. The rule will remain inconsistent as it applies to gasoline service stations.

Statutory authority:

S. 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 40 hours to develop this rule order. This includes drafting the rule order, review by appropriate parties, and preparing related documents. The Department will assign existing staff to develop this rule order. If you have any questions regarding this scope statement, please contact Mark Wipperfurth at (608) 266–8253.

Revenue

Subject:

S. Tax 1.12 – Relating to electronic funds transfer for tax payments.

Description of policy issues:

Objective of the proposed rule:

This is a new rule, which would permit the Department to require electronic funds transfer for certain tax types and payment amounts, including but not limited to corporate income and franchise tax, income tax withholding, sales and use tax, cigarette tax, motor vehicle fuel tax, and petroleum inspection fees.

Existing policies:

Electronic funds transfer is offered as a payment method for most tax types. A statutory provision permitting the Department to require electronic funds transfer for motor vehicle fuel tax and petroleum inspection fee payments (s. 78.12 (5) (b), Stats.) was repealed by 1997 Wis. Act 27. 1997 Wis. Act 27 further provides that the Department may require electronic funds transfer only by promulgating rules.

Policy alternatives:

• Do nothing. The Department would be unable to require, but could continue to offer, payments by electronic funds transfer.

Statutory authority:

S. 227.11 (2) (a), Stats., and s. 73.029, Stats., as created by 1997 Wis. Act 27.

Estimate of staff time required:

The Department estimates that it will take approximately 40 hours to develop this rule order. This includes drafting the rule, review by appropriate parties, and preparing related documents. The Department will assign existing staff to develop this rule order. If you have any questions regarding this scope statement, please contact Mark Wipperfurth at (608) 266–8253.

Revenue

Subject:

S. Tax 11.09 – Relating to sales and use tax treatment of medicines; and

S. Tax 11.28 – Relating to sales and use tax treatment of gifts and other advertising specialties.

Description of policy issues:

Objective of the proposed rule:

The objective of the rule order is to:

1) Update various sales and use tax rules to reflect law changes contained primarily in 1997 Wis. Act 27;

2) Clarify that sales and use tax on property given away may be measured by its market value if certain statutory requirements are met; and

3) Reflect the Department's position that sales of coupon books and voucher books are not taxable because they are sales of intangible rights.

Existing policies:

The rule order reflects the Department of Revenue's existing policy of providing accurate information to taxpayers, practitioners, and Department employes.

No new policies are proposed.

Policy alternatives:

* Do nothing. The rules will be incorrect in that they do not reflect current law or current Department policy.

Statutory authority:

S. 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 40 hours to develop this rule order. This includes drafting the rule order, review by appropriate parties, and preparing related documents. The Department will assign existing staff to develop this rule order. If you have any questions regarding this scope statement, please contact Mark Wipperfurth at (608) 266–8253.

Transportation

Subject:

Ch. Trans 57 – Relating to criteria for airports and for the issuance, duration, revocation and denial of airport site certificates.

Description of policy issues:

Description of the objective of the rule:

This proposed rule will create ch. Trans 57, which establishes criteria for airports built after June 3, 1974 and for the issuance, duration, revocation and denial of airport site certificates. The objective of the rule is to codify airport standards and the procedure for the issuance, duration, revocation and denial of airport site certificates.

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:

There are no written policies relevant to the proposed rule. The policies included in the rule are an extension of the procedures used in issuing a certificate of airport site approval.

Statutory authority for the rule:

Sections 114.134, 114.31 (1), 227.11 (2) and 227.18, Stats.

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

State employes will spend an estimated 100 hours on developing the rule.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

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

Commerce

Rule Submittal Date

On May 12, 1998, the Wisconsin Department of Commerce submitted a proposed rule to the Legislative Council rules Clearinghouse affecting Ch. Comm 115, Wis. Adm. Code, relating to the community–based economic development program.

Analysis

Statutory authority:

Section 560.20, Stats., creates the Community–Based Economic Development programs. Section 560.14 (3m), (3r) (b), (5) (b) and (bn), Stats., authorizes the Department to create administrative rules to interpret the section.

The proposed rule makes changes to the Community–Based Economic Development Program. The changes are the result of statutory changes made to the program in 1997 Wis. Act 27, the biennial budget bill. The proposed rule also makes some technical changes to simplify the rule and to make the rules for this program more uniform with the rules for the Department's other financial assistance programs.

The significant changes in the proposed rule include:

1. Priority for funding under the program will be given to brownfield projects.

2. The definition for "extreme financial hardship area" is changed to delete the reference to households that receive aid to families with dependent children, because this program no longer exists under the W–2 initiative.

3. The definition of small business is changed from a business with 25 employes to a business with 100 or less employes.

4. The amount of funds that can be granted to a community–based organization for a development project or business assistance project is changed from $20,000 to $30,000.

5. The amount of funds that can be granted to a political subdivision for an economic diversification plan is changed from $10,000 to $30,000. In addition, community–based organizations are also eligible to apply for an economic diversification plan.

6. It establishes procedures for a new program that allows community–based organizations to apply for a grant to establish a revolving loan fund to make loans to small businesses.

7. It establishes procedures for a new program that allows a private, nonprofit foundation to apply for a grant to conduct an entrepreneurship training program for economically–disadvantaged or socially at–risk children.

8. It establishes procedures for a new program that allows a community–based organization or private nonprofit organization to apply for a grant to conduct a venture capital development conference. The successful applicant must provide at least 50 percent of the cost of the project.

Agency Procedure for Promulgation

A public hearing is required, and two public hearings will be held, one on July 23 at Wausau and one on July 27, 1998 at Milwaukee.

Contact Person

Ms. Louie Rech
Department of Commerce
Telephone (608) 267–9382

Corrections

Rule Submittal Date

Notice is hereby given that, pursuant to s. 227.14 (4m), Stats., on May 5, 1998, the Wisconsin Department of Corrections submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule–making order affects s. DOC 328.22 (5), relating to expanding the authority of the Department of Corrections to allow the Department to detain any parolee or any felony probationer in any Department institution.

Agency Procedure for Promulgation

Public hearing is required under s. 227.16 (1), Stats., and will be scheduled at a later date. The organizational unit that is primarily responsible for the promulgation of this rule is the Division of Community Corrections.

Contact Person

If you have any questions, you may contact:

Deborah Rychlowski
Telephone (608) 266–8426

Health and Family Services

Rule Submittal Date

On May 6, 1998, the Wisconsin Department of Health and Family Services submitted to the Wisconsin Legislative Council Rules Clearinghouse a proposed rule affecting ch. HFS 89, relating to residential care apartment complexes (formerly, "assisted living facilities").

Analysis

Statutory authority: S. 50.034 (2), Stats.

Reason for rules, intended effects, requirements:

These amendments to the Department's rules for what were formerly called "assisted living facilities" change the generic name of the facilities to be "residential care apartment complexes," as was done by 1997 Wis. Act 13 for the program statute. The amendments also substitute a new statutory definition of "stove," added to the program statute by 1997 Wis. Act 13, for the definition currently in the rules.

As of May 6, 1998, there were 43 residential care apartment complexes in the state, 15 certified and 28 registered, with a total of about 1,250 apartments.

Agency Procedure for Promulgation

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

Contact Person

If you have any questions, you may contact:

Patricia Russell
Division of Supportive Living
Telephone (608) 267–1438

David Robertson
Division of Supportive Living
Telephone (608) 264–9888

Health and Family Services

Rule Submittal Date

On May 13, 1998, the Wisconsin Department of Health and Family Services submitted to the Wisconsin Legislative Council Rules Clearinghouse a proposed rule affecting ch. HFS 90, relating to the Birth–to–3 Program: early intervention services for children with developmental needs in the age group from birth up to 3.

Analysis

Statutory authority: S. 51.44 (5) (a), Stats.

Reason for rules, intended effects, requirements:

These are amendments to the Department's rules for administration of the Birth to 3 Program under Part C of the federal Individuals with Disabilities Education Act, 20 USC 1400, and s. 51.44, Stats. The Birth to 3 caseload statewide at any one time is about 4000 children.

The amendments to ch. HFS 90 mainly implement recent changes in federal law. These changes require:

1) Establishment of a state–level mediation process for resolution of disputes between parents and county administrative agencies (state–level mediation will replace county administrative agency appointment of an impartial decisionmaker who offers to mediate a dispute), and
2) Improvement in the required documentation by county administrative agencies that "natural environments" are being used to the maximum extent appropriate as locations for provision of services.

The rulemaking order also makes some corrections, updating changes and experience–based improvements in the rules.

Twenty–four persons recently received training to serve as mediators for both the Birth to 3 Program and DPI's much larger program for children in the age group 3 and over who receive special education. The Department will have the same system for mediating disputes between parents and county administrative agencies as DPI has for mediating disputes between parents and school boards.

Agency Procedure for Promulgation

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

Contact Person

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

Donna Miller
Division of Supportive Living
Telephone (608) 267–5150

Natural Resources

Rule Submittal Date

On May 13, 1998, the Wisconsin Department of Natural Resources submitted a proposed rule [FH–40–98] to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 191 and 192, relating to lake protection grants and lake classification technical assistance grants.

Agency Procedure for Promulgation

A public hearing is required, and three public hearings will be held on June 16, 18 and 24, 1998.

Contact Person

Mr. Carroll Schaal
Bureau of Fisheries Mgmt. & Habitat Protection
Telephone (608) 261–6423

Public Instruction

Rule Submittal Date

On May 6, 1998, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule amends ch. PI 11, relating to children with disabilities.

Agency Procedure for Promulgation

One public hearing is scheduled for June 11, 1998. The organizational unit that is primarily responsible for the promulgation of this rule is the Division of Learning Support: Equity and Advocacy.

Contact Person

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

Paul Halverson, Director
Exceptional Education
Telephone (608) 266–1781

NOTICE SECTION

Notice of Hearings

Commerce

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

Notice is given that pursuant to ss. 560.02 and 560.85 (1), Stats., the Department of Commerce proposes to hold public hearings to consider the proposed rules to amend ch. Comm 115, Wis. Adm. Code, relating to the Community–Based Economic Development Program.

Hearing Information

The public hearings are scheduled as follows:

July 23, 1998	**Rooms E101 and E102**
Thursday	**North Central Tech. College**
1:00 p.m.	**1000 Campus Dr.**
	WAUSAU, WI
July 27, 1998	**Rooms 140 and 141**
Monday	**DNR Building**
1:00 p.m.	**2300 North M. L. King, Jr. Dr.**
	MILWAUKEE, WI

These hearings are held in accessible facilities. If you have special needs or circumstances which may make communication or accessibility difficult at the hearing, please call (608) 267–9382 or Telecommunication Device for the Deaf (TDD) at (608) 264–8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators or materials in audio tape format will, to the fullest extent possible, be made available on request by a person with a disability.

Copies of Rule

A copy of the rules to be considered may be obtained from the Department of Commerce, Bureau of Policy and Budget Development, P. O. Box 7970, Madison, Wisconsin 53707, by calling (608) 267–9382 or at the appointed times and places the hearings are held.

Written Comments and Contact Person

Interested people are invited to appear at the hearings and will be afforded the opportunity of making an oral presentation of their positions. People making oral presentations are requested to submit their facts, views and suggested rewording in writing. Written comments from people unable to attend the public hearings, or who wish to supplement testimony offered at the hearings, may be submitted no later than **June 30, 1998**, for inclusion in the summary of public comments submitted to the Legislature. Any such comments should be submitted to:

Ms. Louie Rech
Bureau of Policy & Budget Development
Department of Commerce
P. O. Box 7970
Madison, WI 53707

Written comments will be given the same consideration as testimony presented at the hearings. People submitting comments will not receive individual responses.

Analysis Prepared by the Dept. of Commerce

Statutory authority:

Section 560.20, Stats., creates the Community–Based Economic Development program. Section 560.14 (3m), (3r) (b), (5) (b) and (bn) authorizes the Department to create administrative rules to interpret the section.

The proposed rule makes changes to the Community–Based Economic Development Program. The changes are the result of statutory changes made to the program in 1997 Wis. Act 27, the biennial budget bill. The proposed rule also makes some technical changes to simplify the rule and to make the rules for this program more uniform with the rules for the Department's other financial assistance programs.

The significant changes in the proposed rule include:

1. Priority for funding under the program will be given to brownfield projects.

2. The definition for "extreme financial hardship area" is changed to delete the reference to households that receive aid to families with dependent children, because this program no longer exists under the W–2 initiative.

3. The definition of small business is changed from a business with 25 employes to a business with 100 or less employes.

4. The amount of funds that can be granted to a community–based organization for a development project or business assistance project is changed from $20,000 to $30,000.

5. The amount of funds that can be granted to a political subdivision for an economic diversification plan is changed from $10,000 to $30,000. In addition, community–based organizations are also eligible to apply for an economic diversification plan.

6. It establishes procedures for a new program that allows community–based organizations to apply for a grant to establish a revolving loan fund to make loans to small businesses.

7. It establishes procedures for a new program that allows a private, nonprofit foundation to apply for a grant to conduct an entrepreneurship training program for economically disadvantaged or socially at–risk children.

8. It establishes procedures for a new program that allows a community–based organization or private nonprofit organization to apply for a grant to conduct a venture capital development conference. The successful applicant must provide at least 50 percent of the cost of the project.

Initial Regulatory Flexibility Analysis

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

These rules will not affect small businesses.

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

These rules will impose no new requirements.

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

No professional skills are required to comply with the rules.

Fiscal Estimate

The rules make program and procedural changes to the administrative rules for the Community–Based Economic Development Program and creates new rules for programs that were created in 1997 Wis. Act 27. The changes proposed by these rules will have no fiscal effect on the Department or on businesses that apply for funding under the programs.

Notice of Hearing

Corrections

Notice is hereby given That pursuant to ss. 227.11 (2) (a), and 973.10, Stats., the department of corrections proposes the following emergency rule and proposed permanent rule relating to the authority of the department to detain any parolee or any felony probationer in any department institution. The rules are the same.

Hearing Information

June 26, 1998
Friday
2:00 P.M. to 3:00 P.M.

Secretary's Conference Room
Department of Corrections
149 E. Wilson Street, 3rd Floor
Madison, Wisconsin

The public hearing site is accessible to people with disabilities.

Analysis Prepared by the Department of Corrections

Statutory authority: ss. 227.11 (2), and 973.10

Statute interpreted: s. 973.10 (1), and (2)

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 ruled in Sullivan v. Kliesmet, that the Sheriff of Milwaukee County 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.

The current administrative rule Ch. DOC 328.22 (5) allows the Department of Corrections to detain, in any Department institution, any parolee or a felony probationer with an imposed and stayed sentence. The amended rule will expand upon this authority and allow the Department to detain any parolee or any felony probationer in any Department institution.

Text of Rule

SECTION 1. DOC 328.22 (5) is amended as follows:

DOC 328.22 (5) ~~A~~ The department may detain a client on parole from a state correctional institution or on felony probation ~~with an imposed and stayed sentence may~~ be detained in an institution pending revocation proceedings.

Initial Regulatory Flexibility Analysis

These rules are not expected to have an effect on small businesses.

Fiscal Estimate

DOC anticipates that this rule change will result in more felony probationers being detained in DOC institutions while there are pending revocation proceedings. This increased usage could result in a need for more contracted space or more crowded conditions at DOC facilities. If the increase results in more crowded conditions within DOC facilities, increased costs will be incurred in the area of food, supplies and services, and staff coverage. If the increased usage results in more offenders being transferred to contracted facilities, then DOC would incur an increase in contract costs.

Increased usage of DOC facilities for offenders who were formerly detained in county jails, will impact on local county jail populations. It is anticipated that local county jails will experience lowered DOC populations. These lower population numbers could also result in less revenue from reimbursable holds.

The Department's automated data on offenders being held in custody does not provide a breakdown of the type of probation. Although it is anticipated the local county jails will experience decreased populations and revenue and that DOC will experience increased costs and workload as the result of this rule change, it is difficult to estimate just how much of an impact will occur.

Contact Person

Robert Pultz (608) 267–0922
Office of Legal Counsel
149 E. Wilson Street
P.O. Box 7925
Madison, Wisconsin 53707–7925

If you are hearing or visually impaired, do not speak English, or have 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 **June 30, 1998**, will be given the same consideration as testimony presented at the hearing.

Notice of Hearings

Natural Resources
(Environmental Protection–
General, Chs. NR 100––)

Notice is hereby given that pursuant to ss. 281.69 and 227.11(2)(a), Stats., interpreting s. 281.69, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 191 and the creation of ch. NR 192. Wis. Adm. Code, relating to lake protection grants and lake classification technical assistance grants. The proposed rules:

1. Create lake classification project grants for counties to receive 75% state funding up to $50,000 for classifying lakes and implementing protection activities.

2. Define eligible activities and priorities for lake classification project grant awards.

3. Streamline and clarify allowable costs, local share and grant awards for all lake protection grants. Also, increases the value of donated nonskilled labor from $5 to $6.

4. Change the protection grant award deadline of September 1 to a deadline for notifying applicants of the department's decision to award a grant.

5. Make several housekeeping changes reflecting statute renumbering, department reorganization and clarifying the term "lake restoration".

6. Create ch. NR 192 on lake classification technical assistance grants for nonprofit corporations to receive up to $200,000 for assisting counties, other units of local government and lake organizations in lake classification projects.

Initial Regulatory Flexibility Analysis

Notice is hereby further given that pursuant to s. 227.114, Stats., it is not anticipated that the proposed rule will have an economic impact on small businesses.

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

June 16, 1998	**Basement Conference Room**
Tuesday	**DNR Northern Region Hdqtrs.**
at 10:00 a.m.	**810 W. Maple Street**
	Spooner
June 18, 1998	**Room 1, DNR Bldg.**
Thursday	**107 Sutliff Avenue**
at 10:00 a.m.	**Rhinelander**
June 24, 1998	**Room 137B, DOT Bldg.**
Wednesday	**141 NW Barstow**
at 10:00 a.m.	**Waukesha**

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 Carroll Schaal at (608) 261–6423 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. Carroll Schaal, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than **July 3, 1998**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule and fiscal estimate may be obtained from Mr. Schaal.

Fiscal Estimate

The Department estimates that there will be an annual fiscal impact to the state totaling $18,900 in staff costs, which will be absorbed in the current budget.

Assumptions:

1) The number of grant awards will increase by 20 to 40 biennially. This will add workload to the DNR Regions and central office to assist applicants and grantees in processing applications, project development and implementation, and financial administration. This estimate assumes an average annual workload of 15 grant awards.

2) Re: Region Project Assistance and Financial Management. Assumes Program and Planning Analyst–5 and Financial Assistance Specialist staff processing 15 grants annually at 15 hours per grant. The salary and fringe costs associated with this equal $8,300.

3) Re: Central Office Project Assistance and Grant processing. Assumes Program and Planning Analyst–5 level staffing processing 15 grants annually at 4 hours per grant. This equates to $1,400.

4) Re: Grant Administration and Processing. Assumes a Financial Assistance Specialists level staff processing 15 grants annually at 24 hours per grant. The salary and fringe costs associated with this equal $7,500.

5) Re: Auditing. Assumes an advance level financial analyst processing 15 grants annually at 3 hours per grant. The salary and fringe costs associated with this equal $1,200.

6) Re: Financial Management. Assumes Financial Analyst–3 level staff processing 125 grants at 2 hours per grant. The salary and fringe costs associated with this equal $500.

The fiscal effect on counties cannot be reliably estimated at this time because the precise amount of the grants is unknown. However, counties are responsible for 25% fo lake classification project costs and any project costs exceeding a total of $66,667.

Notice of Hearing

Optometry Examining Board

Notice is hereby given that pursuant to authority vested in the Optometry Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting ss. 449.04, 449.05 (2), Stats., the Optometry Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal ss. Opt 3.03 (title) and (1), 3.07 (2) (a), 3.10 (1), 3.12 (1) and (3); to renumber and amend ss. Opt 3.03 (2), 3.07 (2) (b), 3.12 (2) and 4.03 (2); to amend ch. Opt 3 (title), 3.02 (1) (b) and the Note following 3.02 (1) (b), 3.04, 3.05, 3.10 (2) and (3), 3.12 (title), 4.01 (2), (4) and the Note following 4.01 (7), the Notes following 4.02 (1) (d) and (e) and 4.03 (1); and to create s. Opt 4.03 (2), relating to credential applications and examination requirements for individuals applying for a license to practice optometry.

Hearing Information

June 19, 1998	**1400 E. Washington Ave.**
Friday	**Room 179A**
9:30 A.M.	**Madison, WI**

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons 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 the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **July 6, 1998** to be included in the record of rule–making proceedings.

Analysis prepared by the Department of Regulation and Licensing

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

Statutes interpreted: ss. 449.04 and 449.05 (2)

In this proposed rule–making order the Optometry Examining Board amends several provisions contained in chs. Opt 3 and 4, relating to examination requirements for initial and reciprocal credential applicants.

In general, individuals applying for a license to practice optometry are required to pass Parts I, II and certain components of Part III of the examination administered by the National Board of Examiners in Optometry. Similar requirements are contained in the rules relating to reciprocal applicants. Until recently, applicants were also required to pass a practical examination administered by the board, because the board did not accept the results of the practical component of Part III of the national examination. As a result, applicants were required to pass two practical examinations, the practical component of Part III and the practical examination given by the board. After further review, the board determined that the practical component of Part III is equivalent to its practical examination. Thereafter, the board discontinued its practical examination and elected to accept the practical component of Part III instead. The proposed amendments to chs. Opt 3 and 4, will reflect this change.

Text of Rule

SECTION 1. Chapter Opt 3 (title) is amended to read:

CHAPTER OPT 3 (title)
EXAMINATION ~~OF APPLICANTS~~ FOR LICENSURE

SECTION 2. Opt 3.02 (1) (b) and the Note following 3.02 (1) (b) are amended to read:

Opt 3.02 (1) (b) Verification of the applicant's successful completion of parts I, II and III of the national board examination submitted directly to the board by the national board of examiners in optometry.

Note: It is the responsibility of the applicant to contact the National Board of Examiners in Optometry to request that it forward verification of the applicant's successful completion of the requisite examination to the board. An application will not be considered complete until after the board receives the examination verification and other ~~essential~~ required information.

SECTION 3. Opt 3.03 (title) and (1) are repealed.

SECTION 4. Opt 3.03 (2) is renumbered Opt 3.03 and as renumbered amended to read:

Opt 3.03 (title) STATE LAW EXAMINATION. An applicant shall pass a written examination on state law relating to optometry including, but not limited to, ch. 449, Stats., and chs. Opt 1 to 5.

SECTION 5. Opt 3.04 and 3.05 are amended to read:

Opt 3.04 RULES OF CONDUCT. An applicant who gives or receives unauthorized assistance, violates rules of conduct of the examination or otherwise acts dishonestly during the written ~~or practical~~ examination may be denied licensure by the board. Future consideration of the applicant shall be at the discretion of the board.

Opt 3.05 CONTROLS. Time limits and other necessary controls may be ~~announced~~ provided by the board chairperson or examiner prior to the examinations.

SECTION 6. Opt 3.07 (2) (a) is repealed.

SECTION 7. Opt 3.07 (2) (b) is renumbered Opt 3.07 (2) and amended to read:

Opt 3.07 (2) (title) STATE BOARD EXAMINATION. To pass the state law examination, each applicant must receive a grade determined by the board to represent minimum competence to practice optometry.

SECTION 8. Opt 3.10 (1) is repealed.

SECTION 9. Opt 3.10 (2) and (3) are amended to read:

Opt 3.10 (2) An applicant who fails ~~a~~ the state board examination may request a review of ~~that~~ the examination. The applicant shall file a written request to the board within 30 days of the date on which examination results were mailed.

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

SECTION: 10. Opt 3.12 (title) is amended to read:

Opt 3.12 (title) REEXAMINATION.

SECTION 11. Opt 3.12 (1) is repealed.

SECTION 12. Opt 3.12 (2) is renumbered Opt 3.12 and amended to read:

Opt 3.12 STATE LAW EXAMINATION. An applicant who fails the state law examination shall be required to retake ~~that section of~~ the examination.

SECTION 13. Opt 3.12 (3) is repealed.

SECTION 14. Opt 4.01 (2), (4) and the Note following 4.01 (7) are amended to read:

Opt 4.01 (2) Has passed the examination of the national board of examiners in optometry as provided in s. Opt 4.03, or a licensing examination in another state.

(4) Has passed the required state board ~~examinations~~ examination administered by the board as set forth in s. Opt 4.03.

Note: Applicants who engaged in the practice of optometry for at least 5 years prior to 1996 are required to take and pass Parts I and II of the national board examination. Applicants who engaged in the practice of optometry for less than 5 years prior to 1996 and applicants who graduated from an approved college of optometry after December 31, 1995 are required to take and pass Parts I, II and III of the national board examination. It is the responsibility of the applicant to contact the national board to request that verification of the applicant's successful completion of the requisite examination be forwarded to the board. An application will not be considered complete until after the board receives the examination verification and other ~~essential~~ required information.

SECTION 15. The Note following s. Opt 4.02 (1) (d) and the Note following s. Opt 4.02 (1) (e) are amended to read:

Note: The board annually reviews for approval the colleges of optometry accredited by the council on optometry education of the American optometric association or other accrediting bodies. A list of board approved colleges of optometry is available from the board upon request. It is the responsibility of the applicant to contact the appropriate college to request that the college forward a certified transcript to the board office. An application will not be considered complete until after the board receives a copy of the transcript and other ~~essential~~ required information.

Note: It is the responsibility of the applicant to contact the appropriate state licensing agencies to request that verification of the applicant's licensure be forwarded to the board. An application will not be considered to be complete until after the board receives verification of licensure from all state licensing agencies and other ~~essential~~ required information.

SECTION 16. Opt 4.03 (1) is amended to read:

Opt 4.03 (1) An applicant for a license by reciprocity under this chapter shall take and pass the state board ~~examinations~~ examination as set forth in s. Opt 3.03.

SECTION 17. Opt 4.03 (2) is renumbered Opt 4.03 (3) and Opt 4.03 (3) and the Note are amended to read:

Opt. 4.03 (3) The passing ~~grades~~ grade for the examinations shall be as specified in s. Opt 3.07.

Note: The conduct of ~~examinations~~ the examination administered by the board is specified in ch. Opt 3.

SECTION 18. Opt 4.03 (2) is created to read:

Opt 4.03 (2) An applicant for a license by reciprocity under this chapter shall successfully complete a licensing examination in another state or one of the following:

(a) Parts I and II of the national board examination, if applicant has engaged in the practice of optometry for at least 5 years prior to January 1, 1996.

(b) Parts I, II and III of the national board examination, if applicant has engaged in the practice of optometry for less than 5 years prior to January 1, 1996, or if applicant graduated from an approved college of optometry after December 1, 1995.

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, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266–0495

Notice of Hearing

Public Instruction

Notice is hereby given that pursuant to s. 227.11 (2) (a), Stats., and interpreting subchapter V of Chapter 115, Stats., the Department of Public Instruction will hold a public hearing as follows to consider proposed permanent rules affecting ch. PI 11, relating to children with disabilities.

Hearing Information

The hearing will be held as follows:

June 11, 1998	**Room 041**
Thursday	**GEF #3 Building**
4:00 p.m. –	**125 South Webster St.**
6:00 p.m.	**MADISON, WI**

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access the meeting, please call Paul Halverson, Director, Exceptional Education, at (608) 266–1781 or leave a message with the Teletypewriter(TTY) at (608) 267–2427 at least 10 days prior to the hearing date. Reasonable

accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Person

A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to slausll@mail.state.wi.usor by writing to:

Lori Slauson
Administrative Rules & Federal Grants Coordinator
Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **June 17, 1998**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

Analysis by the Department of Public Instruction

These proposed rules will modify ch. PI 11, Wis. Adm. Code, to conform with the Individuals with Disabilities Education Act amendments of 1997 (IDEA 1997) and subch. V, of Chapter 115, Stats., as amended by 1997 Wis. Act 164. The state statute represents the most sweeping revision to special education law in this state since 1973. The new statute increases local flexibility and accountability in the design and delivery of special education to respond to local needs. Pursuant to the statutory revision, many of the programming and reporting requirements in current rule will be eliminated in this proposal as the Department moves away from rules that impose a single model on every local education agency.

Further, the new statute significantly revises the procedures relating to the evaluation, development of an individualized education program and placement of children with disabilities. Much of the current rules are in direct conflict with the newly–enacted statutory process. This proposal eliminates rules that conflict with state or federal law. It also eliminates rules which address areas adequately addressed in state statute or federal statute or regulations in an effort to reduce regulatory complexity and potential incongruence between state rule and federal law. Finally, this proposal makes technical language changes relating to hearing officers and physical and occupational therapy–related services to reflect new statutory provisions.

Fiscal Estimate

1997 Wis. Act 164 reconciles the reauthorization of the federal special education law (the Individuals With Disabilities Education Act Amendments of 1997) and Wisconsin's special education law embodied in the statutes and the administrative code.

Many of the current provisions under ch. PI 11 are in direct conflict with the Act. The proposed rule eliminates provisions that conflict with state or federal law. It also eliminates rules which address areas adequately addressed in state statute or federal statute or regulations, in an effort to reduce regulatory complexity and potential incongruence between state rule and federal law. Finally, the proposed rule makes technical language changes to reflect new statutory provisions.

There is no significant fiscal effect to the administrative rule; therefore, this fiscal note is based on the fiscal effect of 1997 Wis. Act 164, relating to children with disabilities.

It is assumed that most local education agencies (LEA's) will incur some additional administrative costs, resulting from the modifications included in the Act; however, most of the increased costs can be attributed to the original changes in federal law. For example, the federal law newly requires that a regular education teacher be included on the individual education program (IEP) team. This previously was required for children with learning disabilities, and local education agencies frequently chose to include regular teachers on the IEP teams for other children as well. The Department is unable to estimate what new effect this change in the federal law will have on LEA costs.

The following are some examples of the changes made by this Act which would affect LEA costs:

- The separate multidisciplinary–team (M–team) structure will be eliminated and responsibility for evaluation, IEP development and placement will be assigned to a single lEP team which will include parents and a regular education teacher. It is assumed that this modification will streamline assessment and program development processes in many cases, saving time and resources of school staff and parents.

- Separate meetings for evaluation, IEP and placement decisions will be permitted, but no longer required. These decisions will be made by a single IEP team and may be made at one meeting or in several meetings, depending on the individual circumstances. Based on interviews with hundreds of parents during on–site monitoring over the past two years, the Department believes that parents would choose a single meeting in 75% of initial reviews and fully 95% of reevaluations. This will result in saving time and resources of school staff and parents.

- Currently, each member of an M–team must prepare an individual evaluation report on each child. This Act eliminates that requirement. Instead those participants on the IEP team who administer tests, assessments or other evaluation material as part of an evaluation or reevaluation are required to prepare a written summary of findings that will assist the IEP team with program planning. The written summary of findings will be made available to the IEP team. The IEP team will produce a single evaluation report that includes documentation of determination of eligibility. In addition, parents are notified of their right to receive a copy of this evaluation report upon request at any point following the determination of eligibility and before the IEP team continues with its decision–making process. This change will reduce time spent on paperwork. This will result in cost–savings; however, the Department is unable to quantify the amount of savings due to the individualized nature of each evaluation.

- Currently, a LEA is required to evaluate a child prior to providing special education and to re–evaluate each child with a disability every three years. Evaluations may subject a child with a disability to unnecessary and repetitive tests. This Act revises the process for evaluation by allowing the IEP team to review existing data, including prior interventions and the results of those interventions, and to use this information along with input from parents to determine what, if any, additional data is needed to determine the child's eligibility for special education. This change will reduce time devoted to unnecessary or repetitive testing of children with disabilities.

- Currently, LEA's submit to the Department extensive data relating to every special education staff member and his or her work assignment. The LEA is required to receive Department approval for any staff changes. Each LEA submits an application for funds that is totally separate from all of the state data reporting and program approval documentation. This Act will combine state and federal special education reports and applications into a single unified plan that is written in narrative form, understandable and available to school staff, parents and the general public. The required elements and schedules for state and federal reporting processes will be consolidated. The new data reporting process should result in time and cost savings to LEA's and the Department in that only changes to the

originally–submitted plan will need to be reported after the first year.

This legislative proposal will significantly reduce, if not eliminate, the need for the Department of Public Instruction to continually revise statutes and administrative rules in order to be in compliance with federal law. Under the provisions of this Act, paperwork at the LEA level will be reduced, leaving teachers and other staff, such as school psychologists, more time for teaching and working with students and parents.

While the Department is unable to precisely estimate the cost savings or new costs to LEA's that will result from this Act, additional federal revenues have recently been allocated to states to support the changes in the IDEA.

Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats.

Notice of Hearing

Public Service Commission

Notice is hereby given that the Commission will hold a public hearing with respect to these proposed rules at the time and place indicated below. The Public Service Commission of Wisconsin proposes to amend ch. PSC 165, Wis. Adm. Code, to establish privacy guidelines applicable to telecommunications providers.

Hearing Information

The public hearing is scheduled as follows:

June 26, 1998	**Flambeau River Conf. Rm.**
Friday	**Public Service Commission**
1:30 p.m.	**610 North Whitney Way**
	MADISON, WI

Notice is hereby further given that the building at 610 North Whitney Way is accessible to people in wheelchairs through the main floor entrance (Lobby) on the Whitney Way side of the building. Handicapped parking is available on the south side of the building and the building has some wheelchair accessible rest rooms. Any party with a disability who needs additional accommodations should contact Richard Teslaw at (608) 267–9766.

Analysis Prepared by the Public Service Commission

Statutory authority: ss. 196.02 (1) and (3), 196.209, 196.219 (3) (h) and 227.11 (2)

Statutes interpreted: ss. 196.19 (1m), 196.196 (3), 196.207, 196.209 and 196.499

On April 28, 1992, the state of Wisconsin enacted 1991 Wis. Act 268. That law created s. 196.207, Stats., establishing minimum requirements that a telecommunications utility must meet in order to offer a telephone caller identification service. On July 5, 1994, the state of Wisconsin enacted 1993 Wis. Act 496. That law amended s. 196.207, Stats., and created s. 196.209, Stats., to further specify and regulate the privacy considerations applicable to telecommunications services:

> **196.209 Privacy considerations.** (1) RULES. The commission shall promulgate rules that establish privacy guidelines applicable to telecommunications services. Notwithstanding any exemptions identified in this chapter, a telecommunications provider is subject to rules promulgated under this subsection and s. 196.66 applies to a violation of this subsection.
>
> (2) RULE REVIEW. At least biennially, the commission shall review and revise as appropriate rules promulgated under sub. (1).
>
> (3) NEW SERVICES. A telecommunications provider introducing a new telecommunications service shall explicitly address privacy considerations before introducing that telecommunications service.
>
> (4) SCOPE. Rules promulgated by the commission under this section and privacy considerations addressed by a telecommunications provider shall include all of the following:
>
> (a) Protection against the outflow of information about users of telecommunications services.
>
> (b) Protection to the users of telecommunications services from receiving privacy intrusions.

Plain Language Analysis

The rule proposed herein establishes a set of procedures to govern the practices of telecommunications providers that affect the privacy of users of telecommunications services. The rule addresses eight related topics.

[1] New services. The rule creates a process to identify and review privacy considerations that may exist as a telecommunications utility or telecommunications carrier introduces a new telecommunications service.

[2] Caller identification. The rule codifies existing tariff provisions regulating caller identification services. The rule requires incumbent local exchange carriers to provide both per–call and per–line blocking features, at no charge and with no restrictions upon resale or use, to all interconnected competitive local exchange carriers.

[3] Non–listed and non–published number services. The rule codifies an existing policy followed by most telecommunications providers regarding these services.

[4] Local call detail. The rule requires a telecommunications provider offering basic local exchange service on a measured or per–call basis to provide a summary of the local call detail as part of the monthly telephone bill on an optional basis.

[5] Call trace. The rule codifies an existing feature of local telephone service provided by most telecommunications providers.

[6] List rental. The rule codifies existing tariff requirements that apply to some list rental agreements.

[7] Customer records. The rule codifies existing policies regarding access to customer–specific information maintained by telecommunications providers.

[8] Customer proprietary network information. The rule adopts federal policies regarding access to customer proprietary network information maintained by telecommunications providers.

The rule also creates a waiver process to permit the Commission to modify this rule based upon an analysis of the costs and benefits of a provision of the rule as it applies to a specific telecommunications provider.

Finally, the rule adopts on a permanent basis the basic framework for the Telecommunications Privacy Council, pursuant to s. 196.209 (5), Stats.

The Commission initially proposed to adopt a rule on the subject of telecommunications privacy on May 18, 1995. See *Wis. Adm. Reg.*, No. 474, at p. 5, and Comments of the Wis. Leg. Council Staff, Clearinghouse Rule 95–093. Public hearings were held on June 1, 1994, and June 30, 1995. Consideration of the proposed rule was postponed due to recent federal legislation revising the regulation of telecommunications services. The scope of the rule proposed herein is broader and now includes both incumbent and competitive local exchange carriers. The proposed rule is consistent with the privacy provisions of the Telecommunications Act of 1996, and the federal administrative rule implementing that section of the Act.

Initial Regulatory Flexibility Analysis

These proposed rules may have an effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. The agency has considered the methods in s. 227.114 (2), Stats., for reducing the impact of the rules on small telecommunications utilities and finds that incorporating any of these methods into the proposed rule would be contrary to the statutory objectives which are the basis for the proposed rule.

At the time of this notice, there are 83 local exchange companies in Wisconsin, 79 of which are small telecommunications equal access utilities. The agency finds that the protection of customer–specific information is in the public interest and that the standards for regulating access to customer–specific information maintained by telecommunications providers should be uniform throughout the state to the maximum extent possible.

The agency also recognizes that the broad scope of the proposed rule may be inappropriate in specific instances. For that reason, the proposed rule creates a procedure for waiving a provision of the rule if the agency finds that the public interest is better served by suspending enforcement of that provision with respect to a specific telecommunications provider.

Fiscal Estimate

These rules will have no fiscal impact on the agency or on any other state or local units of government.

Environmental Analysis

This is a Type III action under s. PSC 4.10 (3), Wis. Adm. Code. No unusual circumstances suggesting the likelihood of significant environmental consequences have come to the Commission's attention. Neither an environmental impact statement under s. 1.11, Stats., nor an environmental assessment is required.

Written Comments

Notice is further given that any person may submit written comments on the proposed rules. The hearing record will be open for written comments from the public effectively immediately, until no later than **noon on July 3, 1998**. Comments filed **by fax are due no later than noon on July 2, 1998**.

If filing by mail, courier or hand delivery: Address comments as shown:

Lynda L. Dorr
Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707–7854

All written comments on the rules must refer to docket 1–AC–138. Industry parties should submit **an original and 15 copies**. Members of the general public need only file **an original**. Filings are due by **July 3, 1998, at noon.**

If filing by fax: Send fax comments as shown:

Lynda L. Dorr
Secretary to the Commission
Public Service Commission
P.O. Box 7854
Madison, WI 53707–7854

Fax No. (608) 266–3957

Fax filing cover sheets **MUST** state "**Official Filing**," the docket number (1–AC–138), and the number of pages (limited to 20 pages for fax comments). Filings by fax are due by **July 2, 1998, at noon. File by one mode only.**

Contact People

If there are questions regarding the hearing, please contact:

Hearing Examiner
Telephone (608) 266–7173

Questions pertaining to the proposed rule may be directed to:

Mary M. Stevens, Staff Counsel
Telecommunications Division
Telephone (608) 266–1125

Dennis Klaila
Telecommunications Division
Telephone (608) 267–9780

Text of Rule

SECTION 1. PSC 165.02(2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22) and (23) are renumbered s. PSC 165.02(3), (4), (7), (8), (12), (13), (14), (15), (16), (18), (19), (20), (21), (22), (23), (24), (27), (31), (32), (36), (37) and (40).

SECTION 2. PSC 165.02 (2) is created to read:

(2) "Automatic number identification (ANI)" means the delivery of the calling party's billing number by a local exchange carrier to any interconnecting carrier for billing or routing purposes, and the subsequent delivery of such number to end users.

SECTION 3. PSC 165.02(5) and (6) are created to read:

(5) "Basic local exchange service" has the meaning set forth in s. 196.01, Stats.

(6) "Basic message telecommunications service" has the meaning set forth in s. 196.01, Stats.

SECTION 4. PSC 165.02 (9), (10) and (11) are created to read:

(9) "Caller identification blocking service" means a telecommunications service that permits a calling party to prevent the transmission of the telephone line identification to calling number delivery subscribers and calling name delivery subscribers.

(10) "Calling name delivery" means a telephone caller identification service in which the subscriber name of an access line used to place a telephone call is transmitted to a telephone caller identification service subscriber.

(11) "Calling number delivery" means a telephone caller identification service in which the telephone number of an access line used to place a telephone call is transmitted to a telephone caller identification service subscriber.

SECTION 5. PSC 165.02 (17) is created to read:

(17) "Customer proprietary network information" means:

(a) Information that relates to the quantity, technical configuration, type, destination, and amount of use of a telecommunications service subscribed to by any customer of a telecommunications provider, and that is made available to the provider solely by virtue of the subscription relationship between the provider and customer.

(b) Information contained in the bills pertaining to basic local exchange service or basic message telecommunications service received by a customer of a telecommunications provider, except that customer proprietary network information does not include or refer to subscriber list information.

SECTION 6. PSC 165.02 (25) and (26) are created to read:

(25) "Non–published number" means a telecommunications service that permits a subscriber to omit his or her customer listing from the telephone directory and from directory assistance listings.

(26) "Non–listed number" means a telecommunications service that permits a subscriber to omit his or her customer listing from the telephone directory. A non–listed number is available through directory assistance.

SECTION 7. PSC 165.02 (28), (29) and (30) are created to read:

(28) "Per–call blocking" means a caller identification blocking service that prevents the disclosure of the telephone line identification on an individual call basis.

(29) "Per–line blocking" means a caller identification blocking service that prevents the disclosure of the telephone line identification on every call, unless the calling party acts to release the telephone line identification on an individual call basis.

(30) "Privacy consideration" means a foreseeable possibility that the operation of a given telecommunications service could result in an outflow of information about users of telecommunications services, the receipt of a telephone call that intrudes upon the privacy of a user of telecommunications services, or otherwise fail to comply with the requirements set forth in ss. PSC 165.21 through 165.28.

(a) An outflow of information about users of telecommunications services occurs when a telecommunications provider uses, discloses or permits access to personally identifiable information about the user. For purposes of this subsection, an outflow of information includes a telephone caller identification service; a subscriber list rental agreement; the use, disclosure or access to customer records and customer proprietary network information; and the use, disclosure or access to other personally identifiable information received or obtained by a telecommunications provider in the course of providing a telecommunications service.

(b) "Privacy consideration" does not refer to the ringing bell or other announcement signal associated with an incoming telephone call, the communication of information protected by any provision of statute or the constitution, or any practice, service or act that is permitted under ss. 968.27 to 968.37, Stats.

SECTION 8. PSC 165.02 (33), (34) and (35) are created to read:

(33) "Subscriber list information" means:

(a) Any information identifying the listed names of subscribers of a telecommunications provider and such subscribers' telephone numbers, addresses, or primary advertising classifications, or any combination thereof. Subscriber list information does not include or refer to any information pertaining to a telephone customer account where the subscriber has subscribed to a non–published or non–listed number service.

(b) Any information that a telecommunications provider or an affiliate has published, caused to be published, or accepted for future publication in any directory format.

(34) "Telecommunications carrier" has the meaning set forth in s. 196.01, Stats.

(35) "Telecommunications provider" has the meaning set forth in s. 196.01, Stats.

SECTION 9. PSC 165.02 (38) and (39) are created to read:

(38) "Telephone caller identification service" has the meaning set forth in s. 196.207 (1) (c), Stats. "Telephone caller identification service" does not include or refer to telecommunications services that are not subject to the requirements of s. 196.207, Stats.

(39) "Telephone line identification" has the meaning set forth in s. 196.207 (1) (d), Stats.

SECTION 10. PSC 165.20 through 165.30 are created to read:

PSC 165.20 Purpose. The purpose of ss. 165.20 through 165.30 of this chapter is to set forth privacy guidelines applicable to intrastate telecommunications services and to establish a telecommunications privacy council to advise the commission concerning the administration of s. 196.209, Stats., and the enforcement of the privacy provisions of this chapter.

PSC 165.21 Privacy considerations for new services. (1) Any telecommunications provider proposing to offer a new service or add a new feature to an existing service, under ss. 196.19, 196.196(3), or 196.499, Stats., shall comment in its tariff application to the commission on any privacy considerations that are expected to occur with respect to the new service, or state that no privacy considerations are known to exist with respect to the new service.

(2) In its comment, the provider shall identify:

(a) The circumstances in which the privacy consideration could occur.

(b) Whether the degree of privacy diminished by the new service or feature can be restored.

(c) Whether the means to restore privacy will be available for a charge and, if applicable:

1. What the charge will be.

2. What reason justifies the charge for restoring the privacy diminished by the new service or feature.

(3) Pursuant to ss. 196.19 (1m) (b) and 196.499 (1), Stats., the commission staff shall review a tariff application under sub. (1) to identify any privacy considerations that could arise with the new service.

(4) (a) If the commission determines that unresolved privacy considerations exist with respect to a tariff application filed under s. 196.19 (1m), Stats., it shall serve a written notice of suspension on the telecommunications utility, pursuant to s. 196.19 (1m) (b), Stats.

(b) The commission shall make a determination under par. (a) and serve a notice of suspension on the telecommunications utility within 10 days after the date on which the proposed tariff was filed with the commission.

(c) A notice of suspension shall state the specific privacy considerations the commission will investigate.

(d) Upon issuing a notice of suspension, the commission shall:

1. Open a docket and issue a public notice designating the matter for investigation.

2. Indicate whether a hearing will be held.

3. Issue an order as required by s. 196.19 (1m) (d), Stats.

(5) If the commission determines that unresolved privacy considerations exist with respect to a tariff application filed under s. 196.499, Stats., it shall investigate the matter under s. 196.499 (6), Stats.

PSC 165.22 Telephone caller identification service. (1) GENERAL. The following minimum conditions of service apply to the provision of calling name delivery or calling number delivery. No provision of this section should be interpreted to prevent a telecommunications provider from offering per–line blocking at no additional charge to customers in addition to those specified herein.

(a) A telecommunications provider offering a telephone caller identification service shall provide per–call blocking at no additional charge on every access line in an exchange where caller identification is offered, unless it is not feasible to do so.

(b) A telecommunications provider proposing to offer a telephone caller identification service under a tariff filed pursuant to ss. 196.19 or 196.196 (3), Stats., shall identify in its tariff application all access lines where the per–call blocking feature will not be available and explain why the per–call blocking feature is not feasible on those lines.

(c) A telecommunications provider offering a telephone caller identification service shall provide per–line blocking in accordance with the conditions of service specified in subs. (2), (3), and (4).

(d) A telecommunications provider offering a telephone caller identification service that offers a per–line blocking feature to customers in addition to those specified in subs. (2), (3), and (4) may not charge for that per–line blocking feature.

(e) A telecommunications provider offering a telephone caller identification service shall conduct an information campaign in accordance with sub. (5) prior to offering the service.

(2) BLOCKING FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) A telecommunications provider offering a telephone caller identification service shall provide per–line blocking on an optional basis at no additional charge to the following persons located within an area where such service is offered:

1. Any person protected by an injunction, temporary restraining order, or other court order relating to domestic abuse, harassment or child abuse issued in any jurisdiction in the United States.

2. Any organization designated by the commission as eligible to receive per–line blocking under ss. 196.207(2)(e)2 and 196.207(2)(e)3.

(b) Persons eligible for blocking under this subsection may specify the access lines subject to per–line blocking as follows:

1. An eligible individual may order per–line blocking for any access line, regardless of whether he or she is the listed subscriber for that access line, with a statement to the telecommunications provider,

either orally or in writing, to the effect that the access line will be used by an eligible individual or organization, unless the subscriber of record for that access line declines the blocking service.

2. An eligible organization may order per−line blocking for the residential access line of any employee of the organization, or any residential access line designated by the eligible organization as serving a victim of domestic violence.

(3) BLOCKING FOR PUBLIC SAFETY AND SOCIAL SERVICE AGENCIES.

(a) A telecommunications provider offering a telephone caller identification service shall provide per−line blocking at no charge, upon written request, to any municipal, county, state or federal law enforcement agency, fire department, public social service agency or parole office within the exchange where such service is offered.

(b) An eligible agency under sub. (1) may order per−line blocking for any access line it designates, regardless of whether the agency is the listed subscriber, with a written request to the telecommunications utility to the effect that the access line will be used by that eligible agency for its official purposes, unless the subscriber of record for that access line declines the blocking service.

(c) An eligible agency under sub. (1) may order per−line blocking at no charge for any individual if the agency determines per−line blocking is necessary to prevent a threat of violence, or protect the safety of any person in that subscriber's household.

(4) RESALE. A telecommunications provider offering basic local exchange service to another telecommunications provider for purposes of resale, either through a tariff filed under s. 196.19, Stats., or through an interconnection agreement negotiated or arbitrated pursuant to 47 USC 251 and approved by the commission, may not condition, limit, or otherwise restrict the ability of the reseller or competitive local exchange carrier to offer per−line blocking, on an optional basis and at no additional charge, to any of its customers, except that the reseller or competitive local exchange carrier must comply with the minimum conditions of service in sub. (1).

(5) INFORMATION CAMPAIGN. (a) Any telecommunications provider proposing to offer a caller identification service in a given exchange shall conduct an information campaign in that exchange during the 60−day period preceding introduction of the service.

(b) The information campaign shall inform telephone users of the following:

1. The date on which a telephone caller identification service will become operational in a given exchange.

2. The procedure for operating the per−call blocking signal.

3. A discussion of the display device that is required with a telephone caller identification service, and the effect blocking will have upon the call display.

4. An explanation that blocking will not affect the operation of the 911 emergency telephone system.

5. Notification that additional information regarding the availability of customer premises equipment providing either automatic blocking or blocked call blocking functionality is available upon request.

6. An explanation of the out−of−area indications a subscriber may experience with a telephone caller identification service.

7. A telephone number for a customer service representative prepared to answer other questions about the telephone caller identification service.

(c) Any telecommunications provider proposing to offer a telephone caller identification service shall contact all eligible organizations it serves, by separate direct mail, to inform those organizations of their blocking privilege, as well as the blocking options of the individuals whom they serve, and ascertain whether the eligible organization desires per−line blocking.

(d) Any telecommunications provider proposing to offer a telephone caller identification service shall provide the required information in a press release to local media, and in a bill insert mailed to all subscribers in an exchange at least 20 days before introduction of such service.

(e) A telecommunications provider shall repeat this information campaign each time the provider substantially modifies the operation of the telephone caller identification service in a given service area.

PSC 165.23 Non−published and non−listed number services. A telecommunications provider offering basic local exchange service shall offer to its customers a non−listed and a non−published number service. The provider may establish a reasonable charge for the services.

PSC 165.24 Call detail. A telecommunications provider offering basic local exchange service on a measured or per−call basis shall offer to provide a summary of the local call detail as part of the local telephone bill. The provider may establish a reasonable charge for the service.

PSC 165.25 Call trace. A telecommunications provider offering basic local exchange service shall offer to its customers a tracing service to identify the source of unlawful, abusive and nuisance telephone calls. The provider may establish a reasonable charge for the service.

PSC 165.26 Subscriber list rental service. (1) A telecommunications provider offering basic local exchange service may furnish subscriber list information to third parties for a reasonable charge.

(2) A telecommunications provider may not include the name, address or other information pertaining to a telephone customer account for which the subscriber has subscribed to a non−published or non−listed number service without first obtaining the written authorization of the subscriber in question.

(3) Any telecommunications provider furnishing subscriber list information to third parties shall publish a telephone number that a subscriber may call to remove his or her subscriber list information from future subscriber list agreements.

(4) This section does not apply to the release of subscriber list information to the extent that release is required by 47 USC 222 (e), or by rules promulgated by the federal communications commission. This section does not apply to the sale or exchange of white pages listings to telecommunications providers for the purpose of preparing a white page directory of the local calling area for a given exchange.

PSC 165.27 Customer records. (1) GENERAL. A telecommunications provider offering basic local exchange service or basic message telecommunications service within the state shall not make available to any person, without obtaining prior written consent of the subscriber, any of the following information:

(a) The subscriber's call detail, including personal patterns and any listing of the telephone numbers or other access numbers called by the subscriber. This paragraph does not apply to calling name delivery or calling number delivery, subject to the restrictions in s. PSC 165.22, and does not apply to billing information concerning the person calling which federal law or regulation requires a telecommunications provider to furnish to the person called.

(b) The subscriber's credit or other personal financial information.

(c) The basic or optional telecommunications services which a subscriber has ordered from either a telecommunications provider or from an independent supplier of information services that uses telecommunications network facilities to provide the basic or optional telecommunications service to the subscriber.

(d) Demographic information about individual subscribers, or aggregate information from which individual identities and characteristics have not been removed.

(2) DISCLOSURE TO SUBSCRIBER. If a telecommunications provider releases information to a third party, with the consent of the subscriber under sub. (1), the provider shall inform the subscriber, upon request, of the identity of each person to whom the information has been released.

(3) RESCISSION. Any subscriber who has given consent for the release of personal information under sub. (1) may rescind this consent upon written notice to the telecommunications provider.

(4) EXCLUSIONS. This section does not apply to any of the following:

(a) Information provided by subscribers for inclusion in a telephone directory.

(b) Information provided through directory assistance service.

(c) Postal zip code information.

(d) Information provided to a collection agency by a telecommunications provider for the exclusive purpose of collecting unpaid debts owed the provider.

(e) Information disclosed to a dispatcher at a public safety answering point in the course of a telephone call to 911, or any other call communicating an imminent threat to life or property.

(f) Information provided to a law enforcement agency or other third party in response to a subpoena, court order or other lawful process.

(g) Information required by the commission pursuant to its jurisdiction over telecommunications providers.

(h) Information transmitted between telecommunications providers to the extent necessary to furnish telecommunications service between or within service areas.

(i) Information a telecommunications provider is required to release under the rules and orders of the commission, including information provided to another telecommunications provider to comply with s. PSC 165.051.

(j) Information a telecommunications provider is required to release by federal statute and the rules and orders of the federal communications commission.

(k) Subscriber list information and customer proprietary network information.

PSC 165.28 Customer proprietary network information. (1) A telecommunications provider offering basic local exchange service or basic message telecommunications service within the state that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall only use, disclose, or permit access to that customer proprietary network information in its provision of:

(a) The telecommunications service from which the information was derived.

(b) Services necessary to, or used in, the provision of the telecommunications service from which the information was derived, including the publishing of telephone directories.

(2) A telecommunications provider offering basic local exchange service or basic message telecommunications service within the state that receives or obtains customer proprietary network information by virtue of its provision of a telecommunications service shall disclose the customer proprietary network information for a given customer account, upon affirmative written request by the customer, to any person designated by the customer.

(3) This section does not apply to:

(a) The use, disclosure or access to aggregate customer information from which individual customer identities and characteristics have been removed to the extent that use, disclosure or access is permitted by 47 USC 222, or by rules promulgated by the federal communications commission.

(b) The use, disclosure or access to customer proprietary network information permitted by 47 USC 222 (d), or by rules promulgated by the federal communications commission.

PSC 165.29 Waiver. (1) Upon petition from a telecommunications provider regulated under this chapter, or upon its own motion, the commission may waive or modify application of a provision of this chapter as it applies to one or more providers if it finds that waiver or modification is in the public interest.

(2) If the commission receives a petition for a waiver, or decides to consider a waiver on its own motion, the commission shall issue a public notice and provide an opportunity for hearing.

(3) The commission's consideration of a waiver request shall include all of the following:

(a) The benefit of the provision to consumers of telecommunications services.

(b) The cost of the provision with respect to a specific telecommunications provider.

(c) The availability of any alternative regulatory procedures.

(d) If the waiver request concerns a small business as defined in ss. 227.114 (1) and 196.216, Stats., the factors specified in s. 227.114 (2), Stats.

PSC 165.30 Telecommunications privacy council. (1) GENERAL. The commission shall appoint a telecommunications privacy council consisting of representatives of the telecommunications industry and consumers of telecommunications services.

(2) MEMBERSHIP. The council shall consist of 13 members. The commission shall appoint those members as follows:

(a) The attorney general or a designee.

(b) The secretary of the department of administration or a designee.

(c) The cochairpersons of the joint committee on information policy or their designees.

(d) Four members from the telecommunications industry.

(e) Five members from the general public representing residential and business users.

(3) STAFF ASSISTANCE. The commission shall assign staff members as needed to facilitate the work of the council. The commission shall appoint a member of the commission staff to serve as staff liaison for the council. The liaison shall be a non–voting member and shall:

(a) Assist the council in obtaining subject matter expertise in the area of telecommunications privacy.

(b) Maintain the official record of the council, including membership, minutes of meetings, agenda and reports.

(c) Assist the chairperson in planning the agenda, time and place of meetings.

(d) Provide other administrative assistance as requested by the council.

(4) TERM. Members, other than those members appointed from the department of justice, the department of administration, and the joint committee on information policy, shall serve for three years.

(5) ORGANIZATION. The council shall elect from its membership a chairperson. Such elections shall be held at the first meeting of each calendar year. The term of office for these positions shall be one year.

(6) DUTIES. The telecommunications privacy council shall advise the commission concerning the administration of s. 196.209, Stats., the content of administrative rules adopted pursuant to s. 196.209 (1), Stats., and any other matters assigned to the council by the commission.

(7) MEETINGS. The telecommunications privacy council shall meet at least once each year.

(8) REIMBURSEMENT. Members of the telecommunications privacy council shall serve without compensation. Members, other than those members from the department of justice, the department of administration, the joint committee on information policy and the telecommunications industry, shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as part of the telecommunications privacy council, subject to any budget guidelines the commission may adopt.

(9) BYLAWS. The telecommunications privacy council may adopt bylaws appropriate for the operation of the council.

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

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

Health and Family Services (CR 97–98):
Ch. HFS 139 – Relating to qualifications of public health professionals employed by local health departments.

Health and Family Services (CR 97–132):
Ch. HFS 140 – Relating to required services of local health departments.

Health and Family Services (CR 98–36):
Ch. HSS 138 – Relating to subsidized health insurance premiums for certain persons with human immunodeficiency virus (HIV) infection.

Natural Resources (CR 97–89):
Ch. NR 140 – Relating to groundwater quality standards.

Pharmacy Examining Board (CR 98–16):
Chs. Phar 1 to 8, 10 and 12 to 14 – Relating to pharmacists and pharmacies.

Public Service Commission (CR 97–157):
S. PSC 112.05 – Relating to electric construction by electric public utilities and extensions of electric service requiring Public Service Commission review and approval.

Commissioner of Railroads (CR 97–83):
Ch. RR 1 – Relating to hearing procedures and practices of the Office of the Commissioner of Railroads.

Commissioner of Railroads (CR 97–84):
Ch. RR 3 – Relating to railroad ratemaking.

Workforce Development (CR 98–26):
S. DWD 12.25 – Relating to amendments to the Learnfare program.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Commerce (CR 98–6):
An order repealing and recreating chs. Comm 122 and 128, relating to the Physician and Health Care Provider Loan Assistance Programs.
Effective 07–01–98.

Natural Resources (CR 97–141):
An order affecting ch. NR 149, relating to laboratory certification and registration.
Effective 07–01–98 and 09–1–99.

Natural Resources (CR 97–151):
An order affecting ss. NR 10.01, 10.104, 10.27 and 10.28, relating to deer hunting and bonus antlerless deer permits.
Effective 08–01–98.

Physical Therapists Affiliated Credentialing Board (CR 97–133):
An order affecting ss. PT 1.01, 1.03, 2.01, 2.02, 3.01, 4.01 and 6.01 and ch. PT 8, relating to application requirements, examinations, temporary licenses, unprofessional conduct and biennial license renewals of physical therapists.
Effective 07–01–98.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

The following administrative rule orders have been adopted and published in the ***May 31, 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 97–125):
An order affecting chs. ATCP 29 and 30, relating to pesticide regulation.
Effective 06–01–98.

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.

Gaming Board (CR 98–5):
An order affecting ss. WGC 13.05 and 13.15, relating to kennel license fees.
Effective 06–01–98.

Health & Family Services (CR 97–130):
An order repealing chs. HFS 10 and 67 and HSS 118, relating to hearings on relief from institutional charges, a low–income standard for allocating state nutrition and senior volunteer funds and maintaining the confidentiality of personal facts included in medical information obtained by Department staff in the conduct of official business.
Effective 06–01–98.

Insurance, Office of the Commissioner of (CR 97–137):
An order amending s. Ins 3.53, relating to human immunodeficiency virus (HIV) testing procedures.
Effective 06–01–98.

Investment Board (CR 97–150):
An order affecting ch. IB 1 and s. IB 2.02, relating to restrictions on Investment Board employes.
Effective 06–01–98.

Medical Examining Board (CR 97–114):
An order creating s. Med 10.02 (2) (zb), relating to dispensing or prescribing of controlled substances for the treatment of obesity.
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 97–87):
An order affecting chs. NR 590 and 600 to 690, relating to solid and hazardous waste management.
Effective 06–01–98.

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.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

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

REVISIONS

Agriculture, Trade & Consumer Protection:

Ch. ATCP 3
S. ATCP 3.02 (1) (b)

Ch. ATCP 29 (entire chapter)

Ch. ATCP 30
S. ATCP 30.01 (entire section)
S. ATCP 30.05 (entire section)
S. ATCP 30.10 (entire section)
S. ATCP 30.15 (entire section)
S. ATCP 30.19 (entire section)
S. ATCP 30.22 (entire section)
S. ATCP 30.24 renumbered from s. ATCP 29.17 and am. (12)
S. ATCP 30.30 renumbered from s. ATCP 30.01
S. ATCP 30.31 renumbered from s. ATCP 30.05
S. ATCP 30.32 renumbered from s. ATCP 30.10
S. ATCP 30.33 renumbered from s. ATCP 30.11
S. ATCP 30.34 renumbered from s. ATCP 30.18
S. ATCP 30.35 renumbered from s. ATCP 30.25
S. ATCP 30.36 renumbered from s. ATCP 30.26
S. ATCP 30.37 renumbered from s. ATCP 30.30
S. ATCP 30.375 renumbered from s. ATCP 30.05
S. ATCP 30.38 renumbered from s. ATCP 30.35
S. ATCP 30.39 renumbered from s. ATCP 30.40

Corrections:

Ch. DOC 311 (entire chapter)
Appendix

Gaming Board:

Ch. WGC 13
S. WGC 13.05 (3) (a)
S. WGC 13.15 (4) (c)

Health & Family Services:

Management & Technology, Strategic Finance, Chs. HFS 1––

Ch. HFS 10 (entire chapter)

Community Services, Chs. HFS/HSS 30––

Ch. HFS 67 (entire chapter)

Health, Chs. HFS 110––

Ch. HSS 118 (entire chapter)

Commissioner of Insurance:

Ch. Ins 3
S. Ins 3.53 (1), (3), (4) and (5) (b)

Investment Board:

Ch. IB 1
S. IB 1.02 (2) to (16)
S. IB 1.03 (1), (2), (3) and (4)
S. IB 1.04 (3)
S. IB 1.05 (1), (2) and (3)
S. IB 1.06 (entire section)
S. IB 1.08 (1) (intro.), (2)(intro.) and (b), (3) and (4)
S. IB 1.09 (1)

Ch. IB 2
S. IB 2.02 (5)

Medical Examining Board:

Ch. Med 10
S. Med 10.02 (2) (zb)

Natural Resources:

Fish, Game, etc., Chs. NR 1––

Ch. NR 47
S. NR 47.90 (entire section)
S. NR 47.901 (entire section)
S. NR 47.902 (entire section)
S. NR 47.903 (entire section)
S. NR 47.904 (entire section)
S. NR 47.905 (entire section)
S. NR 47.906 (entire section)
S. NR 47.907 (entire section)
S. NR 47.908 (entire section)

Natural Resources:

Env. Protection––General, Chs. NR 100––

Ch. NR 103
S. NR 103.02 (1m)
S. NR 103.06 (4)
S. NR 103.07 (1), (2) and (3)
S. NR 103.08 (1m) and (4) (a), (b) and (c)

Ch. NR 182
S. NR 182.07 (1) (j)
S. NR 182.075(intro.), (1), (1g), (1m), (1p), (1r) (1s) (a) and (b), (1u) and (1x) (a)
S. NR 182.08 (2) (e)
S. NR 182.14 (2) (e)

Env. Protection––WPDES, Chs. NR 200––

Ch. NR 299
S. NR 299.05 (5) and (6)

Env. Protection––Solid Waste, Chs. NR 500––

Ch. NR 504
S. NR 504.04 (2) (a)

Ch. NR 590
S. NR 590.02 (4) (a), (5) and (6)
S. NR 590.03 (33m)
S. NR 590.04 (1) (c) and (2) (d)
S. NR 590.05 (7) (c)
S. NR 590.06 (2) (b)
S. NR 590.07 (1)
S. NR 590.10 (3) (intro.) and (b) and (5)
S. NR 590.22 (3) (e)
S. NR 590.37 (1) (e) and (2) (e)
S. NR 590.50 (4)
S. NR 590.71 (intro.) and (5)
S. NR 590.83 (intro.) and (5)

Env. Protection––Hazardous Waste Management, Chs. NR 600––

Ch. NR 600
S. NR 600.03 (18m), (23m), (56m), (92), (94), (171m), (218), (229m), (249m), (249p) and (249z)
S. NR 600.06 (5)
S. NR 600.10 (1) (e), (2) (a), (b) and (c)

Ch. NR 605
S. NR 605.03 (intro.), (1) and (2)
S. NR 605.04 (1) (b)
S. NR 605.05 (1) (x), (2) (c) to (i), (6) (b), (9) (a) and (b), (10) (a), (b) to (c), (11) (c), (d) and (e) and (12)
S. NR 605.08 (2) (a), (3) (a) and (5) (a)
S. NR 605.09 Tables II to IV
S. NR 605.10 (7)

Ch. NR 610
S. NR 610.05 (4)
S. NR 610.07 (1) (c) and (d) and (1m)
S. NR 610.08 (1) (d) and (2) (b)

Ch. NR 615
S. NR 615.05 (3) (a) and (b) and (4) (a) and (c)
S. NR 615.06 (6)
S. NR 615.12 (1) (intro.) and (1t) (g)
S. NR 615.14 (entire section)

Ch. NR 620
S. NR 620.05 (5)
S. NR 620.07 (2) (a)
S. NR 620.14 (7) and (8)

Ch. NR 625
S. NR 625.04 (1) (intro.), (a), (b) and (8)
S. NR 625.06 (entire section)
S. NR 625.07 (7) (a)
S. NR 625.08 (entire section)
S. NR 625.09 (entire section)
S. NR 625.10 (entire section)
S. NR 625.12 (1) (a), (2) (intro.) and (3) (a)

Ch. NR 630
S. NR 630.10 (1m)
S. NR 630.15 (2) (d)
S. NR 630.22 (2) (a)
S. NR 630.30 (5m)
S. NR 630.31 (1) (d) and (h)
S. NR 630.40 (3) (c)

Ch. NR 631
S. NR 631.02 (2) (b)
S. NR 631.06 (2) (a), (f), (k), (L), (m), (n) and (o)
S. NR 631.07 (2) and (4) (a)
S. NR 631.08 (4)

Ch. NR 632
S. NR 632.02 (2) (b) and (c)
S. NR 632.06 (4)
S. NR 632.08 (4) (b)
S. NR 632.09 (13)
S. NR 632.11 (4)

Ch. NR 633 (entire chapter)

Ch. NR 635
S. NR 635.10 (1) and (2)
S. NR 635.12 (15) (c) and (cm)

Ch. NR 640
S. NR 640.06 (2) (h)
S. NR 640.13 (4)

Ch. NR 645
S. NR 645.06 (1) (i)
S. NR 645.09 (1)
S. NR 645.10 (6)
S. NR 645.16 (3) (e)

Ch. NR 656
S. NR 656.07 (1) (a) and (4) (a)

Ch. NR 660
S. NR 660.04 (1)
S. NR 660.13 (1) (j)
S. NR 660.18 (7) and (40)
S. NR 660.22 (2) (b)

Ch. NR 665
S. NR 665.06 (1) (d) and (4)
S. NR 665.09 (16) (a)

Ch. NR 670
S. NR 670.10 (2)

Ch. NR 675
S. NR 675.03 (1m), (1p), (4m), (7m) and (8)
S. NR 675.04 (2), (3), (4) and (5)
S. NR 675.06 (1), (2) and (3)
S. NR 675.07 (1), (2) (a) and (e) and (3) (b)
S. NR 675.09 (1), (4) (a), (b) and (c), (5), (6) and (7)
S. NR 675.13 (4)
S. NR 675.17 (entire section)
S. NR 675.18 (entire section)
S. NR 675.19 (entire section)
S. NR 675.20 (entire section)
S. NR 675.21 (entire section)
S. NR 675.22 (1), (4) (b), (5), Tables 1, 2 and 3
S. NR 675.23 (entire section)
S. NR 675.24 (1) (a)
S. NR 675.25 (2) (b)
S. NR 675.26 (entire section)
S. NR 675.28 (entire section)

Ch. NR 680
S. NR 680.02 (entire section)
S. NR 680.03 (3m)
S. NR 680.09 (3) (a)
S. NR 680.42 (18m)
S. NR 680.45 Tables XII and XIII

Ch. NR 685
S. NR 685.04 (entire section)
S. NR 685.05 (1) (c), (d) and (f), (2) (j) and (3) (a)
S. NR 685.06 (5)
S. NR 685.07 (3) (a) and (b), (4) (a) and (b), (5) (a), (c), (d), (g), (h) to (i) and (j) and (9)
S. NR 685.08 (3) (a), (7) (a) and (b), (8) (d), (9) (c) and (10) (f)

Ch. NR 690 (entire chapter)

Regulation & Licensing:

Ch. RL 70
S. RL 70.02 (intro.), (1) to (8), (12) and (14)

Ch. RL 71
S. RL 71.01 (intro.), (2) and (4) to (6)
S. RL 71.02 (entire section)
S. RL 71.03 (intro.), (1) and (2)
S. RL 71.04 (entire section)

Ch. RL 72
S. RL 72.02 (1)
S. RL 72.03 (1)
S. RL 72.06 (3)
S. RL 72.07 (2), (3) and (4)

Ch. RL 73
S. RL 73.01 (intro.), (4), (6), (8), (9) and (10)
S. RL 73.02 (entire section)
S. RL 73.03 (entire section)

EDITORIAL CORRECTIONS

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

Agriculture, Trade & Consumer Protection:

Ch. ATCP 30
S. ATCP 30.30 (3)
S. ATCP 30.31 (3) (a) and (5) (b)
S. ATCP 30.33 (3) (b) and (c)
S. ATCP 30.36 (entire section)
S. ATCP 30.37 (1)
S. ATCP 30.375 (intro.)
S. ATCP 30.38 (2)

Commerce:

Tramways, Lifts and Tows, Ch. Comm 33

Ch. Comm 33 renumbered from ch. ILHR 33
S. Comm 33.22 (1) (a)

Anhydrous Ammonia, Ch. Comm 43

Ch. Comm 43 renumbered from ch. ILHR 43

Existing Buildings, Chs. Comm 75 to 79

Ch. Comm 75 renumbered from ch. ILHR 75
Ch. Comm 76 renumbered from ch. ILHR 76
Ch. Comm 77 renumbered from ch. ILHR 77
Ch. Comm 78 renumbered from ch. ILHR 78
Ch. Comm 79 renumbered from ch. ILHR 79

Public Swimming Pools, Ch. Comm 90

Chapter Comm 90 renumbered from ch. ILHR 90

Corrections:

Ch. DOC 311
S. DOC 311.03 (4)

Health & Family Services:

Health, Chs. HFS 110––

Ch. HFS 115 renumbered from ch. HSS 115
Ch. HFS 116 renumbered from ch. HSS 116
Ch. HFS 117 renumbered from ch. HSS 117

Natural Resources:

Fish, Game, etc., Chs. NR 1––

Ch. NR 47
S. NR 47.53 (1)

Env. Protection – Hazardous Waste Management, Chs. NR 600––

Ch. NR 600
S. NR 600.02 (2)
S. NR 600.03
S. NR 600.06
S. NR 600.09
S. NR 600.11

Ch. NR 605
S. NR 605.12 (2) and (3)

Ch. NR 610
S. NR 610.02 (2)
S. NR 610.08 (2) (w)

Ch. NR 615
S. NR 615.02 (2)

Ch. NR 620
S. NR 620.02 (2)
S. NR 620.10 (1) (a)
S. NR 620.15 (3) to (5)

Ch. NR 625
S. NR 625.02 (2)

Ch. NR 630
S. NR 630.02 (2)
S. NR 630.04 (2) (f) and (3) (intro.)
S. NR 630.05 (2)
S. NR 630.13 (1) (g), (3) and (4)
S. NR 630.20 (2), (3) and (6)

Ch. NR 635
S. NR 635.02 (2)
S. NR 635.15 (9)
S. NR 635.17 (3)
S. NR 635.18 (14) (g), (17) and (22) (intro.)

Ch. NR 636
S. NR 636.02 (entire section)
S. NR 636.40 (1) (intro.)
S. NR 636.41 (1)

Ch. NR 640
S. NR 640.02 (entire section)
S. NR 640.04 (entire section)
S. NR 640.06 (entire section)
S. NR 640.07 (entire section)

Ch. NR 645
S. NR 645.02 (entire section)
S. NR 645.04 (entire section)
S. NR 645.06 (entire section)
S. NR 645.07 (entire section)
S. NR 645.12 (entire section)
S. NR 645.16 (entire section)

Ch. NR 655
S. NR 655.02 (entire section)
S. NR 655.06 (entire section)

Ch. NR 656
S. NR 656.06 (intro.)

Ch. NR 660
S. NR 660.02 (2)
S. NR 660.04 (1) and (3)
S. NR 660.09 (intro.)
S. NR 660.11 (intro.)
S. NR 660.12 (intro.)
S. NR 660.13 (2) (b), (3) (intro.), (8) (d) and (9)
S. NR 660.18 (11) (f)
S. NR 660.24 (2) (a), (3) to (16)

Ch. NR 665
S. NR 665.02 (2)
S. NR 665.06 (entire section)

Ch. NR 670
S. NR 670.02 (2)
S. NR 670.06 (intro.)

Ch. NR 675
S. NR 675.02 (2)

Ch. NR 680
S. NR 680.04 (2)
S. NR 680.05 (1) (c)
S. NR 680.06 (1) to (3) and (8) to (14)
S. NR 680.07 (2) (c), (5) (c), (6) (d) and (7) (g)
S. NR 680.20 (1)
S. NR 680.21 (5)
S. NR 680.22 (25) and (31)
S. NR 680.24 (5) and (7) (a)
S. NR 680.32 (1)
S. NR 680.44 (1)
S. NR 680.45 (2) (b) and (5)
S. NR 680.50 (intro.) and (2) (b)

Ch. NR 685
S. NR 685.02 (2)
S. NR 685.05 (4) (a)
S. NR 685.06 (1) and (7)
S. NR 685.07 (1) (b) and (4) (f)
S. NR 685.09 (1) (a) to (b), (2) (a) to (d), (3) and (6) (b)

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection (CR 97–125)

Chs. ATCP 29 & 30 – Reorganization of pesticide rules.

Summary of Final Regulatory Flexibility Analysis:

The department regulates the distribution, storage, handling and use of pesticides to protect persons, property and the environment. Existing rules include ATCP 29 and 30. Any business which manufactures, labels, sells, distributes or uses pesticides will be affected by the rule changes.

The rule reorganizes and clarifies the department's current pesticide rules. The department believes that this new organization and clarification will make it easier for affected businesses and individuals to identify and understand the rules that apply to them.

The rule does include substantive changes as described below. These changes will not have an adverse impact on small business. Substantive changes include:

·Modifies pesticide applicator certification by adding 4 new applicator categories while eliminating 3 categories. These changes are being made to address changes in pesticide use practices.

·Limits commercial applicator trainees to the use of "general–use" pesticides only and requires their employer to certify that all of the training permit restrictions are complied with.

·Simplifies and reduces recordkeeping requirements for commercial pesticide applicators.

·Eliminates the requirement that applicators using certain pesticides post the boundaries of treated areas bordering public roads unless required to do so by the pesticide label. We estimate this change will reduce the number of signs required to be posted by 80% compared to what is currently required. This will result in a cost and time savings for farmers and commercial application businesses.

·Eliminates the requirement that persons using chemigation systems notify the department prior to chemigation a site for the first time.

The rule modifies posting requirements for pesticide applications made to landscapes:

·Provides posting provisions for cemeteries similar to those currently provided for golf courses.

·Requires warning signs to specify the date when the warning sign may be removed.

·Establishes a visual site and accessibility basis for determining where warning signs must be posted and eliminates the requirement to post fenced in or inaccessible landscapes.

·Allows more flexibility in the choice of acceptable materials for warning signs.

These changes should reduce the costs to commercial application businesses by *54%*. The number of landscape application warning signs posted by commercial applicators for hire will be reduced by *25%* with the reduced posting required for most properties. Costs for signs made from other materials acceptable under the change are available at approximately 50% of the cost of the signs currently made of "rigid material". The cost and time required for an applicator to include the date on signs for the signs removal, is minimal.

The rule modifies current provisions related to the landscape pesticide registry:

·Changes the annual registration deadline and effective dates of the registry allowing businesses more time to implement notification requirements.

The overall impact of the rule changes on small business is expected to reduce costs.

Summary of Comments from Legislative Committees:

The rule was referred to the Senate Committee on Agriculture and Environmental Resources on January 28, 1998 and to the Assembly Committee on Agriculture on January 27, 1998. Neither committee took any action on the rule during their review period which expired February 28, 1998.

2. Corrections (CR 97–30)

Ch. DOC 311 – The placement of inmates in observation status for mental or medical health reasons.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

3. Gaming Board (CR 98–5)

Ch. WGC 13 – Kennel license fees.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

4. Health & Family Services (CR 97–130)

Chs. HFS 10, 67 & HSS 118 – Hearings on relief from institutional charges, a low–income standard for allocating state nutrition and senior volunteer funds and maintaining the confidentiality of personal facts included in medical information obtained by Department staff in the conduct of official business.

Summary of Final Regulatory Flexibility Analysis:

This order will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. Chapter HFS 10 applied to the Department and counties. Chapter 67 applied directly to the Department, counties and tribal governing bodies. chapter HSS 118 applied directly to the Department. All three chapters are now obsolete.

Summary of Comments:

No comments were reported.

5. Insurance (CR 97–137)

S. Ins 3.53 – HIV testing procedures.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

6. Investment Board (CR 97–150)

Ch. IB 1 – Restrictions on investment board employes.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

7. Medical Examining Board (CR 97–114)

S. Med 10.02 (2) (zb) – Dispensing or prescribing of controlled substances for the treatment of obesity.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

8. Natural Resources (CR 96–113)

Chs. NR 103, 299 and 504 – Water quality standards for wetlands.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule changes and guidance will not have an adverse effect on small businesses. The development of mitigation and mitigation banking, similar to that which is presently required under federal law, has the potential to increase project costs for all permit applicants and the department.

Summary of Comments by Legislative Review Committees:

The proposed rule was reviewed by the Assembly Natural Resources Committee and the Senate Agriculture and Environmental Resources Committee. On December 10, 1997, the Assembly Committee held a public hearing in Stevens Point. The primary discussion at the hearing was the impact of cranberry production on cold water streams in light of the changes proposed in the rule. In executive session on December 17, the Committee voted to return the rule to the department for modification.

No modifications to the rule were adopted by the Natural Resources Board. However, the department will be forming a partnership with representatives of Trout Unlimited, the cranberry industry, the drainage district, DATCP and other residents to work together on managing the issues that have been identified. The Department views the proposed revisions as procedural in nature and not fundamental changes in how wetlands are protected. The Committees concurred with the Department's position.

9. Natural Resources (CR 97–57)

Ch. NR 182 – Metallic mineral mining.

Summary of Final Regulatory Flexibility Analysis:

Typically, companies involved in metallic mineral mining projects in Wisconsin have been large corporations.

Summary of Comments by Legislative Committees:

The rules were reviewed by the Assembly Environment Committee and the Senate Agriculture and Environmental resources Committee. On February 11, 1998, the Senate Agriculture and Environmental Resources Committee held a public hearing and on February 16, 1998, the Assembly Environment Committee held a public hearing on the proposed rule. No modifications were requested as a result of the public hearings.

10. Natural Resources (CR 97–87)

Chs. NR 590 and 600–685 – Solid and hazardous waste management.

Summary of Final Regulatory Flexibility Analysis:

In general, the revisions to the hazardous waste code will not result in substantial changes to the types of small businesses affected by the current hazardous waste rules. However, the new universal wastes chapter (NR 690) will assist small businesses in managing small quantities of certain ubiquitous hazardous wastes. The rule affects batteries, recalled pesticides and other unused pesticides and thermostats. It is written to allow for the incorporation of further waste streams. The rule should have the effect of assisting small businesses in managing these wastes by adopting streamlined requirements for their management and handling, and to encourage recycling of them.

Summary of Comments by Legislative Committees:

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

11. Natural Resources (CR 97–153)

Ch. NR 47, Subch. 8 – Fire suppression grant program.

Summary of Final Regulatory Flexibility Analysis:

The rule does not directly impact small business and there are no regulatory, compliance or reporting requirements for small businesses.

Summary of Comments by Legislative Review Committees:

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

Summary of Final Regulatory Flexibility Analysis:

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

12. Regulation and Licensing (CR 97–118)

Chs. RL 70–73 – Certification and regulation of acupuncturists.

Summary of Comments:

No comments were reported.

EXECUTIVE ORDERS

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

Executive Order 330. 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 Peace Officers Who have Given Their Lives in the Line of Duty.

Executive Order 331. Relating to Amending Executive Order No. 329.

Executive Order 332. Relating to Amending Executive Order No. 329.

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