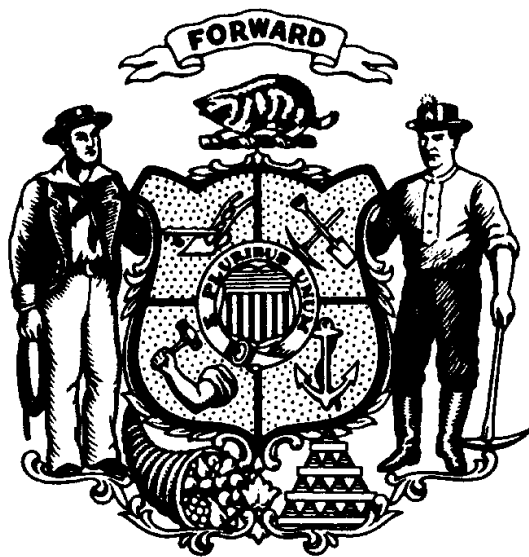


WISCONSIN ADMINISTRATIVE REGISTER

No. 519



Publication Date: March 31, 1999
Effective Date: April 1, 1999



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

The 1997–98 Wisconsin Statutes and Annotations can be ordered now in bound volumes or on the *WisLaw*TM CD–ROM

Bound Volumes:

Prices for the 1997–98 Wisconsin Statutes and Annotations bound volumes are detailed below. Any sales tax due must be added to these prices:

| | | | |
|----------------------------|-------------------------------|----------------------------|-------------------------------|
| <i>Hard Cover</i> | <i>Hard Cover</i> | <i>Soft Cover</i> | <i>Soft Cover</i> |
| <u><i>With Postage</i></u> | <u><i>Without Postage</i></u> | <u><i>With Postage</i></u> | <u><i>Without Postage</i></u> |
| \$124.00 | \$117.00 | \$102.00 | \$96.00 |

Send orders to the Document Sales and Distribution Section at the address indicated below, or **call (608) 266–3358**. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% stadium tax. Prepayment is required for all orders. Payments by check, money order, or credit card should be made payable to *WI Department of Administration*. Credit card orders using either VISA or Mastercard may be placed by calling 1–800–DOC–SALE. Local customers may call 264–9419 to place an order. The bound volumes of the statutes will be available on January 4, 1999.

WisLawTM CD–ROM:

Up–to–date *WisLaw*TM CD–ROM’s are released by the Revisor of Statutes Bureau several times a year. *WisLaw*TM contains the *continuously–updated Wisconsin Statutes and Annotations* with Index, Table of Cross–References, and Table of Sections Affected by Acts, the **Wisconsin Acts** with Index, the **Supreme Court Rules and Internal Operating Procedures**, recent **Opinions of the Attorney General** with Index, the **Wisconsin Constitution**, the **U.S. Constitution**, the **Administrative Register**, the **Town Law Forms**, and the **Wisconsin Code of Military Justice**. The Bureau plans to increase gradually the number of chapters of the Wisconsin Administrative Code currently on *WisLaw*TM.

All of the above *WisLaw*TM Infobases are substantially integrated with hypertext links. *WisLaw*TM utilizes the Windows versions of Folio PreViews search and retrieval software. Folio is used today by the Legislative Branch, by several state agencies, and by 75 of the top 80 legal publishers.

State agencies are using *WisLaw*TM for their legal research. *WisLaw*TM is distributed by DOA’s Document Sales Unit to requesting state agencies on a complimentary basis.

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

A 12–month subscription plus a license for no more than one simultaneous user costs \$99. A 12–month subscription plus a license for no more than 4 simultaneous users costs \$149. A 12–month subscription plus a license for no more than 10 simultaneous users costs \$199. Shipping is included. Unless exempt by law, all sales are subject to 5% state sales tax and, where applicable, 0.5% county sales tax and 0.1% Wisconsin stadium sales tax.

To obtain a *WisLaw* Subscription Order Form call (608) 266–3358 or write to:

**The State of Wisconsin
Department of Administration
Bureau of Integrated Document Services
Document Sales and Distribution Section
P.O. Box 7840
Madison, WI 53707–7840**

No orders will be accepted by FAX. For more information, **call (608) 266–3358**, TTY (608) 264–8499.

TABLE OF CONTENTS

Emergency Rules Now In Effect.**Pages 7 to 19.**

Agriculture, Trade and Consumer Protection:

Rules relating to grade standards for Colby and Monterey Jack cheese.

Rules relating to fish farms and imports of live fish and fish eggs.

Commerce:

Flammable and Combustible Liquids, Ch. Comm 10
Rules relating to storage tanks.

Commerce:

Uniform Dwelling, Chs. Comm 20–25

Rule adopted delaying the effective date of the latest revisions to chs. Comm 20–25.

Commerce:

PECFA Interagency Responsibilities, Ch. Comm 46

Rules relating to interagency responsibilities with PECFA.

Rules relating to interagency responsibilities with PECFA.

Commerce:

Rental Unit Energy Efficiency, Ch. Comm 67

Rules relating to rental unit energy efficiency.

Commerce:

Resources for Communities, etc., Chs. Comm 105–128

Rules relating to volume cap on tax-exempt private activity bonds.

Rules relating to the Wisconsin Development Zone Program.

Corrections:

Rules relating to search and seizure of probationers and parolees.

Rules relating to absconders.

Rules relating to chemical castration of child sex offenders.

Emergency Response Board:

Rule adopted relating to reporting requirements for fuel present at 10,000 pounds or more at gas stations.

Financial Institutions:

Banking

Rules relating to mortgage banking.

Financial Institutions:

Securities

Rules relating to alternative accounting guidelines.

Health & Family Services:

Management & Technology, etc., Chs. HFS 1–

Rules relating to reporting and investigating caregiver misconduct.

Rules relating to caregiver background checks.

Rules relating to criminal background checks.

Health & Family Services:

Community Services, Chs. HSS/HFS 30–

Rules relating to searches at the Wisconsin Resources Center.

Health & Family Services:

Health, Chs. HSS/HFS 110–

Rules relating to removal of lead-based paint.

Rules relating to the Health Insurance Risk-Sharing Plan.

Rules adopted relating to neonatal intensive care training grants.

Insurance, Commissioner of:

Rules relating to delaying effective date for NAIC valuation of life insurance policies.

Rules adopted relating to guarantee issue eligibility for Medicare Supplement insurance.

Natural Resources:

See also emergency rules relating to Comm 46.

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

Rules relating to reservations for state parks, forests and other lands.

Rules relating to sport fishing for yellow perch in Sauk creek.

Rules relating to special closure of sturgeon spearing season.

Public Instruction:

Rule adopted relating to alternative teaching permits.

Public Service Commission:

Rules relating to sewer main extension cost recovery.

Rules relating to small generating plants.

Regulation & Licensing:

Rules relating to regulation of home inspectors.

Rules relating to music, art and dance therapists.

Workforce Development:

Economic Support, Chs. DWD 11 to 59

Rules relating to background checks for day care providers.

Rules relating to child support.

Workforce Development:

Prevailing Wage Rates, Chs. DWD 290 to 294

Rules relating to annual adjustment of estimated project costs.

Scope Statements.

Pages 20 to 24.

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors:

A-E Code – Relating to repeal of administrative rules relating to professional geologists.

Chiropractic Examining Board:

Chir Code – Relating to clarifying the meaning of “supervision”.

Commerce:

Chs. Comm 2 & 5 – Relating to fees charged by the Safety and Buildings Division.

Commerce:

Ch. Comm 32 – Relating to public employe safety and health.

Commerce:

Ch. Comm 112 – Relating to the Wisconsin Development Zone Program.

Health & Family Services:

Ch. HSS 157 – Relating to radiation protection-agreement state.

Insurance:

S. Ins 3.46 – Relating to long-term care.

Medical Examining Board:

Med Code – Relating to repeal of administrative rules relating to podiatrists.

Public Defender:

S. PD 1.04 (10) – Relating to certification criteria.

Public Instruction:

Ch. PI 19 – Relating to modifying the rule to comply with changes made in state law which affect the responsibilities of DPI and local school districts regarding services administration about adoption to school age parents, and the availability of child care funds to local school districts.

Public Service Commission:

PSC Code – Relating to the regulation fo competitive local exchange providers and competitive entry into local telephone exchange markets.

Public Service Commission:

PSC Code – Relating to incentive or alternative forms of regulation for telecommunications utilities.

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

Pages 25 to 27.

Chiropractic Examining Board:

Chir Code – Relating to use of limited liability in chiropractic practice.

| | |
|---------------------------|--|
| Commerce: | Ch. Comm 14 – Relating to fire department dues entitlement. |
| Commerce: | Chs. Comm 16 & 17 – Relating to electrical construction and inspection. |
| Commerce: | Ch. Comm 46 – Relating to Petroleum Environmental Cleanup Fund Interagency Responsibilities. |
| Commerce: | Ch. Comm 113 – Relating to the allocation of volume cap on tax-exempt private activity bonds. |
| Health & Family Services: | Ch. HFS 181 – Relating o the reporting of blood lead test results. |
| Natural Resources: | Chs. NR 6, 8, 50 &64 – Relating to the use of snowmobiles and all-terrain vehicles (ATV's). |
| Natural Resources: | Chs. NR 10, 15 & 19 – Relating to changes in hunting and trapping regulations. |
| Natural Resources: | Ch. NR 19 – Relating to regulating the harvest, possession and sale of native amphibians, lizards and snakes. |
| Natural Resources: | S. NR 20.09 (2) – Relating to bow fishing hours on inland lakes during the rough fish spearing season. |
| Natural Resources: | Ch. NR 439 –Relating to volatile organic compound (VOC) capture efficiency test methods. |
| Natural Resources: | Ch. NR 485 – Relating to emission limitations for motor vehicles . |
| Revenue: | Ch. Tax 11 – Relating to governmental units, food and beverages, and transportation charges. |
| Transportation: | Ch. Trans 276 – Relating to allowing the operation double bottoms and certain other vehicles unspecified highways. |

Notices of Hearings or of Proposed Rules.

Pages 28 to 49.

| | |
|---------------------------|--|
| Commerce: | <u>Fire Prevention, Ch. Comm 14</u> Hearings to consider revision to ch. Comm 14, relating to fire department dues entitlement. |
| Commerce: | <u>Electrical, Volume 2, Ch. Comm 16</u> <u>Electrical Inspection, Ch. Comm 17</u> Hearings to consider revisions to chs. Comm 16 & 17, relating to electrical construction and inspection. |
| Commerce: | <u>PECFA Interagency Responsibilities., Ch. Comm 46</u> Hearing to consider ch. Comm 46, relating to interagency responsibilities under PECFA. |
| Commerce: | <u>Financial Resources for Businesses and Communities, Chs. Comm 105-128</u> Hearing to consider revision to ch. Comm 113, relating to volume cap on tax exempt private activity bonds. |
| Financial Institutions: | <u>Division of Securities</u> Proposed creation of s. DFI-Sec 2.01 (1) (c)6., and (d)6., relating to preparation of financial statements for governmental issuers of securities and disclosures about year 2000 issues. |
| Health & Family Services: | <u>Management and Technology, etc., Chs. HFS 1-</u> Hearing to consider emergency rule revision to chs. HFS 12 and 13, relating to caregiver background checks and reporting and investigating caregiver misconduct. |

Natural Resources:

Hearing to consider ch. Comm 46, relating to PECA interagency responsibilities.

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

Hearings to consider revisions to chs. NR 6, 8, 50 and 64, relating to use of snowmobiles and ATV's.

Hearing to consider revisions to chs. NR 10,15, and 19, relating to changes in hunting and trapping rules.

Hearing to consider revision to s. NR 19.27 and creation of s. NR 19.26, relating to the harvest, possession and sale of native amphibians and reptiles.

Hearings to consider amendment of s. NR 20.09 (2), relating to bow fishing hours on inland lakes during rough fish spearing season.

Natural Resources:

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

Hearings to consider revision to ch. NR 439, relating to volatile organic compound capture efficiency test methods.

Hearing to consider revision to s. NR 485.04, relating to emission limitations for motor vehicles.

Public Service Commission:

Hearing to consider revisions in several PSC chapters relating to telecommunications.

Hearing to consider an amendment to s. PSC 132.02 (3), relating to definition of "public utility" and cable operators' access to railroad rights-of-way.

Social Workers, Counselors etc.,:

Hearing to consider revision of several rules relating to outdated provisions, educational requirements.

Hearing to consider a revision to s. SFC 3.13, relating to approval of degree programs for a social worker training.

Transportation:

Hearings to consider amendment to s. Trans 276.07, relating to extended size trucks on certain highways.

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

Page 50.

Agriculture, Trade & Consumer Protection:

(CR 98-154) – ATCP Code

Agriculture, Trade & Consumer Protection:

(CR 98-182) – Ch. ATCP 81

Commerce:

(CR 98-207) – Ch. Comm 90

Corrections:

(CR 98-208) – S. DOC 328.21 (3) & (7)

Financial Institutions:

(CR 99-12) – Chs. DFI-Bkg 41 & RL 81

Health & Family Services:

(CR 98-188) – Chs. HFS 13 & HFS 129

Health & Family Services:

(CR 98-191) – Ch. HFS 12

Natural Resources:

(CR 98-150) – SS. NR 20.02 & 23.02

Psychology Examining Board:

(CR 98-206) – Chs. Psy 1 to 5

Public Service Commission:

(CR 98-156) – Ch. PSC 186

Veterans Affairs:

(CR 98-120) – S. VA 1.19

Veterans Affairs:

(CR 98-200) – S. VA 1.10 (7)

Workforce Development:

(CR 99-6) – S. DWD 290.155

Administrative Rules Filed with the Revisor of Statutes Bureau.

Page 51.

Administration:

(CR 98-110) – Ch. Adm 19

Dentistry Examining Board:

(CR 98-77) – Chs. DE 1, 2, 5, 6 & 11

Transportation:

(CR 98-147) – Ch. Trans 305

Transportation: (CR 98-153) – Ch. Trans 300

Rules Published in this Wis. Adm. Register.

Page 52.

Agriculture, Trade & Consumer Protection: (CR 98-118) – Ch. ATCP 30
 Natural Resources: (CR 97-152) – Ch. NR 47, Subch. VII
 Natural Resources: (CR 98-94) – S. NR 20.08 (10)
 Revenue: (CR 98-184) – Ch. Tax 2
 Transportation: (CR 98-167) – Ch. Trans 200
 Transportation: (CR 98-185) – S. Trans 101.02 (1) (c) & (d)
 Veterans Affairs: (CR 98-165) – S. VA 2.01 (2) (b) 2

Sections Affected by Rule Revisions & Corrections.

Pages 53 to 54.

Revisions

Natural Resources (Fish, Game, etc., Chs. NR 1-): Chs. NR 20 & 47
 Revenue: Ch. Tax 2
 Transportation: Chs. Trans 101 & 200
 Veterans Affairs: Ch. VA 2

Editorial Corrections

Agriculture, Trade & Consumer Protection: Chs. ATCP 3, 21, 29, 30, 34, 55, 117, 132, 151
 Commerce (Infectious Agents, Ch. Comm 35): Ch. Comm 35
 Commerce (Boiler & Pressure Vessel, Chs. Comm 41-42): Ch. Comm 41 & 42
 Revenue: Ch. Tax 2

Errata

Natural Resources (Fish, Game, etc., Chs. NR 1-): Ch. NR 19
 Revenue: Chs. Tax 2

Final Regulatory Flexibility Analyses.

Pages 55 to 56.

Agriculture, Trade & Consumer Protection: (CR 98-118) – Ch. ATCP 30
 Natural Resources: (CR 98-94) – S. NR 20.08
 Natural Resources: (CR 97-152) – Ch. NR 47, Subch. 7
 Revenue: (CR 98-184) – Ch. Tax 2
 Transportation: (CR 98-185) – Ch. Trans 101
 Transportation: (CR 98-167) – Ch. Trans 200
 Veterans Affairs: (CR 98-165) – Ch. VA 2

Executive Orders.

Page 57.

Executive Order 364: Relating to the Creation of the Governor’s Wisconsin Works and Alcohol and Other Drug Abuse Task Force.

Public Notice.

Pages 58 to 59.

Health & Family Services: Medical Assistance reimbursement for School-Based Services: Statewide Contract Rate Schedule for School District Reimbursement.

Notice of Nonacquiescence.

Page 60.

Labor and Industry Review Commission:

Struck & Irwin Fence, Inc.

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 (2)

Agriculture, Trade & Consumer Protection

1. Rules adopted amending ss. **ATCP 81.50 (2), 81.51 (2), and 81.52 (2)**, relating to grade standards for colby and monterey (jack) cheese.

Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection (DATCP) finds that an emergency exists and that an emergency rule is necessary for economic reasons to protect the public welfare of the citizens of Wisconsin. The facts constituting the emergency are as follows:

(1) DATCP has adopted standards for grades of cheese manufactured and sold in Wisconsin under s. 97.177, Stats., and ch. ATCP 81, Wis. Adm. Code. Any cheese which carries a state grade mark must conform to the standards and characteristics of the labeled grade.

(2) Under current rules, colby and monterey (jack) cheese must contain numerous mechanical openings in order to be labeled or sold as Wisconsin certified premium grade AA or Wisconsin grade A (Wisconsin state brand).

(3) Changes in cheese manufacturing technology, packaging and equipment have made it extremely difficult for many processors and packagers to achieve the numerous mechanical openings or open body character required by these top two grade categories. A majority of today's wholesale buyers and packagers prefer a closed body cheese for a variety of reasons, including ease of shredding and the ability to package "exact-weight" pieces with minimal variation and waste.

(4) Currently, a closed body cheese may be labeled or sold as Wisconsin grade B or "not graded." It cannot be labeled or sold as

Wisconsin certified premium grade AA or Wisconsin grade A (Wisconsin state brand), nor can it command the premium price associated with these top two grade categories.

(5) Wisconsin is the only state with its own grade standards for colby and monterey (jack) cheese. The United States Department of Agriculture modified its grade standards for colby and monterey jack cheese in 1995 and 1996, respectively, in response to industry requests to allow an open or closed body. Buyers who cannot obtain the desired graded product in Wisconsin will likely switch to suppliers from other states. Once customers are lost they are difficult to regain.

(6) Wisconsin's dairy industry plays a major role in our state's economy. Approximately \$3 billion or 90% of Wisconsin's milk production goes into the manufacture of cheese. Lost business revenues harm the dairy industry, cause increased unemployment, and have a negative impact on the state's economy.

(7) Pending the adoption of rules according to the normal administrative rulemaking procedures, it is necessary to adopt emergency rules under s. 227.24, Stats. to protect the public welfare based on an economic emergency for the state's dairy industry and the subsequent impact on the general economy and citizens of this state.

Publication Date: August 8, 1998
Effective Date: August 8, 1998
Expiration Date: January 4, 1999
Hearing Date: September 14, 1998
Extension Through: May 3, 1999

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

Finding of Emergency

(1) This emergency rule implements s. 95.60, Stats., which was created by 1997 Wis. Act 27.

(2) Under s. 95.60, Stats., a person who operates a fish farm must register annually with the Wisconsin department of agriculture, trade and consumer protection (DATCP). A person who imports live fish or fish eggs into Wisconsin must meet fish health requirements and obtain an import permit from DATCP. DATCP must establish registration and import permit standards by rule.

(3) On December 9, 1998, the Board of Agriculture, Trade and Consumer Protection (DATCP Board) approved final draft "permanent" rules to implement s. 95.60, Stats. Among other things, the rules establish fish farm registration standards and fish import standards. Before DATCP may adopt these final draft "permanent" rules, it must submit them for legislative committee review under s. 227.19, Stats. DATCP must then adopt and file the rules under s. 227.20, Stats., and publish them under s. 227.21, Stats. As a result, the final draft "permanent" rules will not take effect for several months.

(4) Current fish farm registration certificates will expire on December 31, 1998, before the final draft "permanent" rules take effect. The department must adopt a temporary emergency rule so it can process registration renewals pending the effective date of the final draft "permanent" rules. This emergency rule adopts, on a temporary basis, registration provisions contained in the department's proposed final draft "permanent" rules.

(5) This emergency rule also adopts, on a temporary basis, rules to prevent imports of diseased live fish and fish eggs that threaten the health of fish in Wisconsin fish farms and the Wisconsin natural environment. These temporary import requirements are based on requirements previously administered by the Wisconsin department of natural resources (DNR). The final draft "permanent" rules, when adopted, will expand upon these interim requirements.

(6) This emergency rule is needed to protect the public peace, health safety and welfare. Without this rule, DATCP would not be able to process fish farm registrations for 1999, or issue permits for live fish imports. Without the protections afforded by this emergency rule, Wisconsin fish farms and wild fisheries would also be exposed to an unnecessary risk of disease.

Publication Date: December 28, 1998
Effective Date: December 28, 1998
Expiration Date: May 27, 1999
Hearing Date: February 3, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce

(Flammable & Combustible Liquids, Ch. Comm10)

Rules adopted revising **ch. Comm 10**, relating to regulation of flammable and combustible liquids.

Finding of Emergency

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, welfare and the environment.

The facts constituting the emergency are as follows. Under ss. 101.09, 101.142 and 101.144, Stats., the Department protects public health, safety, welfare and the environment by promulgating rules for and administering the regulation of petroleum product storage tank systems and the storage and handling of flammable and combustible liquids. The purpose of the regulatory effort is to guarantee that storage tank systems and their contents are managed in a manner that is protective of life safety and the environment.

On December 22, 1998, a ten-year upgrade deadline comes to an end, and all tank systems falling under the United States Environmental Protection Agency's rules are required to have been upgraded to comply with new and environmentally protective construction standards. After the final compliance date, the Department and its contracted agents will conduct inspections to guarantee that tank systems which are not in compliance have been shut down in accordance with state and federal rules. In those instances where owners or operators have not complied with the upgrade or shutdown requirements, immediate action must be taken to either prevent the tank systems from continuing to be used or prevent the delivery of additional petroleum product to the systems.

The shut down of noncomplying tank systems is a core environmental and financial issue. The tank systems that are not in compliance pose a continuing high-risk threat to the environment, and delay in action will continue an unnecessary environmental hazard. Additionally, new releases from these non-upgraded tank systems will add to the financial burden of the PECFA program, which is significantly over-subscribed. The rule included with this order is in response to environmental issues associated with non-upgraded tank systems.

Publication Date: December 11, 1998
Effective Date: December 11, 1998
Expiration Date: May 10, 1999
Hearing Date: March 3, 1999

EMERGENCY RULES NOW IN EFFECT

Commerce

(Uniform Dwelling, Chs. Comm 20-25)

Rules adopted revising **Chs. Comm 20, 21, 22 and 23**, relating to energy efficiency in one- and 2-family dwellings.

Finding of Emergency

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

The rule change that was to go into effect on February 1, 1999 consists of a complete rewrite of chapter Comm 22, which relates to energy efficiency in one- and 2-family dwellings, as well as miscellaneous changes to chapters Comm 20, 21 and 23. The department planned for a lead time of approximately 2 months between the time the code was made available and the code effective date. Because of difficulties in preparing and printing the code, the anticipated lead time could not be achieved. Several constituent groups, including builders, inspectors, and the Uniform Dwelling Code Council have asked for extra time to become familiar with the changes, once the complete code is made available. If this is not done, a great deal of confusion and economic hardship could result for builders, as well as homeowners. Enforcement of the new requirements could vary greatly from one municipality to the next.

This emergency rule delays the effective date of the proposed changes to chs. Comm 20, 21, 22 and 23 from February 1, 1999 to May 1, 1999.

Publication Date: January 23, 1999
Effective Date: February 1, 1999
Expiration Date: July 1, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Commerce & Natural Resources

(Petroleum Environmental Cleanup Fund Interagency Responsibilities, Ch. Comm 46)

1. Rules were adopted creating **ch. Comm 46**, relating to the Petroleum Environmental Cleanup Fund Interagency Responsibilities.

Finding of Emergency

The Departments of Commerce and Natural Resources find 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 of Commerce 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. In administering this fund, the Department has relied upon a Memorandum of Understanding with the Department of Natural Resources for classifying contaminated sites, disbursing funds, and addressing other statements of policy that affect the two Departments.

On September 17, 1998, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26(2)(b), Stats., that directs the Department and the Department of Natural

Resources to jointly adopt the above portions of the Memorandum of Understanding and related policy issues as an Emergency Rule. The rule included with this order is in response to that directive.

Publication Dates: January 1 & February 5, 1999

Effective Date: January 1, 1999

Expiration Date: May 31, 1999

Hearing Dates: March 11 and 25, 1999

- Rules adopted revising **ch. Comm 46**, relating to the Petroleum Environmental Cleanup Fund Interagency Responsibilities.

Finding of Emergency

The Departments of Commerce and Natural Resources find that an emergency exists and that adoption of a rule included in this order is necessary for the immediate preservation of public health, safety, and welfare.

The facts constituting the emergency are as follows. Under sections 101.143 and 101.144, Wisconsin Statutes, the Department of Commerce 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. In administering this fund, the Department has relied upon a Memorandum of Understanding with the Department of Natural Resources for classifying contaminated sites, disbursing funds, and addressing other statements of policy that affect the two Departments.

On September 17, 1998, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26(2)(b), Stats., that directed the Department and the Department of Natural Resources to jointly adopt the above portions of the Memorandum of Understanding and related policy issues as an Emergency Rule. An emergency rule in response to that directive was adopted by the Department and became effective on January 1, 1999. Since that date, further improvements for jointly administering the PECFA fund have been developed, which are consistent with the JCRAR directive and which are expected to significantly mitigate the backlog of claims to this oversubscribed fund.

Publication Dates: February 23 & March 1, 1999

Effective Date: February 23, 1999

Expiration Date: May 31, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Commerce

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

- Rules adopted revising **ch. Comm 113**, relating to the annual allocation of volume cap on tax-exempt private activity bonds.

Finding of Emergency & 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 health, safety and welfare.

Several areas in the State of Wisconsin have recently experienced severe economic distress due to large plant closings which have put hundreds of Wisconsin residents out of work. As a result of two large paper mills being shut down a year ago, 1997 Wisconsin Act 237 created s. 560.147, Stats., authorizing the Rapid Response Fund within the Wisconsin Development Fund. The fund is part of the

Rapid Response Initiative, which assists areas affected by these and future closings. Commerce is now proposing as part of this initiative a Rapid Response Set Aside within the volume cap allocation process which will enable businesses in these distressed areas to obtain the financing they need to make the necessary capital investments to create and retain jobs. Several projects are pending in that need this change in order to move forward with their plans. Allocation of volume cap is in highest demand in the spring and summer due to the construction cycle. The Rapid Response set-aside must be in place as soon as possible in order for projects to receive allocation and begin construction as soon as possible. Jobs cannot be created or retained until projects go forward.

Publication Date: February 17, 1999

Effective Date: February 17, 1999

Expiration Date: July 17, 1999

Hearing Date: April 12, 1999

[See Notices this Register]

- Rules adopted creating **ch. Comm 112**, relating to the Wisconsin Development Zone Program.

Finding of Emergency

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

Pursuant to ss. 560.70 to 560.797, Stats., the Department of Commerce is responsible for administering Wisconsin Development Zone Program. These rules are being adopted to incorporate in the administrative code the recent amendments contained in 1997 Wis. Act 27 that entirely changed the eligibility and the criteria for certified development zone businesses and the process for the verification and the claiming of tax credits. Section 560.785, Stats., directs the Department of Commerce to develop rules and exceptions to those rules concerning the eligibility for tax benefits. After a review and evaluation of all the certified businesses and their projects a number of exceptions have been identified in order to meet the needs of different areas of the state and to fulfill our commitments to businesses that were made prior to this legislation. In order to process claims for tax years beginning on or after January 1, 1998, these rules must be made available immediately.

Publication Date: February 25, 1999

Effective Date: February 25, 1999

Expiration Date: July 25, 1999

EMERGENCY RULES NOW IN EFFECT (3)

Department of Corrections

- Rules were adopted amending **s. DOC 328.21**, relating to absconders.

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: A recent legislative enactment providing funding for the Department of Corrections to create an absconder unit in southeastern Wisconsin. Currently there are 7,694 probationers or parolees that have absconded from community supervision. To make community supervision more meaningful and promote accountability among offenders the legislature directed the Department of Corrections to make efforts to locate and apprehend offenders that have absconded from community supervision. The current administrative rule allows the Department of Corrections to search an offenders residence only for contraband. This rule

amendment allows a search of an offender's residence for contraband or an offender.

Publication Date: December 3, 1998
Effective Date: December 3, 1998
Expiration Date: May 2, 1999
Hearing Dates: March 1 and 3, 1999

- Rules were adopted revising **ch. DOC 349**, relating to holding juveniles in municipal lockup facilities.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that rules are necessary for the immediate preservation of public safety. A statement of the facts constituting the emergency is: A recent session law, 1997 Wis. Act 296, created s. 938.209(2m), Stats., which permits the holding of juveniles in municipal lockup facilities if the facilities meet certain criteria. This act took effect on July 1, 1998. A municipal lockup facility may only hold juveniles who are alleged to have committed a delinquent act if the department of corrections approves the facility for the holding of juveniles. In addition, the lockup facility may only hold the juvenile for no more than six hours. Also, there must be sight and sound separation between any juveniles and adults being held in the lockup. Finally, the lockup facility may only hold the juvenile for investigative purposes.

Under current rule a municipal lockup facility may not hold juveniles. The act authorizes the department of corrections to promulgate rules establishing minimum requirements for the approval of a municipal lockup facility as a suitable place for holding juveniles who are alleged to have committed a delinquent act and for the operation of the facility. The permanent rule process has been started. However, the permanent rule process will take approximately nine months to complete. Emergency rules are necessary to establish an approval process and operational standards for the safety of the public and juveniles while permanent rules are being developed.

This order:

- Adopts the statutory definitions of adult, delinquent, and juvenile.
- Defines the term secure custody status.
- Establishes the authority and purpose of establishing minimum standards for the holding of juveniles in municipal lockup facilities.
- Prohibits the holding of juveniles in municipal lockup facilities, except if the juvenile is alleged to have committed a delinquent act.
- Requires that the lockup facility provide juveniles notification of policies and procedures of the facility regarding the holding of juveniles and facility programs, including health screening and care, suicide prevention, control and administration of medications, and communicable disease control.
- Provides that only juveniles who are alleged to have committed a delinquent act may be held in a municipal lockup facility.
- Provides that juveniles who are alleged to have committed a delinquent act may be placed in secure custody status for a period of time not to exceed 6 hours.
- Provides that the lockup administrator shall develop and implement policies and procedure to ensure sight and sound separation between juveniles and adults who are being held in the lockup facility.
- Provides that lockup facility staff shall physically observe juveniles at least once every 20 minutes at irregular intervals and shall document the observations. If the juvenile is identified by the facility staff as being at risk (for example, suicidal tendency, under the influence of drugs or alcohol, or mental disturbance) the observations shall be at least once every 15 minutes at irregular intervals.
- Requires that juvenile records be maintained in a confidential manner and kept separate from adult records, in accordance with s. 938.396, Stats.

The order provides for including in chapter DOC 349, Municipal Lockup Facilities, the rules for holding juveniles who are alleged to have committed a delinquent act.

Publication Date: December 10, 1998
Effective Date: December 10, 1998
Expiration Date: May 9, 1999
Hearing Date: February 15, 1999

- Rules adopted creating **ch. DOC 330**, relating to pharmacological treatment of serious child sex offenders.

Finding of Emergency

The Department of Corrections finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency is: A recent session law, 1997 Wis. Act 284, created s. 304.06(1q) Stats., which will become effective January 1, 1999, and authorizes the department to require pharmacological treatment (chemical castration) for certain child sex offenders as a condition of probation or parole to accomplish the objectives of protection of the public or treatment of serious child sex offenders. Pharmacological intervention cannot begin without administrative rules. Development and promulgation of permanent rules will take approximately six months to complete. Emergency rules are necessary to implement the program for the safety of the public while permanent rules are being developed.

Publication Date: January 1, 1999
Effective Date: January 1, 1999
Expiration Date: May 31, 1999
Hearing Dates: March 1, 2 and 3, 1999

EMERGENCY RULES NOW IN EFFECT

Emergency Response Board

Rules adopted revising **s. ERB 1.04**, relating to reporting requirements for gasoline and diesel fuel present at 10,000 pounds or more at retail gas stations.

Finding of Emergency and Rule Analysis

The Wisconsin Division of Emergency Management finds that an emergency exists and that adoption of this rule is necessary for the immediate preservation of public health, safety, and welfare. The facts constituting the emergency are as follows:

The U.S. Environmental Protection Agency has stated in writing, its intent to implement a rule change effective March 1, 1999. The rule change will increase the 42 USC 11021 and 11022 reporting threshold for gasoline to 75,000 gallons and for diesel fuel to 100,000 gallons, when stored in below ground tanks at retail gas stations. This change will have the effect of exempting most gasoline stations from EPCRA reporting requirements. It will also mean that gasoline and diesel fuel that is present in 10,000 pounds or more will not be uniformly reported under EPCRA. If implemented, this rule change will occur during a reporting period and will take effect on the deadline for submission of 1999 reporting information, which applies to chemicals that were present in 1998. This will create a situation where facilities reporting prior to the rule change would be reporting under one requirement and those reporting after the March 1, 1999 deadline would be reporting under a different requirement. It is not clear which requirement would affect those facilities that submit documentation prior to the intended rule change, that is, by the reporting deadline, and whether these facilities would have to amend their submissions to be in compliance with the law.

The most commonly spilled substances in Wisconsin are petroleum products, gasoline and diesel fuel. This information is important to fire departments as well as Local Emergency Planning

Committees as an emergency response planning tool. The Tier Two chemical information is provided to the local fire department with jurisdiction over the facility and to the appropriate Local Emergency Planning Committee. This is the only comprehensive list of hazardous materials that is available to fire departments and Local Emergency Planning Committees.

Further, in Wisconsin, individual preprinted forms are printed in mid December and mailed out by the first week of January to assist facilities in meeting reporting requirements. This is well before the time when U.S. EPA has stated that they intend to implement a rule change. Because EPA intends to implement the change on the March 1, 1999 reporting deadline, it is not possible to mail forms out at that time and have facilities make the necessary submissions by the March 1, 1999 deadline. Wisconsin facilities have come to expect that inventory reporting materials will be mailed out in a time frame that will allow adequate time for the facility to meet the March 1, 1999 reporting deadline. Facilities that fail to submit the necessary reporting materials by the March 1, 1999 reporting deadline would be in non-compliance with federal and state EPCRA reporting requirements.

Individual states do not have the authority to implement requirements under EPCRA which are less stringent than the federal requirements. This emergency rule would maintain the existing reporting requirements that have been in place since the inception of the program in 1986. Specifically, this rule states that the reporting thresholds for gasoline and diesel fuel would be maintained at 10,000 pounds for retail gas stations. This emergency rule will allow Wisconsin Emergency Management the ability to distribute reporting materials in a timely manner and will permit the facilities to submit the necessary paperwork prior to the March 1, 1999 deadline. By allowing facilities sufficient time prior to the March 1, 1999 deadline, they will have the opportunity to make the necessary submissions under EPCRA and to remain in compliance with federal and state law. This will also insure that all gasoline and diesel fuel stored in amounts of 10,000 pounds or more in the state is reported under EPCRA. This in turn will insure that all fire departments and Local Emergency Planning Committees will continue to have access to a comprehensive listing of hazardous materials under the Emergency Planning and Community Right-to-Know Act.

Publication Date: January 20, 1999
Effective Date: January 20, 1999
Expiration Date: June 19, 1999
Hearing Dates: March 16 & 19, 1999

EMERGENCY RULES NOW IN EFFECT

Financial Institutions (Division of Banking)

Rules adopted renumbering and revising **ch. RL 41** to be **ch. DFI-Bkg 41**, relating to mortgage banking.

Exemption From Finding of Emergency

Statutory Authority: ss. 224.72 (8) and 224.73 (3); and 1997 Wis. Act 145, Section 72.

This emergency rule sets forth the registration and renewal of registration fees for mortgage bankers, loan originators and mortgage brokers; the transfer fee for loan originators; and the registration periods for all registrations and renewals of registrations.

Publication Date: December 4, 1998
Effective Date: December 4, 1998
Expiration Date: May 3, 1999
Hearing Date: March 3, 1999

EMERGENCY RULES NOW IN EFFECT

Financial Institutions (Division of Securities)

Rules adopted creating **s. DFI-Sec 2.01(1)(c)6 and (d)6.**, relating to designating alternative accounting guidelines for the preparation of financial statements for certain governmental issuers of securities.

Finding of Emergency

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. A statement of the facts constituting the emergency follows.

These emergency rules are necessitated by a new accounting guideline relating to disclosures about Year 2000* issues applicable to the preparation of financial statements for governmental issuers of securities as required by Governmental Accounting Standards Board Technical Bulletin 98-1, *Disclosures about Year 2000 Issues* ("GASB TB 98-1", or "Guideline"). The existence of this issue and the need for emergency rule treatment to assist governmental issuers was brought to the attention of the Division by representatives of Wisconsin public accounting groups and Wisconsin bond attorneys who recently learned about a Report by the American Institute of Certified Public Accountants regarding GASB TB 98-1.

As a result of that Report (and as particularized below) many Wisconsin governmental issuers would have the audit opinions for their financial statements for years ending after October, 1998, qualified with respect to disclosures about Year 2000 issues. Thus beginning in approximately March and April of 1999 and continuing through the accounting period ending 12/31/99, that new accounting Guideline will adversely impact the ability of Wisconsin and other state and local governmental securities issuers to continue to use on an "automatic"/self-executing basis, the existing securities registration exemption in s. 551.22(1)(a) of the Wisconsin Securities Law to offer and sell their debt securities to public investors in Wisconsin.

Over the years and to date, Wisconsin and other state and local governmental securities issuers having "full-GAAP" financial statements (e.g. prepared in accordance with generally accepted accounting principles) have been able to sell their debt securities to Wisconsin public investors in reliance on automatic use of the registration exemption in s. 551.22(1)(a), Wis. Stats., without the need for any exemption or other filing with the Division.

GASB TB 98-1 requires footnote disclosure of Year 2000 information regarding a governmental issuer's preparedness in terms of making its systems and equipment Year 2000 compliant. GASB TB 98-1 applies to financial statements dated October 31, 1998, and terminates for financial statements issued for purposes of the accounting period ending December 31, 1999, unless systems and equipment are not Year 2000 compliant as of the balance sheet date. In response to GASB TB 98-1, members of the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) issued a Report under the title "AICPA Illustrative Reporting Guidance on Year 2000 Disclosures Made Under GASB TB 98-1, Issued October 22, 1998." That Report raised the concern that in light of the unprecedented nature of the Year 2000 issue, the required disclosures will be neither ascertainable by management nor verifiable by auditors. As a result, the AICPA strongly recommended that auditors issue qualified opinions (scope limitations) with respect to such Year 2000 issue disclosures.

Consequently, all Wisconsin and other governmental securities issuers whose financial statements would contain such qualified opinions, would not meet (in the absence of the emergency rules) the "full-GAAP" financial statement requirement for automatic use of the registration exemption in 551.22(1)(a), Wis. Stats. Thus, such

issuers would either have to go through a regulatory filing and review procedure with the Division prior to each offering, or would have to restrict the initial offering to securities law provisions that would preclude underwriters from reoffering those securities to investors in the primary and secondary markets.

In the absence of the emergency rules, governmental securities issuers would be adversely affected by the costs of making securities filings with their attendant delays. Also, even though Year 2000 issues equivalently affect private corporate issuers of securities, because there is no counterpart to GASB TB 98-1 within the standards promulgated by the Financial Accounting Standards Board applicable to private corporate securities issuers, the additional costs and filing delays would be singularly borne by governmental securities issuers (if the emergency rules were not adopted).

Finally, having a filing requirement under the Wisconsin Securities Law be triggered for Wisconsin and other state and local governmental securities offerings solely because of an auditor's qualification in an audit report on the Year 2000 issue, would result in added regulatory filing and review processes and procedures under the Wisconsin Securities Law that would not provide any "value added" investor protection benefits.

Therefore, in similar fashion to emergency rule-making action taken by the Division in 1994 and 1996 regarding specific accounting issues which occurred at those times, and for the purpose of alleviating the disruption that would occur in the borrowing/bonding plans of Wisconsin and other state and local governmental issuers that regularly claim exemption status under sec. 551.22(1)(a), Wis. Stats., for the offer and sale of their debt securities in Wisconsin, the Division, in consultation with representatives of Wisconsin accounting groups and Wisconsin bond attorneys, is adopting these emergency rules designating an alternative-to-full-GAAP financial statement requirement (when the governmental issuer's financial statements are full-GAAP) where the auditor's opinion is qualified in accordance with GASB TB 98-1 with respect to disclosures concerning Year 2000 issues. As a result of such emergency rules, those Wisconsin and other state and local governmental securities issuers affected by GASB TB 98-1 will be able to continue to rely on the "automatic" registration exemption under 551.22(1)(a), Wis. Stats., for their securities offerings.

[Because this issue which has been triggered by GASB TB 98-1 has a limited "shelf life" such that no permanent rules relating to it will be needed after December 31, 2000, when action is taken by the Division to promulgate identical permanent rules to become effective upon expiration of the emergency rules, the permanent rules will provide for a December 31, 2000 "sunset" date, after which the permanent rules on the issue will no longer be effective.]

*The Year 2000 problem is the result of shortcomings in electronic data-processing systems and equipment that may adversely affect operations in the year 2000 and beyond. The problem stems from the use within electronic systems and equipment of two-digit storage for calendar years. Affected and uncorrected systems and equipment may be unable to distinguish the year 2000 from the year 1900; as a result, such systems may process inaccurately or stop processing altogether.

Publication Date: February 25, 1999
Effective Date: March 1, 1999
Expiration Date: July 29, 1999

EMERGENCY RULES NOW IN EFFECT (4)

Health & Family Services (Management, Technology & Finance, Chs. HFS 1--) (Health, Chs. HFS 110--)

1. Rules adopted creating **ch. HFS 13** and revising **ch. HSS 129**, relating to reporting and investigating caregiver misconduct.

Finding of Emergency

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

Since July 1, 1991, the Department has had rules, s. HSS 129.10, which establish and provide for the maintenance of a registry of persons eligible by training and testing to be employed in Wisconsin as nurse assistants working in hospitals, nurse assistants working in nursing homes, home health agency aides and, since October 1, 1991, hospice program aides. The rules implemented s. 146.40 (4g), Stats. The rules were amended by emergency order effective April 1, 1992, to add to the registry, as directed by s. 146.40 (4g) and (4r), Stats., all substantiated findings of allegations that persons working in any of these caregiver capacities had abused or neglected a resident or patient or misappropriated a resident's or patient's property, and making that information available to prospective employers and other interested persons on request.

This rulemaking order amends ch. HFS 129 to take out of it the misconduct part of the current registry, that is, the part consisting of substantiated findings of misconduct toward clients by caregivers working as nurse aides in hospitals or nursing homes or for home health agencies or hospice programs, and to include that part in a new ch. HFS 13 created by this order.

A recent session law, 1997 Wis. Act 27, amended s. 146.40 (4g) and (4r), Stats., to provide for expansion of the misconduct part of the registry so that, beginning October 1, 1998, the Department would add to the registry substantiated findings of allegations that any other person employed by or under contract with a hospital, nursing home, home health agency or hospice program or any person employed by or under contract with any of several other types of facilities, agencies and programs or services licensed, certified or registered by the Department abused or neglected a client served by the facility, agency or program or service or misappropriated a client's property. The other types of "entities" covered by the expanded misconduct part of the registry and the reporting, review and investigation, entering findings and appeal procedures under s. 146.40 (4r), Stats., are the following: community-based residential facilities, residential care apartment complexes (formerly called assisted living facilities), certified adult family homes (only if certified by the Department), licensed adult family homes (only if licensed by the Department), certified community mental health and substance abuse programs or services, rural medical centers and ambulance service providers.

The new ch. HFS 13 covers the structure of the misconduct part of the caregiver registry, the information included in it and release of registry information; a requirement that an entity upon learning of an incident of alleged caregiver misconduct take whatever measures are necessary to protect clients pending a finding; mandatory reporting by entities of allegations of caregiver

misconduct, with penalties for failure to report incidents; reporting by other persons; review by the Department of reports received from entities and concerned individuals alleging abuse or neglect of a client or misappropriation of a client's property, and follow-up investigation by the Department as necessary; determination by the Department either that an allegation is or is not substantiated, and notice to the subject of the report, if an allegation is substantiated, that the finding will be entered on the misconduct part of the caregiver misconduct registry, and the consequences of that action (which for some persons employed by or under contract with an entity may mean being barred indefinitely from similar employment and for others being barred from similar employment unless rehabilitation is demonstrated), unless he or she contests that determination by requesting a hearing; notice to the subject of a report that if the finding is included in the registry, he or she may add a rebuttal statement which will be included with the finding; and how to request a hearing, how the hearing will be conducted and the hearing decision.

This order creating ch. HFS 13 and amending ch. HSS 129 is being published as an emergency rulemaking order to take effect on October 1, 1998. That is the date on which the amendments to s. 146.40 (4g) and (4r), Stats., that expand the misconduct part of the registry will take effect. The rules are necessary for implementation of the amended statutes. The intent of the amended statutes and new rules is to better protect clients of the specified Department-regulated facilities, agencies, programs and services from being harmed. The rules are being published as emergency rules so that they can go into effect when the amended statutes take effect rather than up to 9 months later which is how long it will take to promulgate permanent rules.

Publication Date: October 1, 1998
Effective Date: October 1, 1998
Expiration Date: February 28, 1999
Hearing Dates: January 12, 20 & 26, 1999
Extension Through: March 29, 1999

2. Rules adopted creating ch. HFS 12, relating to caregiver background checks.

Finding of Emergency

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

Sections 48.685 and 50.065, Stats., recently created by 1997 Wisconsin Act 27, apply to the Department in its functions of licensing, certifying, registering or approving some persons to provide care or treatment to other persons; to county social service and human service departments that license foster homes or treatment foster homes for children and carry out adoption home studies; to private child-placing agencies licensed to do the same; and to school boards that contract for day care programs under s. 120.13(14), Stats. The law also applies to the entities licensed, certified, registered or approved and their employes or contracted service providers.

An agency is prohibited from licensing, certifying, registering or approving a person if the agency knew or should have known that the person has been convicted of, or has a pending charge for, a serious crime, is found to have abused or neglected a client or child or to have misappropriated a client's property; or is required to be credentialed by the Department of Regulation and Licensing (DRL) but whose credential is not current or is limited so as to prevent the provision of adequate client care. Similarly, entities planning to hire or contract with a person expected to have access to clients or children may not hire or contract with the person if the entity knew or should have known of the existence of a prohibited condition.

With respect to a person applying for a license to operate an entity or for approval to reside at an entity, an agency is required to obtain a criminal history search, information contained in the Department's caregiver misconduct registry, DRL information regarding

credential status, if applicable, and Department information regarding any substantiated reports of child abuse or neglect and licensing history information. That information must also be obtained by entities for prospective employes and contractors.

The Department is required to develop a background information form and provide it to any regulated or approved person, and a county department and licensed child-placing agency is required to provide it to a foster home or treatment foster home applicant or pre-adoptive applicant and a school board is to provide the Department's background information form to any proposed contracted day care applicant or provider under s. 120.13 (14), Stats. Likewise, an entity is to provide the background information form to any employe or prospective employe having or expected to have access to any of its clients. If the background information form returned to an entity by an employe or prospective employe indicates that the person is not ineligible to be employed or contracted with or permitted to reside at an entity for a reason specified under the statutes or as provided in rule, an entity may employ or contract with the person or permit the person to reside at the entity for not more than 60 days pending the receipt of background check information.

For some serious crimes that would otherwise bar a person from regulatory approval or from being employed by or under contract with or residing at an entity, the statutes permit a person convicted of a crime, provided certain conditions are met, to ask an agency for rehabilitation review, that is, for an opportunity to demonstrate that he or she is rehabilitated and so the bar can be lifted.

These are the Department's rules for administration of ss. 48.685 and 50.065, Stats., as created by Act 27 and amended by 1997 Wisconsin Act 237. The rules repeat the statutory requirements and add more detail for administering them, add procedures for handling rehabilitation review requests, add definitions for "serious crime" and "under the entity's control" and other pertinent definitions and add a crimes list as Appendix A.

The rules are being published by emergency order to take effect on October 1, 1998, the same date that the statutes they implement will take effect, rather than up to 9 months later which is how long it will take to promulgate permanent rules. The rules are necessary for implementation of the new statutes. The intent of the statutes and rules is to better protect clients of the regulated service providers from being harmed.

The new background check statutes and rules apply beginning October 1, 1998 to entities initially approved on or after that date, persons that entities hire or contract with on or after that date and nonclients who take up residence at an entity on or after that date. The statutes and rules apply beginning October 1, 1999 to entities initially approved prior to October 1, 1998, persons that entities hired or contracted with prior to October 1, 1998 and nonclients who lived at an entity prior to October 1, 1998.

Publication Date: October 1, 1998
Effective Date: October 1, 1998
Expiration Date: February 28, 1999
Hearing Dates: January 12, 20 & 26, 1999
Extension Through: March 29, 1999

3. Rules adopted amending chs. HFS 12, relating to background checks.

Finding of Emergency

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

The Department on October 1, 1998 published an emergency rulemaking order creating ch. HFS 12, relating to uniform procedures for checking the backgrounds of persons who apply to provide or are providing care or treatment to persons who need that care or treatment, and for barring persons because of specified convictions, findings or charges substantially related to the care of clients from operating a service provider organization, providing

care or treatment to the clients of a service provider or otherwise having contact with the clients of a service provider. Chapter HFS 12 includes an appendix which consists of a list of crimes. Some of the listed crimes **permanently** bar a person who was ever convicted of the crime from receiving regulatory approval from the Department to provide care or treatment to vulnerable people; from being licensed by a county human service or social service department or by a private child-placing agency to operate a foster home for children; from contracting with a school board to provide a day care program; from being employed by or under contract to a service provider to provide care or treatment to the service provider's clients; and from residing as a nonclient at the service-providing entity. Others of the listed crimes temporarily bar a person convicted of the crime from doing any of those things, pending demonstration that the individual has been rehabilitated. While the remaining few crimes in the Crimes List, called "less serious crimes," do not bar a person with a conviction from providing care or treatment to others, they do require the regulatory agency or employer to impose special precautionary measures to ensure the protection of persons receiving care or treatment.

This order modifies the Crimes List published on October 1, 1998 as Appendix A to ch. HFS 12.

The original Crimes List consists of 159 crimes listed by statute number, 45 of which are permanent bar crimes for all programs. Some 105 crimes are rehabilitation review-eligible crimes (bar with rehab crimes), and 3 are less serious crimes (crimes of lesser significance than serious crimes). As for unlisted crimes, a regulatory agency, employer or contractor is supposed to consider whether conviction for any unlisted crime is substantially related to caregiving and, if so, can treat it as a permanent bar crime or a crime of lesser significance, and take action accordingly.

The modified Crimes List consists of 156 crimes listed by statute number, name and program sanction, 26 of which are permanent bar crimes for all programs. Some crimes have been moved from permanent bar status to bar with rehab status, crimes of lesser significance status or substantially related (unlisted) status, and some crimes have been moved from bar with rehab status to crimes of lesser significance status or substantially related (unlisted) status. The crimes of lesser significance are removed altogether from the Crimes List and made a separate list under s. HFS 12.11(5) (a) 3., so that the Crimes List is left with only "serious crimes."

The Department is modifying the Crimes List at this time because after publication of the original list, that is, as the Crimes List began to be used to make decisions about licensing or certifying service providers and hiring or contracting for caregiver staff, and especially in anticipation of agencies having to withdraw some current licenses and certifications and entities having to dismiss some current caregiver staff and terminate some caregiver contracts, Department staff heard from and met with many affected individuals and representatives of affected programs and discussed with them the need, reasonableness and practicality of categorizing some criminal convictions in ways they had been categorized. These discussions led the Department to reconsider the appropriateness of the sanctions for some of the specified crimes, in particular some of the crimes that the Department had designated permanent bar crimes. The Department also determined once the Crimes List began to be used that corrections and clarifications were needed in it.

The Department is modifying the ch. HFS 12 emergency rules by emergency order because of the critical importance of the appended Crimes List for proper implementation of the statutory caregiver background check requirements. Those requirements are directed at protecting people receiving care and treatment from being harmed. The revised Crimes List is part of the proposed permanent rules that will replace the emergency rules, but the replacement permanent rules will not take effect until about June 1, 1999.

Publication Date: December 12, 1998
Effective Date: December 12, 1998
Expiration Date: May 11, 1999

- Rules adopted revising **chs. HFS 12 and 13**, created as an emergency rules relating to caregivers background checks and reporting of caregiver misconduct.

Finding of Emergency

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

The Department on October 1, 1998 published an emergency rulemaking order creating ch. HFS 12, relating to uniform procedures for checking the backgrounds of persons who apply to provide or are providing care or treatment to persons who need that care or treatment, and for barring persons because of specified convictions, findings or charges substantially related to the care of clients from operating a service provider organization, providing care or treatment to the clients of a service provider or otherwise having contact with the clients of a service provider. Chapter HFS 12 included an appendix which consisted of a list of crimes. That Crimes List was modified by emergency order published on December 12, 1998. This order, which is being published following the Department's public hearings on the emergency rules and the proposed replacement permanent rules, makes further significant changes in the Crimes List and other parts of the ch. HFS 12 emergency rules.

The Crimes List appended to ch. HFS 12 is modified by this order to move several crimes from "permanent bar" status to "bar with rehabilitation" status, to place time limits on having to demonstrate rehabilitation for certain other crimes, and to remove some crimes altogether from the Crimes List. Also in ch. HFS 12, definitions have been added for "access" and "Department-designated tribe" and have been significantly revised for "caregiver" and "under the entity's control." Indian tribes designated by the Department are permitted to conduct rehabilitation reviews for bar with rehabilitation crimes.

This order also makes changes in ch. HFS 13, emergency rules for reporting caregiver misconduct and for maintenance of a caregiver misconduct registry. Those emergency rules were also published on October 1, 1998. Changes made in ch. HFS 13 by this order include addition of definitions for "access" and "course of conduct" and significantly revised definitions for "abuse," "caretaker," and "under the entity's control," and permission is given for the subject of a report to have a representative present when the subject has any contact with Department investigators.

The Department is modifying the chs. HFS 12 and 13 emergency rules by emergency order at this time because of their critical importance for proper implementation of the statutory caregiver background check and caregiver misconduct reporting requirements. Those requirements are directed at protecting people receiving care and treatment from being harmed. The rule changes, including revision of the Crimes List, have been incorporated in the proposed permanent rules that will replace the emergency rules, but the replacement permanent rules will not take effect until June 1, 1999 at the earliest.

Publication Date: February 27, 1999
Effective Date: February 27, 1999
Expiration Date: July 27, 1999

EMERGENCY RULES NOW IN EFFECT

Health and Family Services (Community Services, Chs. 30--)

Rule was adopted amending **s. HFS 94.24 (2)(e)**, relating to searches of rooms and personal belongings of patients at the Wisconsin Resources Center.

Finding of Emergency

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

The Department operates the Wisconsin Resource Center near Oshkosh, a mental health treatment facility for two groups of people: (1) inmates of correctional institutions whose behavior presents a serious problem to themselves or others in state correctional facilities and whose mental health treatment needs can be met at the Center, and (2) persons who have been found by a court or jury under s. 980.05, Stats., to be sexually violent persons and who have therefore been committed to the custody of the Department under s. 980.06, Stats., for control, care and treatment, whose commitment order specifies institutional care and who have been placed by the Department at the Center under s. 980.065, Stats. About 60% of the 370 patients at the Center are inmates of correctional institutions and about 40% are persons committed to the Department under ch. 980, Stats.

The security, discipline, care and treatment of inmates of correctional institutions at the Wisconsin Resource Center are governed by administrative rules of the Wisconsin Department of Corrections. Chapter HFS 94, the Department's rules relating to the rights of patients receiving treatment for a mental illness, a developmental disability, alcohol abuse or other drug abuse, applies to the inmates of correctional institutions at the Center only in relation to patient rights specified in s. 51.61 (1) (a), (d), (f), (g), (h), (j) and (k), Stats. However, the entire ch. HFS 94 applies to patients at the Center who are there under a ch. 980, Stats., commitment.

At the Wisconsin Resource Center staff until recently have been making random searches of the rooms and personal belongings of patients who have been committed to the Department under ch. 980, Stats. A patient has challenged the practice in a lawsuit, claiming that it violates s. HFS 94.24 (2) (e) which permits a search only when there is documented reason to believe that security rules have been violated, unless the search is of rooms and belongings in a forensic unit. Patients at the Center who are there under ch. 980, Stats., commitments are not residents of a forensic unit; a commitment under ch. 980, Stats., is considered a civil commitment. The court handling the case is expected to rule in favor of the patient. Therefore, the Center has temporarily suspended random searches, pending amendment of the rule.

This order amends s. HFS 94.24 (2) (e) to permit searches of the rooms and personal belongings of not only inpatients of forensic units but also inpatients of a secure mental health unit or facility under s. 980.065, Stats., and similar inpatients of the maximum security facility at the Mendota mental health institute, and not only when there is documented reason to believe that security rules have been violated but under other circumstances as well as specified in written facility policies. This change will permit the Wisconsin Resource Center to resume random searches of the rooms and personal belongings of patients who have been committed to the Department under ch. 980, Stats.

This rule change is being promulgated on the advice of counsel by emergency order because of the length of the permanent rulemaking process and because random searches of the rooms and belongings of ch. 980, Stats., patients at the Wisconsin Resource Center need to be resumed without delay to protect other patients and staff and, in the long run, the general public.

These patients have been committed or are being detained because there is probable cause to believe they are dangerous individuals who are disposed to commit future acts of sexual violence. Many have documented histories of other types of criminal activity, including fraud, theft and physical assault. Many also have a history of drug/alcohol dependence and gang activity. The intent of ch. 980, Stats., is to protect the public and provide treatment to this patient population. The major difference between this population and other patient populations is this population has a significantly higher percentage of individuals diagnosed with anti-social personality disorders and, as such, they have

consistently shown deliberate disregard for the rights of others and a willingness to break the law.

The Wisconsin Resource Center is responsible for maintaining a therapeutic and safe environment for its patients. Yet the ch. 980 patients in general have consistently found 'creative' ways to break facility rules. Therefore, unless there are effective mechanisms, such as random searches, in place to monitor their activity, these patients will use their rights to continue their criminal activity and to violate the rights of others.

Random searches help the Center identify and prevent numerous violations of facility rules that are safety and security related or countertherapeutic to the patients. These searches can also deter patients from harboring dangerous items in their rooms. These could go undetected and be at some point used in harming another person or hinder or block the individual's treatment. They include weapons, drugs, indications of planning underway to rape or assault another patient or a staff member, sexually explicit material which may interfere with treatment progress, and stolen property including credit cards.

A facility cannot effectively treat these patients without the ability to effectively monitor and confront crimogenic behaviors and patterns. Random searches are a very effective treatment tool in this respect. They also reduce the likelihood of false positives for releasing or discharging a patient when evaluating for continued pertinence of the commitment criteria.

| | |
|---------------------------|--------------------------|
| Publication Date: | August 15, 1998 |
| Effective Date: | August 15, 1998 |
| Expiration Date: | January 11, 1999 |
| Hearing Date: | December 17, 1998 |
| Extension Through: | April 30, 1999 |

EMERGENCY RULES NOW IN EFFECT (2)

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

1. Rules adopted amending ss. **HFS 119.07 (6) (b) and 119.15**, relating to the Health Insurance Risk-Sharing Plan.

Exemption From Finding of Emergency

Section 149.143 (4), Stats., as affected by 1997 Wisconsin Act 27, permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats., as affected by Act 27, by using emergency rulemaking procedures except that the Department is specifically exempted from the requirement under s. 227.24(1) and (3), Stats., that it make a finding of emergency. These are the rules. Department staff consulted with the HIRSP Board of Governors on December 11, 1998 on the proposed rules, as required by s. 149.20, Stats.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,123 HIRSP policies in effect on October 31, 1998 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates by just over 10% in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule and the rates must be calculated in accordance with generally accepted actuarial principles.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set Out in s. 149.143 (2)(a)3. and 4., Stats., as affected by Act 27.

Publication Date: December 31, 1998
Effective Date: January 1, 1999
Expiration Date: May 31, 1999
Hearing Date: March 11, 1999

- Rules adopted creating **ch. HFS 114**, relating to neonatal intensive care unit training grants.

Exemption From Finding of Emergency

The Legislature in s. 9122 (3tz) of 1997 Wisconsin Act 237 directed the Department to promulgate rules required under s. 9122 (3ty) of 1997 Wisconsin Act 237 by using emergency rulemaking procedures but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency. These are the rules.

Analysis Prepared by the Department of Health and Family Services

Section 9122 (3ty) (b) of 1997 Wisconsin Act 237 directs the Department to distribute up to \$170,000 each year in state fiscal years 1999 and 2000 to provide up to 10 grants to public or private hospitals to pay for specialized training and on-site consultation and support of medical personnel of neonatal intensive care units in the principles and practice of developmentally supportive and family-centered care for high-risk infants and their families. Section 9122 (3ty) (c) of Act 237 directs the Department to promulgate rules that establish criteria and procedures for awarding grants. The rules are to define "specialized training and on-site consultation and support," which must include a minimum of 40 hours of formal training and 160 hours of practice work.

This order creates ch. HFS 114 relating to distribution of grants to applicant public or private hospitals' neonatal intensive care units to pay for training of staff in the principles and practice of developmentally supportive and family-centered care. The rules include a process by which hospitals may apply for training funds, requirements relating to the training and requirements relating to training center record-keeping and reporting.

Publication Date: January 21, 1999
Effective Date: January 21, 1999
Expiration Date: June 20, 1999
Hearing Date: April 7, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Insurance

- Rule adopted amending **s. Ins 2.80 (2) (intro.) and (a)**, relating to delaying effective date for NAIC valuation of life insurance policies model regulation, ("XXX"), from January 1, 1999 to July 1, 1999.

Finding of Emergency

Statutory authority: ss. 601.41 (3), 227.24

Statute interpreted: none

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

On December 16, 1997 the Commissioner created Ins 2.80, Wis. Adm. Code in order to adopt the 1995 National Association of Insurance Commissioners ("NAIC") valuation of life insurance policies model regulation, or "XXX". This new rule concerning requirements for determining the valuation of reserve liabilities for life insurance policies is currently to take effect on January 1, 1999. Recently the NAIC agreed to consider a revised model regulation and the NAIC is expected to formally approve such a model early in 1999. Wisconsin is the only state that has set January 1, 1999 as an effective date for the 1995 model regulation. This emergency order is necessary to allow time to consider implementation of the revised model regulation once it is adopted by the NAIC.

Publication Date: December 23, 1998
Effective Date: January 1, 1999
Expiration Date: May 31, 1999
Hearing Date: March 12, 1999

- Rules adopted amending **s. Ins 3.39 (34)(b)1. and 2., 3.b., and 6.**, relating to guarantee issue eligibility for Medicare Supplement insurance.

Finding of Emergency

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

These changes clarify the persons eligible who have the right to have policies guaranteed issued. The changes track the recent revisions in the NAIC (National Association of Insurance commissioners) model Medicare Supplement regulations. In order to provide more certainty and provide guarantee issue to the appropriate persons in Wisconsin, it is necessary that the change be put into effect as soon as possible. In addition, other permanent changes to the Medicare Supplement requirements are effective February 1, 1999 and this change effective the same date will allow insurers to modify their policies one time rather than two.

Publication Date: January 28, 1999
Effective Date: February 1, 1999
Expiration Date: July 1, 1999
Hearing Date: March 3, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Natural Resources

(Fish, Game, etc., Chs. NR 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:

- Creates a process for accepting telephone reservations for department camp sites.
- 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 **s. NR 20.33 (5)**, relating to special closure of the sturgeon spearing season if harvest reaches or exceeds 80% of the total allowable harvest.

Finding of Emergency

The department of natural resources finds that an emergency exists and rule is necessary for the immediate preservation of the public health, safety or welfare. The facts constituting this emergency are:

Winter water clarity in Lake Winnebago has been improving steadily over the last decade at a rate faster than anticipated, which has substantially increased the potential for overharvest of sturgeon by spearkers. Even with the new harvest restrictions passed in 1996, exceptionally clear water during the 1998 spearing season resulted in a total harvest of 2,051 fish, which was in excess of our total allowable harvest goals. An emergency order is needed to prevent overharvest of sturgeon during the 1999 season while permanent rules are being developed for implementation in the year 2000.

Publication Date: February 5, 1999
Effective Date: February 5, 1999
Expiration Date: July 5, 1999
Hearing Date: March 16, 1999

EMERGENCY RULES NOW IN EFFECT

Public Instruction

Rule adopted revising **s. PI 3.03 (6) (b) 3.**, relating to alternate teaching permits.

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 237, the budget adjustment bill, modified several provisions relating to professional teaching permits. Specifically, an individual who holds a bachelor's degree in engineering, music, art, foreign language, computer science, mathematics or science from an accredited institution of higher education, has at least 5 years of experience as a professional in the subject area in which his or her degree was awarded and demonstrates, to the satisfaction of the state superintendent, competency in that subject area may apply to the state superintendent for enrollment in a 100 hour alternative teacher training program. The state superintendent shall grant a professional teaching permit to any person who satisfactorily completes the alternative teaching program.

Since the provisions under the Act became effective this summer, and alternative teaching programs will be offered in the near future, rules must be in place as soon as possible in order to notify potential applicants of the alternative teaching permit program requirements.

Publication Date: November 1, 1998
Effective Date: November 1, 1998
Expiration Date: March 31, 1999
Hearing Dates: January 4, 5, 6 & 7, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Public Service Commission

1. Rules adopted creating **ch. PSC 187**, relating to Sewer Main Extension: Cost Recovery.

Exemption From Finding of Emergency

Pursuant to the legislature's instruction in s. 66.076 (1) (b), Stats., as created by 1997 Wis. Act 213, and section 5 of that Act, the Public Service Commission is adopting emergency rules, establishing standards for the compensation of subdivision developers when a person outside the subdivision seeks to connect to a sewer system constructed by the developer.

Section 5 (1)(b) of 1997 Wis. Act 213, the legislature specifically exempted the commission from finding of emergency required by s. 227.24, Stats.

Publication Date: November 1, 1998
Effective Date: November 1, 1998
Expiration Date: March 31, 1999
Hearing Dates: January 13 & 14, 1999

2. Rules adopted revising **ch. PSC 4**, relating to small generating plants.

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin ratepayers by ensuring a reliable energy supply in 2000 and beyond, the Commission's review process of proposed new generating plants that are less than 100 MW in size must be amended. A revision is needed so the review process for such projects can be completed in time to allow construction of necessary projects, if approved, by June 1, 2000. Permanent rules cannot be adopted in time to affect the Commission's review period. An emergency rule is necessary to change the Commission's review process immediately.

Publication Date: January 19, 1999
Effective Date: January 19, 1999
Expiration Date: June 18, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Regulation & Licensing

1. Rules were adopted creating **chs. RL 131 to 135**, relating to the registration and regulation of home inspectors.

Exemption From Finding of Emergency

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

Section 3 of 1997 Wis. Act 81 states that the department is not required to make a finding of emergency; however, the department offers the following information relating to the promulgation of these rules as emergency rules. The new regulation of home inspectors was created in 1997 Wis. Act 81. The Act was published on April 27, 1998; however, the Act created an effective date for the new regulation as being the first day of the 7th month beginning after publication. That date is November 1, 1998. Nonstatutory provisions in Section 3 of the Act require the department to create a committee, consisting of 6 home inspectors and 3 public members, to advise the department in promulgating rules. This section also authorizes the department to promulgate rules as emergency rule before November 1, 1998. The advisory committee was formed and

met 7 times to developed administrative rules which must be in effect on the effective date of the new regulation.

Publication Date: November 1, 1998
Effective Date: November 1, 1998
Expiration Date: March 31, 1999
Hearing Date: December 17, 1998

2. Rules adopted creating **chs. RL 140 to 142**, relating to the registration of music, art and dance therapists.

Finding of Emergency

The proposed rules interpret the provisions contained in s. 440.03 (14), Stats., as created by 1997 Wis. Act 261, which governs the registration of music, art and dance therapists. Section 440.03 (14)(d), Stats., states that the department shall promulgate rules that specify the services within the scope of practice of music, art and dance therapy that a registrant is qualified to perform. Section 440.03 (14)(d), Stats., gives authority to the department to make investigations and conduct hearings to determine whether a violation of that subsection or any rule promulgated under s. 440.03 (14)(d), Stats., has occurred and to reprimand a person who is registered under par. (a) or deny, limit, suspend or revoke a certification of registration if it finds that an applicant or certificate holder has violated that subsection or any rule promulgated under par. (d). These provisions will become effect on December 1, 1998.

Under the normal rule-making process, the proposed rules would not take effect until the spring of 1999. The department is requesting that this rule be put into effect before 1999 for the following reasons:

- (1) The emergency rules will enable the department to adopt application which would be implemented on December 1, 1998.
- (2) The emergency rules will enable the department to provide immediate guidance to the various professions regarding their scope of practice.
- (3) Without the adoption of the emergency rules, the department will not be able to discipline registrants until the spring of 1999. The emergency rules will enable the department to immediately determine what constitutes grounds for discipline and to take appropriate action based upon that determination.

Publication Date: November 29, 1998
Effective Date: December 1, 1998
Expiration Date: April 30, 1999
Hearing Date: January 12, 1999

EMERGENCY RULES NOW IN EFFECT (2)

Workforce Development

(Economic Support, Chs. DWD 11–59)

1. Rules adopted renumbering **ss. HFS 55.55 to 55.62** and revising **ch. DWD 55**, relating to background checks for persons involved with certified day care.

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:

Beginning on October 1, 1998, recently enacted provision in ch. 48, Stats., require the completion of background reviews on caregivers and others who come into contact with clients in the programs operated by caregivers. Although most of these provisions are administered by the Department of Health and Family Services, they also include day care programs certified by the Department of Workforce Development. DWD is adopting this emergency rule so

that county and tribal social services agencies and human services agencies will be able to implement the new background review requirements in relation to certified day care programs as they become effective.

Publication Date: October 1, 1998
Effective Date: October 1, 1998
Expiration Date: February 28, 1999
Extension Through: March 29, 1999

2. Rules adopted renumbering **chs. HSS 80 to 82** as **chs. DWD 40 to 42**, and creating **ch. DWD 43**, relating to child support administrative enforcement.

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:

State and federal legislation have created new procedures for the administrative enforcement of child support obligations. To place the new procedures into effect, the Department of Workforce Development has scheduled public hearings on a proposed permanent rule during the month of October, 1998. While the permanent rulemaking process proceeds, DWD is adopting the provisions in the current draft as an emergency rule so that county child support agencies will be able to utilize the new statutory enforcement and collection procedures for the benefit of custodial parents as soon as possible.

Publication Date: October 1, 1998
Effective Date: October 1, 1998
Expiration Date: February 28, 1999
Hearing Dates: October 13, 20 & 27, 1998
Extension Through: March 29, 1999

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Prevailing Wage Rates, Chs. DWD 290–294)

Rules adopted amending **s. DWD 290.155**, relating to the annual adjustment of the minimum estimated project costs for the application of the requirement to obtain a determination of prevailing wage rates for workers employed on state or local public works projects.

Finding of Emergency

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

The Department 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 November 1997 and December 1998 requires that the threshold limits for prevailing wage rate determinations be raised from \$32,000 to \$33,000 for single-trade projects and from \$160,000 to \$164,000 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 7/1/99, a single-trade project costing more than \$32,000 but less than \$33,000, or a multi-trade project costing more than \$160,000 but less than \$164,000, 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 complication 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

additional administrative burden on local governments and state agencies.

Publication Date: January 4, 1999
Effective Date: January 4, 1999
Expiration Date: June 3, 1999
Hearing Date: February 11, 1999

STATEMENTS OF SCOPE OF PROPOSED RULES

Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors Examining Board

Subject:

A-E Code – Relating to repeal of administrative rules relating to professional geologists.

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

To repeal proposed rules as a result of 1997 Wis. Act 300, which removed the administrative rules relating to professional geologists.

Policy analysis:

The current rules include professional geologists as part of the Joint Board. This proposed rule-making would remove that section from the joint board.

Statutory authority:

Sections 15.08 (5) (b) and 227.11 (2), Stats., and ch. 443, Stats., as amended by 1997 Wis. Act 300.

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

60 hours

Chiropractic Examining Board

Subject:

Chir Code – Relating to clarifying the meaning of “supervision”.

Description of policy issues:*Objective of rule:*

To amend the word “supervision” in the rules for clarification.

Policy analysis:

For clarification as follows—

During a period of suspension, the suspended individual:

- 1) May not perform any of the functions in s. Chir 4.03;
- 2) May not have contact with patients; and
- 3) May not be present in any chiropractic office unless the Board specifies otherwise in its final order.

Statutory authority:

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

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

60 hours

Commerce

Subject:

Chs. Comm 2 and 5 – Relating to fees charged by the Safety and Buildings Division.

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

The objective of the rule is to update the provisions of the Department’s administrative rules relating to the fees charged by the Division of Safety and Buildings. This update is intended to provide a sufficient revenue stream through Fiscal Year 04. This update will be developed with input from various advisory councils and industry representatives.

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:

Section 101.19, Stats., requires the Department to fix and collect fees by rule which shall, as closely as possible, equal the cost of providing services such as plan examination, inspections, and certification of inspectors. The Department’s fees for the services provided by the Safety and Buildings Division are contained in chs. Comm 2 and 5. These fees were last revised in 1992 and 1996, respectively. The proposed rule would revise the fees so that each program area, to the greatest extent possible, would be self-sufficient. The alternative of not updating the fees would result in Division revenues not being sufficient to support continuation of existing operations and the additional positions contained in 1999 Assembly Bill 133.

Statutory authority for the rule:

Sections 101.19, 145.02 (3) (g), 145.08, and 145.26 (3), 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 meeting with various advisory councils and industry representatives, 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 32 – Relating to public employe safety and health.

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

The objective of the rule is to update the provisions of the Department’s administrative rules relating to occupational safety and health standards for public employes. This update will include adoption by reference of the current applicable federal standards. This update may include the formation of a specialty committee to review s. Comm 32.27, Ventilation, prior to the full formal code council meetings.

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:

Section 101.055, Stats., requires the Department to provide public sector employes with safety and health protection at least equivalent to that afforded to private sector employes under standards adopted by the federal Occupational Safety and Health Administration (OSHA). Currently, ch. Comm 32 adopts the 1998 edition of the federal OSHA safety and health standards. The proposed rule would adopt the 1999 edition of the federal OSHA safety and health standards. The alternative of not updating

ch. Comm 32 would result in public employes not being provided with safety and health protection equivalent to that afforded to private sector employes.

Statutory authority for the rule:

Section 101.055 (3), 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 a specialty committee and 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 112 – Relating to the Wisconsin Development Zone Program.

Description of policy issues:

Description of the objective of the rule:

Section 560.785, Stats., requires the Department of Commerce (Commerce) change the eligibility and the criteria for certified development zone businesses and the process for the verification and claiming of tax credits. The proposed rule will bring the administrative code into conformance with the recent change in state law.

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:

Pursuant to s. 560.785, Stats., the rules will define the criteria of a person’s eligibility for tax benefits and set forth limits to the allowable amount of claims.

Statutory authority for the rule:

Section 560.785, 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 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 | <u>4 hours</u> |
| TOTAL | 97 hours |

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

Subject:

HSS 157 – Relating to radiation protection–agreement state.

Description of policy issues:

Description of objective(s):

To:

- a) Establish a state licensing, inspection and registration program for radioactive materials currently regulated by the federal government;
- b) Replace the existing state radioactive materials registration program with a licensing program;
- c) Incorporate updated federal radiation protection regulations into state radiation protection rules; and
- d) Reformat ch. HSS 157 to look more like the radiation protection rules of most other states.

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

The Department of Health and Family Services has been directed by the Governor to pursue an agreement with the U.S. Nuclear Regulatory Commission (NRC) that transfers regulatory authority over specific radioactive materials to the state. A state that enters into this agreement is called an agreement state. Chapter HSS 157, Radiation Protection, must be substantially modified to establish a state radioactive materials regulatory program that is judged by the NRC to be compatible with the federal program for regulation of radioactive materials and adequate to protect public health. The proposed rule changes will enable the state to meet NRC requirements and become an agreement state.

Agreement state status will allow the state to assume regulatory authority over specific radioactive materials currently regulated by the federal government in Wisconsin. New rules will specify a licensing, inspection and registration program for radioactive materials that is compatible with the existing program of the NRC. The current state program of radioactive material registration will be replaced with a licensing program that is incorporated into the agreement state licensing structure.

Proposed changes to ch. HSS 157 will likely be the following:

- 1. Incorporate newest federal radiation and radioactive material regulations into ch. HSS 157, specifically portions of Title 10 of the Code of Federal Regulations.
- 2. Format ch. HSS 157 using ‘Suggested State Regulations for the Control of Radiation’ developed by the Conference of Radiation Control Program Directors.
- 3. Detail a radioactive materials licensing/inspection program, license categories and fee structure.
- 4. Detail a registration program for generally–licensed gauging devices.
- 5. Remove the registration requirement for radioactive materials currently under state jurisdiction.
- 6. Updating of the x–ray parts of ch. HSS 157.

Alternatives considered in revising ch. HSS 157:

- 1. Address in the rules only the agreement state requirements for regulation of radioactive materials.
- 2. Revise the radioactive material sections of ch. HSS 157 to meet agreement state requirements but also revise the x–ray portions of ch. HSS 157 to reflect new radiation technologies and federal regulations.

The decision is to proceed with the second alternative. The revision of the x–ray sections of ch. HSS 157 will add minimal time to the rules revision process. Facilities with x–ray devices will be represented on an agreement state advisory group. In addition, the regulated community has requested an update of the x–ray portions of ch. HSS 157 to reflect new technology and federal regulations.

Statutory authority:

SS. 254.34 (1) (a) and 254.36, Stats.

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

About 800 total hours of Radiation Protection Section staff time to develop the rules in preparation for Department review. An advisory group will be formed made up of representative users of radioactive material and x-ray devices to provide input on the technical content of the new rules and agreement state program elements. Advisory group input in development of the new rules is expected to minimize the changes needed following various review and approval steps in the promulgation process.

Insurance, Commissioner of**Subject:**

S. Ins 3.46 – Relating to long-term care.

Description of policy issues:

A statement of the objective of the proposed rule:

The National Association of Insurance Commissioners (NAIC), has revised its model rules regarding aspects of long-term care insurance. The proposed changes reflect the current market conditions and provide options and protections for consumers.

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

Some of the issues to be addressed include contingent non-forfeiture benefits and provisions to encourage suitable upgrade of coverage. Changes in these areas will provide greater protection for Wisconsin consumers.

A statement of the statutory authority for the rule:

SS. 628.34 (12), 628.38, 631.20, 632.72, 632.76 and 632.81, Stats.

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

Depending upon the amount of work NAIC does in changing the model law in this area, Office of the Commissioner of Insurance (OCI) time could vary from 100–200 hours.

Medical Examining Board**Subject:**

Med Code – Relating to repeal of administrative rules relating to podiatrists.

Description of policy issues:

Objective of the rule:

Repeal rules from the code relating to podiatrists as a result of 1997 Wis. Act 175, which created the Podiatrists Affiliated Credentialing Board.

Policy analysis:

This rule-making order will remove the rules relating to podiatrists from the current rules of the Medical Examining Board.

Statutory authority:

SS. 15.08 (5) (b), 227.11 (2) and 448.40, Stats.

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

30 hours.

Public Defender**Subject:**

S. PD 1.04 (10) – Relating to certification criteria.

Description of policy issues:

The Office of the State Public Defender (SPD) is authorized by s. 977.05 (5) (e), Stats., to sponsor conferences and training. The use of the word “sponsor” indicates a commitment of agency resources. In addition, s. 977.05 (5) (e), Stats., contemplates that the agency might obtain revenue from such conferences and training by authorizing the SPD to charge tuition for attendance at such programs. Any revenue received must be deposited in s. 20.550 (1) (i), Stats.

Chapter PD 1, Wis. Adm. Code, expands upon the SPD’s training function as it relates to private attorneys who seek public defender certification. For instance, pursuant s. PD 1.04 (2m), an attorney must complete a certain number of credits of “state public defender provided legal education” in order to be certified for specific types of cases, such as ch. 51 or 55, Stats., cases and termination of parental rights cases. Further, pursuant to s. PD 1.04 (9), an attorney must complete 6 hours of SPD-approved continuing legal education each calendar year in order to remain certified to accept public defender cases. Finally, in order to be certified to accept appellate cases under s. PD 1.04 (5), an attorney must complete a certain number of credits of state public defender approved education prior to applying for appellate certification.

The proposed rule would ensure that the legal education and training required for public defender certification is offered to private attorneys by the agency. The proposed rule would also define “sponsor” and “tuition” as those terms are used in s. 977.05 (5) (e), Stats.

Promoting conferences and training programs for staff and private attorneys as well as recouping some of the costs associated with conferences and training sponsorship is consistent with the agency’s mission and statutory authorization.

Statutory authority for rule:

Section 977.02 (5), Stats.

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

Estimated amount of time agency employees will spend developing the proposed rule: 20 hours. No other resources are necessary.

Public Instruction**Subject:**

Ch. PI 19 – Relating to modifying the rules to comply with changes made in state law which affect:

- 1) The responsibilities of DPI and local school districts regarding services and instruction about adoption to school age parents, and
- 2) The availability of child care funds to local school districts.

Description of policy issues:

Rationale for proposed rule development:

Amendments are necessary in administrative rule in order to comply with recent changes in state statutes. Specifically:

1) Section 115.355, Stats., was created by 1997 Wis. Act 104 to require DPI to “annually and upon request disseminate to appropriate public school staff information about materials and services available through the state adoption center under s. 48.551 which may serve as resources for instruction on adoption for pupils in grades kindergarten through 12.”

2) Section 115.92, Stats., was amended by 1997 Wis. Act 104 to require school districts with established programs which serve school age parents to provide “instruction on adoption and adoption services. The instruction provided on adoption and adoption services shall include instruction on the options available and the procedures followed in independent and agency adoptions, including current practices regarding a birth parent’s involvement in the selection of an adoptive home and the sharing of information between birth parents and adoptive parents, instruction on the impact of adoption on birth parents and children who have been adopted and an explanation that the adoption process may be initiated even after a child has been born and left the hospital.”

3) Section 46.99, Stats., regarding available child care funds no longer exists and s. PI 19.05 (2) should be deleted so as not to reference it.

Description of the objective of the rule:

The purpose of these rule modifications is to comply with changes made in state law which affect:

1) The responsibilities of DPI and local school districts regarding services and instruction about adoption to school age parents, and

2) The availability of child care funds to local school districts.

Describe any existing relevant policies to be included in the administrative rule:

The proposed rule changes are to comply with changes in state statute only. There are no existing relevant policy changes.

Describe any new policies to be included in the proposed rule:

These proposed changes are to comply with changes in state statute only. There are no new policy changes.

Statutory authority for the rule:

SS. 115.92 (3) and 227.11 (2) (a), Stats.

Estimate of the amount of time/staff resources necessary to develop rule:

The amount of time needed for rule development by Department staff and the amount of other resources necessary is indeterminable. The time needed in creating the rule language, itself, will be minimal. However, the time involved with guiding the rule through the required rule promulgation process is fairly significant. The rule process takes more than 6 months to complete.

Public Service Commission

Subject:

PSC Code – Relating to the regulation of competitive local exchange providers and competitive entry into local telephone exchange markets [docket 05–TI–138].

Description of policy issues:

Objective of rule:

The objective of the proposed rule is to implement the Commission's state and federal statutory authority to regulate competitive local exchange providers and competitive entry into local telephone exchange markets.

1. Procedures and conditions for certifying competitive local exchange carriers (CLEC's). On July 20, 1995, the Commission approved procedures for certifying CLEC's on an interim basis. Pursuant to those guidelines, several CLEC's have been certified and are operating in Wisconsin, mostly in the service territories of Ameritech Wisconsin and GTE North Incorporated, the incumbent local exchange carriers (ILEC's). The Commission further examined these issues in docket 05–TI–138, particularly the level of regulation, or provisions of ch. 196, Stats., that should apply to CLEC's. On October 29, 1998, the Commission determined that the level of regulation for competitive local exchange carriers, including application for certification and reporting requirements, and issues affecting small telecommunications providers, should be addressed in rule-making. The Commission further directed its staff to prepare this scoping statement and to hold a technical conference before proceeding to rule-making.

2. Issues affecting small and/or rural telecommunications local exchange providers. Both state and federal law afford small and/or rural telecommunications local exchange providers some protection from competitive entry into their service territories. Moreover, these laws exempt such providers from certain interconnection requirements, or alternatively, to have these requirements suspended or modified. Procedures for exemption, suspension and modification of interconnection requirements were also examined in docket 05–TI–138, as were the required content of a bona fide request for interconnection. In addition, the Commission examined

these issues in a series of cases. The Commission has not yet developed a process or promulgated a rule, however, to implement these statutory provisions.

Existing policies relevant to rule:

As mentioned above, the Commission established on July 20, 1995, an interim process for telecommunications providers to apply for certification to provide local exchange services in Wisconsin. That process has been followed since then to certify CLEC's as Alternative Telecommunications Utilities (ATU's)–Other as defined in s. 196.01 (1d) (f), Stats. The Commission is currently examining regulations that apply to CLEC and reseller affiliates of ILEC's.

New policies proposed:

The Commission will propose new policies establishing an appropriate level of regulation for competitive local exchange carriers, including reporting requirements and the application procedures for obtaining certification. The Commission will also propose procedures and standards by which to exempt, suspend, and modify interconnection requirements for small and/or rural telecommunications providers under state and federal law. In addition, the Commission will propose rules on the requirements of a bona fide request for interconnection.

Analysis of alternatives:

The Commission intends to analyze the various proposed alternatives that were put forth by various parties in docket 05–TI–138 and any others proposed during the rule-making process.

Statutory authority:

SS. 196.01 (1d) (f), 196.02, 196.04, 196.203, 196.219, 196.50 and 227.11 (2), Stats.; and 47 U. S. C. ss. 251 (f) and 253.

Time estimates for rule development:

Completing the rule-making proceeding is estimated to take at least 500 staff hours.

Other resources necessary to develop rule:

No additional staff or other agency resources are anticipated for this rulemaking.

Contact information:

If you have specific questions or comments regarding this proposed rule-making, please contact:

Nick Linden, Assistant Administrator
Telecommunications Division
Telephone (608) 266–8950

Public Service Commission

Subject:

PSC Code – Relating to incentive or alternative forms of regulation for telecommunications utilities.

Description of policy issues:

Objective of rule:

The objective of the proposed rule is to implement the Commission's statutory mandate under s. 196.195 (12) (b) 3., Stats., to "regulate telecommunications utilities with the goal of developing alternative forms of regulation." Specifically, the Commission "shall, by order, develop and approve an incentive regulatory plan for each telecommunications utility" to implement this mandate.

Existing policies relevant to rule:

The Commission has approved by order several incentive regulatory plans in response to applications filed by telecommunications utilities. In processing these applications, the Commission has followed a set of "Guidelines for the Filing of an Alternative Regulatory Plan in Accordance with Wis. Stat. § 196.195 (12)." The Commission proposes to modify, where appropriate, and codify these guidelines into administrative rules.

New policies proposed:

The Commission will propose, based on its experience, one or more standard, or model, alternative regulatory plans from which these telecommunications utilities may choose in lieu of applying for a company-specific, custom-designed plan.

Analysis of alternatives:

The Commission intends to analyze various model alternative regulatory plans, and any other proposed plans offered by interested parties during the rule-making process.

Statutory authority:

SS. 196.01 (10), 196.02, 196.195 (12), and 227.11 (2), Stats.

Time estimates for rule development:

Completing the rule-making proceeding is estimated to take at least 300 staff hours.

Other resources necessary to develop rule:

No additional staff or other agency resources are anticipated for this rule-making.

Contact information:

If you have specific questions or comments regarding this proposed rule-making, please contact:

Tom Ferris, Audit Manager
Telecommunications Division
Telephone (608) 266-1124

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

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

Chiropractic Examining Board

Rule Submittal Date

On March 9, 1999, the Chiropractic Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority:

SS. 15.08 (5) (b), 227.11 (2) and 446.02 (8), Stats.

The proposed rule—making order relates to use of limited liability in chiropractic practice.

Agency Procedure for Promulgation

A public hearing is required and will be held on April 15, 1999 at 9:15 a.m. in Room 124 at 1400 East Washington Avenue, Madison, Wisconsin.

Contact Information

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

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

Commerce

Rule Submittal Date

On March 10, 1999, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule—making order affects ch. Comm 14, relating to fire department dues entitlement.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled. The agency unit responsible for the promulgation of the proposed rule is the Division of Safety and Buildings.

Contact Information

Ronald Acker
Telephone (608) 267-7907

Commerce

Rule Submittal Date

On March 15, 1999, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule—making order affects chs. Comm 16 and 17, relating to electrical construction and inspection.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled. The agency unit responsible for the promulgation of the proposed rule is the Safety and Buildings Division.

Contact Information

Ronald Acker
Telephone (608) 267-7907

Commerce

Rule Submittal Date

On March 15, 1999, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule—making order affects ch. Comm 46, relating to Petroleum Environmental Cleanup Fund Interagency Responsibilities.

Agency Procedure for Promulgation

A public hearing is required and will be scheduled. The agency unit responsible for the promulgation of the proposed rule is the Bureau of PECFA.

Contact Information

William J. Morrissey
Telephone (608) 266-7605

Commerce

Rule Submittal Date

On March 11, 1999, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule—making order affects ch. Comm 113, relating to the allocation of volume cap on tax-exempt private activity bonds.

Agency Procedure for Promulgation

A public hearing is required and a hearing is scheduled for April 12, 1999 at Madison.

Contact Information

Richard Meyer
Telephone (608) 266-3080

Health and Family Services

Rule Submittal Date

On March 16, 1999, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority:

Sections 250.04 (7) and 254.13 (2), Stats.

The proposed rule—making order affects ch. HFS 181, relating to the reporting of blood lead test results.

Reason for rules, intended effects, requirements:

These are all-new rules. They require:

1) A physician or any other health care provider who submits a human blood sample to a clinical laboratory for determination of the amount of lead (Pb) in the blood sample to submit with the blood sample specified information about the patient and about when and how and by whom the blood sample was drawn; and

2) A clinical laboratory, except an out-of-state laboratory, that analyzes a blood sample for that purpose to report to the Department or to a local health officer that information and also information that identifies the laboratory, states when the analysis was done and gives the results of the blood lead test (when a health care provider uses an out-of-state laboratory, the health care provider is to submit test results to the Department).

The rules in part implement the requirements for reporting and for rules found in s. 254.13 (1), Stats. (rules requirement is implicit), which dates from 1980, and in s. 254.13 (2), Stats., which dates from 1994. The rules in part also implement s. 250.04 (3), Stats., which directs the Department to establish and maintain surveillance activities sufficient to detect any threat of occupational or environmental hazards.

As specifically required in s. 254.13 (2), Stats., the rules include time periods for reporting and specify, without being too stringent or prescriptive, the form of the report.

Reporting of the results of blood lead tests has been taking place, under s. 254.13, Stats., for a few years. There are about 55,000 test results reported each year, mainly for children under age 6. Rules are required by s. 254.13, Stats. Also rules are needed because it is not always clear who is responsible for reporting, the physician or the laboratory, and it has been difficult to get some laboratories to do full reporting.

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 Information

Joseph Schirmer
Division of Public Health
Telephone (608) 266-5885

Natural Resources**Rule Submittal Date**

On March 9, 1999, the Department of Natural Resources submitted a proposed rule [LE-13-99] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 6, 8, 50 and 64, relating to the use of snowmobiles and all-terrain vehicles (ATV's).

Agency Procedure for Promulgation

A public hearing is required and hearings are scheduled for April 20, 1999 at Madison and April 21, 1999 at Wausau.

Contact Information

Tom Thoresen
Bureau of Law Enforcement
Telephone (608) 266-7820

Natural Resources**Rule Submittal Date**

On March 9, 1999, the Department of Natural Resources submitted a proposed rule [WM-2-99] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects chs. NR 10, 15 and 19, relating to changes in hunting and trapping regulations.

Agency Procedure for Promulgation

A public hearing is required and a hearing is scheduled for April 13, 1999 at Madison.

Contact Information

Lisa Johnson
Bureau of Wildlife Management
Telephone (608) 264-8528

Natural Resources**Rule Submittal Date**

On March 9, 1999, the Department of Natural Resources submitted a proposed rule [ER-60-98] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ss. NR 19.26 and 19.27, relating to regulating the harvest, possession and sale of native amphibians, lizards and snakes.

Agency Procedure for Promulgation

A public hearing is required and a hearing is scheduled for April 15, 1999 at Madison.

Contact Information

Robert Hay
Bureau of Endangered Resources
Telephone (608) 267-0849

Natural Resources**Rule Submittal Date**

On March 9, 1999, the Department of Natural Resources submitted a proposed rule [FH-17-99] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects s. NR 20.09 (2), relating to bow fishing hours on inland lakes during the rough fish spearing season.

Agency Procedure for Promulgation

A public hearing is required and hearings are scheduled for April 27, 1999 at Wausau and April 28, 1999 at Fitchburg.

Contact Information

Tim Simonson
Bureau of Fisheries Management and Habitat Protection
Telephone (608) 266-5222

Natural Resources**Rule Submittal Date**

On March 9, 1999, the Department of Natural Resources submitted a proposed rule [AM-53-98] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. NR 439, relating to volatile organic compound (VOC) capture efficiency test methods.

Agency Procedure for Promulgation

A public hearing is required and hearings are scheduled for April 22, 1999 at Appleton and May 3, 1999 at Milwaukee.

Contact Information

Joe Perez
Bureau of Air Management
Telephone (608) 266-8401

Natural Resources**Rule Submittal Date**

On March 9, 1999, the Department of Natural Resources submitted a proposed rule [AM-16-99] to the Legislative Council Rules Clearinghouse.

Analysis

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

Agency Procedure for Promulgation

A public hearing is required and a hearing is scheduled for April 16, 1999 at Milwaukee.

Contact Information

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

Revenue**Rule Submittal Date**

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on March 15, 1999, the Wisconsin Department of Revenue submitted a proposed rule order to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule order amends ss. Tax 11.05, 11.87 and 11.94, relating to governmental units, food and beverages, and transportation charges.

Agency Procedure for Promulgation

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

Contact Information

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

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

Transportation**Rule Submittal Date**

On March 10, 1999, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

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

Agency Procedure for Promulgation

A public hearing is required and hearings are scheduled for April 14, 1999 at Ladysmith and April 15, 1999 at Madison. The organizational unit responsible for the promulgation of the proposed rule is the Division of Infrastructure Development, Bureau of Highway Operations.

Contact Information

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

NOTICE SECTION

Notice of Hearings

Commerce

(Fire Prevention, Ch. Comm 14)

Notice is hereby given that pursuant to ss. 101.14, 101.573 and 101.575, Stats., the Department of Commerce announces that it will hold public hearings on proposed rules relating to fire department dues entitlement.

Hearing Information

| | |
|---|---|
| <p>May 3, 1999 Monday 10:00 a.m.</p> | <p>Conference Room 3B WHEDA Building 201 W. Washington Ave. Madison</p> |
| <p>May 5, 1999 Wednesday 10:30 a.m.</p> | <p>Room 152A State Office Bldg. 200 N. Jefferson St. Green Bay</p> |
| <p>May 12, 1999 Wednesday 11:00 a.m.</p> | <p>Room 247-249 Indianhead Tech. College 1900 College Drive Rice Lake</p> |

Analysis

Statutory authority: ss. 101.14, 101.573 and 101.575

Statutes interpreted: ss. 101.14, 101.573 and 101.575

Chapter Comm 14 contains minimum safety standards for the prevention of fire in order to protect the health, safety and welfare of the public and employes in public buildings and at places of employment. In addition to specifying minimum safety standards, chapter Comm 14 requires fire prevention inspections to be conducted in public buildings and at places of employment. The inspections must be conducted twice per year except for specified occupancies that are allowed to be inspected once per year. These inspections must be conducted by the responsible fire department in order for the municipality to be entitled to receive a fire department dues payment from the state fire fund.

The proposed rules consist of revisions and additions in chapter Comm 14 relating to the fire prevention inspections and the entitlement to the fire fund dues payment. The proposed rules contain additional exceptions for specific occupancies that may be inspected once rather than twice per year. These occupancies include vacant buildings, confined spaces, certain residential buildings, and specified fully-sprinklered buildings.

The proposed rules contain a new section in chapter Comm 14 in order to codify the process and the requirements for entitlement to receive a payment from the fire dues fund as specified in section 101.575, Stats. The new requirements cover eligibility to receive the payment, determination of compliance, the self-certification audit process, the onsite audit process, and the registration of fire departments.

The proposed rules were developed with the assistance of the Fire Department Dues Entitlement Task Group. The members of that advisory group are as follows:

Name – Representing

David L. Berenz – Wisconsin State AFL-CIO
 Larry Burton – Wisconsin Insurance Alliance
 John Fulcher – Wisconsin State Fire Chiefs Association
 Lee Jensen – City of Milwaukee
 Keith Kesler – Brule Fire Department
 Ed Ruckriegel – Madison Fire Department
 Fred Schultz – Wisconsin Fire Inspectors Association
 Robert W. Stedman – Fire & EMS Legislative Leadership Coalition

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **May 26, 1999**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

These hearings are held in accessible facilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY 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 upon request by a person with a disability.

A copy of the proposed rules may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701, telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearings.

Initial Regulatory Flexibility Analysis

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

The rules will affect any fire department involved with providing fire protection or fire prevention services for a municipality. Under the rules, a fire department may be a public or private fire company or fire corporation.

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

The rules retain the current requirements for fire prevention inspection reports and fire incident reports. The rules include a new requirement for submittal of a fire department annual update form. The rules also codify the current process requirements for submittal of a self-certification audit form and for fire department initial registration.

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

There are no types of professional skills necessary for compliance with the rules.

Environmental Analysis

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter ILHR 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing chapter Comm 14. The proposed rules

do not contain any changes in the Division's fees charged for administering and enforcing chapter Comm 14. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Local municipalities also enforce chapter Comm 14, and the proposed rules will not create any additional workload costs for municipalities.

Notice of Hearings

Commerce

(Electrical, Volume 2, Ch. Comm 16)

(Electrical Inspection, Ch. Comm 17)

Notice is hereby given that pursuant to ss. 101.02 (1), 101.63 (1), 101.73 (1) and 101.82 (1), Stats., the Department of Commerce announces that it will hold public hearings on proposed rules relating to electrical construction and inspection.

Hearing Information

| | |
|--|--|
| April 13, 1999 Tuesday 10:30 a.m. | Room 120 Waukesha State Office Bldg. 141 N.W. Barstow Street Waukesha |
| April 16, 1999 Friday 10:30 a.m. | Room E102 Northcentral Tech. College 1000 W. Campus Drive Wausau |
| April 19, 1999 Monday 10:00 a.m. | Conference Room 3B WHEDA Building 201 W. Washington Ave. Madison |

Analysis of Proposed Rules

Statutory Authority: ss. 101.02(1), 101.63(1), 101.73(1) and 101.82(1)

Statutes Interpreted: ss. 101.63(1), 101.73(1), 101.82(1) and 101.865

Chapter Comm 16, Electrical Code, establishes safety and health requirements for the installation of electrical wiring, communication systems and electrical equipment in places of employment, public buildings, dwellings and other premises such as carnivals, parking lots, mines, trenches, mobile homes and recreational vehicles. The chapter incorporates by reference the National Fire Protection Association (NFPA) standard NFPA 70 – National Electrical Code (NEC). In addition, the chapter includes amendments that clarify or supplement the electrical standards contained in the NEC.

Chapter Comm 17, Electrical Inspection, establishes rules for the electrical inspection of farms, public buildings and places of employment. Those rules are related to the enforcement of chapter Comm 16.

The proposed rules consist of an update of chapter Comm 16, including the incorporation by reference of the 1999 edition of the NEC. The rule proposal also includes moving the electrical inspection requirements from chapter Comm 17 into a subchapter of chapter Comm 16, with no changes in those requirements. The following is a summary of the major changes in the proposed rules.

1. Deleting several amendments to the NEC which are covered as a result of changes in the 1999 edition of the NEC. For example, because of changes in the 1999 NEC relating to isolation of transfer switch equipment, sections Comm 16.45 (1) and 16.47 are being deleted.

2. Adding a requirement for installation of GFCI protection in commercial garages, repair areas and storage areas where electrical diagnostic equipment, electrical hand tools or portable lighting equipment are to be used. [Comm 16.20]

3. Adopting the NEC requirements for installing non-metallic sheathed cable in exposed work. [Comm 16.325]

4. Adding kitchens, hallways and stairways as areas needing a listed ceiling fan support box for a ceiling lighting fixture where a ceiling fan could be installed. [Comm 16.355]

5. Adopting the NEC exception that allows rigid non-metallic conduit to be used underground at gasoline service stations. [Comm 16.40]

6. Adding a rule requiring the listing mark on electric signs and outline lighting to be visible after installation. [Comm 16.43]

7. Adding requirements relating to wiring of hoistway pumps for elevators and disconnecting means for wheelchair lifts. [Comm 16.435 and 16.437]

8. Adding a rule requiring standby emergency power in day care centers serving 20 or more children during night-time hours. [Comm 16.46]

The proposed rules have been developed with the assistance of the Electrical Code Advisory Council. The members of that citizen advisory council are as follows:

Name – Representing

Ron Jahnke – NECA, Wisconsin Chapter

Ron Janikowski – International Association of Electrical Inspectors

Charles Johansen – Wisconsin Builders Association

James D. Loock – Wisconsin Public Service Commission

Dave McHale – Wisconsin Utilities Association

Ronald E. Maassen – NECA, Milwaukee Chapter

Bill Neitzel – International Association of Electrical Inspectors

Ken Peterson – Wisconsin Electric Cooperative Association

Randall Roth – Associated Builders and Contractors of Wisconsin

Steven Sauer – Department of Agriculture, Trade and Consumer Protection

Paul Welnak – Wisconsin State AFL-CIO

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **May 3, 1999**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

These hearings are held in accessible facilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY 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 upon request by a person with a disability.

A copy of the proposed rules may be obtained without cost from Roberta Ward, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701, telephone (608) 266-8741 or (608) 264-8777 (TTY). Copies will also be available at the public hearings.

Initial Regulatory Flexibility Analysis

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

Any business involved with the installation or inspection of electrical wiring, communication systems or electrical equipment will be affected by the rules.

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

There are no reporting, bookkeeping or other procedures required for compliance with the rules.

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

There are no professional skills necessary for compliance with the rules.

Environmental Analysis

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with chapter ILHR 1, the proposed rules are a Type III action. A Type III action normally does not have the potential to cause significant environmental effects and normally does not involve unresolved conflicts in the use of available resources. The Department has reviewed these rules and finds no reason to believe that any unusual conditions exist. At this time, the Department has issued this notice to serve as a finding of no significant impact.

Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing chs. Comm 16 and 17. The proposed rules do not contain any changes in the Division's fees charged for administering and enforcing chs. Comm 16 and 17. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Local municipalities may voluntarily enforce chs. Comm 16 and 17, and they have the authority to offset any costs by charging appropriate fees.

Notice of Hearing

Commerce

(Petroleum Environmental Cleanup Fund Interagency Responsibilities, Ch. Comm 46)

Notice is hereby given that pursuant to ss. 101.143 and 101.144, Stats., the Department of Commerce announces it will hold a public hearing on proposed rules and current emergency rules relating to Petroleum Environmental Cleanup Fund Interagency Responsibilities.

Hearing Information

April 16, 1999 **Third Flr., Conf. Rm. 3B**
Friday **201 W. Washington Ave.**
Commencing at 9:30 a.m. **Madison, WI**

Analysis of Proposed Rules

Statutory Authority: ss. 101.143 and 101.144

Statutes Interpreted: ss. 101.143 and 101.144

Under sections 101.143 and 101.144, Wisconsin Statutes, 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. In administering this fund, the Department has relied upon a Memorandum of Understanding with the Department of Natural Resources for classifying contaminated sites, disbursing funds, and addressing other statements of policy that affect the two Departments.

On September 17, 1998, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26 (2) (b), Stats., that directed the Department and the Department of Natural Resources to jointly adopt the above portions of the Memorandum of Understanding and related policy issues as an Emergency Rule. An Emergency Rule in response to that directive was adopted by the Department and became effective on January 1, 1999. Since that date, further improvements for jointly administering the PECFA fund were developed which are consistent with the JCRAR directive and which are expected to significantly mitigate the backlog of claims to this oversubscribed fund. Those improvements were adopted as another Emergency Rule on February 18, 1999, and became effective on February 23, 1999. The permanent rule proposed now is identical to the latter Emergency Rule.

Written Comments

Interested persons are invited to appear at the hearing and present comments on the proposed and emergency rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this rulemaking will remain open until **April 23, 1999**, to permit submittal of written comments from persons who are unable to attend the hearing or who wish to supplement testimony offered at the hearing.

This hearing will be held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY 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 upon request by a person with a disability.

A copy of the proposed rules may be obtained without cost from Diane Ploessl, Department of Commerce, P.O. Box 7838, Madison, Wisconsin 53707, telephone (608) 261-7726, or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Initial Regulatory Flexibility Analysis

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

The rule will impact small businesses that are or will be conducting remediations of petroleum product contaminations.

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

The provisions of the rule will not create any new record keeping or procedures for individuals conducting petroleum remediations. The rules simply codify the processes used by the Departments of Natural Resources and Commerce in their administration of the remediation efforts.

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

The rules will not require any professional skills for compliance.

Fiscal Estimate

The Department is promulgating the rule to implement new provisions in the working relationship between the Departments of Natural Resources and Commerce in the administration of the PECFA program. At this point in time, the longer term fiscal impact of these changes cannot be determined. A workload study will follow that will be completed by the two agencies after implementation and assessment of impact.

Notice of Hearing

Commerce

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

Notice is hereby given that pursuant to ss. 560.02 (4) and 560.032, Stats., the Department of Commerce announces that it will hold a public hearing on proposed rules affecting ch. Comm 113, relating to allocation of volume cap on tax-exempt private activity bonds and the emergency rule adopted on the same subject.

Hearing Information

The public hearing will be held as follows:

Date and Time:

April 12, 1999
Monday
9:00 A.M.

Location:

Conference Room 3C
201 W. Washington Ave.
MADISON, WI

This hearing is held in an accessible facility. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY 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 upon request by a person with a disability.

Analysis of Rules

Statutory authority: ss. 560.02 (4) and 560.032

Statute interpreted: s. 560.032

Pursuant to s. 560.032, Stats., the Department of Commerce is responsible for administering the allocation of annual volume cap. Several areas in the State of Wisconsin have recently experienced severe economic distress due to large plant closings which have put hundreds of Wisconsin residents out of work. As a result of two large paper mills being shut down a year ago, 1997 Wis. Act 237 created s. 560.147, Stats., authorizing the Rapid Response Fund within the Wisconsin Development Fund. The fund is part of the Rapid Response Initiative, which assists areas affected by these and future closings. Commerce is now proposing as part of this initiative a Rapid Response Set Aside within the volume cap allocation process which will enable businesses in these distressed areas to obtain the financing they need to make the necessary capital investments to create and retain jobs. The Department adopted an emergency rule making the provisions of these rules available to persons applying for this year's volume cap and is proposing to adopt these provisions as permanent rules.

These rules are amended to be consistent with s. 560.032, Stats., which no longer requires Commerce to promulgate rules for the following calendar year. Under these rules, the Department proposes to set aside 15% of the designated volume cap to be allocated for projects in areas experiencing severe economic distress. These rules propose to increase the number of volume cap allocation council members from three to five. The proposed rules require a nonrefundable application fee based on the size of the amount of the economic development bond rather than the two categories presently used. The rules also provide that any nonrefundable deposit will be retained by the Department.

Contact Information

William Wheeler, Director
Telephone: (608) 267-2045

Written Comments

Interested persons are invited to appear at the hearing and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rule-making will remain open until **April 22, 1999**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

Copies of Rule

A copy of the proposed rules may be obtained without cost from Richard Meyer, Department of Commerce, Program Development Bureau, P.O. Box 2689, Madison, Wisconsin 53701, telephone (608) 266-3080 or (608) 264-8777 (TTY). Copies will also be available at the public hearing.

Initial Regulatory Flexibility Analysis

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

The proposed rule is not expected to have any impact on small businesses except for businesses located within the state that desire to obtain the economic benefit of industrial revenue bond financing using the volume cap allocated by the Department of Commerce.

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

No special reporting and bookkeeping skills are required by these rules.

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

None.

Fiscal Estimate

The rules are being amended in accordance with s. 560.032 (1), Stats., which was recently amended to no longer require the Department of Commerce to promulgate rules for each calendar year. In addition, the rules permit up to 15% of the designated volume cap will be set aside to be allocated for projects in areas of the state experiencing severe economic distress. Other changes in the rules include increasing the members of the Volume Allocation Council from three to five, and permitting the Department to retain nonrefundable deposits. The rules are not expected to have any cost impact on local government. It is difficult to determine the amount of nonrefundable deposits that may be returned to the Department, but based on last year's experience, Commerce estimates that nonrefundable deposits could range somewhere between \$0 and \$100,000.

Notice of Proposed Rule

Financial Institutions

Division of Securities

Notice is hereby given that pursuant to secs. 551.63(1) and 551.22(1)(a), Wis. Stats., and according to the procedure set forth in Sec. 227.16(2)(e), Wis. Stats., the Department of Financial Institutions, Division of Securities will adopt the following rules as proposed in this notice, without public hearing unless, within 30 days after publication of this notice on **April 1, 1999**, the Division is petitioned for a public hearing by 25 or more natural persons who will be affected by the rules; or an association which is representative of a farm, labor, business or professional group which will be affected by the rule.

Analysis Prepared by the Department of Financial Institutions, Division of Securities

Statutory Authority: ss. 551.63(1) and (2), and 551.22(1)(a)

Statute Interpreted: s. 551.22(1)(a)

These proposed permanent rules are being promulgated to be in place upon the expiration of identical emergency rules currently in effect that were issued by Order of the Administrator of the Division of Securities on February 23, 1999, and became effective on March 1, 1999 following publication in the official state newspaper and the required filings with the Secretary of State and the Revisor of Statutes Bureau. The proposed permanent rules, as do the current emergency rules, designate an alternative accounting guideline for use of the securities registration exemption in sec. 551.22(1)(a), Wis. Stats., by Wisconsin and other state and local governmental issuers of their debt securities.

The rules are necessitated by a new accounting guideline relating to disclosures about Year 2000* issues applicable to the preparation of financial statements for governmental issuers of securities as required by Governmental Accounting Standards Board Technical Bulletin 98-1, *Disclosures about Year 2000 Issues* ("GASB TB 98-1", or "Guideline"). The existence of this issue and the need for both emergency and permanent rule treatment to assist governmental issuers was brought to the attention of the Division by representatives of Wisconsin public accounting groups and Wisconsin bond attorneys who recently learned about a Report by the American Institute of Certified Public Accountants regarding GASB TB 98-1.

As a result of that Report (and as particularized below) many Wisconsin governmental issuers would have the audit opinions for their financial statements for years ending after October, 1998, qualified with respect to disclosures about Year 2000 issues. Thus beginning in approximately March and April of 1999 and continuing through the accounting period ending 12/31/99, that new accounting Guideline would have adversely impacted the ability of Wisconsin and other state and local governmental securities issuers to continue to use on an "automatic"/self-executing basis, the existing securities registration exemption in s. 551.22(1)(a) of the Wisconsin Securities Law to offer and sell their debt securities to public investors in Wisconsin.

Over the years and to date, Wisconsin and other state and local governmental securities issuers having "full-GAAP" financial statements (e.g. prepared in accordance with generally accepted accounting principles) have been able to sell their debt securities to Wisconsin public investors in reliance on automatic use of the registration exemption in s. 551.22(1)(a), Wis. Stats., without the need for any exemption or other filing with the Division.

GASB TB 98-1 requires footnote disclosure of Year 2000 information regarding a governmental issuer's preparedness in terms of making its systems and equipment Year 2000 compliant. GASB TB 98-1 applies to financial statements dated October 31, 1998, and terminates for financial statements issued for purposes of the accounting period ending December 31, 1999, unless systems and equipment are not Year 2000 compliant as of the balance sheet date. In response to GASB TB 98-1, members of the Auditing Standards Board of the American Institute of Certified Public Accountants (AICPA) issued a Report under the title "AICPA Illustrative Reporting Guidance on Year 2000 Disclosures Made Under GASB TB 98-1, Issued October 22, 1998." That Report raised the concern that in light of the unprecedented nature of the Year 2000 issue, the required disclosures will be neither ascertainable by management nor verifiable by auditors. As a result, the AICPA strongly recommended that auditors issue qualified opinions (scope limitations) with respect to such Year 2000 issue disclosures.

Consequently, all Wisconsin and other governmental securities issuers whose financial statements would contain such qualified opinions, would not meet (in the absence of the current emergency rules and the proposed permanent rules) the "full-GAAP" financial statement requirement for automatic use of the registration exemption in 551.22(1)(a), Wis. Stats. Thus, such issuers would either have to go through a regulatory filing and review procedure with the Division prior to each offering, or would have to restrict the initial offering to be pursuant to securities law provisions that would preclude underwriters from reoffering those securities to investors in the primary and secondary markets.

In the absence of the current emergency rules and adoption of the permanent rules, governmental securities issuers would be adversely affected by the costs of making securities filings with the Division, as well as by the attendant delays of making such filings. Also, even though Year 2000 issues equivalently affect private corporate issuers of securities, because there is no counterpart to GASB TB 98-1 within the standards promulgated by the Financial Accounting Standards Board applicable to private corporate securities issuers, the additional costs and filing delays would be singularly borne by governmental securities issuers (if the emergency rules were not adopted and the proposed permanent rules are not adopted)

Finally, having a filing requirement for use of the registration exemption in sec. 551.22(1)(a) under the Wisconsin Securities Law be triggered for Wisconsin and other state and local governmental securities offerings solely because of an auditor's qualification in an audit report on the Year 2000 issue (based on a temporary accounting guideline of limited duration) would result in added regulatory filing and review processes and procedures under the Wisconsin Securities Law that would not provide any "value added" investor protection benefits.

Therefore, in similar fashion to rule-making action taken by the Division in 1994 and 1996 regarding specific governmental accounting issues which occurred at those times (involving the adoption by the Division of emergency rules followed by identical permanent rules), and for the purpose of alleviating the disruption that would occur in the borrowing/bonding plans of Wisconsin and other state and local governmental issuers that regularly claim exemption status under sec. 551.22(1)(a), Wis. Stats., for the offer and sale of their debt securities in Wisconsin, the Division, in consultation with representatives of Wisconsin accounting groups and Wisconsin bond attorneys, proposes to adopt the permanent rules set forth below. The rules designate an alternative-to-full-GAAP financial statement requirement (when the governmental issuer's financial statements are full-GAAP) where the auditor's opinion is qualified in accordance with GASB

TB 98-1 with respect to disclosures concerning Year 2000 issues. As a result of such emergency rules, those Wisconsin and other state and local governmental securities issuers affected by GASB TB 98-1 will be able to continue to rely on the "automatic" registration exemption under 551.22(1)(a), Wis. Stats., for their securities offerings.

Because this regulatory issue which has been triggered by GASB TB 98-1 has a limited "shelf life" such that the permanent rules relating to it will not be needed after the accounting period ending December 31, 1999, the permanent rules as proposed below provide for a "sunset" date that extends through the accounting period ending December 31, 1999, after which the permanent rules will no longer be effective.

*The Year 2000 problem is the result of shortcomings in electronic data-processing systems and equipment that may adversely affect operations in the year 2000 and beyond. The problem stems from the use within electronic systems and equipment of two-digit storage for calendar years. Affected and uncorrected systems and equipment may be unable to distinguish the year 2000 from the year 1900; as a result, such systems may process inaccurately or stop processing altogether.

Text of Rule

SECTION 1. DFI-Sec 2.01(1)(c)6 is created to read:

DFI-Sec 2.01(1)(c)6. The issuer's annual general purpose financial statements through the accounting period ending December 31, 1999, are prepared according to generally accepted accounting principles as provided in subd. 1., except that the auditor's opinion is qualified in accordance with governmental accounting standards board technical bulletin 98-1 concerning Year 2000 issues.

SECTION 2. DFI-Sec 2.01(1)(d)6 is created to read:

DFI-Sec 2.01(1)(d)6. With respect to par. (c)6., the financial statements are prepared according to generally accepted accounting principles, except that the auditor's opinion is qualified in accordance with governmental accounting standards board technical bulletin 98-1 concerning Year 2000 issues.

Fiscal Estimate

The proposed rules have no state fiscal effect or local government costs. A copy of the full fiscal estimate may be obtained upon request to the Department of Financial Institutions, Division of Securities, 345 West Washington Avenue, 4th Floor, P.O. Box 1768, Madison, WI 53703.

Initial Regulatory Flexibility Analysis

There is no small business impact to the proposed permanent rules because they relate solely to governmental securities issuers.

Contact Person

For additional information, or if there are questions concerning the rule proposal, contact Randall E. Schumann, Legal Counsel for the Division, Division of Securities, Department of Financial Institutions, 345 West Washington Avenue, 4th Floor, P.O. Box 1768, Madison, WI 53703. Telephone direct-dial (608) 266-3414.

Notice of Hearing

Health & Family Services

(Management & Technology, Strategic Finance, Chs. HFS 1-)

Notice is hereby given that pursuant to ss. 48.685 (4), (5), (6) (b) and (c) and (7) (a) and (b), 50.065 (1) (d) and (f), (4), (5), (6) (b) and (c) and (7) (a) and (b), 146.40 (4g) and (4r) and 227.11(2), Stats., the Department of Health and Family Services will hold a public hearing, as required by s. 227.24 (4), Stats., to consider amendments published by the Department on February 27, 1999, to existing emergency rules, ch. HFS 12, Wis. Adm. Code, relating to caregiver background checks, and ch. HFS 13, Wis. Adm. Code, relating to

reporting and investigation of caregiver misconduct and operation of a caregiver misconduct registry.

Hearing Information

April 12, 1999 **Room 751**
Monday **State Office Building**
From 10 a.m. to 2 p.m. **1 West Wilson Street**
 MADISON, WI

To get to Room 751, take any of the central elevators in the 1 West Wilson Street Building.

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building, in the Monona Terrace Convention Center Parking Ramp and in the Doty Street Parking Ramp. People with disabilities may enter the building directly from the parking lot at the west end of the building or from Wilson Street through the side entrance at the east end of the building, and take any central elevator to the 7th floor.

Analysis Prepared by the Department of Health and Family Services

Note: This hearing is only on the February 27, 1999 amendments to the chs. HFS 12 and 13 emergency rules published on October 1, 1998 and, in the case of ch. HFS 12, amended on December 12, 1998. The proposed chs. HFS 12 and 13 permanent rules, which incorporate nearly all the rule changes published on February 27, 1999, by emergency order were submitted to the Legislature for review on March 9 and 10, 1999.

The Department on October 1, 1998 published an emergency rulemaking order creating ch. HFS 12, relating to uniform procedures for checking the backgrounds of persons who apply to provide or are providing care or treatment to persons who need that care or treatment, and for barring persons because of specified convictions, findings or charges substantially related to the care of clients from operating a service provider organization, providing care or treatment to the clients of a service provider or otherwise having contact with the clients of a service provider. Chapter HFS 12 included an appendix which consisted of a list of crimes. That Crimes List was modified by emergency order published on December 12, 1998. This order, published on February 27, 1999 following the Department's public hearings on the emergency rules and the proposed replacement permanent rules, made further significant changes in the Crimes List and other parts of the ch. HFS 12 emergency rules.

The Crimes List appended to ch. HFS 12 was modified by this order to move several crimes from "permanent bar" status to "bar with rehabilitation" status, to place time limits on having to demonstrate rehabilitation for certain other crimes, to remove some crimes altogether from the Crimes List and to modify the way the Crimes List is applied to emergency medical technicians. Also in ch. HFS 12, definitions were added for "access and Department—designated tribe" and were significantly revised for "caregiver" and "under the entity's control. Indian tribes designated by the Department are permitted to conduct rehabilitation reviews for bar with rehabilitation crimes.

This order also made changes to ch. HFS 13, emergency rules for reporting caregiver misconduct and for maintenance of a caregiver misconduct registry. Those emergency rules were also initially published on October 1, 1998. Changes made in ch. HFS 13 by this order included addition of definitions for "access" and "course of conduct" and revision of definitions for "abuse," "caregiver" and "under the entity's control," and permission was given for the subject of a report to have a representative present when the subject has any contact with Department investigators.

The Department modified the chs. HFS 12 and 13 emergency rules on February 27, 1999, because of their critical importance for proper implementation of the statutory caregiver background check and caregiver misconduct reporting requirements. Those

requirements are directed at helping protect people receiving care and treatment from regulated service providers from being harmed. The rule changes, including revision of the Crimes List, with the exception of the modification of its applicability to emergency medical technicians, have been incorporated in the proposed permanent rules that will replace the emergency rules, but the replacement permanent rules will not take effect until June 1, 1999 at the earliest.

Contact Person

To find out more about the hearing or to request a copy of the February 27, 1999 amendments to ch. HFS 12 or 13, write, phone or e-mail:

Larry Hartzke
 Bureau of Quality Assurance
 P.O. Box 309
 Madison, Wisconsin 53701
 608-267-2943 or,
 if you are hearing impaired
 608-266-1511 (TTY)
 hartzlr@dhfs.state.wi.us

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 shown above. Persons requesting a non-English or sign language interpreter should contact the person at the address or phone number given above at least 10 days before the hearing. With less than 10 days notice, an interpreter may not be available.

Fiscal Estimate

This order amends chs. HFS 12 and 13, emergency rules published on October 1, 1998, and, in the case of ch. HFS 12, amended on December 12, 1998, to implement the caregiver background check requirements in ss. 48.685 and 50.065, Stats., and the reporting of caregiver misconduct and maintenance of a caregiver misconduct registry requirements in s. 146.40 (4g) and (4r), Stats.

The changes made in ch. HFS 12 by this order are mainly in Appendix A, the Crimes List. The Crimes List is set out in a more informative format; several crimes are moved from "permanent bar" status to "bar with rehabilitation" status; 5 or 10 year time limits are placed on some listed crimes so that a person convicted of a crime earlier than that would not have to demonstrate rehabilitation; and some crimes have been removed from the Crimes List altogether. There is a new definition for "access and revised definitions for "caregiver" and "under the entity's control."

The changes made in ch. HFS 13 by this order are mainly in definitions. Also, permission is given for the subject of a report to have a representative present when the subject has any contact with Department investigators.

This order may affect the number of rehabilitation review requests received by the Department, counties and school boards to review and process compared to the number they would have received under the October 1998 or December 1998 version of the ch. HFS 12. It may also affect the number of reports of alleged caregiver misconduct that have to be investigated by the Department compared to the number under the October 1998 version of ch. HFS 13. However, it is not possible to accurately estimate the number of requests and complaints received and what this means for workload and staffing needs of the Department or for local units of government. In any case, the substantial new workload involved for the Department, counties and school boards in implementing the uniform caregiver background check requirements and for the Department in implementing the reporting of caregiver misconduct requirements is the result of the new statutes.

Notice of Hearing

Commerce /Natural Resources (PECFA Interagency Responsibilities, Ch. Comm 46)

Notice is hereby given that pursuant to s. 227.26 (2) (b), Stats., interpreting ss. 101.144, 292.11 and 292.31, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. [RR-61-98 (E)] pertaining to the creation of ch. Comm 46.

Agency Analysis

This emergency order was published by the Department on March 1, 1999. Pursuant to s. 101.144 (3m), Stats., the Departments of Commerce and Natural Resources entered into a Memorandum of Understanding regarding the remediation of sites with petroleum contamination. The Department of Commerce has jurisdiction for low- and medium-priority sites, and the Department of Natural Resources has jurisdiction for high-priority sites and those with other types of contamination.

The Joint Committee for the Review of Administrative Rules (JCRAR) adopted a resolution directing the Departments of Commerce and Natural Resources to promulgate a joint emergency rule incorporating those portions of the Memorandum of Understanding related to the classification of contaminated sites. Prior to the publication of an emergency rule, the Joint Committee for Review of Administrative Rules directed the Departments to incorporate additional features into the rule. The emergency rule incorporating all the provisions required by the Joint Committee for Review of Administrative Rules was published by the Department of Commerce as ch. Comm 46 effective February 23, 1999. At its February 24, 1999 meeting, the Natural Resources Board also adopted ch. Comm 46.

Hearing Information

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

| Date and Time: | Location: |
|--|---|
| April 14, 1999 Wednesday 11:00 A.M. | Room 511, GEF #2 101 South Webster St. MADISON, WI |

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Dale Ziege at (608) 267-7533 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the emergency rule may be submitted to Mr. Dale Ziege, Bureau of Remediation and Redevelopment, P.O. Box 7921, Madison, WI 53707 no later than **April 16, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [RR-19-99 (E)] may be obtained from Mr. Ziege.

Notice of Hearings

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

Notice is hereby given that pursuant to ss. 23.33 (2) (h) and 227.11 (2) (a), Stats., interpreting ss. 350.12 (4) (b) 3. and 350.13, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 6, 8, 50 and 64, Wis. Adm. Code, relating to use of snowmobiles and ATV's (all-terrain vehicles).

Agency Analysis

The proposed rule makes changes for automated licensing procedures and snowmobile and ATV trail and enforcement administrative codes. The proposed changes clarify trail signing requirements, give flexibility on trail reimbursements for both the snowmobile clubs and the Department and clarify standards for the reimbursements of sheriff's patrols to help achieve uniformity, accountability and cost controls. The licensing changes assist the new on-line licensing procedure.

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

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

Hearing Information

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

| | |
|--|---|
| April 20, 1999 Tuesday 11:00 a.m. | Room 511, GEF #2 101 South Webster St. MADISON, WI |
| April 21, 1999 Wednesday 11:00 a.m. | Wausau Service Center 5301 Rib Mountain Dr. WAUSAU, WI |

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Tom Thoresen at (608) 266-7820 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Tom Thoresen, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707 no later than **April 30, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [LE-13-99] and fiscal estimate may be obtained from Mr. Thoresen.

Fiscal Estimate

There is no anticipated fiscal impact of the proposed changes.

Notice of Hearing

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

Notice is hereby given that pursuant to ss. 29.014 and 227.11, Stats., interpreting ss. 29.014, 29.331 and 29.865, Stats., the Department of Natural Resources will hold a public hearing on revisions to chs. NR 10, 15 and 19, Wis. Adm. Code, relating to changes in hunting and trapping regulations.

Agency Analysis

The proposed rule changes are minor in nature and involve corrections, removal of archaic regulations, improving hunting and trapping opportunities and clarification of existing rules. The proposed rules:

1. Clarify possession limits for otter and fisher trapping.
2. Allow a Class A or B disabled hunting permit holder to skin and quarter a deer in the field prior to taking the deer into the registration station.
3. Clarifies that the "one-half submerged" requirement for killer traps and snares only applies to set traps and not sprung traps.
4. Defines "lawfully placed trap" used in s. 29.13 (5) (a), Stats., as the initial placement of the trap by the owner or operator of the trap.
5. Removes the requirement for DNR-constructed waterfowl blinds on the Bong State Recreation Area.
6. Shortens the length of no entry status on certain wildlife refuges, rookeries and special areas.
7. Removes "shooting preserve" language from ch. NR 19 and replaces it with "pheasant and quail farms".

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

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

Hearing Information

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

| | |
|-----------------------|------------------------------|
| April 13, 1999 | Room 514, GEF #2 |
| Tuesday | 101 South Webster St. |
| 1:00 p.m. | MADISON, WI |

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Lisa Johnson at (608) 264-8528 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Lisa Johnson no later than **April 15, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WM-2-99] and fiscal estimate may be obtained from Ms. Johnson.

Fiscal Estimate

The waterfowl hunting proposal will decrease costs by reducing time spent by wildlife managers repairing the blinds each year. This decrease of approximately 135 work hours (135 hours x 22.69/hour = \$3,063) and \$150 for materials and equipment would result in an overall decrease in costs totaling \$3,213.

The wildlife refuge proposal would require new sign production and posting at all sites. The increase in Department costs would include workload (22.69/hour x 40 hours=\$907) and the sign costs (200 signs x \$2.50/sign= \$500), totaling \$1,407.

The DNR does not anticipate that the rule proposals regarding trapping, disabled deer hunting, or shooting preserves will result in an increase or decrease in revenues or expenditures.

There are no local government costs anticipated due to the provisions of this bill.

Notice of Hearing

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.039 and 227.11 (2) (a), Stats., interpreting s. 29.039, Stats., the Department of Natural Resources will hold a public hearing on revisions to s. NR 19.27 and the creation of s. NR 19.26, Wis. Adm. Code, relating to regulating the harvest, possession and sale of native amphibians, lizards and snakes which are not listed as threatened or endangered.

Agency Analysis

The proposed rule limits the harvest and possession of all native amphibians, lizards and snakes to 5 of each species, with 3 exceptions. Three amphibians (leopard frogs, mudpuppies and tiger salamanders) will be allowed to be harvested and possessed without limit. Bullfrogs may be imported and sold without limit for research only. No sale of bullfrogs collected in Wisconsin will be allowed. All persons harvesting more than 5 of any of these 3 amphibians will be required to obtain a permit for this activity, as will people importing and selling bullfrogs. The possession limit for bullsnakes will be 2.

Initial Regulatory Flexibility Analysis

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

- a. Types of small businesses affected:
Biological supply houses and pet houses.
- b. Description of reporting and bookkeeping procedures required:

All businesses wishing to sell, barter or trade bullfrogs, leopard frogs, mudpuppies and tiger salamanders will be required to maintain accurate records and submit these records to the Department annually.

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

Environmental Assessment

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

Hearing Information

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

| | |
|-----------------------|------------------------------|
| April 15, 1999 | Room 027, GEF #2 |
| Thursday | 101 South Webster St. |
| 5:00 p.m. | MADISON, WI |

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Robert Hay at (608) 267-0849 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Robert Hay, Bureau of Endangered Resources, P.O. Box 7921,

Madison, WI 53707 no later than **April 30, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [ER-60-98] and fiscal estimate may be obtained from Mr. Hay.

Fiscal Estimate

The Endangered Resources program costs associated with this rule are estimated at \$1,000 annually in order to administer the permit process for commercial amphibian sales. The DNR anticipates selling approximately 20 permits annually.

Notice of Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 29.014 and 227.12, Stats., interpreting ss. 29.014 and 29.314, Stats., the Department of Natural Resources will hold public hearings on the amendment of s. NR 20.09 (2), Wis. Adm. Code, relating to bow fishing hours on inland lakes during the rough fish spearing season.

Agency Analysis

The proposed rule extends the hours for rough fish spearing by authorizing the possession and use of a bow and arrow only for spearing rough fish at any time on inland lakes during the open rough fish spearing season.

Initial Regulatory Flexibility Analysis

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

Environmental Assessment

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

Hearing Information

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

April 27, 1999
Tuesday
6:00 p.m.

Wausau Mtg. Room
Marathon Co. Public Library
300 North First St.
WAUSAU, WI

April 28, 1999
Wednesday
6:00 p.m.

Large Conference Room
South Central Region Office
3911 Fish Hatchery Rd.
FITCHBURG, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Tim Simonson at (608) 266-5222 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Tim Simonson, Bureau of Fisheries Management and Habitat Protection, P.O. Box 7921, Madison, WI 53707 no later than **April 30, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the

proposed rule [FH-17-99] and fiscal estimate may be obtained from Mr. Simonson.

Fiscal Estimate

The Bowfishing Association of America (BAA) has petitioned the Department to allow bowfishing at all times during the open season in the south, more restrictive, closed seasons in the central part of the state, and no open season in several counties in the north. The Bureau of Fisheries Management and Habitat Protection does not have biological concerns with this proposal. The Bureau of Law Enforcement has reservations with this proposal because it may provide additional opportunities for illegal activities (e.g., spearfishing gamefish), and it may initially result in increased numbers of complaints from lakeshore property owners who are disturbed by night-time activities of bowfishing enthusiasts.

The rule being promulgated is based on biological and sociological findings and public comments and will have no adverse impact on the fisheries of the state. This proposal contains rule changes approved by the Natural Resources Board and it will have no fiscal impact on either state or local units of government.

The following assumptions were made in order to arrive at the fiscal estimate for this rule change:

1. The proposed rules do not affect relations with local units of government or other state agencies.
2. No liability or revenue fluctuations are anticipated.
3. No additional staffing is required by state or local units of government.
4. DNR law enforcement personnel will enforce these rules during the normal course of their duties.
5. No fee collection is involved with these rules.

Fiscal impact:

None.

Notice of Hearings

Natural Resources

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

Notice is hereby given that pursuant to ss. 227.11 (2) (a) and 285.11 (1), Stats., interpreting s. 285.11 (6), Stats., and revising the State Implementation Plan under that provision, the Department of Natural Resources will hold public hearings on revisions to ch. NR 439, Wis. Adm. Code, relating to volatile organic compound (VOC) capture efficiency test methods.

Agency Analysis

The proposed order adopts the 204 series of volatile organic compound capture efficiency test methods. Capture efficiency is a measure of the amount of VOC applied to a process compared to the amount of VOC delivered to the control device. These methods have been developed by the U.S. EPA to increase the accuracy of capture efficiency determinations. The proposed order also allows some flexibility in the frequency of capture efficiency testing through the repeal of s. NR 439.07 (8) (L) and the allowance for Department discretion in the similar language created in s. NR 439.06 (3) (am).

Initial Regulatory Flexibility Analysis

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

- a. Types of small businesses affected:
Printing industry and the paper and can coating industry.
- b. Description of reporting and bookkeeping procedures required:

No new procedures; however, the proposed methods require a temporary or permanent total enclosure constructed around a VOC source.

- c. Description of professional skills required:

No new skills; however, the proposed methods are more complex.

Environmental Assessment

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

Hearing Information

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

April 22, 1999
Thursday
10:30 a.m.

Room 1, 3rd Floor
Outagamie Co. Adm. Bldg.
410 South Walnut St.
APPLETON, WI

May 3, 1999
Monday
10:30 a.m.

Room 141
DNR Southeast Region Hdqrs.
2300 N. Dr. M. L. King, Jr. Dr.
MILWAUKEE, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Joe Perez at (608) 266-8401 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Joe Perez, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **May 13, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearings.

Copies of Rule

A copy of the proposed rule No. [AM-53-98] and its fiscal estimate may be obtained from:

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Phone: (608) 266-7718
FAX: (608) 267-0560

Fiscal Estimate

Summary of rule:

New volatile organic compound (VOC) capture efficiency test methods mandated by U.S. EPA are incorporated by reference for s. NR 439.06 (3). The methods involved are Methods 204 to 204F, and two sets of statistical criteria allowing the use of alternate capture efficiency test methods (the data quality objective method and the lower confidence limit method), which have been promulgated by EPA in 40 CFR part 51, Appendix M.

Fiscal impact:

No fiscal impact on state or local government is expected. The time Department Regional engineers spend witnessing VOC emission testing with the new capture efficiency test methods in place is not expected to differ significantly from the time spent witnessing VOC emission testing with current methods.

Long-range fiscal implications:

No long-range fiscal implications are expected.

Notice of Hearing

Natural Resources

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

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

Agency Analysis

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

Under the current rule, the final phase of emission limitations in Table 1 of s. NR 485.04, Wis. Adm. Code, is scheduled to take effect on December 1, 1999. This final phase implements more restrictive emission limitations only for the following categories: model year 1980 to 1986 light-duty vehicles (passenger cars); 1984 to 1986 light-duty trucks; and 1979 to 1986 heavy-duty trucks. For all other vehicles, the emission limitations in the final phase are identical to the emission limitations currently in effect in the "next-to-final phase" of the rule.

The proposed rule will repeal the final phase of emission limitations in the current rule and indefinitely extend the time period covered by the next-to-final phase of the rule currently in effect.

The proposed rule will also revise some of the fast-pass emission limitations in Table 3 of s. NR 485.04, Wis. Adm. Code, to reflect the most recent U.S. Environmental Protection Agency technical guidance.

Initial Regulatory Flexibility Analysis

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

a. Types of small businesses affected:

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

b. Description of reporting and bookkeeping procedures required:

No new procedures.

c. Description of professional skills required:

No new skills.

Environmental Assessment

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

Hearing Information

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

April 16, 1999
Friday
1:00 p.m.

Room 140/141
DNR Southeast Region Office
2300 N. Dr. M. L. King, Jr. Dr.
MILWAUKEE, WI

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Christopher Bovee at (608) 266-5542 with specific

information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Christopher Bovee, Bureau of Air Management, P.O. Box 7921, Madison, WI 53707 no later than **April 26, 1999**. Written comments will have the same weight and effect as oral statements presented at the hearing.

Copies of Rule

A copy of proposed rule No. [AM-16-99] and its fiscal estimate may be obtained from:

Proposed Rules
Bureau of Air Management
P.O. Box 7921
Madison, WI 53707

Phone: (608) 266-7718
FAX: (608) 267-0560

Fiscal Estimate

The proposed rule is not expected to have a fiscal effect on either state government or local governments. Since the proposed rule relaxes the cutpoints for December 1, 1999, and later for certain categories of older vehicles, after November 30, 1999, fewer older vehicles would fail the I/M inspection under the proposed rule than under the current rule. For example, during the two-year period of December 1999 through November 2001, about 11,000 fewer vehicles are projected to fail under the proposed rule than under the current rule; however, this reduction in failures is not expected to change the state's cost for administering the I/M program. Also, since very few, if any, vehicles owned by state or local governments are in the 1979 to 1986 model year range, the proposed rule is not expected to reduce the costs expended by state or local governments to repair the vehicles that fail the I/M inspection.

Long-range fiscal implications:

None anticipated.

Notice of Hearing Public Service Commission

Notice is hereby given that the Commission will hold a public hearing on a proposed revision to chs. PSC 2, 12, 100, 164 to 166, 174 and 176, relating to telecommunications and: miscellaneous rule wording changes, abandonment of facilities and services by a utility, agreements with affiliates, issuance of securities, mergers and other reorganizations, and nondiscrimination in the **Amnicon Falls Hearing Room, at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on April 12, 1999 at 1:30 P.M.** This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02(1) and (3), 196.215(5)(b)2., 196.219(3)(h), and 227.11(2)

Statutes interpreted: ss. 184.15, 196.20(1m), 196.204, 196.215(5)(b), 196.219, 196.52, 196.525, 196.79, 196.805, and 196.81

Related federal statutes and regulations: 47 USC 251, 252 and 272; and 47 CFR 32 and 64.

The material in this rule packet can be broken down into three main categories. The first category is clarifying reorganization and miscellaneous wording changes made necessary by 1993 Wis. Act 496. The second category is abandonment of facilities and

discontinuance of service by telecommunications utilities. The third category is financial-related matters such as transactions between telecommunications utilities and their affiliates, security issuances, and reorganizations or mergers. Details concerning each of these categories follows.

Miscellaneous Wording Changes and Reorganization

1993 Wis. Act 496 included miscellaneous changes which made language changes in various administrative rules necessary. For example, s. 196.595(1)(c), Stats., regarding advertising practices no longer includes telecommunications utilities in the statutory definition of "public utility" so a change is necessary in the rule which implements that statute. Additionally, language is updated to use the term "telecommunications" instead of "telephone" and cross-references are revised. Finally, some clarifying reorganization is done.

Provisions in this rule packet:

- Revise s. PSC 12.02(3) to exempt telecommunications utilities from the advertising rules, thereby conforming to the statute.
- Remove the reference to telecommunications utilities in ch. PSC 100 (Affiliated Transactions) and provides a cross-reference to the new ch. PSC 176, which specifically addresses such transactions in the telecommunications industry.
- Reorganize the administrative code by moving procedures for rate changes by small telecommunications companies from ch. PSC 164 (Filing of Information by Telephone Companies) to ch. PSC 174 (Small Telecommunications Utility). Also moves a provision on the maintenance of records about discounted rates to employees from ch. PSC 164 (Filing of Information by Telephone Companies) to ch. PSC 165 (Standards for Telecommunications Service) where other provisions about records which companies should keep are found.

Abandonment of Facilities and Discontinuance of Service

1993 Wis. Act 496 changed the requirements related to the discontinuance of service by a telecommunications utility (s. 196.20 and s. 196.81, Stats.), but did not change the requirements associated with the abandonment of facilities (s. 196.81, Stats.).

Section 196.20(1m)(b), Stats., provides notice requirements for discontinuance of any service by a telecommunications utility without specifying how much notice is required. (However, the Commission must determine whether the discontinuance is authorized under the statutes within 30 days.) Section 196.20(1m)(d), Stats., provides that the Commission will determine when and under what conditions a telecommunications utility may discontinue basic local service, basic intrastate long distance service, or any element of universal service. In a slightly different vein, s. 196.499(4), Stats., requires 60 days prior notice for discontinuance of basic intrastate long distance service by telecommunications carriers (long distance providers who do not provide basic local service, except as resellers).

Provisions in this rule packet:

- Move the Commission rules relating to abandonment of facilities from s. PSC 2.71 to new s. PSC 165.11, which is located in a chapter that deals exclusively with telecommunications, in order to separately discuss the abandonment of facilities and the discontinuance of services. Despite certain wording and structural changes, except for the portion which provides for a hearing through the submission of written documents, no substantive changes are intended by the movement or re-wording of ss. PSC 165.11(1), (2), and (3)(a)2.
- Reiterate the Commission's authority over abandonment of facilities and clarifies that the public interest standard is evaluated under s. 196.03(6), Stats.
- Provide that a hearing concerning abandonment of facilities may involve personal testimony or written documents, or both.
- Provide additional options under which the Commission may dispense with a hearing associated with the abandonment of facilities. The additional options are:

- When there are no actual or known potential customers in the area served by the facilities.
- When there are duplicate facilities capable of providing the same services in the area served by the facilities.
- When there are no objections within a certain period after a notice mentioning the possibility of waiver is mailed or if the Commission finds that exceptional circumstances exist.
- Clarifies when the abandonment procedures apply.
- Clarifies that if a utility no longer provides services using its own facilities because it sold those facilities, it may be required to acquire facilities in the future to continue providing services. In particular, this clarification is made to address a possible sale–leaseback scenario where a utility sells its facilities and provides services using leased facilities.
- Move the Commission rules relating to the discontinuance of any telecommunications service from s. PSC 2.71 to new s. PSC 165.12, which is in a chapter that deals exclusively with telecommunications.
- Require advance notice of service discontinuance to affected customers and provision of the proposed notice to the Commission in advance of issuance. This advance notice allows the Commission to assure uninterrupted provision of any element of universal service and to prepare to answer questions about the discontinuance.
- List the information to be included in notices. This includes a description of the service, identification of available replacement services and contact names at the utility and the Commission.
- Collect the information necessary to determine if the service discontinuance is authorized under the statutes.
- Provide a cross–reference to ss. PSC 160.13 and PSC 160.14 which relate to the discontinuance of basic local service, basic intrastate long distance service or any element of universal service.

Financial Related Matters

General Considerations

As a result of 1993 Wis. Act 496, the Commission has multiple avenues for certifying providers of telecommunications services. In general, incumbent providers retain their certification according to s. 196.50, Stats., and are subject to all provisions of ch. 196 and ch. 184, Stats. However, under partial deregulation or alternative forms of regulation, the Commission can suspend numerous provisions of law for particular utilities. Additionally, alternative telecommunications utilities, certified under s. 196.203, Stats., are exempt from all provisions ch. 196 and ch. 184, Stats., unless the Commission determines that the public interest requires the imposition of identified provisions. Finally, telecommunications carriers (long distance providers) certified under s. 196.499, Stats., are only subject to certain identified provisions.

Accordingly, the applicable provisions of the statutes can change from utility to utility. To reflect this, most of these rules identify that they are applicable only to entities subject to certain named statutes. Each entity will have to look to the provisions of its certification and other orders of the Commission, such as partial deregulation orders, to determine whether or not various parts of the rules apply to that entity.

Affiliated Agreements

As a result of 1993 Wis. Act 496, s. 196.52(3)(b), Stats., provides that prior Commission approval is no longer required for telecommunications utilities to enter into agreements with affiliates. However, telecommunications utilities are still required to file such affiliated agreements with the Commission and the agreements are subject to the Commission's supervisory jurisdiction to limit cross–subsidization and prohibit discrimination.

Additionally, according to s. 196.525, Stats., telecommunications utilities may now lend funds to affiliates, officers, and directors. Previously, these loans were prohibited except for under very limited circumstances that were to be specified in Commission rules. Since these loans involve agreements

between affiliated entities and persons, the s. 196.52, Stats., affiliated interest provisions also apply.

Provisions in this rule packet:

- Create a new ch. PSC 176 applicable only to telecommunications utilities: Subchapter One creates definitions and allows limited and temporary variance from the rules by the Commission; Subchapter Two covers transactions between telecommunications utilities and affiliates; Subchapter Three covers the issuance of securities; Subchapter Four covers reorganizations, consolidations, mergers and acquisitions; and Subchapter Five covers discrimination.
- Clarify in definitions that, while allowable, any loans to officers or directors are also arrangements with affiliates and are therefore subject to notice requirements as well as cross–subsidy and discrimination supervision.
- Require that agreements be in writing or be reduced to a written description, with a limited exception for services provided pursuant to tariffs or Commission approved agreements. This exception does not apply if the details of the agreement make it appear that the service will only be used by the affiliate.
- Identify which agreements must be automatically filed with the Commission based on the size of the utility and the dollar value of the agreement, and requires that other agreements or information be available upon request.
- Require agreements that must be filed automatically to be filed within 30 days after the agreement becomes effective.
- Identify the information to be filed. This includes the terms of the agreement such as methods used to determine transfer pricing, methods used to allocate costs, and identification of the parties to the agreement.
- Require certification that the valuation of transactions in the agreement is in accordance with one of five listed methods. Utilities are also given the option of identifying why none of the five listed valuation methods are used. The listed valuation methods parallel the Federal Communications Commission (FCC) rules in 47 CFR 32.27, although some specifics are slightly different. The differences are:
 - The federal rules do not require that when valuation is based on a tariff or interconnection agreement, there must be at least one nonaffiliated subscriber under the tariff or one nonaffiliated individual contract with the same terms as the interconnection agreement. However, the rule language prevents a distortion in the valuation due to the tariff (for example) being so narrow that the affiliate will be the only subscriber.
 - The federal rules use the terms “services” and “assets” while this rule refers only to “transactions.” Use of this term is to clarify that both tangibles and intangibles are included. While this language is considered to be equivalent to the federal language, it was used to avoid confusion over the inclusion of intangibles.
 - The federal rules exempt companies that use average schedules rather than actual costs from using these valuation methods for federal purposes. However, these companies are still subject to the Commission's supervisory jurisdiction.
 - The federal rules do not allow use of a different valuation method and an explanation of why one of the listed methods was not used. However, the rule language allows additional flexibility to the industry and prevents differences between what must be reported to the federal government and what must be reported to the state since it would allow the use of a future federally approved valuation method without requiring an amendment to this rule.
 - Require a statement that a good faith determination of fair market value was made when that is all or part of the basis for a valuation. This requirement parallels FCC rules in 47 CFR 32.27 (b) and (c).
 - Provide a list of types of transactions identified as having a greater risk for cross–subsidy or discrimination and requires an officer to identify if the agreement allows any of those types of transactions. The rule also allows for explanations as to why the officer believes the agreement complies with cross–subsidy and nondiscrimination requirements, even if it does allow those types of transactions.

- List some of the issues the Commission may consider when reviewing information about agreements with affiliates. These issues include economies of scale and scope, separation costs, the relative size of the telecommunications utility and the potential for cross-subsidy or discrimination based on the type of activity.

Securities and Reorganizations, Consolidations, Mergers, and Acquisitions

As a result of 1993 Wis. Act 496, "telecommunications utilities" were removed from the definition of public service corporations which must obtain prior Commission approval before issuing any securities. However, s. 184.15, Stats., created Commission notice requirements for certain telecommunications utilities that issue securities, provides for monitoring of the capital structure of certain telecommunications utilities, and describes some circumstances under which the Commission may consider restricting a telecommunications utility's ability to pay dividends.

Likewise, changes were made as to Commission authority over reorganizations, in s. 196.79, Stats., and consolidations, mergers, and acquisitions, in s. 196.80 and s. 196.805, Stats. Prior approval of reorganizations, consolidations, mergers, and acquisitions is no longer required, but is replaced with notification requirements related to the Commission's continuing supervisory jurisdiction over such transactions.

Finally, s. 196.215(1)(am), Stats., was revised to define an "equity thin" utility on the basis of its total capital and s. 196.215 (5) (c), Stats., was revised to define "building capital" on the basis of total capital. Both definitions are used for determining whether the Commission or consumers may initiate a rate review for a small telecommunications utility. Section PSC 174.01(2), which establishes the target rate of return used in rate reviews and which was formerly based on a utility capital basis, is revised to match the statutory provisions and reflect the calculation of the target earnings on a total capital basis rather than a utility capital basis. Revisions to that chapter are merely to clarify and conform to the statute. No review of other issues or consideration of other changes occurred.

Provisions in this rule packet:

- Establish security issuance reporting requirements for telecommunications utilities subject to rate of return regulation. The information collected will allow monitoring of capital structure, and review for possible cross-subsidy and discrimination issues.

- Collect information concerning whether the securities issued were associated with a government sponsored loan program. This information relates to the Commission's supervisory jurisdiction as a telecommunications utility's capital is less likely to be impaired even with high levels of debt if the interest rate on the debt is very low and if relatively easy repayment terms exist (as are typically associated with government sponsored loan programs). In the converse, where the securities are used for purposes which have uncertain or more risky revenue or expenses associated with them, only smaller levels of debt can be safely handled.

- Explain the Commission's authority and process concerning security issuances.

- Clarify that while some telecommunications utility security issuances are not subject to the filing requirements of this section, the Commission can still obtain information regarding those security issuances in order to meet its supervisory obligations.

- Establish filing requirements related to reorganizations, consolidations, mergers, and acquisitions. Collects information regarding how the transaction was structured, the associated accounting treatment, the legal entities involved, their certification status, and whether services will be continued.

- Explain the Commission's authority and process concerning such transactions.

- Revise s. PSC 174.01(2) to reflect calculation of target earnings on a total capital basis, thereby conforming to the statute.

- Revise s. PSC 174.01(1) to indicate that the target rates of return calculated under that section are not binding on any other earnings or revenue requirement calculations or evaluations performed by the Commission.

Consumer Protection

As a result of 1993 Wis. Act 496, s. 196.219, Stats., concerning the protection of telecommunications consumers, was created. In particular, s. 196.219(3)(h), Stats., prohibits a telecommunications utility or any other telecommunications provider from giving preference to or discriminating in favor of its own retail department or the retail department of an affiliate in the provision of regulated services. This prohibition applies to the extent prohibited by the FCC or by rules established by this Commission. After Act 496 was passed, the federal Telecommunications Act of 1996 was enacted and includes both similar and additional nondiscrimination requirements.

Provisions in this rule packet:

- Clarify what will be considered a retail department.
- Clarify that each act of providing an service, product or facility must be in compliance with federal and state statutes and regulations, FCC orders, and Commission orders in effect at the time they are actually provided.

Text of Proposed Rules

SECTION 1. PSC 2.71 is amended to read:

PSC 2.71 Abandonment or discontinuance of public utility service. No abandonment or discontinuance of facilities or service of gas, electric, telephone, or water utilities shall be made without commission authority (s. 196.81, Stats.). A hearing will be held upon an application to abandon or discontinue service or facilities except in cases where it is accompanied by a map indicating location of facilities to be abandoned or facilities from which service is to be discontinued as well as all service locations thereon and a statement that all actual or potential subscribers or consumers have either consented to or waived objection to such abandonment or discontinuance. If such information is furnished, the commission may dispense with a hearing. See ss. PSC 165.11 and 165.12 for rules regarding abandonment of telecommunications facilities and discontinuance of telecommunications services.

SECTION 2. PSC 2.72 (intro.) is amended to read:

PSC 2.72 Sale of utility; reports; assessments. In all cases where the purchase and sale of a complete utility property involves an abandonment of service and the dissolution of the selling utility, it shall be a condition to the commission's approval of the purchase of such utility property, where commission approval is applicable, that the purchasing utility shall assume the following obligations of the selling utility and shall be responsible:

SECTION 3. PSC 2.72(2) is amended to read:

(2) For all charges which are due or may become due from the selling utility under the provisions of s. 196.85 (2)(a), Stats., relating to the current part-year public utility operations;

SECTION 4. PSC 12.02(4) is amended to read:

(4) "Public utility" has the meaning ~~set forth~~ given in s. 196.595(1)(c), Stats. "Public utility" does not include a sewer or water service, or a cooperative association organized under ch. 185, Stats., or a telecommunications utility.

SECTION 5. PSC 100.01(title) is amended to read:

PSC 100.01 (title) ~~Person defined.~~ Definitions.

SECTION 6. PSC 100.01(intro.) is created to read:

PSC 100.01(intro.) In this chapter:

SECTION 7. PSC 100.01 is renumbered PSC 100.01(1) and amended to read:

(1) ~~Under s. 196.52 (2), Stats., the term "person" includes trustees, lessees, holders of beneficial equitable interest, voluntary associations, receivers and partnerships. "Person" has the meaning given in s. 196.52(1), Stats.~~ This definition should be observed in filing information in response to this order.

SECTION 8. PSC 100.01(2) is created to read:

(2) "Public utility" has the meaning given in s. 196.01(5), Stats., but does not include a telecommunications utility.

Note: Rules for transactions between a telecommunications utility and an affiliate are in ch. PSC 176.

SECTION 9. Chapter PSC 164(title) is repealed.

SECTION 10. PSC 164.01(title) and 164.01 are renumbered PSC 165.035(title) and 165.035 and amended to read:

PSC 165.035 Filing of information. Discounted rates or free services to employes, pensioners and officers. Any public telecommunications utility engaged in furnishing telephone service which determines to furnish service to its employes, pensioners, and officers at no charge or at charges less than those prescribed in its published schedules or tariffs, as provided in s. 196.60 (2), Stats., as amended by ch. 499, laws of 1963, shall maintain, and render to inform the public service commission of Wisconsin as hereinafter prescribed of upon request, records regarding the conditions and circumstances under which it the service will be furnished.

SECTION 11. PSC 164.02 is repealed.

SECTION 12. PSC 164.03 and 164.04 are renumbered PSC 174.02 and 174.03.

SECTION 13. PSC 165.02(14m) is created to read:

(14m) "Known potential customers or subscribers" means those customers or subscribers who have pending service requests for a telecommunications service.

SECTION 14. PSC 165.02(19g) is created to read:

(19g) "Responsible officer" means an officer of the legal entity who has the authority to perform the action at issue.

SECTION 15. PSC 165.10(4) is amended to read:

(4) If a telecommunications utility proposes the exclusive nonutility merchandising of a service or product being provided under tariff, the commission shall ~~tre~~ consider the filing as a proposal for ~~abandonment~~ discontinuance of service pursuant to s. ~~196.81~~ 196.20 (1m), Stats., and subject to s. PSC 165.12. (~~See also s. PSC 2.71~~).

SECTION 16. PSC 165.11 and 165.12 are created to read:

PSC 165.11 Abandonment of telecommunications facilities. (1) As provided in s. 196.81, Stats., no telecommunications utility may abandon telecommunications facilities without prior commission approval.

(2) Except as provided in sub. (3), a hearing shall be held concerning any application to abandon facilities. In this section, "hearing" means a process including personal testimony or written comments, or both, that provides the opportunity to present evidence and to rebut or offer countervailing evidence.

(3) The commission may waive a hearing if no one objects within 20 days of the date on which a notice of investigation mentioning the possibility of hearing waiver is mailed by the commission. If any objection to waiver is raised, the commission may still waive a hearing if it finds that exceptional circumstances warrant the waiver, or if it finds that the application to abandon facilities includes both (a) and (b) below.

(a) A map indicating the location of facilities to be abandoned and the area served by those facilities, and a statement by a responsible officer that:

1. The applicant utility has no existing or known potential customers or subscribers in the area served by the facilities;

2. All of the applicant utility's existing or known potential customers or subscribers in the area served by the facilities have either consented to or waived objection to such abandonment; or

3. Duplicate facilities capable of providing the current services are available to provide those services in the area served by the facilities to be abandoned; and

(b) Any additional information the commission determines is necessary to decide whether to waive a hearing.

(4) This section applies when facilities are totally removed from service or when a utility sells facilities to an entity that is not subject to ss. 196.20, 196.204, 196.219 and 196.81, Stats. If the selling utility continues to provide the same services in the area served by the facilities that it provided before the sale but is not using its own facilities to do so, it bears the continuing obligation to provide any services which are not authorized to be discontinued under

s. 196.20(1m), Stats., including the duty, as necessary, to acquire or build facilities or to take any other steps necessary to continue to provide such services. If the selling utility will not continue to provide the same services in the area served by the facilities that it provided before the sale, the service discontinuance is subject to s. 196.20(1m), Stats., and s. PSC 165.12.

(5) This section does not apply to routine upgrades and plant replacements.

(6) The commission may not approve a request by a telecommunications utility to abandon a right-of-way unless the requirements of s. 196.81(2), Stats., are met.

(7) Pursuant to s. 196.81(1), Stats., in granting its approval of an application to abandon facilities, the commission may impose any term, condition, or requirement it deems necessary to protect the public interest as determined under s. 196.03(6), Stats.

PSC 165.12 Discontinuance of a telecommunications service.

(1) In order to discontinue a telecommunications service to an exchange or part of an exchange under s. 196.20(1m)(a), Stats., a telecommunications utility shall:

(a) Not less than 30 days before the effective date of the discontinuance, notify each affected customer subscribing to the service about the service discontinuance by means of a bill insert over one complete billing cycle, using the utility's usual insertion and mailing procedures. If customer bills are not rendered monthly in envelopes, or as an alternative to a bill insert, the utility may furnish the information to customers by a special mailing or by a message in the information portion of a bill;

(b) Not less than 30 days before the effective date of the discontinuance, publish a notice of service discontinuance in the daily or weekly newspaper having the greatest general circulation within the affected exchange or part of an exchange;

(c) File with the commission:

1. Not less than 21 days before providing the notices in pars. (a) and (b), a copy of any notice of service discontinuance proposed for issuance or publication pursuant to this subsection, and any information that the utility believes is necessary in order for the commission to assess the adequacy of any notice, including but not limited to:

a. A statement as to whether the utility considers this service to be a basic local exchange service, a basic message telecommunications service or an element of universal service;

b. The reason for the service discontinuance; and

c. The number and class of customers affected;

2. Not more than 10 days after the effective date of the service discontinuance, an affidavit of compliance with this subsection; and

3. On or before the effective date of the service discontinuance, the necessary tariff amendments.

(d) Provide any additional notice required by the commission to ensure complete and adequate notice of the service discontinuance. If such additional notice is required and the commission finds that it is warranted under the circumstances, the commission may require delay of the effective date of the service discontinuance. Such a delay cannot be for more than 30 days following the date on which the additional notice is provided.

Note: In order to avoid delays, the commission encourages telecommunications utilities to file notices well in advance of the initial issuance or publication date so that the commission can determine whether any additional notice is required.

(2) Any notice of service discontinuance mailed to customers or published in a newspaper pursuant to sub. (1) shall include at least the following:

(a) A description of each service to be discontinued and of any replacement service offered or to be offered in the area by the telecommunications utility discontinuing the service or any other telecommunications provider, whether the replacement service is the same as or similar to the service to be discontinued;

(b) Identification of the exchange or part of the exchange to which the described service will be discontinued; and

(c) The name and address of the telecommunications utility providing notice, the name, title, phone number and facsimile

number of a contact person at the utility, the commission's mailing address, the telephone number and e-mail address of a contact person named by the commission staff, and a statement that questions or comments may be directed to the utility or to the commission representative;

Note: Utilities should call the telecommunications division to obtain the name of the appropriate contact person for a particular notice.

(3) Notwithstanding the notice requirements under sub. (1), the commission may shorten the notice requirements if exceptional circumstances warrant such a change.

(4) Pursuant to s. 196.20(1m)(c), Stats., within 30 days after the date of publication of the notice, the commission may, on its own motion or on the application of any person, including other telecommunications providers, initiate an investigation to determine if the service discontinuance is authorized under s. 196.20(1m), Stats. Following a hearing, the commission may order continued provision of any service not authorized to be discontinued.

(5) The commission shall determine when and under what conditions a telecommunications utility may discontinue basic local exchange service, basic message telecommunications service, or any element of universal service to an exchange or part of an exchange. A proposal to discontinue any such service is also subject to s. PSC 160.13 or s. PSC 160.14, or both.

Note: PSC 160.13 and 160.14 may require a 60-day notice rather than the 30-day notice required under this section.

A proposal by a telecommunications carrier to abandon basic message telecommunications service to an exchange or part of an exchange is subject to s. 196.499, Stats., and s. PSC 160.14, which require a 60-day notice.

SECTION 17. PSC 166.07 is amended to read:

PSC 166.07 Accompanying statement. All maps filed with the commission shall be accompanied by a statement of undertaking to serve on a sheet 8 1/2 x 11 inches in size in the following form:

"The attached map, dated _____, delineates the boundary and territory of the _____ exchange in which the _____ ~~Telephone Company~~ telecommunications utility now serves and will serve the public. The ~~Telephone Company~~ telecommunications utility undertakes, subject to its extension rules and filed tariffs, to make extensions of its lines and service at any time when such service may be requested or demanded by any person located within such territory as designated on such map.

"The _____ Telephone Company will not extend its lines and service beyond the territory and exchange boundary defined on the attached map, except

- (a) to serve persons located in the territory designated as open on such map.
- (b) to continue service to customers presently located in foreign exchange territory as indicated on such map.

"Nothing in this undertaking is intended to limit the power of the Public Service Commission to direct the furnishing of service where the same is found to be required to meet the demands of public convenience and necessity."

By _____
 Dates: _____

SECTION 18. PSC 174.01(1) and (2) are amended to read:

(1) Method of calculation. The target rate of return for a small telecommunications utility for purposes of establishing a rate of return range under s. 196.215(5)(b)3., Stats., shall be calculated by adding Moody's average of yields on Baa public utility bonds, expressed in percent, to the base percentage set in sub. (2). Nothing in this section is intended to prohibit the commission from using a capital structure or a rate of return different from what is shown in or calculated under this section when determining the appropriate revenue requirements or evaluating the earnings levels for a small

telecommunications utility for purposes other than s. 196.215(5)(b)3., Stats.

(2) Percentages. The percentage to be used for calculating the target rate of return for a small telecommunications utility shall be set by calculating the percentage of the small telecommunications utility's common stock equity in its ~~utility-total~~ capital structure. The percentages for calculating the target rate of return are set forth in the following table:

| Common Stock Equity | Base Percentage |
|---------------------|-----------------|
| 70% or more | 3.65% |
| 65% to 69.99% | 4.15% |
| 60% to 64.99% | 4.65% |
| 55% to 59.99% | 4.15% |
| 50% to 54.99% | 5.65% |
| 45% to 49.99% | 6.15% |
| 40% to 44.99% | 6.65% |
| 35% to 39.99% | 7.65% |
| 30% to 34.99% | 8.15% |
| 25% to 29.99% | 8.65% |

SECTION 19. PSC 176 is created to read:

CHAPTER PSC 176

**TELECOMMUNICATIONS UTILITIES;
 TRANSACTIONS WITH AFFILIATES;
 SECURITIES ISSUANCE;
 REORGANIZATIONS, CONSOLIDATIONS,
 MERGERS OR ACQUISITIONS,
 AND DISCRIMINATION**

Subchapter I

Purpose, Definitions, And Variance From The Rules

176.01 Purpose. The purpose of this chapter is to set forth form and filing requirements concerning transactions between a telecommunications utility and an affiliate; telecommunications utility securities issuances; and telecommunications utility reorganizations, consolidations, mergers, or acquisitions. The chapter also provides procedural information about the commission's consideration of these matters. Finally, the chapter addresses discrimination by a telecommunications utility or any other telecommunications provider, and the effect of noncompliance with the affiliated interest subchapter.

176.02 Definitions. (1) "Administrative service" includes business processes of a support nature which do not directly impact the provision of telecommunications services including executive, planning, accounts and finance, external relations, human resources, legal, procurement, safety, insurance and general office supplies; and information management including the planning, development, testing, implementation and maintenance of separate databases and computer application systems not associated with regulated services or facilities. "Administrative service" does not include use of an official services network or access to customer databases associated with regulated services.

(2) "Affiliate" means any person, as defined in s. 196.52 (1), Stats., that has any affiliated interest relationship, as defined in s. 196.52 (1) (a) to (h), Stats., with respect to a telecommunications utility.

(3) "Affiliated interest contract or arrangement" means any contract or arrangement between a telecommunications utility and one or more affiliates.

(4) "Contract or arrangement" has the meaning given in s. 196.52(3)(a), Stats., and includes but is not limited to loans by a telecommunications utility to any of its officers or directors.

(5) "Consolidation, merger or acquisition" means any of the actions listed in s. 196.805(2), Stats.

(6) "Official services network" means a telecommunications utility's business network which is used to manage the operation of local exchange services by performing various support functions such as connecting directory assistance operators in different LATAs with customers.

(7) "Property" shall be construed in its broadest sense, and shall include any tangible or intangible property and any title or associated rights of ownership, leasehold or use that are capable of transfer.

(8) "Responsible officer" means an officer of the legal entity who has the authority to perform the action at issue.

(9) "Reorganization" means any change of legal structure, organization, or by-laws that results in a change of the regulatory status of any telecommunications services or facilities, or the exchange of stock for stock of an affiliated entity including the formation of a holding company. "Reorganization" includes reorganization under 11 USC 1101-1146 or an assignment for the benefit of creditors under ch. 128, Stats.

(10) "Right" shall be construed in its broadest sense, and shall include any intangible rights that are held or exercisable pursuant to statute, rule or order or that are cognizable in law or equity.

(11) "Securities" means capital stock and evidences of indebtedness of a telecommunications utility, not including any obligation falling due one year or less after its date and bearing a date not later than the day of sale.

(12) "Service" shall be construed in its broadest sense, and includes but is not limited to the furnishing of telecommunications service, as defined in s. 196.01(9m), Stats., pursuant to tariffs filed under either s. 196.19 or s. 196.194 (1), Stats.

(13) "Telecommunications service" has the meaning given in s. 196.01(9m), Stats.

176.03 Variance from the rules. Exceptional or unusual situations may warrant limited or temporary variance from the rules in this chapter. Upon due investigation of the facts and circumstances involved, the commission may adopt requirements as to any individual telecommunications utility or other telecommunications provider which shall be lesser, greater, other or different than those provided in this chapter.

Subchapter II Transactions Between A Telecommunications Utility And An Affiliate

176.04 Applicability. This subchapter applies to any affiliated interest contract or arrangement involving any telecommunications utility subject to, or made subject to, s. 196.52, Stats.

176.05 Form and filing requirements.

(1) (a) All affiliated interest contracts or arrangements shall be in or reduced to writing unless all of the following criteria are satisfied:

1. An affiliate procures a telecommunications service pursuant to a tariff of the telecommunications utility filed under either s. 196.19 or s. 196.194 (1), Stats.;

2. The service procured is not so customized or unique as to price, terms or conditions as to make the affiliate the only practical subscriber for the service; and

3. For the entire time period for which the affiliate subscribes to the service, the utility has obtained at least one nonaffiliate subscriber to the service or at least one nonaffiliate individual contract with the same terms.

Note: An affiliated interest contract or arrangement which did not need to be in writing at its inception may later need to be put in writing if the above criteria are no longer met; for example, if the only nonaffiliate subscriber ends its subscription to the service. It may then also need to be filed with the commission pursuant to sub. (2)(a).

(b) All written affiliated interest contracts shall be executed by the parties bound by the contract.

(c) All affiliated interest arrangements reduced to writing shall be verified by a responsible officer of at least one of the participating parties. The written description shall include a statement of the persons involved; the nature of the transaction arranged; and the service, property, right or thing being provided, purchased, sold, leased, exchanged or furnished.

(2) (a) All affiliated interest contracts or arrangements in or reduced to writing shall be filed with the commission within 30 days after the date the contract or arrangement becomes effective, except that this requirement shall not apply to:

1. Any contract or arrangement where the amount of consideration involved is not in excess of the smaller of \$25,000 or 5 percent of the total common stock equity of the telecommunications utility.

2. For a telecommunications utility whose intrastate gross operating revenues in the previous calendar year exceeded \$100,000,000, any contract or arrangement the value of which does not exceed \$100,000.

(b) Regularly recurring payments under a general or continuing contract or arrangement which aggregate a greater annual amount may not be broken down into a series of transactions to come within the exemptions under par. (a).

(3) Upon request of the commission, a telecommunications utility shall file any affiliated interest contract or arrangement not otherwise required to be in writing or filed with the commission pursuant to subs. (1) and (2).

(4) Upon request of the commission, any information on any affiliated interest contract or arrangement shall be made available to the commission if, in its judgment, such information is necessary in order to enforce s. 196.204 or s. 196.219, Stats.

(5) An original and one copy of the contract or arrangement to be filed pursuant to the requirements of this section shall be filed with the secretary of the commission.

Note: The address for the commission is: 610 N. Whitney Way, P.O. Box 7854, Madison WI 53707-7854.

176.06 Information in filing.

(1) The following information shall be included in any filing made pursuant to s. PSC 176.05. Information can be provided through reference to documents previously filed with the commission where circumstances have not changed.

(a) A copy of the affiliated interest contract or arrangement;

(b) The name, place of business, legal mailing address and personal or corporate relationships of each party to the contract or arrangement;

(c) If not contained in the contract or arrangement:

1. A description of the service, property, right, or thing covered, and the party providing it;

2. A description of the transfer price, with a determination of the cost of the service, right, property or thing being transferred including labor, materials, supplies, overhead, return on equity, and discount or markup;

3. The method used to allocate joint or common costs; and

4. The method used to distribute time of shared officers or employees.

(d) Organizational charts or diagrams, as revised, showing all entities, legal or otherwise, affiliated with the parties to the contract or arrangement;

(e) An executive organization chart or general description, as revised, showing all lines of authority;

(f) A list of the officers and directors of each party to the contract;

(g) A statement signed by a responsible officer of at least one of the participating parties certifying that:

1. All transactions covered by the affiliated interest contract or arrangement are valued using one of the following means or that the filing includes an explanation of what valuation method is used and why one of the following valuations is not used:

a. Valuation based on a tariff rate or an approved agreement pursuant to 47 USC 251 or 252 which also has at least one nonaffiliated subscriber or nonaffiliated individual contract with the same terms.

b. Valuation based on prevailing price, where similar transactions with third parties encompass greater than 50 percent of all transactions.

c. Valuation based on the higher of fully distributed cost or fair market value, for transactions from the utility to the affiliate.

d. Valuation based on the lower of fully distributed cost or fair market value, for transactions from the affiliate to the utility.

e. Valuation based on fully distributed costs, for services received by a telecommunications utility from an affiliate that exists solely to provide services to members of that utility's corporate family.

2. Where applicable, a good faith determination of fair market value was made before valuing the transaction.

(h) A statement signed by a responsible officer of at least one of the participating parties that identifies if the contract or arrangement allows for any of the following types of transactions:

1. Joint ownership between the telecommunications utility and an affiliate of any telecommunications facilities or the land and buildings where those facilities are located.

2. Sharing between the telecommunications utility and an affiliate of operating, installation or maintenance functions associated with telecommunication facilities.

3. Use of telecommunications facilities when such use is not available to and being utilized by nonaffiliates.

4. Transfer of ownership from the utility to an affiliate of any telecommunications facilities without the transfer opportunity also being made available to nonaffiliated entities in a nondiscriminatory manner.

5. Sharing between the utility and an affiliate of officers, directors or employees.

6. An affiliate obtaining credit under an arrangement that would permit the creditor, upon default, to have recourse to the assets of the telecommunications utility of which it is an affiliate.

7. Provision to an affiliate of any service, property, right or thing other than an administrative service that is not also made available to nonaffiliated entities in a nondiscriminatory manner.

Note: Identification of these types of transactions is required because they possess a greater risk of cross-subsidization or discrimination than other transactions, but the facts and circumstances of each case must be considered individually.

Examples of "any service, property, right or thing other than administrative service" include but are not limited to: the use of an official services network, the use of customer databases associated with regulated services or facilities, the provision of joint marketing, and the provision of billing and collection services. "Administrative service" is defined in s. PSC 176.02(1).

(2) A responsible officer may also include a description or explanation as to why he or she believes the contract or arrangement complies with s. 196.204 or s. 196.219, Stats., or both.

176.07 Effect of noncompliance. For purposes of enforcing ss. 196.204 and 196.219, Stats., every affiliated interest contract or arrangement involving a telecommunications utility and one or more affiliates shall be void and unenforceable if it is not either exempt under s. PSC 176.05 or in compliance with ss. PSC 176.05, 176.06, and 176.16.

176.08 Commission procedures. (1) Based on the facts and circumstances of each affiliated interest contract or arrangement, the commission will determine if further investigation is necessary to enforce s. 196.204, Stats. or s.196.219, Stats., or both.

(2) In its review of an affiliated interest contract or arrangement, the commission may consider issues such as:

(a) The savings that can result from economies of scale and scope and the increased costs that can result from separated operations, compared to the benefit expected to be achieved from limiting possible cross-subsidization or preventing discrimination.

(b) The proportionally higher separation and opportunity costs a small telecommunications utility may experience when compared to such costs for a large telecommunications utility.

(c) The generally lower potential for cross-subsidization or discrimination when providing administrative services to an affiliate than when providing network services to an affiliate.

(3) Nothing in this chapter shall preclude the commission from obtaining any information concerning any affiliated interest contract or arrangement if, in the commission's judgment, such information is necessary in order to enforce ss. 196.204 and 196.219, Stats.

Subchapter III Securities Issuance

176.09 Applicability. This subchapter applies to any telecommunications utility subject to, or made subject to, s. 184.15, Stats.

176.10 Filing requirements. Within 10 business days after the issuance of any securities by a telecommunications utility subject to rate-of-return regulation, the issuing telecommunications utility shall file a notice with the commission containing the following:

(1) The amount and character of the securities;

(2) The purpose for which the securities were issued, including any nonutility purposes, and an allocation of the security proceeds between utility and nonutility purposes;

(3) The terms on which the securities were issued, including a detailed description and a detailed statement of the value of any property or services already received or to be received as payment for the securities; including an indication of any property or services already received or to be received, the cost of which is to be reimbursed by the telecommunications utility by the proceeds of the securities issuance;

(4) A statement of the assets and liabilities of the telecommunications utility immediately following the issuance of the securities; and

(5) A statement as to whether the securities were issued:

(a) In connection with loans for rural telecommunications facilities made pursuant to the rural electrification act of 1936 (7 USC 901), as amended;

(b) By a corporation organized under ch. 185, Stats., for purposes of furnishing telecommunications service in rural areas;

(c) In connection with a rural utilities service economic development loan or grant made pursuant to the rural electrification act of 1936 (7 USC 901), as amended and, if so, a description of the associated nonutility investments made or to be made, identification of the amount of the proceeds used or to be used, and identification of any third party involved; or

(d) In connection with any similar government sponsored or guaranteed telecommunications grant or loan program.

176.11 Commission procedures. (1) Based on the facts and circumstances of each telecommunications utility, the commission shall monitor capital structure and determine whether to open an investigation. Such investigation may consider issues of cross-subsidization, consumer protection, capital impairment, equity-thin status, and dividend restrictions, as provided for in ss. 184.15, 196.204, and 196.219, Stats.

(2) Nothing in this chapter shall preclude the commission from obtaining any information on any capital stock or evidence of indebtedness of a telecommunications utility including those exempted from the definition of securities in s. PSC 176.02(11) and those about which no notice under s. PSC 176.10 need be filed if, in the commission's judgment, such information is necessary in order

to monitor or investigate under s. 184.15, s. 196.204, or s. 196.219, Stats.

Subchapter IV Reorganization, Consolidation, Merger, Or Acquisition

176.12 Applicability. (1) This subchapter applies to any telecommunications utility subject to s. 196.79 or s. 196.805, Stats., or both.

(2) If a reorganization, consolidation, merger or acquisition involves a telecommunications utility selling facilities to an entity that is not subject to ss. 196.20, 196.204, 196.219, and 196.81, Stats., or results in facilities being totally removed from service, the abandonment of facilities is subject to s. 196.81, Stats., and s. PSC 165.11.

176.13 Filing and information requirements. (1) As required under ss. 196.79 (2) and 196.805 (1), Stats, a telecommunications utility shall file a notice with the commission not more than 10 business days after completion of any reorganization, consolidation, merger, or acquisition. For purposes of this section, "completion" of a reorganization includes confirmation of a plan of reorganization under 11 USC 1129 or a court settlement of the account in an assignment for the benefit of creditors under ch. 128, Stats.

(2) The notice shall contain the following:

(a) The date of and a description of the reorganization, consolidation, merger, or acquisition.

(b) A description of the corporate or other legal entities involved, including the names of any surviving legal entities, the type of business in which each is engaged and their relationships to each other, a list of the officers and directors of any surviving legal entities, and a description of how the transaction was accomplished.

(c) The accounting and recording of the transaction in journal entry form, or a statement of the assets, liabilities and equity before and after the transaction including but not limited to any acquisition adjustment amount as described in 47 CFR 32.2005(a) or special dividend relating to the transaction.

(d) A description of any liabilities or assets, tangible or intangible, transferred to or from the telecommunications utility in connection with the transaction.

(e) The certification status of each entity involved in the transaction that will own telecommunications facilities in Wisconsin after the transaction, or a description of the arrangements that have been made to obtain certification in Wisconsin.

(f) A statement as to whether the transaction involves a utility selling telecommunications facilities to an entity that is not subject to ss. 196.20, 196.204, 196.219, and 196.81, Stats., or results in facilities being totally removed from service. If so, the abandonment of facilities is subject to s. 196.81, Stats., and s. PSC 165.11.

(g) A statement from a responsible officer of each entity involved in the transaction as to whether, after the transaction, it will continue to offer the same telecommunications services it offered before the transaction in all areas of the state that it served before the transaction. If not, any service discontinuance is subject to s. 196.20(1m), Stats., and s. PSC 165.12.

(3) Copies of the organizational documents associated with the reorganization, consolidation, merger, or acquisition shall be made available to the commission upon request. Such organizational documents include but are not limited to the following:

(a) Articles of incorporation or related amendments of any surviving legal entities;

(b) By-laws of any surviving legal entities;

(c) Applicable articles of merger or similar documents;

(d) Applicable purchase or lease agreements; and

(e) Confirmed plan of reorganization under 11 USC 1129 or court settlement of the account in an assignment for the benefit of creditors under ch. 128, Stats.

176.14 Commission jurisdiction and procedures. (1) The commission retains supervisory jurisdiction as necessary to enforce ss. 196.204 and 196.219, Stats. This may include opening an investigation and issuing an order if necessary.

(2) Nothing in this chapter shall preclude the commission from obtaining any information on any reorganization, consolidation, merger, or acquisition involving a telecommunications utility if, in the commission's judgment, such information is necessary in order to exercise its supervisory jurisdiction.

Subchapter V Discrimination

176.15 Applicability. This subchapter applies to any telecommunications utility and any other telecommunications provider subject to, or made subject to, s. 196.219, Stats.

176.16 Discrimination prohibited. This section implements s. 196.219(3)(h), Stats.

(1) As provided in s. 196.219(3)(h), Stats.:

(a) With respect to its regulated services, a telecommunications utility shall not discriminate or give preference to an affiliate, to the utility's own retail department, or to an affiliate's retail department in the provision of services, products or facilities; and

(b) With respect to its offering of local exchange services, any other telecommunications provider shall not discriminate or give preference to an affiliate, to the provider's own retail department, or to an affiliate's retail department in the provision of services, products or facilities.

(2) In this section, "services" includes information associated with regulated services or local exchange services, and "facilities" includes standards and computer software related to facilities associated with regulated services or local exchange services. In this section, "customer" includes the retail department of a utility or any other telecommunication provider.

(3) In this section, "provision of a service, product or facility" shall be construed broadly. The provision of a service or product includes the creation of arrangements necessary for or related to the delivery to a customer of a specific service or product, and each instance of delivery of the service or product. The provision of a facility includes any design, installation, maintenance, or repair of a facility.

(4) A telecommunications utility's own retail department includes its means of performing nonutility merchandising activities under s. PSC 165.10. Any other telecommunications provider's own retail department includes its means of retailing services, products or facilities other than local exchange services, products or facilities.

(5) The retail department of a telecommunication utility's affiliate or any other telecommunications provider's affiliate includes the affiliate's means of retailing any services, products or facilities.

(6) Each provision of a service, product, or facility by a telecommunications utility or any other telecommunications provider shall be in compliance with all relevant federal and state statutes, federal and state regulations, federal communications commission orders and commission orders.

Initial Regulatory Flexibility Analysis

At the time of this notice, there are 83 local exchange companies in Wisconsin, 78 of which are small telecommunications utilities, which are small businesses under s. 196.216, Stats., for purposes of s. 227.114, Stats. Some of these proposed rules may have an effect on small telecommunications utilities. For example, the effect of the revision of s. PSC 174.01(2), which makes the statutorily required change to use total capital structure instead of utility capital structure, is expected to result in fewer investigations of small telecommunications utilities. Further, in some areas the rules specify that the Commission will consider issues that are particularly important to small telecommunications utilities. For example, among the issues the Commission may consider when reviewing an agreement between a utility and its affiliate is that the

costs of separation, such as separate staffing, are generally greater for small telecommunications utilities than larger telecommunications utilities. When considering whether any investigation is necessary, the cost associated with Commission requirements will be considered in relation to the benefit expected to be achieved by limiting possible cross-subsidization or preventing discrimination. In this manner the rules allow the Commission to apply less stringent compliance requirements for small telecommunications utilities and a means of limiting further investigation.

In other areas, measures which reduce the impact on small businesses were adopted into the rules and applied to all those to which the rules apply. For example, overall the rules have attempted to limit the amount of information necessary in a filing, allowing for specific information to be requested at a later date if necessary. This should ease the impact on all telecommunications utilities, including small telecommunications utilities, by providing that the additional information need only be provided in the cases where that additional information is specifically needed.

Finally, attempts have been made to avoid differences between how things are reported to the federal government and how they are reported to the Commission, thus easing such reporting. Additional methods for avoiding hearings in certain cases are included, and routine requirements for agreements to be filed with the Commission are waived for smaller transactions.

The agency has considered all the methods in s. 227.114(2), Stats., for reducing the impact of the rules on small telecommunications utilities and finds incorporating any further measures would be contrary to the statutory objectives that are the basis for the proposed rules.

Fiscal Estimate & Initial Regulatory Flexibility Analysis

These rules will have no fiscal impact on the agency or on any other state or local units of government. No additional fiscal burden will be imposed on the state or on small businesses as a result of these proposed rules.

Environmental Analysis

This is a Type III action under s. PSC 4.10(3). 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

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **May 21, 1999 at noon (May 20, 1999 at noon, if filed by fax).**

All written comments must include a reference on the filing to docket 1-AC-147. **File by one mode only.**

If filing by mail, courier, or hand delivery:

Address : Lynda L. Dorr, Secretary to the Commission, Public Service Commission, P.O. Box 7854, Madison, WI 53707-7854. Industry parties should submit **an original and 15 copies.** Members of the general public need **only file an original.** File by **May 21, 1999, at noon.**

If filing by fax:

Send fax comments to (608) 266-3957. Fax filing cover sheet **MUST** state "**Official Filing,**" the docket number (1-AC-147), and the number of pages (limited to 20 pages for fax comments). File by **May 20, 1999, at noon.**

Contact Persons

Questions regarding this matter should be directed to Anne Wiecki, Telecommunications Division, at (608) 267-0913, or by

email at wiecka@psc.state.wi.us. Hearing- or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to get this document in a different format should contact Anne Wiecki, as indicated in the previous paragraph, as soon as possible.

Notice of Proposed Rule

Public Service Commission

The Public Service Commission of Wisconsin proposes an order to amend s. PSC 132.02(3), relating to the ch. PSC 132 definition of "public utility" and cable operators' access to railroad rights-of-way.

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02(1) and (3), 196.04(4), and 227.11(2)

Statute interpreted: s. 196.04(4)

Prior to the passage of 1997 Wis. Act 27, s. 196.04(4), Stats., permitted the Commission, under certain circumstances, to order the extension of a public utility or telecommunications provider's lines or a railroad's tracks on, over or under the right-of-way of any railroad, public utility, or telecommunications provider. The Commission was required to prescribe conditions and compensation that are equitable and reasonable under the circumstances.

Chapter PSC 132 was created to set forth the compensation to be paid and conditions to be met by a public utility for the construction or maintenance of facilities within a railroad right-of-way in cases where the utility and the railroad cannot agree. "Public utility" is defined in the rule to include telecommunications providers.

Section 3134mi of 1997 Wis. Act 27 amended s. 196.04(4), Stats., to include cable operators as defined in s. 66.082(2)(b), Stats., along with public utilities, telecommunications providers, and railroads. This rule change amends the current definition of "public utility" in s. PSC 132.02(3) to include cable operators, thereby conforming it to the amended statute.

A Statement of Scope on this rule was approved by the Commission on December 3, 1998, and was published in the Wisconsin administrative register on December 31, 1998.

Text of Proposed Rule

SECTION 1. PSC 132.02(3) shall be amended to read:

(3) "Public utility" has the meaning given in s. 196.01 (5), Stats., and includes both a "telecommunications provider," as defined in s. 196.01 (8p), Stats., and a "cable operator," as defined in s. 66.082 (2) (b), Stats.

Initial Regulatory Flexibility Analysis

This rule will have no effect on small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. It merely extends coverage of this rule to include cable operators. The only effect on cable operators that are small businesses will be to clarify and possibly speed up negotiations with railroads regarding rights-of-way. There are no reporting, bookkeeping, or other procedures required for compliance with the rule.

Fiscal Estimate

This rule change has no fiscal impact independent of that of the legislation change that necessitates it.

Notice That There Will Be No Hearing

Notice is hereby given that pursuant to s. 227.16(2)(b), Stats., the Commission will not hold a public hearing on the proposed rule

change since it merely brings an existing rule into conformity with a statute that has been changed.

Contact Person

Questions regarding this matter should be directed to Joyce S. Mahan, Legal Counsel, Telecommunications Division, at (608) 267-6919, or by email at mahanj@psc.state.wi.us. Hearing- or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs to get this document in a different format should contact Joyce S. Mahan, as indicated in the previous paragraph, as soon as possible.

Notice of Hearing

Social Workers, Marriage & Family Therapists & Professional Counselors

Notice is hereby given that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.03 (1), Stats., and interpreting s. 457.12 (3), Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to repeal ss. SFC 3.02, 3.03, 3.04, 3.06, 3.08, 3.10, 11.03, 16.01 (3), 16.02(4) and ch. SFC 18; and to amend ss. SFC 14.01 (2) (intro.) and 14.02 (2), relating to the repeal of outdated provisions, and educational requirements for equivalency of academic programs for certification as professional counselors.

Hearing Information

| | |
|----------------|-------------------------|
| April 20, 1999 | Room 180 |
| Tuesday | 1400 E. Washington Ave. |
| 8:45 a.m. | Madison |

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 May 4, 1999 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), 227.11 (2) and 457.03 (1)

Statute interpreted: s. 457.12 (3)

In this proposed rule-making order the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors repeals those sections of the code relating to application for social worker certification without examination by persons who have engaged in the practice of social work prior to May 1, 1993; application for social worker certification without examination by persons who were employed as social workers after April 30, 1992, but before May 1, 1993; application for social worker certification without examination by persons employed as a social worker by a government agency between May 1, 1993, and May 31, 1994; application for certification as an advanced practice social worker without examination; application for certification as an independent social worker without examination; application for certification as an independent clinical social worker without examination, as those

sections are now outdated. Sections SFC 11.03, 16.01 (3) and 16.02 (4) and Chapter SFC 18 are also repealed as they are outdated.

Sections SFC 14.01 (2) (intro.) and 14.02 (2) identify the educational requirements for equivalency of an academic program for purposes of certification as a professional counselor. Requirements for certification include successful completion of a counseling theory course. Amending these sections will specify that the minimum number of 3 semester hours or 4 quarter hours are required for the counseling theory course.

Text of Rule

SECTION 1. SFC 3.02, 3.03 and 3.04 are repealed.

SECTION 2. SFC 3.06 is repealed.

SECTION 3. SFC 3.08 is repealed.

SECTION 4. SFC 3.10 is repealed.

SECTION 5. SFC 11.03 is repealed.

SECTION 6. SFC 14.01 (2) (intro.) is amended to read:

SFC 14.01 (2) (intro.) The course work included successful completion of at least 3 semester hours or 4 quarter hours academic credit in a supervised counseling practicum; at least 3 semester hours or 4 quarter hours academic credit in a counseling theory course; and at least one course of at least 3 semester hours of 4 quarter hours academic credit in at least 6 of the following 8 topic areas; and the course work included a total of at least 42 semester hours or 63 quarter hours of academic credit in counseling related courses distributed among at least 6 of the following 8 topic areas:

SECTION 7. SFC 14.02 (2) is amended to read:

SFC 14.02 (2) The course work included successful completion of at least 3 semester hours or 4 quarter hours academic credit in a supervised counseling practicum; at least 3 semester hours or 4 quarter hours academic credit in a counseling theory course; and at least one course of at least 3 semester hours or 4 quarter hours academic credit in each of the 8 topic areas defined in s. SFC 14.01 (2); and the course work included at least 48 semester hours or 72 quarter hours of academic credit distributed among those 8 counseling related topic areas.

SECTION 8. SFC 16.01 (3) is repealed.

SECTION 9. SFC 16.02 (4) is repealed.

SECTION 10. Chapter SFC 18 is repealed.

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

Social Workers, Marriage & Family Therapists & Professional Counselors

Notice is hereby given that pursuant to the authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b), 227.11 (2) and 457.09, Stats., and interpreting s. 457.09, Stats., the

Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to amend SFC 3.13 (3) (a) and (b); and to create SFC 3.13 (1) (a) 1., 2., and 3., relating to criteria for approval of other human services degree programs for eligibility for a social worker training certificate.

Hearing Information

April 20, 1999
Tuesday
8:45 a.m.

Room 180
1400 E. Washington Ave.
Madison

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 **May 4, 1999** 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), 227.11 (2) and 457.09

Statute interpreted: s. 457.09

In this proposed rule-making order the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Social Worker Section) specifies the criteria for obtaining a social worker training certificate. The requirements are: a) a major that meets the criteria in subds. 1. to 3.; b) a minimum grade point of 2.5 in the major course content to focus on providing services to individuals with difficulties in psychological and social functioning; c) a course with significant content in professional ethics and values in context of the helping professions; d) a senior seminar or capstone that pulls together all the themes of the helping professions; e) 30 semester credits or 40 quarter credits acquired within the major as defined by the text; f) a human service internship which involved direct practice with clients and was supervised by a social worker certified under s. 457.08, Stats., and who has a bachelor's or master's degree in social work and provides direct on-site supervision of the intern; or one year of social work employment as specified to satisfy the requirements set forth.

Text of Rule

SECTION 1. SFC 3.13 (1) (a) 1., 2. and 3. are created to read:

SFC 3.13 (1) (a) 1. To qualify as "another human service program approved by the section" under sub. (1) (a), the program shall include a major that meets the criteria in subd. pars. a., b. and c., and the applicant shall have obtained a grade point average of 2.5 or greater in the major. The major shall:

- a. Focus predominantly on course content related to providing services to individuals with difficulties in psychological and social functioning.
- b. Include a course with significant content in professional ethics and values in the context of the helping professions.
- c. Include a senior seminar or capstone case that pulled together all the themes of the helping professions.

2. In this section "major" means an organized course of study recognized on the transcript as a major by the degree-granting institution. A collection of 30 semester credits, or 40 quarter credits, not defined as a particular course of study by the degree-granting institution would not qualify as a human services major. Individualized majors developed in conjunction with the degree-granting institution and recognized as majors by the

institution will be considered as majors, and evaluated in relation to the criteria above for predominant focus of coursework.

3. In this subsection "predominantly" means comprising at least 30 semester credits or 40 quarter credits of the major program in which your degree was granted.

Note: Related course content includes courses typically included in human services program content such as: psychology, sociology, crisis intervention, working with diverse populations, family dynamics, therapeutic interviewing, rehabilitation, gerontology, adolescence or child welfare, interview, observation and recordkeeping skills, individual and group counseling techniques, program planning, internships, clinical placements and field practicums.

SECTION 2. SFC 3.13 (3) (a) and (b) are amended to read:

SFC 3.13 (3) (a) A human services internship that was part of the program leading to the degree the certificate holder specified to satisfy the requirement in s. 457.09 (1) (c) and (4m) (b), Stats., or completed while holding the training certificate, and involved direct practice with clients and that was supervised by a social worker certified under s. 457.08, Stats., and who has a bachelor's or master's degree in social work and provides direct, on-site supervision of the intern.

(b) One year of social work employment that was part of the program leading to the degree the certificate holder specified to satisfy the requirements in s. 457.09 (1) (c) and (4m) (b), Stats., or completed while holding the training certificate, which involved at least 400 hours of face-to-face client contact in not less than 12 months, and that was supervised by a social worker certified under s. 457.08, Stats., who has a bachelor's or master's degree in social work and who provides direct, on-site supervision of the certificate holder during the time the certificate holder is at work.

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 Hearings

Transportation

Notice is hereby given that pursuant to ss. 85.16 (1) and 348.07 (4), Stats., interpreting s. 348.07 (4), Stats., the Department of Transportation will hold public hearings at the following locations to consider the amendment of ch. Trans 276, Wis. Adm. Code, relating to allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Hearing Information

April 14, 1999
Wednesday
1:00 p.m.

Law Enforcement Ctr.
Meeting Room
Rusk Co. Courthouse
311 East Miner Ave.
LADYSMITH, WI

April 15, 1999
 Thursday
 1:00 p.m.

Room 144B
 Hill Farms State
 Transportation Bldg.
 4802 Sheboygan Ave.
 MADISON, WI

The hearing locations are accessible to persons with disabilities.

Written Comments

The public record on this proposed rule-making will be held open until close of business, **April 22, 1999**, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such written comments should be submitted to Mark Morrison, Traffic & Safety Engineer, Room 501, P. O. Box 7986, Madison, Wisconsin, 53707-7986.

Analysis Prepared by the Wis. Dept. of Transportation

Statutory authority: ss. 85.16(1) and 348.07 (4)

Statute interpreted: s. 348.07 (4)

General Summary of Proposed Rule.

This proposed rule amends s. Trans 276.07(10), (17) and (25), Wis. Adm. Code, to add three segments of highway to the designated highway system established under s. 348.07 (4), Stats. The actual highway segments that this proposed rule adds to the designated highway system are:

| <u>Hwy.</u> | <u>From</u> | <u>To</u> |
|-------------|---------------------------|------------------------|
| STH 46 | STH 64 S. of Deer Park | USH 8 N. of Amery |
| STH 80 | USH 14 in Richland Center | STH 33 in Union Center |
| STH 182 | STH 13 in Park Falls | USH 51 in Manitowish |

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

The long trucks to which this proposed rule applies are those with 53-foot semitrailers, double bottoms and the vehicles which may legally operate on the federal National Network, but which exceed Wisconsin's regular limits on overall length. Generally, no person may operate any of the following vehicles on Wisconsin's highways without a permit:

1) A single vehicle with an overall length in excess of 40 feet (NOTE: 45-foot buses are allowed on the National Network and Interstate system by Federal law. Section 4006 (b) of the Intermodal Surface Transportation Efficiency Act of 1991.);

- 2) A combination of vehicles with an overall length in excess of 65 feet;
- 3) A semitrailer longer than 48 feet;
- 4) An automobile haulaway longer than 66 feet plus allowed overhangs; or
- 5) A double bottom.

Certain exceptions are provided under s. 348.07(2), Stats., which implements provisions of the federal Surface Transportation Assistance Act in Wisconsin.

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

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

Fiscal Estimate

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to the office of the State Traffic Engineer, P. O. Box 7986, Room 501, Madison, Wisconsin, 53707-7986, telephone (608) 266-1675. For questions about this rule-making, please call Mark Morrison, Traffic & Safety Engineer at (608) 266-1675. Alternate formats of the proposed rule will be provided to individuals at their request.

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

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

Agriculture, Trade and Consumer Protection

(CR 98-154):

Chs. ATCP 2, 40, 42, 45, 50, 92, 100, 109, 118 (Jus 2), 121 and 161 – Relating to technical and remedial rule changes pertaining to:

- 1) Farm mediation and arbitration;
- 2) Sustainable agriculture;
- 3) Agricultural development and diversification;
- 4) Commercial feed;
- 5) Soil and water resource management;
- 6) LP gas meters;
- 7) Freezer meat and food service plans;
- 8) Referral selling plans; and
- 9) Car rental notices.

Agriculture, Trade and Consumer Protection

(CR 98-182):

SS. ATCP 81.50, 81.51 and 81.52 – Relating to grade standards for Colby and Monterey (Jack) cheese.

Commerce (CR 98-207):

Ch. Comm 90 – Relating to the design and installation of public swimming pools.

Corrections (CR 98-208):

S. DOC 328.21 (3) and (7) – Relating to the search and seizure of probation or parole offenders.

Financial Institutions (CR 99-12):

Chs. DFI-Bkg 41 and RL 41 – Relating to rules setting forth:

- 1) The registration and renewal of registration fees for mortgage bankers, loan originators and mortgage brokers;
- 2) The transfer fee for loan originators; and
- 3) The registration periods for all registrations and renewals of registrations.

Health and Family Services (CR 98-188):

Chs. HFS 13 and HSS 129 – Relating to reporting and investigation of caregiver misconduct and operation of the caregiver misconduct registry.

Health and Family Services (CR 98-191):

Ch. HFS 12 – Relating to uniform procedures for checking caregiver backgrounds.

Natural Resources (CR 98-150):

SS. NR 20.02 and 23.02 – Relating to Wisconsin-Michigan boundary waters.

Psychology Examining Board (CR 98-206):

Chs. Psy 1 to 5 – Relating to requirements for examination and licensure of psychologists, renewal and conduct.

Public Service Commission (CR 98-156):

Ch. PSC 186 – Relating to standards for water and sewer service in mobile home parks.

Veterans Affairs (CR 98-120):

S. VA 1.19 – Relating to the cancellation of indebtedness under the economic assistance, veterans trust fund stabilization and personal and secondary loan programs.

Veterans Affairs (CR 98-200):

S. VA 1.10 (7) – Relating to the disclosure of loan information to a party under contract with the state to collect delinquent Department loans.

Workforce Development (CR 99-6):

S. DWD 290.155 – Relating to the annual adjustment of the minimum estimated project costs for the application of the requirement to obtain a determination of prevailing wage rates for workers employed on state or local public works projects.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Administration (CR 98-110):

An order affecting ch. Adm 19, relating to small cities community development block grants for housing.
Effective 05-01-99.

Dentistry Examining Board (CR 98-77):

An order affecting ch. DE 2 and ss. DE 1.02, 5.02, 6.01 and 11.11, relating to dentists and dental hygienists.
Effective 05-01-99.

Transportation (CR 98-147):

An order amending s. Trans 305.27 (3) (a), relating to vehicle restraining devices.
Effective 05-01-99.

Transportation (CR 98-153):

An order affecting ss. Trans 300.16 and 300.54, relating to school bus equipment standards.
Effective 05-01-99.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **March 31, 1999 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 and Consumer Protection**(CR 98-118):**

An order affecting ch. ATCP 30 Appendix A, relating to pesticide product restrictions.

Effective 04-01-99.

Natural Resources (CR 97-152):

An order creating ch. NR 47, subch. VII, relating to the administration of the private forest landowner grant program.

Effective 04-01-99.

Natural Resources (CR 98-94):

An order amending s. NR 20.08 (10), relating to fishing tournament permitting.

Effective 04-01-99.

Revenue (CR 98-184):

An order affecting ss. Tax 2.39 and 2.395, relating to the use of an alternative apportionment method.

Effective 04-01-99.

Transportation (CR 98-167):

An order affecting ss. Trans 200.01 and 200.055, relating to the location for placement of utility work signs.

Effective 04-01-99.

Transportation (CR 98-185):

An order affecting s. Trans 101.02 (1) (c) and (d), relating to demerit point assessment for operating after suspension and revocation offenses.

Effective 04-01-99.

Veterans Affairs (CR 98-165):

An order amending s. VA 2.01 (2) (b) 2., relating to the expenditure limitation for dentures under the health care aid grant program.

Effective 04-01-99.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

The following administrative rule revisions and corrections have taken place in March, 1999, and will be effective as indicated in the history note for each particular section. For additional information, contact the Revisor of Statutes Bureau at (608) 266-7275.

REVISIONS

Natural Resources:

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

Ch. NR 20

S. NR 20.08 (10)

Ch. NR 47

S. NR 47.80 (entire section)

S. NR 47.81 (entire section)

S. NR 47.82 (entire section)

S. NR 47.83 (entire section)

S. NR 47.84 (entire section)

S. NR 47.85 (entire section)

S. NR 47.86 (entire section)

S. NR 47.87 (entire section)

S. NR 47.88 (entire section)

S. NR 47.89 (entire section)

Revenue:

Ch. Tax 2

S. Tax 2.39 (3) (a)

S. Tax 2.395 (entire section)

Transportation:

Ch. Trans 101

S. Trans 101.02 (1) (c) and (d) and (3) (q) and (r)

Ch. Trans 200

S. Trans 200.01 (entire section)

S. Trans 200.055 (entire section)

Veterans Affairs:

Ch. VA 2

S. VA 2.01 (2) (b)

EDITORIAL CORRECTIONS

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

Agriculture, Trade & Consumer Protection:

Ch. ATCP 3

S. ATCP 3.02 (1) (s) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. ATCP 21

S. ATCP 21.04 (2) (b) and (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. ATCP 29

S. ATCP 29.55 (1) (f) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. ATCP 29.60 (14) and (16) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. ATCP 30

S. ATCP 30.05 (2) (b) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. ATCP 30.24 (1) (d) and (5) (b) and (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

S. ATCP 30.36 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. ATCP 34

S. ATCP 34.02 (6) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. ATCP 55

S. ATCP 55.03 (7) (f) had a correction made under s. 13.93 (2m) (b) 7., Stats.

S. ATCP 55.11 (6) had a correction made under s. 13.93 (2m) (b) 1., Stats.

S. ATCP 55.14 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. ATCP 117

S. ATCP 117.20 (2) had a correction made under s. 13.93 (2m) (b) 6., Stats.

Ch. ATCP 132

S. ATCP 132.05 (entire section) had corrections made under s. 13.93 (2m) (b) 1. and 7., Stats.

Ch. ATCP 151

S. ATCP 151.06 (1) (b) and (2) (b) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Commerce:*(Infectious Agents, Ch. Comm 35)*

Ch. Comm 35 was renumbered from ch. ILHR 35 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

(Boiler and Pressure Vessel, Chs. Comm 41-42)

Ch. Comm 41 was renumbered from ch. ILHR 41 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Ch. Comm 42 was renumbered from ch. ILHR 42 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Revenue:**Ch. Tax 2**

S. Tax 2.44 (entire section) had corrections made under s. 13.93 (2m) (b) 6., Stats.

S. Tax 2.49 (1) (b) and (3) had corrections made under s. 13.93 (2m) (b) 7., Stats.

ERRATA

Items reprinted to correct printing errors such as dropped copy (or other errors) are indicated in the following listing:

Natural Resources:*(Fish, Game, etc., Chs. NR 1--)*

Ch. NR 19 reprinted to add note.

Revenue:**Ch. Tax 2**

S. Tax 2.48 (3) (e) reprinted to restore dropped copy.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Agriculture, Trade & Consumer Protection (CR 98-118)

Ch. ATPC 30 – Pesticide Product Restrictions.

Summary of Final Regulatory Flexibility Analysis:

Businesses Affected:

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

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

Reporting, Recordkeeping and Other Procedures Required for Compliance:

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

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

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

Professional Skills Required to Comply:

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

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past this type of assistance has been provided by University Extension personnel and farm chemical dealers. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

Summary of Comments From Legislative Committees:

The rule was referred to the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform on January 6, 1999 and to the Assembly Committee on Agriculture on January 12, 1999. Neither the Assembly Committee on Agriculture nor the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform took any action on the rule during their review period.

2. Natural Resources (CR 98-94)

S. NR 20.08 – Fishing tournament permitting.

Summary of Final Regulatory Flexibility Analysis:

This rule will not directly affect small business; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Assembly Natural Resources Committee and the Senate Environment and Energy Committee. There were no comments.

3. Natural Resources (CR 97-152)

Ch. NR 47, Subch. 7 – Administration of the private forest landowner grant program.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule is a grant program for private forest landowners. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The proposed rules were reviewed by the Assembly natural Resources Committee and the Senate Environment and Energy Committee. There were no comments.

4. Department of Revenue (CR 98-184)

Ch. Tax 2 – The use of an alternative apportionment method.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

5. Transportation (CR 98-185)

Ch. Trans 101 – Demerit point assessment for operating after suspension and revocation offenses.

Summary of Final Regulatory Flexibility Analysis:

This regulatory change has no impact on small business.

Summary of Comments:

No comments were reported.

6. Transportation (CR 98-167)

Ch. Trans 200 – The location for placement of utility work signs.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

7. Veterans Affairs (CR 98-165)

Ch. VA 2 – The expenditure limitation for dentures under the health care aid grant program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments reported.

EXECUTIVE ORDERS

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

Executive Order 364. Relating to the Creation of the Governor's Wisconsin Works and Alcohol and Other Drug Abuse Task Force.

PUBLIC NOTICE

Public Notice *Health and Family Services*

(Medical Assistance Reimbursement for School-Based Services: Statewide Contract Rate Schedule for School District Reimbursement)

The State of Wisconsin reimburses providers for school-based services provided to Medical Assistance recipients under the authority of Title XIX of the Social Security Act and ss. 49.43 to 49.47, Wisconsin Statutes. This program, administered by the State's Department of Health and Family Services, is called Medical Assistance (MA) or Medicaid. Federal statutes and regulations require that a state plan be developed that provides the methods and standards for reimbursement of covered services. A plan that describes the reimbursement system for the services (methods and standards for reimbursement) is now in effect.

The Wisconsin Department of Health and Family Services is proposing to modify the state plan provisions describing methods for calculating reimbursement for school districts for school-based services. This amendment removes the section of the state plan allowing school districts to create their own rates for reimbursement. No school district has selected that option. All school districts are now reimbursed under the statewide contract rate schedule, and will continue to be reimbursed under that rate schedule.

The Department's proposal involves no change in the amount of funds available to school districts or the amount of funds they are likely to receive. The benefits offered under the school based services will remain the same.

The Department is changing its methods and standards in this manner because no school district has selected the method of reimbursing a school district under a prospective district-specific cost-based rate schedule. As a result, the budget impact is zero dollars on both federal and state general purpose revenue monies.

Proposed Change

The proposed change is to eliminate the option for a school district to elect to be reimbursed under a prospective district-specific cost-based rate schedule.

Copies of the Available Proposed Change:

A copy of the proposed change may be obtained free of charge by calling or writing as follows:

Regular Mail:

Attention: State Plan Coordinator
Division of Health Care Financing
P.O. Box 309
Madison, WI 53701-0309

Telephone:

James Johnston
Policy Section Chief
(608) 267-9474

FAX:

(608) 266-1096
Attention: State Plan Coordinator

E-Mail:

matana@dhfs.state.wi.us

A copy of the proposed change is available for review at the main office of any county department of social services or human services.

Written Comments

Written comments on the proposed change are welcome. Written comments may be sent by FAX, e-mail or regular mail to the Division of Health Care Financing. All written comments will be reviewed and considered.

The written comments will be available for public review between the hours of 7:45 a.m. and 4:30 p.m. daily in Room 250 of the State Office Building, 1 West Wilson Street, Madison, Wisconsin. Revisions may be made in the proposed changed methodology based on comments received.

NOTICE OF NONACQUIESCENCE

NOTICE OF NONACQUIESCENCE

Labor and Industry Review Commission

In the matter of the contribution liability,
or status, under Chapter 108, Wis. Stats., of :

STRUCK & IRWIN FENCE, INC., : Hearing No. S9700192MD

UI Account No. 243931-8 :

Please take notice that the Wisconsin Department of Workforce Development–Unemployment Insurance Division nonacquiesces in the decision of the Labor and Industry Review Commission in the above–entitled matter dated February 26, 1999. More particularly, the Department does not acquiesce in the Commission’s construction and application of s. 108.02 (12) (b) 2. a., b., c., d., f. and h., Stats.

The effect of this notice is that the decision of the Commission remains binding on the Department and Struck & Irwin Fence, Inc., but the rationale and construction of statutes in the case are not binding on the Department in other cases.

THE STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
BUREAU OF INTEGRATED DOCUMENT SERVICES
DOCUMENT SALES AND DISTRIBUTION SECTION
P.O. BOX 7840
MADISON, WISCONSIN 53707-7840

First Class
U.S. POSTAGE PAID
Madison, Wisconsin
Permit Number 1369

First Class Mail

*Wisconsin
Administrative
Register*

DATED MATERIAL. PLEASE DO NOT DELAY!