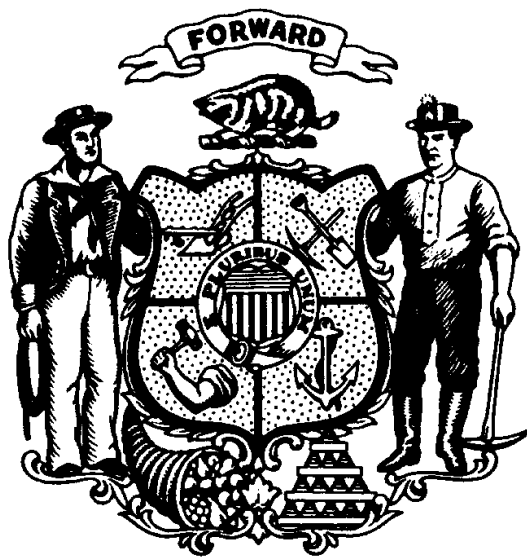


WISCONSIN ADMINISTRATIVE REGISTER

No. 535



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EMERGENCY RULES NOW IN EFFECT

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

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

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

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

EMERGENCY RULES NOW IN EFFECT (3)

Agriculture, Trade & Consumer Protection

1. Rules adopted revising s. **ATCP 11.20** and creating ss. **ATCP 11.01(11m)** and **11.73**, relating to swine import and required tests.

Finding of Emergency

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

- Pseudorabies is a highly contagious disease of swine and other livestock. Wisconsin initiated its pseudorabies program in 1976. Since that time, the department has worked diligently, pork producers have sacrificed significantly and the state has paid substantial costs to eradicate the disease. In 1997, the National Pseudorabies Control Board recognized Wisconsin as a pseudorabies stage IV state. If there are no incidents of pseudorabies in the state before October, 2000, the state will be classified as a pseudorabies stage V state (free of the disease) at that time. Classification as a pseudorabies stage IV or V state creates significant benefits in the swine export market.

- There has been a significant increase in pseudorabies cases reported in several pseudorabies stage II and III states. In the past, Wisconsin pork producers have imported many swine from the pseudorabies stage II and III states which are now experiencing an increase in pseudorabies.

- If pseudorabies spreads to Wisconsin, the Wisconsin pork industry will be hampered in its ability to produce and export swine and pork products.

- The increased prevalence of pseudorabies in states from which Wisconsin import shipments originate creates a substantial threat to

the pork industry in Wisconsin. The department finds that an emergency rule is needed to minimize the threat of pseudorabies.

Publication Date: May 25, 2000

Effective Date: May 25, 2000

Expiration Date: October 22, 2000

Hearing Date: June 29, 2000

2. Rule adopted amending s. **ATCP 74.08(1)**, relating to fees required of agent cities and counties that license and inspect retail food establishments.

Finding of Emergency

The Department of Agriculture, Trade and Consumer Protection ("department") finds that an emergency rule is necessary to promote the public welfare, and prevent unnecessary economic hardship on cities and counties that license and inspect retail food establishments for the department. The facts constituting the emergency are as follows:

- (1) The department licenses and inspects retail food establishments under s. 97.30, Stats. Under s. 97.41, Stats., the department may enter into an agreement with a city or county, under which the city or county licenses and inspects retail food establishments for the department. The department monitors and assists the agent city or county. From the license fees that it collects, an agent city or county must pay the department an annual fee to cover the department's costs. The department sets the fee by rule.

- (2) By rule, the department establishes license fees for retail food establishments that it licenses directly. An agent city or county may charge a license fee that differs from the state license fee established by the department.

- (3) Under current rules, an agent city or county must pay the department an annual fee, for each retail food establishment, that is equal to 20% of the license fee that the department would charge if it licensed the establishment directly.

- (4) Effective February 1, 1998; the department increased license fees for retail food establishments that it licenses. The fee increase was caused, in part, by a legislative budget change that required the department to recover 60% (rather than 50%) of its program costs from license fees. The fee change approximately doubled the department's license fees, increasing the maximum retail food license fee from \$210 to \$450 and the minimum fee from \$42 to \$90.

- (5) The department's 1998 license fee increase incidentally increased the annual fees that agent cities were required to pay to the department, beginning with the license year ending June 30, 1999. As a result of the department's license fee increase, agent cities and counties were required to pay the department 20% of the increased license fee amounts. This change effectively doubled city and county fee payments to the department and imposed a serious financial burden on those city and county governments. The increased fee payments also exceeded the amounts needed to cover the department's costs under agent city and agent county agreements.

- (6) In order to reduce the financial burden on local governments and eliminate the department's surplus receipts, it is necessary to reduce the agent city and county percentage fee payment from 20% to 10% beginning with the license year that ends June 30, 2000. The public welfare necessitates that the department make this rule change by June 30, 2000. However, it is not possible to make this rule change by June 30 using normal rulemaking procedures. The

department is, therefore, adopting this rule change by emergency rule, pending adoption by normal rulemaking procedures.

Publication Date: June 30, 2000
Effective Date: July 1, 2000
Expiration Date: November 29, 2000

3. Rules adopted creating **ss. ATCP 10.21(1m) and 10.63(1m)** relating to an implied warranty that cattle and goats are free of paratuberculosis (also known as Johne's disease).

Finding of Emergency

(1) Paratuberculosis, also known as Johne's disease, is an infectious and communicable disease of cattle and goats. The disease is slow to develop, and an infected animal may go for years without showing symptoms. An infected animal, which is free of symptoms at the time of sale, may spread the disease to a buyer's herd. The disease has a serious impact on milk production, and is ultimately fatal to infected animals.

(2) 1989 Wis. Act 277 established a Johne's disease "implied warranty" in the sale of cattle and goats. Under the "implied warranty" law, s. 95.195, Stats., a seller implicitly warrants to a buyer that cattle and goats are free of Johne's disease *unless* the seller complies with certain testing and disclosure requirements. If cattle or goats are infected with Johne's disease at the time of sale, and the seller has *not* complied with applicable testing and disclosure requirements, the buyer may sue the seller for damages under the "implied warranty."

(3) The "implied warranty" law protects buyers of cattle and goats, and gives sellers an incentive to test their animals for Johne's disease. A seller may avoid the "implied warranty" by testing and disclosing. Testing is important for the ultimate control of this serious disease.

(4) 1999 Wis. Act 160 changed the "implied warranty" law, effective July 1, 2000. It changed prior testing and disclosure requirements to make the law more effective and workable. It also authorized the department of agriculture, trade and consumer protection ("DATCP") to cover *other* diseases and animal species by rule. DATCP must implement the new law by rule. The "implied warranty" no longer applies to *any* animals or diseases (including Johne's disease) unless DATCP identifies those animals and diseases by rule.

(5) DATCP, the livestock industry and the Legislature intended that the new law would apply, at a minimum, to Johne's disease in cattle and goats. The Legislature, in a related action, appropriated \$100,000 in grant funds to help herd owners pay for Johne's disease testing in FY 2000–2001. DATCP has also adopted new Johne's disease rules for cattle and goats, in anticipation of the July 1, 2000 effective date of the new law. The new rules, contained in ss. 10.21 and 10.63, Wis. Adm. Code, clearly indicate DATCP's understanding and intent that the new law would apply to Johne's disease in cattle and goats. However, the new rules are technically flawed, in that they fail to state *explicitly* that the new law applies to Johne's disease in cattle and goats. This emergency rule remedies that technical flaw on a temporary basis, pending the adoption of "permanent" remedial rules.

(6) This emergency rule is needed to resolve any possible challenge or uncertainty related to the coverage of the new "implied warranty" law. This emergency rule clarifies that the "implied warranty" law applies to Johne's disease in cattle and goats. This emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease of cattle and goats, will protect buyers of cattle and goats, will promote certainty in commercial transactions, and will prevent

unnecessary litigation related to the applicability of the "implied warranty" law.

Publication Date: June 30, 2000
Effective Date: July 1, 2000
Expiration Date: November 29, 2000
Hearing Date: July 27, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Commerce

(PECFA – Chs. Comm 46–47)

1. Rules adopted creating **ch. Comm 46**, relating to "Petroleum Environmental Cleanup Fund Interagency Responsibilities," and relating to site contaminated with petroleum products from petroleum storage tanks.

Exemption From Finding of Emergency (See section 9110 (3yu) 1999 Wis. Act. 9)

Analysis prepared by the Department of Commerce

Statutory authority: ss. 227.11 (2)(a) and 227.24 and s. 9110 (3yu)(b) of 1999 Wis. Act 9.

Statutes interpreted: ss. 101.143, 101.144, 292.11, and 292.31 and ch. 160

The proposed ch. Comm 46 is identical to ch. NR 746 that is being promulgated by the Department of Natural Resources.

Chapter Comm 46 provides that the Department of Natural Resources has authority for "high-risk sites" and that the Department of Commerce has authority for "low and medium risk sites." The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a "high-risk site" or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter Comm 46 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum-contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

Publication Date: May 17, 2000
Effective Date: May 18, 2000
Expiration Date: September 1, 2000
Hearing Dates: June 15, July 10 & 12, 2000

2. Rules adopted amending **s. Comm 47.53**, relating to appeals of decisions issued under the Petroleum Environmental Cleanup Act (PECFA) program.

Finding of Emergency

The Department of Commerce finds that an emergency exists and that a rule is necessary for the immediate preservation of the public

peace, health, safety or welfare. A statement of the facts constituting the emergency is:

The department is receiving funds from a bonding initiative to enable it to issue approximately 3,500 decisions on applications for PECFA funding which had been awaiting the availability of funding. Because these decisions will be issued over a very short time frame, parties receiving decisions and law firms representing them, will be required to review and analyze a large volume of decisions to determine whether they wish to appeal specific departmental decisions. Given the large number of decisions and the normal rate of appeals, it is reasonable to expect that the public will be required to prepare and file a large volume of appeals within a short time period. Attorneys, lenders and consultants representing multiple claimants have expressed concern about the workload associated with having to review decisions and draft appeals on the higher volume of decisions issued by the department within the current 30 day window. The emergency rule temporarily expands the filing period from 30 days to 90 days to provide additional time to evaluate decisions and determine whether an appeal should be filed. The rule covers the time period when the highest volume of decisions are to be issued.

Publication Date: February 15, 2000
Effective Date: February 15, 2000
Expiration Date: July 14, 2000
Hearing Date: March, 27, 2000
Extension Through: September 11, 2000

EMERGENCY RULES NOW IN EFFECT

Employe Trust Funds

Rules adopted revising s. ETF 20.25 (1), relating to the distribution to annuitants from the transaction amortization account to the annuity reserve under 1999 Wis. Act 11.

Finding of Emergency

The Department of Employe Trust Funds, Employe Trust Fund Board, Teacher Retirement Board and Wisconsin Retirement Board find that an emergency exists and that administrative rules are necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

The Public Employe Trust Fund was created for the purpose of helping public employes to protect themselves and their beneficiaries against the financial hardships of old age, disability, death, illness and accident. The Trust Fund thus promotes economy and efficiency in public service by facilitating the attraction and retention of competent employes, by enhancing employe morale, by providing for the orderly and humane departure from service of employes no longer able to perform their duties effectively, and by establishing equitable benefit standards throughout public employment. There are approximately 102,000 annuitants of the Wisconsin Retirement System, of whom about 80% reside throughout the State of Wisconsin. The Department of Employe Trust Funds estimates that up to 7,000 public employes covered by the Wisconsin Retirement System will retire and take annuity benefits effective during 1999.

WRS participants who retire during 1999 are not eligible to have their retirement benefits calculated using the higher formula factors for pre-2000 service which are provided by the treatment of Wis. Stats. 40.23 (2m) (e) 1. through 4. by 1999 Wis. Act 11. Section 27 (b) 2. of the Act directs that any funds allocated to the employer reserve in the Trust Fund as a result of the \$4 billion transfer mandated by the Act, which exceed \$200,000,000 shall be applied towards funding any liabilities created by using the higher formula factors with respect to pre-2000 service.

If the existing administrative rule mandating proration is not revised, then the distribution of the funds transferred into the annuity reserve by Act s. 27 (1) (a) of 1999 Wis. Act 11 will be prorated with respect to annuities with effective dates after December 31, 1998, and before January 1, 2000. The extraordinary transfer of funds from the Transaction Amortization Account (TAA) mandated by 1999 Wis. Act 11 causes funds, which would otherwise have remained in the TAA to be recognized and fund annuity dividends in later years, to instead be transferred into the annuity reserve in 1999 and paid out as an annuity dividend effective April 1, 2000. Normally, annuities effective during 1999 would receive only a prorated dividend. If this occurred with respect to this extraordinary distribution, then annuitants with annuity effective dates in 1999 would be deprived of a portion of the earnings of the Public Employe Trust Fund that would otherwise have affected their annuities as of April 1, 2001 and in subsequent years.

Promulgation of an emergency rule is the only available option for revising the effect of Wis. Adm. Code s. ETF 20.25 (1) before December 31, 1999. Accordingly, the Department of Employe Trust Funds, Employe Trust Funds Board, Teacher Retirement Board and Wisconsin Retirement Board conclude that preservation of the public welfare requires placing this administrative rule into effect before the time it could be effective if the Department and Boards were to comply with the scope statement, notice, hearing, legislative review and publication requirements of the statutes.

Publication Date: December 27, 1999
Effective Date: December 31, 1999
Expiration Date: May 29, 2000
Hearing Date: February 11, 2000
Extension Through: July 27, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Health & Family Services

(Management, Technology, etc., Chs. HFS 1-)

1. A rule was adopted revising **chapter HFS 12 and Appendix A**, 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:

Since October 1, 1998, the Department has been implementing ss. 48.685 and 50.065, Stats., effective on that date, that require use of uniform procedures to check the backgrounds of persons who apply to the Department for regulatory approval, to a county social services or human services department that licenses foster homes for children and carries out adoption home studies, to a private child-placing agency that does the same or to a school board that contracts for day care programs, to provide care or treatment to persons who need that care or treatment, or who apply to a regulated entity to be hired or contracted with to provide services to the entity's clients or who propose to reside as a non-client at the entity. The statutes direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction or finding, who have in their backgrounds a specified conviction or finding substantially related to the care of clients, from operating a service provider organization, providing care or treatment to persons who need that care or treatment or from otherwise having contact with the clients of a service provider.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. The October 1998 emergency rules were modified in December 1998 and February 1999 by emergency order, and were replaced by permanent rules effective

July 1, 1999. On September 12, 1999, the Department issued another emergency order again modifying ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes was reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being crimes that permanently barred persons for all programs. The change to the ch. HFS 12 Crimes List was made at that time because the 1999–2001 Budget Bill, subsequently passed by the Legislature as 1999 Wisconsin Act 9, was expected to provide for a more modest list of crimes than the one that was appended to ch. HFS 12. The more modest crimes list published by an emergency rulemaking order on September 12, 1999 reflected the Legislature's intent that some persons who under the previous rules would lose their jobs effective October 1, 1999, were able to keep their jobs.

The 1999–2001 Biennial Budget Act, 1999 Wisconsin Act 9, made several changes to ss. 48.685 and 50.065, Stats., the Caregiver Law. These changes were effective on October 29, 1999. The Department's current rules, effective July 1, 1999, as amended on September 16, 1999, have been in large part made obsolete by those statutory changes. Consequently, the Department through this order is repealing and recreating ch. HFS 12 to bring its rules for operation of the Caregiver Law into conformity with the revised statutes. This is being done as quickly as possible by emergency order to remove public confusion resulting from administrative rules, which have been widely relied upon by the public for understanding the operation of the Caregiver Law, that are now in conflict with current statutes.

The revised rules minimize repetition of ss. 48.685 and 50.065, Stats., and are designed to supplement those statutes by providing guidance on:

- Sanctions associated with the acts committed under the Caregiver Law;
- Determining whether an offense is substantially related to client care;
- Reporting responsibilities; and
- The conduct of rehabilitation review.

Publication Date: February 12, 2000
Effective Date: February 13, 2000
Expiration Date: July 12, 2000
Hearing Date: April 13, 2000
Extension Through: August 31, 2000

2. Rules adopted creating **ch. HFS 10**, relating to family care.

Exemption From Finding of Emergency

The Legislature in s. 9123 (1) of 1999 Wis. Act 9 directed the Department to promulgate rules required under ss. 46.286 (4) to (7), 46.288 (1) to (3) and 50.02 (2) (d), Stats., as created by 1999 Wis. Act 9, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency.

Analysis Prepared by the Department of Health and Family Services

Legislation establishing a flexible Family Care benefit to help arrange or finance long-term care services to older people and adults with physical or developmental disabilities was enacted as part of 1999 Wis. Act 9. The benefit is an entitlement for those who meet established criteria. It may be accessed only through enrollment in Care Management Organizations (CMOs) that meet requirements specified in the legislation.

The Act also authorizes the Department of Health and Family Services to contract with Aging and Disability Resource Centers to provide broad information and assistance services, long-term care counseling, determinations of functional and financial eligibility for the Family Care benefit, assistance in enrolling in a Care Management Organization if the person chooses to do so, and

eligibility determination for certain other benefits, including Medicaid, and other services.

Until July 1, 2001, the Department of Health and Family Services is authorized to contract with CMOs and Resource Centers in pilot counties to serve up to 29% of the state's eligible population. Further expansion is possible only with the explicit authorization of the Governor and the Legislature.

When Aging and Disability Resource Centers become available in a county, the legislation requires nursing homes, community-based residential facilities, adult family homes and residential care apartment complexes to provide certain information to prospective residents and to refer them to the Resource Center. Penalties are provided for non-compliance.

These proposed rules interpret this new legislation, the main body of which is in newly enacted ss. 46.2805 to 46.2895, Stats. The Department of Health and Family Services is specifically directed to promulgate rules by ss. 46.286 (4) to (7), 46.288 (1) to (3), 50.02 (2) (d) and 50.36 (2) (c), Stats. Non-statutory provisions in section 9123 of 1999 Wis. Act 9 require that the rules are to be promulgated using emergency rulemaking procedures and exempts the Department from the requirements under s. 227.24 (1) (a), (2) (b) and (3) of the Stats., to make a finding of emergency. These are the rules required under the provisions cited above, together with related rules intended to clarify and implement other provisions of the Family Care legislation that are within the scope of the Department's authority. The rules address the following:

- Contracting procedures and performance standards for Aging and Disability Resource Centers.
- Application procedures and eligibility and entitlement criteria for the Family Care benefit.
- Description of the Family Care benefit that provides a wide range of long-term care services.
- Certification and contracting procedures for Care Management Organizations.
- Certification and performance standards and operational requirements for CMOs.
- Protection of client rights, including notification and due process requirements, complaint, grievance, Department review, and fair hearing processes.
- Recovery of incorrectly and correctly paid benefits.
- Requirements of hospitals, long-term care facilities and Resource Centers related to referral and counseling about long-term care options.

Publication Date: February 1, 2000
Effective Date: February 1, 2000
Expiration Date: June 30, 2000
Hearing Dates: April 25, & 27, May 2, 4 & 8, 2000
Extension Through: August 28, 2000

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Medical Assistance, Chs. HFS 101–108)

Rules adopted revising **chs. HFS 102, 103 and 108**, relating to the medicaid purchase plan.

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:

This order creates rules that specify the manner in which a new program called the Medicaid Purchase Plan, established under s.

49.472, Stats., as created by 1999 Wis. Act 9, will operate. Under the Medicaid Purchase Plan, working adults with disabilities whose family net income is less than 250% of the poverty line are eligible to purchase Medical Assistance, the name given to Medicaid in Wisconsin, on a sliding-fee scale. The order incorporates the rules for operation of the Medicaid Purchase Plan into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the Medical Assistance program.

The Medicaid Purchase Plan is projected to provide health care coverage to 1,200 Wisconsin residents with disabilities by the end of Fiscal Year 2001.

Health care coverage under the Medicaid Purchase Plan is identical to the comprehensive package of services provided by Medical Assistance. Individuals enrolled in the Medicaid Purchase Plan would also be eligible for Wisconsin's home and community-based waivers under s. 46.27, Stats., provided they meet the functional criteria for these waivers.

Department rules for the operation of the Medicaid Purchase Plan must be in effect before the Medicaid Purchase Plan may begin. The program statute, s. 49.472, Stats., as created by Act 9, effective October 27, 1999, states that the Department is to implement the Medical Assistance eligibility expansion under this section not later than January 1, 2000, or 3 months after full federal approval, whichever is later. Full federal approval was received on January 7, 2000. The Department is publishing the rules by emergency order with an effective date of March 15, 2000 to meet the expected program implementation date and the legislative intent in order to provide health care coverage as quickly as possible to working people with disabilities.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate the Medicaid Purchase Plan and in the process provide more specificity than s. 49.472, Stats., as created by Act 9, regarding the non-financial and financial conditions of eligibility for individuals under the Medicaid Purchase Plan; define whose income is used when determining eligibility and the monthly premium amount; explain statutory conditions for continuing eligibility; explain how the monthly premium amount is calculated; describe the processes associated with the independence account; and set forth how the Department, in addition to providing Medical Assistance coverage, is to purchase group health coverage offered by the employer of an eligible individual or an ineligible family member of an eligible member for the Medicaid Purchase Plan if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

Publication Date: March 15, 2000
Effective Date: March 15, 2000
Expiration Date: August 12, 2000
Hearing Dates: June 15, 16, 19 & 20, 2000

EMERGENCY RULES NOW IN EFFECT

Health & Family Services **(Health, Chs. HFS 110-)**

Rules adopted revising **ch. HFS 119**, relating to the Health Insurance Risk-Sharing Plan (HIRSP).

Exemption From Finding of Emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats., 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. Department staff consulted with the Health Insurance Risk-Sharing Plan (HIRSP) Board of Governors on April 26, 2000 on the rules, as required by s. 149.20, Stats.

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. HIRSP offers different types of medical care coverage plans for residents.

One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty-four percent of the 8,427 HIRSP policies in effect in March 2000, were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The rate increases for Plan 1 contained in this rulemaking order increase an average of 12.4%. Rate increases for specific policyholders range from 3.5% to 15.0%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. This increase reflects industry-wide premium increases and takes into account the increase in costs associated with Plan 1 claims. According to state law, HIRSP premiums cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market. The average 12.4% rate increase for Plan 1 is the minimum increase necessary to maintain premiums at the lowest level permitted by law.

A second type of medical coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Sixteen percent of the 8,427 HIRSP policies in effect in March 2000, were of the Plan 2 type. The rate increases for Plan 2 contained in this rulemaking order increase an average of 18.2%. Rate increases for specific policyholders range from 7.5% to 21%, depending on a policyholder's age, gender, household income and zone of residence within Wisconsin. These rate increases reflect industry-wide cost increases and adjust premiums to a level that more accurately reflects actual claim costs for Plan 2 policyholders.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP premium rates 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. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

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. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1999. The Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula.

By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2000. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$10,119,482. The total annual contribution to the HIRSP budget provided by an assessment on

insurers is \$9,898,358. On April 26, 2000, the HIRSP Board of Governors approved the calendar year 1999 reconciliation process and the HIRSP budget for the plan year July 1, 2000 through June 30, 2001.

Publication Date: June 30, 2000
Effective Date: July 1, 2000
Expiration Date: November 29, 2000

EMERGENCY RULES NOW IN EFFECT

Insurance

Rules were adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2000.

Finding of Emergency

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

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2000.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 00-061, will be filed with the secretary of state in time to take effect September 1, 2000. Because the fund fee provisions of this rule first apply on July 1, 2000, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 5, 2000.

Publication Date: May 22, 2000
Effective Date: July 1, 2000
Expiration Date: November 28, 2000
Hearing Date: August 29, 2000
 [See Notice this Register]

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted revising **ch. NR 10**, relating to deer hunting in certain deer management units.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and forest resources, and to minimize deer nuisance problems, thereby protecting the public peace, health, safety and welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify the rules will result in excessively high deer populations well above established goal levels, causing substantial

deer damage to agricultural lands and forest resources, and potential for disease.

Publication Date: May 15, 2000
Effective Date: August 4, 2000
Expiration Date: January 1, 2001

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted creating **ch. NR 168**, relating to the brownfield site assessment grant program administration.

Finding of Emergency

This rule implements the brownfield site assessment grant program. Created in the 1999-2000 biennial state budget bill (1999 Wisconsin Act 9), the brownfield site assessment grant program provides grants to eligible local governments to cover the costs of brownfield site assessment activities such as: investigating environmental contamination of an eligible site or facility; demolishing structures located on an eligible site; removing certain abandoned containers; abating asbestos as part of demolition activities; removing underground hazardous substance storage tank systems; and removing underground petroleum product storage tank systems. Eligible local governments include cities, villages, towns, counties, redevelopment authorities, community development authorities, and housing authorities. The legislature appropriated \$1.45 million for the 99-01 biennium for these grants. Local governments are required to contribute matching funds as cash or in-kind, or both, equal to 20% of the grant. This rule limits the amount of funds that may be awarded for eligible activities. The rule specifies that 70% of available funds are to be allocated to "small" grants (i.e. a grant award between \$2,000 and \$30,000); and 30% of available funds are to be allocated to "large" grants (i.e. a grant award of more than \$30,000 but not more than \$100,000). Act 9 required that the department promulgate these rules as necessary to administer the program, and directed the department to promulgate them as emergency rules.

Publication Date: July 10, 2000
Effective Date: July 10, 2000
Expiration Date: December 8, 2000

EMERGENCY RULES NOW IN EFFECT

Natural Resources

(Environmental Protection-Investigation and
 Remediation, Chs. NR 700-)

Rules adopted revising **chs. NR 700, 716, 720, 722, 726 and creating ch. NR 746**, relating to site contaminated with petroleum products discharged from petroleum storage tanks.

Exemption From Finding of Emergency (See section 9110 (3yu) 1999 Wis. Act 9)

The proposed ch. NR 746 is identical to ch. Comm 46 that is being promulgated by the Department of Commerce.

Chapter NR 746 provides that the Department of Natural Resources has authority for "high-risk sites" and that the Department of Commerce has authority for "low and medium risk

sites.” The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a “high-risk site” or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter NR 746 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum-contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

The amendments and new provisions that are proposed to be added to chs. NR 700, 716, 720, 722 and 726, as part of this rule package, consist of cross-references to ch. NR 746 that are proposed to be inserted in chs. NR 700, 716 and 726, and exemptions from the requirements in chs. NR 720 and 722 that would conflict with the requirements in ch. NR 746: that is, an exemption from the soil cleanup standards in ch. NR 720 and the remedial action option evaluation requirements in ch. NR 722 for those sites contaminated with petroleum products discharged from petroleum storage tanks that satisfy the risk criteria in s. NR 746.06 and are eligible for closure under s. NR 746.07.

Publication Date: May 17, 2000
Effective Date: May 18, 2000
Expiration Date: September 1, 2000
Hearing Dates: June 15, July 10 & 12, 2000

EMERGENCY RULES NOW IN EFFECT

Public Service Commission

Rules adopted amending s. PSC 116.03(4) and creating s. PSC 116.04(6), relating to the definition of fuel and permissible fuel costs.

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend ch. PSC 116 Wis. Adm. Code. Amending the definition of “fuel” in s. PSC 116.03(4) and creating s. PSC 116.04(6) would allow investor-owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the summer of 2000 and beyond.

This change would assist in implementing the requirement of 1999 Wis. Act 9, s. 196.192(2)(a), Stats.

Publication Date: June 5, 2000
Effective Date: June 5, 2000
Expiration Date: November 2, 2000

EMERGENCY RULES NOW IN EFFECT

Revenue

Rules were adopted revising ch. WGC 61, relating to the implementation and maintenance of the retailer performance program of the Wisconsin lottery.

Finding of Emergency

The Department of Revenue 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:

Sections 565.02 (4)(g) and 565.10 (14)(b)3m., Stats., as created by 1999 Wis. Act 9, provide for the implementation of a retailer performance program, effective January 1, 2000. The program may be implemented only by the promulgation of rules.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. The retailer performance program is being implemented retroactively to January 1, 2000, pursuant to Section 9443 (1) of 1999 Wis. Act 9.

Publication Date: March 3, 2000
Effective Date: March 3, 2000
Expiration Date: July 31, 2000
Hearing Date: May 31, 2000

EMERGENCY RULES NOW IN EFFECT

Wisconsin Technical College System

Rules adopted creating ch. TCS 16, relating to grants for students.

Finding of Emergency

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

1999 Wis. Act 9 (the 2000–2001 biennial budget bill) took effect on October 29, 1999. That act created ss. 20.292(1)(ep) and 38.305, Stats. An annual appropriation of \$6,600,000 GPR in the second fiscal year of the 2000–2001 biennium was established. These funds are to be awarded by the WTCS Board as grants to students who are attending a Wisconsin technical college on a full-time basis and who are enrolled in a vocational diploma or associate degree program.

The Act requires the WTCS Board to promulgate rules to implement and administer the awarding of these grants. The Board has begun the permanent rule making process for establishing administrative rules for these student grants, but cannot complete the required public hearing and review of these rules prior the start of the upcoming school year, which begins on July 1, 2000. Moreover, prospective students evaluate their educational options, including costs, as early as February preceding their graduation from high school. Therefore, for the TOP Grant program to be

implemented and the funds distributed to each technical college district, and in turn to each eligible student, in time for the upcoming school year, emergency administrative rules must be established immediately.

Publication Date: February 1, 2000
Effective Date: February 1, 2000
Expiration Date: June 30, 2000
Hearing Date: May 1, 2000
Partial Extension Through: August 28, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Transportation

1. Rules adopted revising **ch. Trans 4**, relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process.

Exemption From Finding of Emergency

Chapter Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats. and prescribes administrative policies and procedures for implementing the state urban public transit operating assistance program authorized under s. 85.20, Stats. 1999 Wis. Act 9, section 9150(2bm), requires the Department to adopt an emergency rule to amend Chapter Trans 4 by adding a section that requires that cost proposals submitted by a publicly owned transit system in response to a request for proposals issued by a public body for the procurement of transit services to be funded under the state urban transit operating assistance program must include an analysis of fully allocated costs. The analysis must include all of the publicly owned system's costs, including operating subsidies and capital grants. This analysis shall be the basis for evaluating costs when ranking proposals.

Pursuant to 1999 Wis. Act 9, section 9150(2bm)(b), the Department is not required to provide evidence that the rule is necessary for the preservation of the public peace, health, safety or welfare, and is not required to provide a finding of emergency.

Publication Date: December 12, 1999
Effective Date: December 12, 1999
Expiration Date: July 1, 2000
Hearing Date: February 14, 2000
Extension Through: August 29, 2000

2. Rule adopted creating **s. Trans 4.09 (4)**, relating to cost-efficiency standards for systems participating in the Urban Mass Transit Operating Assistance program.

Finding of Emergency

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

1999 Wis. Act 9 specifies that the Department may not enter into a contract for the payment of state aids until cost-efficiency standards have been incorporated into an administrative rule, which is "in effect" for calendar year 2000 contracts, and unless the contract requires the transit system to comply with those rules as a condition of receiving state aid. The Department is promulgating this emergency rule making so that state aid contracts can be executed prior to the scheduled first quarter payment date (March 31) in calendar year 2000 to ensure that payments are not delayed causing undue hardship to Wisconsin municipalities.

Publication Date: March 23, 2000
Effective Date: March 23, 2000
Expiration Date: August 20, 2000
Hearing Date: April 12, 2000

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Economic Support, Chs. DWD 11-59)

Rules adopted creating **s. DWD 12.28**, relating to Wisconsin works disregard of year 2000 census income.

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, or welfare. A statement of facts constituting the emergency is:

The Department of Workforce Development is acting under its statutory authority to establish additional eligibility criteria and specify how eligibility criteria are to be administered for the Wisconsin Works (W-2) program. The department is promulgating a rule to exclude income earned from temporary employment with the U.S. Census Bureau in determining W-2 and child care eligibility and child care copayments. The rule will contribute to the welfare of the people of Wisconsin by broadening the pool of available workers to help ensure an accurate Census count, particularly in low-income neighborhoods. The rule must be effective immediately because temporary Census employment is expected to begin April 2000 and last two to six months. DWD will not be seeking a permanent rule on this issue.

Publication Date: April 9, 2000
Effective Date: April 9, 2000
Expiration Date: September 6, 2000
Hearing Date: May 15, 2000

STATEMENTS OF SCOPE OF PROPOSED RULES

Agriculture, Trade and Consumer Protection

Subject:

Ch. ATCP 11 – Relating to import of animals from states that are USDA non–modified accredited states (not tuberculosis–free states).

Description of policy issues:

Preliminary objectives:

This rule will establish conditions under which bovine animals, goats and cervids that originate from states that the USDA classifies as “non–modified accredited states” will be permitted to be imported to Wisconsin. The goal is to protect Wisconsin’s animal industry without completely prohibiting import of animals from any particular state.

Preliminary policy analysis:

When the USDA classifies a state as a “non–modified accredited state”, it indicates that bovine tuberculosis is present in the state. Bovine tuberculosis (TB) is an infectious disease caused by *Mycobacterium bovis* (*M. bovis*). It is generally described as a chronic debilitating disease of cattle but it may have an acute, rapidly progressive course. It can cause disease in most warm–blooded vertebrates, including humans. If TB becomes established in Wisconsin again, it will pose a significant threat to the health of domestic animals and humans in this state. Therefore, it is imperative that the Department make all reasonable efforts to assure that infected animals are not imported into this state.

The USDA recently reclassified Michigan from “modified accredited” to “non–modified accredited.” There have been several confirmed cases of bovine tuberculosis in bovine animals and cervids in Michigan. In the past, many Michigan animals have been imported into Wisconsin. The last known TB infected bovine animal in Wisconsin was imported from Michigan.

The Department will consider rule provisions that address the following:

- Require imported animals to originate from a herd that has completed annual whole herd TB testing.
- Require testing of the animal to be imported.
- Require the importer to obtain an import permit before the animals are imported.
- Require imported animals to be isolated from other animals until they are retested 90 to 120 days after they are imported.
- Quarantine animals until they are retested.
- Restrict movement of animals imported for feeding prior to shipment to slaughter. Permit removal from premises at which they are received for feeding only for shipment directly to slaughter.

Policy alternatives:

• Do nothing. This would permit animals to be imported to Wisconsin without any screening to prevent the import of infected animals. This would create a significant threat that Wisconsin animal producers would import TB. If that happens, there will be significant losses due to the disease and all Wisconsin animal producers will find interstate and international markets closed to their animals.

• Prohibit the import of any animals that originate from a non–modified accredited state. This would prevent the import of a TB infected animal, but it may cause unnecessary hardship for persons in animal industry because it would also prevent import of many animals which are not infected with TB.

Statutory authority:

The Department proposes to develop this rule under the authority of s. 93.07 (1), Stats. The rules would interpret ss. 93.07 (10), 95.20 and 95.25, Stats., and other applicable laws administered by the Department.

Staff time required:

The Department estimates it will use approximately 0.25 FTE staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions and communicating with affected persons and groups. The Department will assign existing staff to develop this rule.

Agriculture, Trade and Consumer Protection

Subject:

S. ATCP 74.08 (1) – Relating to retail food establishments; local government regulation; cost reimbursement.

Description of policy issues:

Preliminary objectives:

Reduce fees that agent cities and counties must pay the Department for services provided in connection with local regulation of retail food establishments.

Preliminary policy analysis:

The Department licenses and inspects retail food establishments under s. 97.30, Stats. Under s. 97.41, Stats., the Department may enter into an agreement with a city or county whereby the city or county licenses and inspects retail food establishments as an agent of the Department. The Department monitors and assists the agent city or county. From the license fees that the city or county collects, the city or county must pay the Department an annual fee to cover Department costs. The Department sets the fee by rule.

Under current rules, an agent city or county must pay the Department an annual fee for each retail food establishment that is equal to 20% of the license fee that the Department would charge if it licensed the establishment directly. This percentage rate has been in effect since the agent program was established.

Effective February 1, 1998, the Department adopted rules increasing license fees for retail food establishments that the Department licenses. Because agent city and county fees are calculated as a percentage of DATCP license fees, this had the effect of increasing the annual city and county fees. Beginning with the license year ending June 30, 2000, required fee payments would have doubled. This would have imposed a serious financial burden on cities and counties, and would have generated excessive fee revenues for the Department.

In order to reduce the financial burden on local governments and prevent surplus receipts, the Department adopted a temporary emergency rule to reduce the percentage fee payment from 20% to 10% beginning with the license year that ended June 30, 2000. The Department now proposes to adopt a “permanent” rule to continue the fee reduction.

Policy alternatives:

• Do nothing. If the Department fails to implement the fee reduction by “permanent” rule, agent cities and counties will be required to pay the higher rate of 20% when the current emergency rule expires. This will cause a serious fiscal problem for agent city and county health departments, and will result in an unnecessary surplus in the Department’s program revenue account.

Statutory authority:

The Department proposes to amend s. ATCP 74.08 (1), Wis. Adm. Code, under authority of ss. 93.07 (1), 97.41 (2) and 97.41 (5), Stats.

Staff time required:

The Department estimates it will use approximately 0.1 FTE staff time to develop this rule change. This includes research, drafting, preparing related documents, holding public hearings, and communicating with affected persons and groups. The Department will assign existing staff to develop this rule.

Agriculture, Trade and Consumer Protection**Subject:**

Ch. ATCP 97 – Relating to public warehouse keepers: license fees.

Description of policy issues:*Preliminary objectives:*

Increase annual license fees for public warehouse keepers to provide sufficient revenues to administer the public warehouse keepers program.

Preliminary policy analysis:

The Department currently licenses public warehouse keepers under ch. 99, Stats., and ch. ATCP 97, Wis. Adm. Code. The Department regulates warehouse keepers, and requires warehouse keepers to file security to protect depositors. The program is funded totally by warehouse license fees. The program will likely be in a deficit position by the end of the 2002–2003 fiscal year.

The Department proposes to increase license fees to maintain the program at its current level. The Department's preliminary analysis indicates that the following annual fee increases would cover the foreseeable deficits:

Class I – Increase from the current \$75 to \$90, an increase of 20%.

Class II – Increase from the current \$150 to \$185, an increase of 23.3%.

Class III – Increase from the current \$240 to \$300, an increase of 25%.

Class IV – Increase from the current \$320 to \$400, an increase of 25%.

Class V – Increase from the current \$400 to \$500, an increase of 25%.

Policy alternatives:

- No change. If the Department does not increase fees, the Department will be forced to reduce staffing to avoid a deficit balance in this appropriation. This will impair the Department's inspection and compliance activities and reduce protection for depositors.

Statutory authority:

The Department proposes to amend ch. ATCP 97, Wis. Adm. Code, under authority of s. 99.02 (3) (a), Stats.

Staff time required:

The Department estimates it will use approximately 0.15 FTE staff to develop this rule. This includes drafting, preparing related documents, holding public hearings and communicating with affected persons and groups. The Department will use existing staff to develop this rule.

Agriculture, Trade and Consumer Protection**Subject:**

Ch. ATCP 134 – Relating to residential rental practices regarding security deposits and carpet cleaning agreements.

Description of policy issues:*Preliminary objective:*

Review and clarify the Department's policy related to security deposits and carpet cleaning agreements in residential rental transactions.

Preliminary policy analysis:

The Department administers state landlord–tenant rules contained in ch. ATCP 134, Wis. Adm. Code. These rules affect over 1.5 million Wisconsin residents.

On June 21, 2000, the Legislature's Joint Committee for Review of Administrative Rules (JCRAR) directed the Department to promulgate, as an emergency rule, the policy statement contained in s. ATCP 134.06 (3) (c) (note). This note states that landlords may not withhold a tenant's security deposit for costs related to normal wear and tear, "such as routine painting and carpet cleaning, where there is no unusual damage caused by tenant abuse."

The Department has promulgated the emergency rule as directed by the JCRAR. The emergency rule remains in effect for 150 days, unless suspended or extended by the JCRAR. The Department now proposes to develop a "permanent" rule to clarify current rules related to security deposits and carpet cleaning charges. The Department will consult with landlord and tenant groups in an effort to resolve, on a more "permanent" basis, current disagreements related to state policy on security deposit withholding and routine carpet cleaning charges.

Policy alternatives:

- Take no action. If the Department does nothing, the emergency rule will remain in effect for 150 days unless extended or suspended by the JCRAR. The JCRAR may extend the rule for up to 120 days. If the emergency rule expires or is suspended, the Department's current policy will again be expressed as a mere "note," rather than a substantive rule provision. The substance of the policy will not change. Landlord concerns related to the substance of the current policy will not be addressed. State policy may be subject to confusion and challenge, since it will not be clearly stated in a substantive rule provision.

Statutory authority:

The Department proposes to modify relevant portions of ch. ATCP 134, Wis. Adm. Code, under authority of s. 100.20 (2), Stats.

Staff time required:

The Department estimates that it will use approximately 0.50 FTE staff time to develop this rule. This includes research, drafting, preparing related documents, holding public hearings, coordinating advisory council discussions and communicating with affected persons and groups. The Department will assign existing staff to develop this rule.

Agriculture, Trade and Consumer Protection**Subject:**

Ch. ATCP 161 – Relating to grant payments to ethanol producers.

Description of policy issues:*Preliminary objectives:*

Establish standards for the ethanol grant program created under 1999 Wis. Act 55.

Preliminary policy analysis:

1999 Wis. Act 55 created an ethanol grant program under s. 93.75, Stats. Under this program, the Department is authorized to make grants to certain ethanol producers. The legislation requires the Department to adopt rules for the grant program. The legislature has not yet provided funding for the program.

To be eligible for grant payments under this legislation, an ethanol producer must produce a specified amount of ethanol (the Department must specify the amount by rule) and must purchase the ingredients from a "local source." An ethanol producer is only eligible for payments during the first 60 months of ethanol production. The payments are 20 cents per gallon for not more than 15,000,000 gallons produced within 12 months. The statute is scheduled to sunset after June 30, 2006.

According to s. 93.75 (3), Stats., the Department must specify the following by rule:

- The amount of ethanol that a person must produce (during the first 12 months of production in this state) to be eligible for grant payments.

- A definition of “local source.”
- A method of prorating grant payments if there are insufficient funds to pay all ethanol producers at the authorized statutory rate.

This rule may also address other topics such as:

- Grant application procedures.
- Records needed to justify grant applications.
- Verification of records.
- Other topics as appropriate.

Policy alternatives:

The Department has limited policy alternatives. The Department is required, by statute, to adopt rules for the ethanol grant program. The Department must, at a minimum, adopt rules that address the issues identified under s. 93.75 (3), Stats. The rules will likely address policy issues related to grant eligibility, payment procedure and program administration.

Statutory authority:

The Department proposes to develop this rule under authority of ss. 93.07 (1) and 93.75 (3), Stats.

Staff time required:

The Department estimates that it will use approximately 0.75 FTE staff time to develop this rule. This includes research, drafting, preparing related documents, holding public discussions, and communicating with affected persons and groups. The Department will use existing staff to develop this rule.

Chiropractic Examining Board

Subject:

Chir Code – Relating to policy interpretations regarding various treatment modalities and procedures, including massage therapy, physical therapy, homeopathy, orthotics, electromyography, manipulation under anesthesia, electrocardiograph and spirometer instruments, iontophoresis, the diagnostic of TMJ, and the use of magnets.

Description of policy issues:

Objective of the rule:

Over the years the Board has been called on to interpret its existing statutes and rules with regard to certain procedures or treatment modalities. These interpretations have been published in the Board’s Regulatory Digest, but they are not readily available to persons who did not receive those publications.

Policy analysis:

The Board wishes to put into published rule form, for the benefit of the public and the profession, various policy interpretations which have been developed.

Statutory authority:

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

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

100 hours.

Health and Family Services (Community Services, Chs. HFS 30—)

Subject:

Ch. HFS 95 – Relating to use of force to prevent escapes and to recapture escaped persons under ch. 980, Stats.

Description of policy issues:

Description of objective(s):

To establish a new chapter of administrative rules that, pursuant to s. 46.058 (2m), Stats., as created by 1999 Wis. Act 9, define the use of “necessary and appropriate force” in relation to both preventing escapes of persons detained at or committed to a facility, center or unit under ch. 980, Stats., and pursuing and capturing any of those who have escaped.

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

Under ch. 980, Stats., a person may be found to be a sexually violent person and, if so, is committed by the court to the custody of the Department for control, care and treatment. Section 46.058 (2m), Stats., as created by 1999 Wis. Act 9, directs facility superintendents to “adopt proper means to prevent escapes” by these persons and gives superintendents the authority to “adopt proper means to pursue and capture” any of these persons who have escaped, and permits staff designated by the superintendent to use “necessary and appropriate force, as defined by the department by rule, to prevent escapes and capture escaped persons.”

This rule would also apply to persons detained by the courts under ch. 980, Stats., pending a commitment hearing and placed at one of the specified facilities. They also pose an escape risk.

There are currently no Department policies in place on this matter. The creation of this rule will define the new policy.

Statutory authority:

Section 46.058 (2m), Stats., as created by 1999 Wis. Act 9.

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

Estimated hours of staff time — 40 hours to develop rules for Department–level review.

Health and Family Services (Health, Chs. HFS 110—)

Subject:

Ch. HFS 125 – Relating to “Do–Not–Resuscitate” orders directed at emergency health care personnel.

Description of policy issues:

Description of objective(s)

The objective of the proposed amendments to ch. HFS 125 is to make the chapter’s provisions consistent with ss. 154.17 (1), 154.19 (2) and 154.27, Stats., as amended by 1999 Wis. Act 9.

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

1995 Wis. Act 200, created ss. 154.17 to 154.29, Stats., relating to a “Do–Not–Resuscitate” (DNR) order written by the attending physician for a patient who requests the order and who has a terminal condition or a medical condition such that, if the patient were to suffer cardiac or pulmonary failure, resuscitation would be unsuccessful or would cause significant physical pain or harm that would outweigh the possibility of successful restoration of the function for an indefinite period of time. A DNR order directs emergency health care personnel not to attempt cardiopulmonary resuscitation on a patient for whom the order is issued if that person suffers cardiac or respiratory arrest. Emergency health care personnel will know if there is a “Do–Not–Resuscitate” order in effect if the patient has on his or her wrist a DNR bracelet that has been affixed there by the patient’s attending physician or at the direction of the patient’s attending physician. Emergency health care personnel are expected to follow a “Do–Not–Resuscitate” order unless the patient, or guardian or health care agent of an incapacitated patient revokes the order, or the bracelet appears to have been tampered with or the patient is known to be pregnant.

Section 154.19 (3) (a), Stats., as created by 1995 Wis. Act 200, permits the Department to establish, by administrative rule, procedures for emergency health care personnel to use in following DNR orders, and s. 154.27, Stats., as also established by 1995 Wis. Act 200, requires the Department to establish, by rule, a uniform standard for the size, color and design of DNR bracelets and may approve a commercial metal bracelet if certain criteria are met.

Follow–up legislation in 1997 Wis. Act 27 added the option for a guardian or health care agent of an incapacitated patient to initiate and revoke DNR orders for a patient. Chapter 154, Stats., was also amended by 1999 Wis. Act 9 to allow for the option of a metal bracelet.

These rules are being proposed to update the current ch. HFS 125 rules so they become consistent with statutory changes made through 1997 Wis. Act 27 and 1999 Wis. Act 9. Specifically, the Department proposes to amend ch. HFS 125 to reflect two major legislative changes:

- 1) The ability of guardians or persons with health care power of attorney to request or revoke a "Do Not Resuscitate" order; and
- 2) The legal option of using a metal or plastic "Do Not Resuscitate" bracelet.

Statutory authority:

Sections 154.19 and 154.27, Stats., as created by 1995 Wis. Act 200 and as amended by 1999 Wis. Act 9.

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

It is anticipated that it will take the Department about 20 hours to develop the rules in preparation for public review.

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

Subject:

Ch. HFS 145 – Relating to control of communicable diseases: Subchapter II—Tuberculosis.

Description of policy issues:

Description of objective(s):

The objective of the rules is to specify laboratory procedures for identification of *Mycobacterium tuberculosis*, assist counties in administration and enforcement of confinement of patients with tuberculosis, establish standards for certification of public health dispensaries, specify services and reimbursement rates for public health dispensaries, and provide recordkeeping specifications for public health dispensaries.

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

Laboratory procedures for identification of tuberculosis will include methods that result in 80% of specimens being identified as TB or not-TB within 21 days of specimen receipt. Current rule pertaining to isolation and confinement will be revised slightly to reflect statutory changes. Under the dispensary provision, a local health department may request certification as a public health dispensary. The request will be approved if the health department provides tuberculin skin testing, directly observed therapy, tuberculosis contact investigation, case management and sputum specimen collection. The local health department must also ensure the provision of medical evaluation, chest radiographs, collection of serologic specimens, and sputum induction.

Statutory authority:

Section 252.02 (4), Stats., and sections 252.07 (1p), 252.07 (11), 252.10 (1), 252.10 (6) (a) and (b), Stats., as created or amended by 1999 Wis. Act 9.

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

Administrative rules were originally drafted in 1995, but were revised before the current statute took effect. It is anticipated that it will take the primary author 15 hours to review the original draft and develop the rules in preparation for Department review. In addition, DHFS will ask three other staff in the responsible Division for review (2 hours). The time of the primary author will be further dependent upon the need to revise the rule following various review and approval steps in the promulgation process.

Insurance, Commissioner of

Subject:

Ch. Ins 23 – Relating to standards for insurance marketed to fund prearranged funeral plans.

Description of policy issues:

a) A statement of the objective of the proposed rule:

The objective of the proposed rule is to repeal ss. Ins 23.35 and 23.40, Wis. Adm. Code, and further amend ch. Ins 23 as necessary to conform to recent legislation contained in 1999 Wis. Act 91 (s. 632.415, Stats.).

b) 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:

Among other things 1999 Wis. Act 91, effective July 1, 2000, removed from the Commissioner the authority to set minimum standards for benefits and compensation arrangements for funeral policies. The current rule, ch. Ins 23, contains standards for these and other aspects of funeral policies. The proposed rule change will repeal those standards that conflict with the legislation and make other changes as required to bring the rule into compliance with the legislative mandate.

A statement of the statutory authority for the rule:

Sections 601.41 (3) and 632.415 (5), Stats.

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

60 hours.

Natural Resources

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

Subject:

NR Code – Relating to deer management unit system review and revisions.

Description of policy issues:

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

The Department proposes modifying deer management unit boundaries and/or population goals. Substantial public and tribal input was solicited and considered in developing recommended deer management unit goals and boundaries. Natural Resources Board approval is requested to hold public hearings on this rule order to update the Wisconsin Administrative Code governing deer harvest management.

This rule/Board action does not represent a change from past policy.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

Statutory authority:

Section 29.014, Stats.

Anticipated time commitment:

The anticipated time commitment is 184 hours. One or more hearings are proposed to be held in September, 2000 at time(s) and location(s) to be determined.

Pharmacy Examining Board

Subject:

Phar Code – Relating to:

- 1) Eliminating the requirement to pass an examination pertaining to the consultation of patients; and
- 2) Including a specific continuing education requirement for consulting of patients.

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

The objective of the rule is to remove the consultation requirement from the examination for licensure and to instead require consultation programs as a part of continuing education. Currently, an applicant for original licensure in this state and pharmacists licensed in another state seeking licensure in this state must successfully pass an examination pertaining to the consultation of patients. Section Phar 4.02 (3) and (4) will be deleted, referring to examinations no longer offered. Section Phar 2.06 (2) will be amended to redefine the active practice of pharmacy. Sections Phar 12.03 (2) (d) and (e) and Phar 13.05 (2) will be amended to update federal citations.

Policy analysis:

Consulting of patients is a fundamental part of pharmacy practice in this state. Section Phar 7.01 (1) (e) currently requires that a pharmacist provide appropriate consultation as a part of the dispensing process to patients. To achieve the goal of licensing competent pharmacists to provide adequate consultation to patients, the Board has determined that a process of reinforcing the importance of patient consultation plus continuing education is better suited than examination to ensuring pharmacists develop and maintain proper consulting skills throughout their professional careers. Such a policy of continuing education will better serve the health, safety and welfare of patients. Section Phar 16.02 will be amended to require a portion of continuing education specifically directed to consulting of patients. The remaining affected sections will remove unnecessary language and redefine the active practice of pharmacy, as well as update federal citations.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2), 450.02 (2g) (a) and (3) (e), Stats.

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

100 hours.

Revenue**Subject:**

SS. Tax 2.03, 2.04, 2.08, 2.12 and 3.91 – Relating to returns of corporations and persons other than corporations, wage statements and information returns, claims for refund and other amended returns, and petitions for redetermination.

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

The objectives of the proposed rule are to:

Tax forms:

- List new or previously unlisted forms, and revise incorrect names of forms.
- Remove obsolete forms.
- Reflect correct procedures and update addresses for filing forms.
- Provide information relating to tele-file and electronic filing of tax returns.

Wage statements and information returns (“statements”):

- List requirements for providing statements to recipients.
- Provide correct due dates for filing statements, including extensions.
- Define “nonwage payments.”
- Clarify provisions relating to magnetic media filing.
- Update addresses for mailing statements.
- Reflect the Lottery Division’s transfer from the Gaming Commission to the Department of Revenue.
- Clarify provisions relating to disallowing deductions for wages, rents and royalties not properly reported.

- Provide information relating to penalties for not filing or filing incorrect statements.

Amended returns:

- Clarify that claims for refund are amended returns.
- Update information relating to timely filing amended returns.
- Reflect the discontinuance of the use of Form 4–X as an amended corporation return.
- Update information relating to mailing addresses on amended forms or their instructions.

Petitions for redetermination (“petitions”):

- Clarify (by moving to the general administration chapter) that the provisions relating to a petition apply to both income taxes and other taxes.
- List types of tax to which provisions relating to a petition apply.
- Remove outdated format requirements for a petition.
- Update filing deadlines.
- Update provisions relating to deposits paid with a petition.

General:

- Update various statutory references.
- Remove obsolete notes.
- Update language, style and grammar, per Legislative Council Rules Clearinghouse standards.

Policy analysis:

Existing policies are as set forth in the rules. No new policies are being proposed, other than to reflect law changes and court decisions. If the rules are not changed, they will be incorrect in that they will not reflect current law or current Department policy.

Statutory authority:

Sections 71.80 (1) (c) and 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 200 hours to develop this rule order.

Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board

Subject:

SFC Code – Relating to requiring that social workers who supervise a period of pre–certification practice of social work have a master’s or a doctoral degree in social work.

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

To insure compliance with s. SFC 4.01 (1) (a), which requires that a person supervising a period of pre–certification practice of social work have adequate training, knowledge and skill to competently supervise any social work service that a social worker undertakes.

Policy analysis:

Currently, supervision may be exercised by “a social worker certified at least at the level of the social worker being supervised, if the supervising social worker is qualified to practice without supervision.” This does not adequately protect the public since certain grandfathered social workers without adequate training, knowledge, and skill satisfy that definition.

Statutory authority:

Sections 15.08 (5) (b), 227.11 (2) and 457.09, Stats.

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

80 hours.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

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

Commerce

(Mines, Pits & Quarries, Ch. Comm 8)

Rule Submittal Date

On July 13, 2000, the Department of Commerce submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule affects ch. Comm 8, relating to mines, pits and quarries.

Agency Procedure for Promulgation

A public hearing is required and three public hearings are scheduled for: Wednesday, August 16, 2000 in Eau Claire; Thursday, August 17, 2000 in Green Bay; and Friday, August 18, 2000 in Madison. The agency unit responsible for the promulgation of the proposed rule is the Safety and Buildings Division.

Contact Information

For more information, please contact:

Ronald Acker
Dept. of Commerce
Telephone: (608) 267-7907
Email: ronald.acker@commerce.state.wi.us

Health and Family Services

(Health, Chs. HFS 110--)

Rule Submittal Date

On July 14, 2000, the Department of Health and Family Services submitted proposed rules to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: Section 149.143 (2) (a) 2., 3. and 4. and (3), Stats.

The proposed rule affects ch. HFS 119, relating to operation of the Health Insurance Risk-Sharing Plan (HIRSP).

Reason for rules, intended effects, requirements:

This order updates premium rates for HIRSP policies for the Plan year beginning July 1, 2000; sets total insurer assessments under HIRSP for the 12-month period July 1, 2000 through June 30, 2000, and adjusts the provider payment rate under HIRSP for the 12-month period July 1, 2000 through June 30, 2000. The Department is required under s. 149.143 (2) (a) 2., 3. and 4., Stats., to set premium rates, set total insurer assessments and adjust the provider payment rate for each Plan year by rule.

Under the authority of s. 149.143 (4), Stats., the Department published the identical rules by emergency order effective July 1, 2000.

Agency Procedure for Promulgation

A public hearing is required and a hearing will be held on Tuesday, August 29, 2000 beginning at 1:00 p.m. in Room 372 (conference room) of the State Office Building, located at One West Wilson Street in Madison.

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

For more information, please contact:

Randy McElhose
Division of Health Care Financing
Telephone (608) 267-7127 or,
if you are hearing-impaired, (608) 266-1511 (TTY)

Natural Resources

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

Rule Submittal Date

On July 5, 2000, the Department of Natural Resources submitted proposed rules [Board Order No. CF-33-00] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect ch. NR 7, relating to the recreation boating facilities program.

Agency Procedure for Promulgation

Public hearings are required and will be held in September 2000.

Contact Information

For more information, please contact:

Larry Freidig
Bureau of Community Financial Assistance
Telephone: (608) 266-5897
Email: freidl@dnr.state.wi.us

Natural Resources

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

Rule Submittal Date

On July 5, 2000, the Department of Natural Resources submitted proposed rules [Board Order No. LE-32-00] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect ss. NR 19.50 and 64.09 (3), relating to all-terrain vehicle (ATV), snowmobile, bowhunter and hunter education fees.

Agency Procedure for Promulgation

Public hearings are required and will be held on Monday, August 28, 2000; Tuesday, Aug 29, 2000; and Friday, September 1, 2000.

Contact Information

For more information, please contact:

Tim Lawhern
Bureau of Law Enforcement
Telephone: (608) 266-1317
Email: lawhet@dnr.state.wi.us

Natural Resources**(Environmental Protection--Investigation and Remediation, Chs. NR 700--)****(Environmental Protection--Water Supply, Chs. NR 800--)****Rule Submittal Date**

On July 5, 2000, the Department of Natural Resources submitted proposed rules [Board Order No. RR-31-00] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rules affect chs. NR 716, 726, 749, 811 and 812, relating to implementation of a geographic information system registry of closed remediation sites for properties with groundwater contamination.

Agency Procedure for Promulgation

Public hearings are required and will be held on Tuesday, August 15, 2000; Wednesday, August 16, 2000; Monday, August 21, 2000; and Wednesday, August 23, 2000.

Contact Information

For more information, please contact:

Jane Lemcke
Bureau of Remediation and Redevelopment
Telephone: (608) 267-0554

NOTICE SECTION

Notice of Hearing

Agriculture, Trade & Consumer Protection

► (Reprinted from Mid–July, 2000 *Wis. Adm. Register*.)

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces it will hold a public hearing on its emergency rule (ss. ATCP 10.21(1m), and 10.63(1m)) relating to an implied warranty that cattle and goats are free of paratuberculosis (also known as Johne's disease).

Hearing Information

July 27, 2000
Thursday
2:00 p.m.

Agriculture, Trade &
Consumer Protection
Prairie Oak State
Office Bldg.
2811 Agriculture Dr.
Madison, WI

Public comment is being sought on the Department's emergency rule, pursuant to s. 227.24(4), Stats., which requires that a public hearing be held within 45 days after an emergency rule is adopted. Following the public hearing, the hearing record will remain open until **August 4, 2000** to receive additional written comments.

An interpreter for the hearing impaired will be available on request for this public hearing. Please make reservations for a hearing interpreter by **July 20, 2000** either by writing to Dr. Robert Ehlenfeldt, Division of Animal Health, P.O. Box 8911, Madison, WI 53708–8911 (telephone 608–224–4880) or by calling the Department TDD at 608–224–5058.

Analysis prepared by the Department of Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07(1) and 95.195 as affected by 1999 Wis. Act. 160

Statutes interpreted: s. 95.195 as affected by 1999 Wis. Act 160

The department of agriculture, trade and consumer protection administers the "implied warranty" law under s. 95.195, Stats., related to sales of animals. This emergency rule implements 1999 Wis. Act 160, which modified the "implied warranty" law. This emergency rule maintains the current coverage of the law by clarifying that the law applies to paratuberculosis (Johne's disease) in cattle and goats. This emergency rule does not expand the coverage of the current law.

Background

Paratuberculosis, also known as Johne's disease, is a serious and widespread disease of cattle and goats. The disease is slow to develop, and an infected animal may go for years without showing symptoms. An infected animal, which is free of symptoms at the time of sale, may spread the disease to a buyer's herd. The disease has a serious impact on milk production, and is ultimately fatal to infected animals.

1989 Wis. Act 277 established a Johne's disease "implied warranty" in the sale of cattle and goats. Under the "implied warranty" law, a seller implicitly warrants to a buyer that cattle and goats are free of Johne's disease *unless* the seller complies with certain testing and disclosure requirements. If cattle or goats are infected with Johne's disease at the time of sale, and the seller has *not* complied with those testing and disclosure requirements, the buyer may sue the seller for damages under the "implied warranty."

The "implied warranty" law protects buyers, and gives sellers an incentive to test their animals for Johne's disease. A seller may avoid the "implied warranty" by testing and disclosing. Testing is important for controlling this serious disease.

1999 Wis. Act 160 changed the "implied warranty" law, effective July 1, 2000. It changed prior testing and disclosure requirements to make the law more effective and workable. It also authorized DATCP to cover *other* diseases and animal species by rule. DATCP must implement the new law by rule. The "implied warranty" will no longer apply to *any* animals or diseases (including Johne's disease in cattle or goats) unless DATCP identifies those animals and diseases by rule.

DATCP, the livestock industry and the Legislature intended that the new law would apply, at a minimum, to Johne's disease in cattle and goats. DATCP has in fact adopted new Johne's disease rules for cattle and goats, in anticipation of the July 1, 2000 effective date of the new law. However, the new rules are technically flawed, in that they imply but do not *explicitly state* that the new law applies to Johne's disease in cattle and goats. This emergency rule remedies that technical flaw on a temporary basis, pending the adoption of "permanent" remedial rules. This emergency rule does not change the substance or intended application of DATCP's Johne's disease rules.

Text of Rule

SECTION 1. ATCP 10.21(1m) is created to read:

ATCP 10.21(1m) IMPLIED WARRANTY. Section 95.195, Stats., covers paratuberculosis in cattle and applies to sales of cattle.

SECTION 2. ATCP 10.63(1m) is created to read:

ATCP 10.63(1m) IMPLIED WARRANTY. Section 95.195, Stats., covers paratuberculosis in goats and applies to sales of goats.

Fiscal Estimate

The department does not expect this emergency rule to have any fiscal effect on state or local governments.

Initial Regulatory Flexibility Analysis

This emergency rule will have little or no impact on small businesses. It does not change the extent of coverage of the implied warranty rule. It merely makes explicit the coverage which was previously only implied in the Johne's disease rules.

Notice of Hearings

Commerce

(Mines, Pits and Quarries, Ch. Comm 8)

[CR 00–115]

Notice is hereby given that pursuant to s. 101.15 (2) (e), Stats., the Department of Commerce will hold public hearings on proposed rules repealing and recreating ch. Comm 8, relating to mines, pits and quarries.

Hearing Information

The public hearings will be held as follows:

Date & Time

**August 16, 2000
Wednesday
11:00 a.m.**

Location

**Room 105
Eau Claire State
Office Building
718 W. Clairemont Ave.
EAU CLAIRE, WI**

August 17, 2000
Thursday
11:00 a.m.

Room 152A
Green Bay State
Office Building
200 N. Jefferson St.
GREEN BAY, WI

August 18, 2000
Friday
10:00 a.m.

Room 3C
Thompson Commerce
Center
201 W. Washington Ave.
MADISON, WI

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.

Written Comments

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 rule-making will remain open until **Friday, September 1, 2000**, 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.

Analysis of Proposed Rules

Statutory authority: Section 101.15 (2) (e)

Statute interpreted: Section 101.15 (2) (e)

The Safety and Buildings Division within the Department of Commerce is responsible for adopting and enforcing rules to effect the safety of mines, explosives, quarries and related activities. Chapter Comm 8 contains safety and health standards for the operation of all new and existing mines, pits and quarries in the state.

The proposed rules consist of a complete update of chapter Comm 8. Because the federal Mine Safety and Health Administration (MSHA) issues extensive safety and health regulations covering the operation of surface and underground mines, chapter Comm 8 contains a reference to those MSHA regulations along with basic administrative requirements relating to the operation of mines, pits and quarries. The proposed rules update and clarify several administrative procedures, such as the notification to begin operation, the payment of fees and the performance of inspections.

The requirements relating to the notification to begin operation are clarified by specifying that the person responsible for the crushing work is the person who must notify the department that work is about to begin. The payment of fees is made consistent with the department's fee schedule by clarifying that the safety service fee is to be paid by the person or firm operating the crushing, screening or washing equipment. The fee rules are also revised by clarifying that an inspection fee and a training fee are only paid by persons who do not pay the safety service fee. The requirements for inspections are revised by indicating that the department will not duplicate inspections performed by MSHA, but will notify MSHA when a required inspection has not been performed.

The proposed rules have been developed with the assistance of the Mines, Pits and Quarries Code Advisory Council. At the time the proposed rules were developed, the members of that citizen advisory council were as follows:

<u>Name</u>	<u>Representing</u>
Christine K. Culligan	Wisconsin Underground Contractors Association
Michael Erickson	Aggregate Producers of Wisconsin
Todd Every	Wisconsin County Highway Association
Scott Janssen	Aggregate Producers of Wisconsin
Robert M. Shea	Wisconsin Ready Mixed Concrete Association
Carl Thiesen	Wisconsin Asphalt Pavement Association
Robert B. Willder	Wisconsin Transportation Builders Association

Copies of Rules

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 53701-2689, telephone (608) 266-8741 or (608) 264-8777 (TTY), or e-mail at rwward@commerce.state.wi.us. Copies will also be available at the public hearings.

Environmental Analysis

Notice is hereby given that the Department has considered the environmental impact of the proposed rules. In accordance with ch. Comm 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.

Initial Regulatory Flexibility Analysis

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

The rules will affect any business involved with the ownership or operation of a mine, pit or quarry.

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

The rules clarify a current notification requirement, but they do not create any new reporting or bookkeeping requirements.

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

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

Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing ch. Comm 8. The proposed rules do not contain any changes in the Division's fees charged for administering and enforcing ch. Comm 8. Also, the proposed rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Notice of Hearing

Health and Family Services
(Health, Chs. HFS 110—)
[CR 00-114]

Notice is hereby given that, pursuant to s. 149.143 (2) (a) 2., 3., and 4. and (3), Stats., the Department of Health and Family Services

will hold a public hearing to consider the amendment of ss. HFS 119.07 (6) and 119.15, Wis. Adm. Code, and health care premium tables, relating to operation of the Health Insurance Risk-Sharing Plan (HIRSP), and the emergency administrative rules now in effect on the same subject.

Hearing Information

The public hearing will be held:

Date & Time	Location
August 29, 2000 Tuesday Beginning at 1:00 p.m.	Conference Room (inside room 372) State Office Building 1 West Wilson St. MADISON, WI

The hearing site is fully accessible to people with disabilities. Parking for people with disabilities is available in the parking lot behind the building or 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.

Analysis Prepared by the Dept. of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) to make health insurance coverage available to medically uninsured residents of the state. One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty-four percent of the 8,427 HIRSP policies in effect in March 2000 were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The average premium rate increase for Plan 1 contained in these updated HIRSP rules is 12.4%. Rate increases for specific policyholders range from 3.5% to 15%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. The average 12.4% rate increase for Plan 1 is the minimum increase necessary to maintain premiums at the lowest level permitted by law.

A second type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Sixteen percent of the 8,427 HIRSP policies in effect in March 2000 were of the Plan 2 type. The average premium rate increase for Plan 2 contained in these updated HIRSP rules is 18.2%. Rate increases for specific policyholders range from 7.5% to 21%, depending on a policyholder's age, gender, household income, deductible and zone of residence within Wisconsin. These rate increases reflect industry-wide cost increases and adjust premiums to a level that more accurately reflects actual claim costs for Plan 2 policyholders.

The Department through these rules is amending two sections of the HIRSP program administrative rules:

1. The Department is required to set premium rates by rule. The rules propose to update HIRSP premium rates in ch. HFS 119 in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. Rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP. The HIRSP premium rate tables in ch. HFS 119 are updated in accordance with these principles and requirements, for the time-period beginning July 1, 2000.
2. The rules also propose to update 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. With the approval of the HIRSP Board of Governors and as required by statute, the Department of Health and Family Services

approved a methodology that reconciles HIRSP program costs, policyholder premiums, insurance assessments and collected health care provider contributions for the most recent calendar year. The adjustments to the insurer assessments and the provider payment rates, contained in the updated HIRSP administrative rules for the time-period beginning July 1, 2000, are the result of this reconciliation process for calendar year 1999.

Identical emergency rules were published and became effective on **July 1, 2000**.

Contact Information

To find out more about the hearing or to request a copy of the proposed rules, write or phone:

Randy McElhose
Division of Health Care Financing
P.O. Box 309, Room 355
Madison, WI 53701-0309

Telephone (608) 267-7127 or,
if you are hearing impaired, (608) 266-1511 (TTY)

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

Written Comments

Written comments on the proposed rule received at the above address no later than **September 1, 2000** will be given the same consideration as testimony presented at the hearing.

Fiscal Estimate

These rules update HIRSP policyholder premium rates effective July 1, 2000. They also update HIRSP insurer assessments and provider payment rates for the 12-month period beginning July 1, 2000. These updates are being performed to reflect changing HIRSP costs, and in accordance with a statute-specified methodology, in order to offset program costs. Annual fiscal updates to the HIRSP rules generally take effect in July each year. The fiscal updates contained in these rules were developed by an independent actuarial firm and reviewed and approved by the HIRSP Board of Governors. By law, the Board is a diverse body composed of consumers, insurers, health care providers, small business and other affected parties.

The proposed changes are estimated to increase HIRSP program revenues by \$7,562,292 in State Fiscal Year 2001. This amount is the combined result of an increase of \$3,867,688 in insurance assessments, \$345,754 in provider payments and \$3,348,850 in premiums collected, for State Fiscal Year 2001. This increase in program revenue is expected to pay for a corresponding increase in HIRSP program expenditures for the payment of services provided in State Fiscal Year 2001. As a result, the net fiscal effect is projected to be zero. These rule changes will not, by themselves, affect the expenditures or revenues of local government. There is no local government involvement in the administration of HIRSP.

Initial Regulatory Flexibility Analysis

The rule changes will affect HIRSP policyholders, the Department of Health and Family Services and the Department's fiscal agent. The rule changes will not affect small businesses as "small business" is defined in s. 227.114 (1) (a), Stats. Although the program statutes and rules provide for assessment of insurers to help finance HIRSP, no assessed insurer is a small business as defined in s. 227.114 (1) (a), Stats. Moreover, s. 149.143, Stats., prescribes

how the amount of an insurer's assessment to help finance HIRSP is to be determined and, similarly, how the health care provider payment rate is to be calculated.

Notice of Hearings

Natural Resources

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

[CR 00-110]

Notice is hereby given that pursuant to ss. 20.370(3)(at), 23.33(4z)(a), 29.591(3), 227.11(2)(a) and 350.108(1), Stats., interpreting ss. 23.33(4z)(a), 23.33(5)(d), 29.563(11)(b)1., 29.591(1) and (3) and 350.108(1), Stats., the Department of Natural Resources will hold public hearings on the repeal of s. NR 64.09(3) and the creation of s. NR 19.50, Wis. Adm. Code, relating to ATV, snowmobile, bowhunter and hunter education fees. 1999 Wis. Act. 9 transferred authority from state statutes to administrative code to regulate student fees for the ATV education, snowmobile education and hunter education programs. The department fees have remained at \$3.00 per student for several years. The proposed fee is an increase from \$3 to \$10 per student. Of this amount, the volunteer instructors would still be able to retain up to 50% of the student fee to cover incurred expenses. This proposal also standardizes the per student fee.

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

August 28, 2000 Monday at 11:00 a.m.	Room 3000 Health & Human Services Bldg. 300 N. 4 th Street La Crosse
August 28, 2000 Monday at 4:00 p.m.	Room 158 DNR Headquarters 1300 Clairemont Avenue Eau Claire
August 29, 2000 Tuesday at 9:00 a.m.	DNR Office Basement Conf. Room 810 W. Maple Spooner
August 29, 2000 Tuesday at 3:00 p.m.	Conference Room DNR Office 107 Suttiff Avenue Rhineland
September 1, 2000 Friday at 10:00 a.m.	Room 717 GEF #2 101 South Webster St. Madison

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 Lawhern at (608) 266-1317 with specific information on your request at least 10 days before the date of the scheduled hearing.

Contact Information

Written comments on the proposed rule may be submitted to Mr. Tim Lawhern, Bureau of Law Enforcement, P.O. Box 7921, Madison, WI 53707 no later than **September 15, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [LE-32-00] and fiscal estimate may be obtained from Mr. Lawhern.

Fiscal Estimate

Annually there are approximately 30,000 graduates of the hunter education program, 8,000 in the snowmobile and 2,000 in the ATV program. If 50% of the student fees collected are returned to the department based on a \$10.00 per student fee, this would come to a total of \$200,000 annually. This figure is a minimum. If the course expenses do not reach 50% of the student fee then the remainder must also be returned to the Department.

This provides no net increase in funding to the safety programs, but does represent an increase in the proportion of expenses funded by student fees.

Spending authority in the enforcement accounts was reduced by an equal amount under 1999 Wis. Act 9 so that there is no net increase in expenditure authority.

Notice of Hearings

Natural Resources

*(Environmental Protection-
Investigation & Remediation
of Environmental Contamination
Chs. NR 700-)*

[CR 00-111]

Notice is hereby given that pursuant to ss. 227.11(2)(a) and 280.11, Stats., interpreting chs. 160, 280, 281 and 292, Stats., the Department of Natural Resources will hold public hearings on revisions to chs. NR 716, 726, 749, 811 and 812, Wis. Adm. Code, relating to implementation of a geographic information system registry of closed remediation sites for properties with groundwater contamination exceeding ch. NR 140 enforcement standards at the time of case closure. The proposed rule is needed to replace the current requirement for groundwater use restrictions on deeds when a remediated site is being closed with exceedances of ch. NR 140 groundwater enforcement standards. These changes will make more site specific information more easily available to well drillers, developers, bankers and property buyers. The rule changes include investigation and reporting requirements, closure submittal requirements, a revised fee to cover the costs of maintaining a Geographic Information System (GIS) to allow web based access to data for individual sites, requirements for well drillers to check the GIS database before constructing a well to determine if special well construction features are necessary and a setback distance for community water supply systems from sites with groundwater enforcement standard exceedances.

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

August 15, 2000 Tuesday at 1:00 p.m.	Room 152A Green Bay State Office Bldg. 200 N. Jefferson St. Green Bay
August 16, 2000 Tuesday at 1:00 p.m.	Public Library 300 N. 1st Street Wausau
August 21, 2000 Monday at 1:00 p.m.	Room 2560 Eau Claire County Courthouse 721 Oxford Ave Eau Claire
August 23, 2000 Wednesday at 1:00 p.m.	Room 027 GEF #2 101 South Webster St. Madison

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 Jane Lemcke at (608) 267-0554 with specific information on your request at least 10 days before the date of the scheduled hearing.

Contact Information

Written comments on the proposed rule may be submitted to Ms. Jane Lemcke, Bureau of Remediation and Redevelopment, P.O. Box 7921, Madison, WI 53707 no later than **September 15, 2000**. Written comments will have the same weight and effect as oral

statements presented at the hearings. A copy of the proposed rule and fiscal estimate may be obtained from Ms. Lemcke.

Fiscal Estimate

These rule revisions will implement the geographic information system authorized in the last budget bill, Wis. Act 9. The Department was provided \$100,000 for system development. Development is nearly complete. Wis. Act 9 also authorized the Department to charge fees for use and maintenance of the system. Section 292.57, Stats., provides the statutory authority to promulgate rules. These rule revisions replace the existing requirement for groundwater use restrictions on a deed for closure with groundwater contamination above ch. NR 140 enforcement standards with use of a geographic information system (GIS) database. Well drillers will need to look at this database, and information on the Bureau for Remediation and Redevelopment Tracking System (BRRTS) before drilling or reconstructing a well, to determine the need for special casing/construction features. A setback distance for a new community well is also included, for open remediation sites, as well as sites closed with groundwater contamination above ch. NR 140 enforcement standards. The information requirements for the closure request are included, as is a revised closure fee to cover costs of database system maintenance.

Costs of the database system maintenance are to be covered by a revised closure fee for sites submitted for closure to the Department, and a separate, but equal fee for inclusion on the database for sites submitted for closure to other agencies. The proposed fee for these activities is \$250. Activities needed for database system maintenance include review of the information submitted for inclusion on the database, verification of site location, digitizing the intonation packet onto the database, and revision of information as updates or corrections are provided. It is estimated that these activities will take approximately 1 FTE (based on 1820 hours per year for workplanning purposes). Since most of the time will be spent on data review and verification, the classification for staff conducting these activities was assumed to be a hydrogeologist. The number of sites submitted for closure which will be included on this database is estimated to continue to be approximately 300 per year.

***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.

Commerce (CR 99-122):

Ch. Comm 90 – Relating to the design and installation of public swimming pools.

Commerce (CR 99-123):

Chs. Comm 81, 82 and 84 – Relating to the Wisconsin Uniform Plumbing Code.

Public Instruction (CR 98-138):

SS. PI 11.35 and 11.36 – Relating to eligibility criteria for children with disabilities.

Transportation (CR 00-94):

S. Trans 134.06 (1) (d) – Relating to authorized special groups.

Transportation (CR 00-99):

S. Trans 276.07 (11) – Relating to allowing the operation of “double bottoms” and certain other vehicles on certain specified highways.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Commerce (CR 99-143):

An order affecting chs. Comm 2, 3, 20, 50 to 64, 66, 70, 75 and 90, relating to one- and two-family dwellings, commercial buildings and multifamily dwellings.

Effective 10-01-00.

Employe Trust Funds (CR 97-72):

An order affecting s. ETF 20.02, relating to rehired annuitants.

Effective 09-01-00.

Health and Family Services (CR 00-1):

An order affecting chs. HFS 82, 83, 88, 124 and 131 to 134, relating to non-expiring licenses and certification and a required annual or biennial report for certified adult family homes, licensed adult family homes, community-based residential facilities (CBRFs), hospice programs, nursing homes, home health agencies and facilities for the developmentally disabled (FDDs) and a required annual report for hospitals.

Effective 09-01-00.

Natural Resources (CR 99-109):

An order affecting ch. NR 300 and ss. NR 216.45, 400.02, 405.15, 406.08, 408.09 and 411.07, relating to the fee refund or "permit guarantee" program required by s. 299.05, Stats.

Effective 09-01-00.

Natural Resources (CR 00-29):

An order creating ch. NR 135 and ss. NR 340.05 (3m) and 340.06 (3) (i), relating to reclamation of nonmetallic mining sites.

Effective 09-01-00.

Natural Resources (CR 00-32):

An order affecting ss. NR 10.12, 10.145, 10.27, 10.40 and 15.13, relating to hunting, trapping and wildlife research.

Part effective 09-01-00.

Part effective 03-01-01.

Revenue (CR 00-53):

An order affecting ss. Tax 18.05 and 18.08, relating to assessment of agricultural land.

Part effective 08-01-00.

Part effective 01-01-01.

Transportation (CR 00-57):

An order affecting chs. Trans 101 to 104 and s. Trans 117.03 (3) (j), relating to the demerit point system and graduated driver license (GDL) restriction extensions.

Effective 09-01-00.

Transportation (CR 00-68):

An order amending s. Trans 131.03 (2) (b), relating to emission tests.

Effective 09-01-00.

Transportation (CR 00-69):

An order amending ss. Trans 325.02 and 326.01 and repealing ch. Trans 328, relating to motor carrier safety regulations.

Effective 09-01-00.

Transportation (CR 00-85):

An order affecting ss. Trans 142.01, 142.02 and 142.07, relating to recreational vehicle (RV) dealer trade practices, facilities and records.

Effective 09-01-00.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **July 31, 2000 Wisconsin Administrative Register**. Copies of these rules are sent to subscribers of the complete Wisconsin Administrative Code, and also to the subscribers of the specific affected Code.*

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

Commerce (CR 00-9):

An order affecting chs. Comm 2, 5, 82 and 84, relating to program revenue fees.
Effective 09-01-00.

Controlled Substances Board (CR 99-125):

An order creating s. CSB 2.25, relating to the scheduling of certain drugs under ch. 961, Stats., the Uniform Controlled Substances Act.
Effective 08-01-00.

Corrections (CR 97-13):

An order affecting ss. DOC 303.75, 303.76 and 303.81, relating to notices of disciplinary hearings to inmates.
Part effective 08-01-00.

Employe Trust Funds (CR 99-156):

An order affecting s. ETF 10.63, relating to due dates for ETF programs.
Effective 08-01-00.

Employment Relations—Merit Recruitment and Selection (CR 99-167):

An order affecting ss. ER-MRS 6.08 and 11.04, relating to release of examination information and removal of names from employment registers.
Effective 08-01-00.

Health and Family Services (CR 99-28):

An order affecting chs. HFS 61, 62 and 75, relating to standards for community substance abuse services.
Effective 08-01-00.

Health and Family Services (CR 99-161):

An order affecting ch. HFS 50, relating to the adoption assistance program for families that adopt children with special needs.
Effective 08-01-00.

Insurance, Commissioner of (CR 00-6):

An order affecting s. Ins 3.09 (19), relating to mortgage guaranty insurance.
Effective 08-01-00.

Public Instruction (CR 99-169):

An order creating ch. PI 44, relating to alternative education grants.
Effective 08-01-00.

Public Instruction (CR 00-3):

An order creating s. PI 6.07, relating to public library system aid payment adjustments.
Effective 08-01-00.

Public Instruction (CR 00-4):

An order affecting ss. PI 40.055 and 40.056, relating to the youth options program.
Effective 08-01-00.

Public Instruction (CR 00-5):

An order affecting ch. PI 35, relating to the Milwaukee parental school choice program.
Effective 08-01-00.

Public Instruction (CR 00-12):

An order repealing and recreating ch. PI 32, relating to grants for alcohol and other drug abuse (AODA) programs.
Effective 08-01-00.

Public Instruction (CR 00-13):

An order creating ch. PI 10, relating to supplemental aid for school districts with a large area.
Effective 08-01-00.

Public Instruction (CR 00-14):

An order creating ch. PI 24, relating to state aid for achievement guarantee contracts and aid for debt service.
Effective 08-01-00.

Public Service Commission (CR 98-27):

An order affecting ch. PSC 113, relating to service rules for electric utilities.
Effective 08-01-00.

Public Service Commission (CR 98-174):

An order affecting ch. PSC 100, relating to wholesale merchant plants.
Effective 08-01-00.

Revenue (CR 00-16):

An order affecting ch. Tax 14, relating to homestead credit administrative provisions; qualification for credit; household income and income; property taxes accrued; gross rent and rent constituting property taxes accrued; and marriage, separation or divorce during a claim year.
Effective 08-01-00.

Revenue (CR 00-53):

An order affecting ss. Tax 18.05 and 18.08, relating to assessment of agricultural land.
Part effective 08-01-00.
Part effective 01-01-01.

Veterans Affairs (CR 00-41):

An order affecting ss. VA 2.01 and 12.02 and creating ch. VA 15, relating to the health care aid grant program, to the personal loan program and to grants to federally-recognized American Indian tribes and bands.
Effective 08-01-00.

Workforce Development (CR 99-164):

An order affecting chs. DWD 290 and 294, relating to prevailing wage rates.
Effective 08-01-00.

Workforce Development (CR 99-165):

An order affecting ss. DWD 12.03, 12.21 and 12.27, relating to two-parent families under the Wisconsin Works (W-2) program.
Effective 08-01-00.

Workforce Development (CR 00-24):

An order affecting s. DWD 290.155, relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.
Effective 08-01-00.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

The following administrative rule revisions and corrections have taken place in July 2000, 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

Commerce:

(Fee Schedule, Ch. Comm 2)

Ch. Comm 2

- S. Comm 2.02 (1) (a), (4) and (4m)
- S. Comm 2.03 (entire section)
- S. Comm 2.04 (1), (2) and (2m)
- S. Comm 2.06 (2) and Table 2.06
- S. Comm 2.07 (2) (b)
- S. Comm 2.10 (entire section)
- S. Comm 2.11 (3), (4), (6) and (7) and Tables 2.11-1 and 2.11-2
- S. Comm 2.12 (1), (2) (a) and (3) and Table 2.12
- S. Comm 2.13 (2) and Table 2.13
- S. Comm 2.15 (entire section)
- S. Comm 2.17 (1) to (4)
- S. Comm 2.18 (entire section)
- S. Comm 2.19 (entire section)
- S. Comm 2.20 (1)
- S. Comm 2.21 (3) and (4) and Tables 2.21-1 and 2.21-2
- S. Comm 2.31 (1) and (2) and Tables 2.31-1, 2.31-2 and 2.31-3
- S. Comm 2.33 (2)
- S. Comm 2.43 Table 2.43
- S. Comm 2.51 (entire section)
- S. Comm 2.52 (3) (a) and (c), (6), (6m), (7) and (10) (a) and (b)
- S. Comm 2.61 (1) and (2)
- S. Comm 2.635 (entire section)
- S. Comm 2.64 (3) (a) and (c) and Tables 2.64-1 and 2.64-2
- S. Comm 2.66 (1) (e) and Table 2.66

(Licenses, Certifications and Registrations, Ch. Comm 5)

Ch. Comm 5

- S. Comm 5.02 Table 5.02

(Plumbing, Chs. Comm 81 to 87)

Ch. Comm 82

- S. Comm 82.20 (4) (b) and Tables 82.20-1 and 82.20-2

Ch. Comm 84

- S. Comm 84.10 (2) (a), (5) and (6) and Table 84.10
- SS. Comm 84.11 to 84.15 (entire sections)

Controlled Substances Board:

Ch. CSB 2

- S. CSB 2.25 (entire section)

Corrections:

Ch. DOC 303

- S. DOC 303.75 (entire section)
- S. DOC 303.76 (entire section)
- S. DOC 303.81 (entire section)

Employe Trust Funds:

Ch. ETF 10

- S. ETF 10.63 (1) and (2)

Employment Relations—Merit Recruitment and Selection:

Ch. ER-MRS 6

- S. ER-MRS 6.08 (2) (intro.) and (3)

Ch. ER-MRS 11

- S. ER-MRS 11.04 (1) (h)

Health and Family Services:

(Community Services, Chs. HFS 30--)

Ch. HFS 50

- S. HFS 50.01 (2) and (4)
- S. HFS 50.03 (1) (b) and (2)
- S. HFS 50.04 (1) and (4)
- S. HFS 50.044 (entire section)
- S. HFS 50.045 (entire section)
- S. HFS 50.05 (1) (b) and (c), (2) (a) and (3)
- S. HFS 50.06 (1) (d)
- S. HFS 50.065 (2) (intro.), (a), (c) and (d)
- S. HFS 50.08 (3) (c)
- S. HFS 50.09 (1) (intro.)

Ch. HFS 61

- S. HFS 61.021 (1)
- S. HFS 61.022 (1), (4) and (6)
- S. HFS 61.06 (14)
- SS. HFS 61.50 to 61.68 (entire sections)

Ch. HFS 62

- S. HFS 62.01 (3) (p) and (r)
- S. HFS 62.05 (5)

Ch. HFS 75 (entire chapter)

Insurance, Commissioner of:**Ch. Ins 3**

S. Ins 3.09 (19) (a) and (c)

Public Instruction:**Ch. PI 6**

S. PI 6.07 (entire section)

Ch. PI 10 (entire chapter)**Ch. PI 24 (entire chapter)****Ch. PI 32 (entire chapter)****Ch. PI 35**

S. PI 35.02 (8) and (11)
 S. PI 35.025 (entire section)
 S. PI 35.03 (1) (a), (2) (e), (3) and (5)
 S. PI 35.04 (entire section)
 S. PI 35.043 (entire section)
 S. PI 35.045 (1) (e)
 S. PI 35.05 (3) (b), (4), (5), (6) and (9)

Ch. PI 40

S. PI 40.055 (3) (a)
 S. PI 40.056 (entire section)

Ch. PI 44 (entire chapter)**Public Service Commission:****Ch. PSC 100**

SS. PSC 100.11 to 100.17 (entire sections)

Ch. PSC 113 (entire chapter)**Revenue:****Ch. Tax 14**

S. Tax 14.01 (1), (2) (a) to (d), (3) (a) and (4) to (8)
 S. Tax 14.02 (2) (c), (5), (9), (10) and (11)
 S. Tax 14.03 (2) (intro.), (3), (4) (b) and (c) and (5)
 S. Tax 14.04 (2), (3) (b) and (c), (4), (5), (8), (9),
 (10) (a) and (11)
 S. Tax 14.05 (2), (3) (b), (c) and (d), (4) (a) to (c)
 and (e), (5), (7), (8), (9) (a), (12),
 (13) and (14) (a) and (b)
 S. Tax 14.06 (1) and (3) (c)

Ch. Tax 18

S. Tax 18.05 (1) (a), (b), (d) and (e)
 S. Tax 18.08 (entire section)

Veterans Affairs:**Ch. VA 2**

S. VA 2.01 (2) (b)

Ch. VA 12

S. VA 12.02 (7) and (16)

Ch. VA 15 (entire chapter)**Workforce Development:*****(Economic Support, Chs. DWD 11–59)*****Ch. DWD 12**

S. DWD 12.03 (31m)
 S. DWD 12.21 (1)
 S. DWD 12.27 (entire section)

(Prevailing Wage Rates, Chs. DWD 290 to 294)**Ch. DWD 290**

S. DWD 290.01 (intro.), (3), (4), (6), (7) to (10),
 (12), (14), (16m), (17), (17m), (18),
 (20p), (21) and (22)
 S. DWD 290.02 (3), (4) and (5)
 S. DWD 290.03 (1) and (3)
 SS. DWD 290.035 to 290.07 (entire sections)
 S. DWD 290.08 (1) and (3)
 S. DWD 290.09 (1) (intro.), (a) and (b), (2), (4)
 and (5)
 SS. DWD 290.11 to 290.14 (entire sections)
 SS. DWD 290.155 to 290.17 (entire sections)

Ch. DWD 294

S. DWD 294.01 (1) (a) and (c) and (2) (a)
 S. DWD 294.02 (2), (3), (5), (9) and (11)
 S. DWD 294.03 (1) (b)
 S. DWD 294.04 (entire section)
 S. DWD 294.05 (2) (a), (3) (b) and (5)
 S. DWD 294.06 (entire section)
 S. DWD 294.08 (intro.)

EDITORIAL CORRECTIONS

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

Commerce:***(Fee Schedule, Ch. Comm 2)*****Ch. Comm 2**

S. Comm 2.02 (1) (b) had a correction made under
 s. 13.93 (2m) (b) 7., Stats.

(Plumbing, Chs. Comm 81 to 87)**Ch. Comm 82**

S. Comm 82.50 (7) (b) had a correction made under
 s. 13.93 (2m) (b) 7., Stats.

Ch. Comm 84

S. Comm 84.02 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Health and Family Services:

(Community Services, Chs. HFS 30--)

Ch. HFS 61

S. HFS 61.32 (2) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. HFS 61.91 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. HFS 73 (entire chapter) was renumbered from ch. HSS 73 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.

Insurance, Commissioner of:**Ch. Ins 3**

S. Ins 3.37 (3) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Public Instruction:**Ch. PI 32**

S. PI 32.03 (3) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. PI 35

S. PI 35.04 (7) had corrections made under s. 13.93 (2m) (b) 7., Stats.

Ch. PI 40

S. PI 40.055 (4) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. PI 40.08 (1) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Public Service Commission:**Ch. PSC 100**

S. PSC 100.01 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Veterans Affairs:**Ch. VA 1**

S. VA 1.12 (2) to (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. VA 1.19 (1) (intro.) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. VA 6

S. VA 6.01 (3) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. VA 12

S. VA 12.02 (9) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Workforce Development:

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

Ch. DWD 290

S. DWD 290.001 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 290.01 (2), (10) (c), (16) (a) and (17) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 290.015 (6) (a) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 290.09 (1) (intro.) and (4) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 290.10 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 290.11 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 290.12 (1) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 290.16 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 290.17 (entire section) had a correction made under s. 13.93 (2m) (b) 7., Stats.

Ch. DWD 294

S. DWD 294.02 (2) (b) and (9) had corrections made under s. 13.93 (2m) (b) 7., Stats.
S. DWD 294.06 (2) had a correction made under s. 13.93 (2m) (b) 7., Stats.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Commerce (CR 00–9)

Chs. Comm 2 & 5 – Program Revenue Fees.

Summary of Final Regulatory Flexibility Analysis:

The Statutes require the Department to charge fees to cover the costs of the Department's services for protecting the safety and health of frequenters and occupants in public buildings, places of employment and one- and 2-family dwellings. The proposed revisions in the Department's program revenue fees are necessary to meet the directives of the Statutes, and any less stringent requirements would be contrary to the Statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees:

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

2. Controlled Substances Board (CR 99–125)

S. CSB 2.25 – Scheduling of certain drugs under ch. 961, Stats., the Uniform Substances Act.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

3. Corrections (CR 97–13)

SS. DOC 303.75, 303.76 and 303.81 – Relating to notices of disciplinary hearings to inmates.

Summary of Final Regulatory Flexibility Analysis:

These rules affect inmates in adult correctional facilities and do not have an impact on small businesses.

Summary of Comments:

No comments were reported.

4. Employe Trust Funds (CR 99–156)

S. ETF 10.63 – Due dates for ETF programs.

Summary of Final Regulatory Flexibility Analysis:

The Department anticipates that the provisions of this proposed rule will have no direct adverse effect on small businesses.

Summary of Comments:

No comments were reported.

5. Employment Relations—Merit Recruitment and Selection (CR 99–167)

SS. ER–MRS 6.08 and 11.04 – Relating to release of examination information and removal of names from employment registers.

Summary of Final Regulatory Flexibility Analysis:

These rules have no impact on small businesses.

Summary of Comments:

No comments were reported.

6. Health & Family Services (CR 99–28)

Ch. HFS 75 – Standards for community substance abuse services.

Summary of Final Regulatory Flexibility Analysis:

About 15% of the 819 Department-certified community substance abuse services (programs) are private, for-profit, and most of those approximately 130 services are small businesses as "small business" is defined in ss. 227.114(1) (a), Stats. Within the community substance abuse prevention and treatment system, they operate mainly outpatient treatment services and day treatment services.

The changes specified in this rulemaking order will require services to have staff who are trained in how to apply WI-UPO, ASAM or another Department-approved set of similar placement criteria. The Department has been providing free training in how to apply WI-UPO. The rule changes will also require clinical supervision of counselor staff by certified clinical supervisors or persons who are in the process of becoming certified, or by a physician, psychologist or certified independent clinical social worker.

The Department received no public hearing comments from small businesses that asked for relief from these rules. Nonetheless, in response to public hearing comments, the Department made several changes in the rules to give services more flexibility, for instance, in what must be evaluated.

Comments of Legislative Standing Committees:

The Department received no comments from Legislative Standing Committees.

7. Health & Family Services (CR 99–161)

Ch. HFS 50 – Relating to the adoption assistance program for families that adopt children with special needs.

Summary of Final Regulatory Flexibility Analysis:

These rule changes apply mainly to the Department and the adoptive parents of special needs children, but may affect also prospective adoptive parents, adopted special needs children, special needs children available for adoption and adoption agencies. A few of the adoption agencies, namely, some of the 24 private child-placing agencies licensed to accept guardianship of children and to place children under their guardianship for adoption, may be small businesses as "small business" is defined in s. 227.114(1) (a), Stats. However, in this rulemaking order, adoption agencies are directly affected only by a revised requirement relating to reasonable placement efforts which does not require the agency to have new professional skills in order to comply with it.

Comments of Legislative Standing Committees:

No comments were received.

8. Insurance (CR 00-6)

S. Ins 3.09 – Mortgage guaranty insurance.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

9. Public Instruction (CR 99-169)

Ch. PI 44 – Alternative education grants.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

10. Public Instruction (CR 00-3)

S. PI 6.07 – Public library system aid payments adjustments.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

11. Public Instruction (CR 00-4)

SS. PI 40.055 & 40.056 – Youth Options Program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

12. Public Instruction (CR 00-5)

Ch. PI 35 – Milwaukee Parental School Choice Program.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

13. Public Instruction (CR 00-12)

Ch. PI 32 – Grants for alcohol and other drug abuse programs.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

14. Public Instruction (CR 00-13)

Ch. PI 10 – Supplemental aid for school districts with a large area.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

15. Public Instruction (CR 00-14)

Ch. PI 24 – State aid for achievement guarantee contracts and aid for debt service.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

16. Public Service Commission (CR 98-27)

Ch. PSC 113 – Relating to service rules for electric utilities.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules do not have a significant effect on small business as defined in s. 227.114 (1) (a), Stats. Utilities that are small businesses may have to provide information or keep additional records under certain proposed additions, but the cost is at present indeterminable and should be minimal.

Summary of Comments:

No comments were reported.

17. Public Service Commission (CR 98–174)

Ch. PSC 100 – Relating to wholesale merchant plants.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules would apply to public utilities as defined in s. 196.01 (5), Stats., and affiliated interests of public utilities as defined in s. 196.52 (1), Stats. It is unlikely that the affiliated interest of a public utility will be a small business as defined in s. 227.114, Stats. The proposed rules do not affect small businesses as defined in s. 227.114, Stats. As a result, a regulatory flexibility analysis is not required.

Summary of Comments:

No comments were reported.

18. Revenue (CR 00–16)

Ch. Tax 14 – Homestead credit administrative provisions; qualification for credit; household income and income; property taxes accrued; gross rent and rent constituting property taxes accrued; and marriage, separation or divorce during a claim year.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

19. Revenue (CR 00–53)

Ch. Tax 18 – Assessment of agricultural land.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

20. Veterans Affairs (CR 00–41)

SS. VA 2.01 and 12.02 and ch. VA 15 – Relating to the health care aid grant program, to the personal loan program and to grants to federally-recognized American Indian tribes and bands.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

21. Workforce Development (CR 99–164)

Chs. DWD 290 & 294 – Prevailing Wage Rates.

Summary of Final Regulatory Flexibility Analysis:

A final regulatory flexibility analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments of Legislative Standing Committees:

The rule was reviewed by the Assembly Committee on Labor and Employment and the Senate Committee on Labor, and the department received no comments from either committee.

22. Workforce Development (CR 99–165)

Ch. DWD 12 – Two-parent families under Wisconsin works.

Summary of Final Regulatory Flexibility Analysis:

Privately-run W-2 agencies will be affected by the rule change, but the rule will not have a significant impact because there is no material changes from current procedures.

Summary of Comments of Legislative Standing Committees:

The rule was reviewed by the Assembly Committee on Children and Families and the Senate Committee on Human Services and Aging, and the department received no comments from either committee.

23. Workforce Development (CR 00–24)

S. DWD 290.155 – Annual adjustments of thresholds for application of the prevailing wage rates for state or local public works projects.

Summary of Final Regulatory Flexibility Analysis:

A final regulatory flexibility analysis is not required because the rule will not have a significant economic impact on a substantial number of small businesses.

Summary of Comments of Legislative Standing Committees:

The rule was reviewed by the Assembly Committee on Labor and Employment and the Senate Committee on Labor, and the department received no comments from either committee.

EXECUTIVE ORDERS

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

Executive Order 399. Relating to the Amendment of Executive Order No. 398.

Executive Order 400. Relating to the Amendment of Executive Order No. 398.

Executive Order 401. Relating to the Amendment of Executive Order No. 398.

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