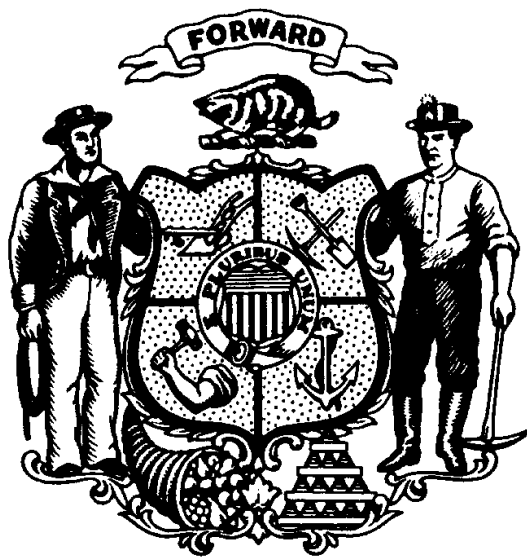


# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 536**



Publication Date: August 31, 2000  
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REVISOR OF STATUTES BUREAU  
SUITE 800, 131 WEST WILSON STREET  
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## EMERGENCY RULES NOW IN EFFECT

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

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

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

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

### EMERGENCY RULES NOW IN EFFECT (5)

#### 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

4. Rule adopted repealing s. ATCP 134.06 (3) (c) note and creating s. ATCP 134.06 (3) (d), relating to residential rental practices.

### Exemption From Finding of Emergency

On June 21, 2000, the Legislature's Joint Committee for Review of Administrative Rules (JCRAR) found that the "note" to s. ATCP 134.06 (3) (c) is actually a rule and directed DATCP to adopt the "note" as an emergency rule. According to s. 227.26 (2) (b), Stats., DATCP must promulgate the emergency rule under s. 227.24 (1) (a), Stats., within 30 days after the JCRAR directs DATCP to do so. Because the JCRAR has directed DATCP to adopt this emergency rule, DATCP is not required to make any other finding of emergency.

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

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers state landlord-tenant rules contained in ch. ATCP 134, Wis. Adm. Code. These rules affect over 1.5 million Wisconsin residents.

This emergency rule modifies current residential rental practices rules related to security deposit withholding. Under current rules, a landlord may not withhold a security deposit for normal wear and tear, or for other damages or losses for which the tenant cannot reasonably be held responsible. A "note" to s. ATCP 134.06 (3) (c) also states that a landlord may not withhold from a tenant's security deposit for routine painting or carpet cleaning, where there is no unusual damage caused by tenant neglect.

**Publication Date:** July 20, 2000  
**Effective Date:** July 20, 2000  
**Expiration Date:** December 18, 2000

5. Rules adopted creating ch. ATCP 16, relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis "non-modified accredited" state.

### Finding of Emergency

(1) Bovine tuberculosis is a contagious, infectious and communicable disease caused by *Mycobacterium bovis* (*M. bovis*). It affects cattle, bison, deer, elk, goats and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts. Bovine tuberculosis causes weight loss and general debilitation, and can be fatal.

(2) Wisconsin is currently classified by the United States Department of Agriculture (USDA) as "accredited-free" for tuberculosis.

(3) The USDA recently reclassified Michigan from "accredited-free" to "non-modified accredited," reflecting a higher risk of bovine tuberculosis.

(4) A significant number of bovine animals, goats and cervids are imported to Wisconsin from Michigan each year.

(5) The last known case of bovine tuberculosis in cattle in Wisconsin was confirmed in an animal imported from Michigan.

(6) If bovine tuberculosis becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in this state.

(7) An emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease in cattle, goats and cervids and will help protect the marketability of Wisconsin-raised animals.

**Publication Date:** August 11, 2000  
**Effective Date:** August 11, 2000  
**Expiration Date:** January 8, 2001  
**Hearing Date:** September 19, 2000  
 [See Notice this Register]

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### 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**

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## **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 Employee Trust Funds, Employee 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 Employee Trust Fund was created for the purpose of helping public employees 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 employees, by enhancing employee morale, by providing for the orderly and humane departure from service of employees 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 Employee Trust Funds estimates that up to 7,000 public employees 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. 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 Employee 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 Employee Trust



Funds, Employee 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:** September 25, 2000

## **EMERGENCY RULES NOW IN EFFECT**

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

#### **(Management, Technology, etc., Chs. HFS 1–)**

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  
**Extension Through:** October 10, 2000

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## **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

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## **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

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

### *Revenue*

1. 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  
**Extension Through:** September 28, 2000

2. Rules were adopted creating **s. Tax 9.69**, relating to the Master Settlement Agreement between the state of Wisconsin and tobacco product manufacturers.

### **Exemption From Finding of Emergency**

Under a nonstatutory provision in 1999 Wis. Act 122, the Department of Revenue is authorized to promulgate an emergency rule. The emergency rule is for the purpose of setting forth the requirements and methods to be used to ascertain the amount of Wisconsin excise tax paid each year on cigarettes of each tobacco product manufacturer that elects to place funds in a qualified escrow fund or, if the department deems it appropriate, is a participating manufacturer under the Master Settlement Agreement between the state and tobacco product manufacturers. The emergency rule shall cover the period from the effective date of 1999 Wis. Act 122, May 23, 2000, to the date a permanent rule becomes effective. (Note: The department is required under s. 895.10 (4), Stats., as created by 1999 Wis. Act 122, to promulgate a rule and is required under a nonstatutory provision to submit a proposed permanent rule to the Legislative Council by September 1, 2000.)

A nonstatutory provision in 1999 Wis. Act 122 provides that the department is not required to provide a finding of emergency or to provide evidence that an emergency rule is necessary for the preservation of the public peace, health, safety or welfare.

The rule is therefore promulgated as an emergency rule without a finding of emergency and without evidence that an emergency rule is necessary for the preservation of the public peace, health, safety or welfare. The rule shall take effect upon publication in the official state newspaper and shall apply retroactively to sales of cigarettes

on or after May 23, 2000, as provided in s. 895.10 (2) (intro.), Stats., as created by 1999 Wis. Act 122. Certified copies of this rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

**Publication Date:** August 17, 2000  
**Effective Date:** August 17, 2000  
**Expiration Date:** January 14, 2001  
**Hearing Date:** September 18, 2000  
 [See Notice this Register]

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## **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

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**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

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## STATEMENTS OF SCOPE OF PROPOSED RULES

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### ***Pharmacy Examining Board***

**Subject:**

Phar Code – Relating to the central filling of prescription orders for dispensing.

**Description of policy issues:**

Integrated health systems, business entities comprising common ownership of multiple pharmacies and pharmacies desiring to enter contractual relationships with outside vendors have an interest in increasing patient convenience and lowering cost of service based upon the central filling of prescription orders for dispensing.

*Objective of the rule:*

The objective of the rule is to specify the requirements for an approved central fill system.

*Policy analysis:*

Currently, no rules exist specifying the requirements for an approved central fill system. The intent of these rules is to preserve the integrity of the dispensing process by addressing the issues of ownership of inventory, patient confidentiality, consultation, security, accuracy and accountability which must be maintained in any approved central fill system.

**Statutory authority:**

Sections 15.08 (5) (b) and 227.11 (2) and ch. 450, Stats.

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

120 hours.

*Contact information:*

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

Pamela Haack, Paralegal  
Office of Administrative Rules  
Dept. of Regulation and Licensing  
Telephone: (608) 266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

### ***Public Service Commission***

**Subject:**

Ch. PSC 160 – Relating to the biennial review of Universal Service Fund (USF) rules [Docket 1-AC-198].

**Description of policy issues:**

*Objective of rule:*

The objective of existing universal service fund (USF) rules is to meet the general intent of the legislature as expressed in s. 196.218 (5) (a), Stats. That provision states that the moneys in the USF may only be used for certain specific purposes, including:

- Assisting customers located in areas of this state that have relatively high costs of telecommunications services, low-income customers, and disabled customers in obtaining affordable access to a basic set of essential telecommunications services.
- Assisting in the deployment of advanced service capabilities of a modern telecommunications infrastructure throughout this state.
- Administering the USF.

Any changes made as a result of this rule-making would be intended to continue and enhance support for the general purposes stated in the statutes.

Section 196.218 (4), Stats., specifies that biennially the Commission “shall promulgate rules that define a basic set of essential telecommunications services that shall be available to all customers at affordable prices and that are a necessary component of universal service.”

Section 196.218 (5m), Stats., states that the Commission shall, at least biennially, review and revise the rules as appropriate. The Commission proposes to open this rule-making to meet the mandate for a biennial review of the rules and to examine the need for changes to the existing USF program as defined by the USF rules.

*Existing policies relevant to rule, new policies proposed, and analysis of alternatives:*

Universal service definitions, the administration of the USF (assessments, an administrator, and a Universal Service Fund Council), and universal service programs intended to address needs including those of low-income customers, customers in high-cost areas, and customers with disabilities, are specified in ch. PSC 160.

As recognized in the initial USF, legislation, universal service is a dynamic issue. The Commission will consider changes to the rules to reflect changing circumstances that may be identified throughout the rule-making process. While specifics will not be known until the review of the existing rules is underway, this rule-making will look at modifications, additions, and improvements to the rules to make administration more efficient and to make program operations more effective given experience to date. Further, modifications will be examined in light of changes to universal service that are being formulated by the Federal Communications Commission (FCC).

**Statutory authority:**

Sections 196.02 (3), 196.218 (4) and (5m), and 227.11 (2), Stats.

**Time estimates for rule development:**

A review of existing rules and programs must occur. Specific changes must be examined by the USF Council so that its recommendations may be forwarded to the Commission. Specific rule language must be drafted and reviewed by the agency, and public hearings must be held. Redrafting of existing rule language will likely be extensively aided by drafts and comments from industry providers, beneficiaries of the current programs and other interested persons. The process will take several months. The process of review by the USF Council and the subsequent rule-making proceeding will take an estimated minimum of 600 staff hours.

*Other resources necessary to develop rule:*

The USF Council was established pursuant to s. 196.218 (6), Stats. This advisory body will be reviewing the existing USF rules and current programs and will be asked to provide the Commission with recommendations on the need for modifications. Agency staff will be working with the USF Council and will be preparing rule proposals.

*Contact information:*

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

Ms. Anita Sprenger  
Universal Service Fund Program Manager  
Telephone: (608) 266-3843  
Email: [sprena@psc.state.wi.us](mailto:sprena@psc.state.wi.us)

## ***Public Service Commission***

### **Subject:**

Ch. PSC 161 – Relating to modification of rules on the educational telecommunications access program [Docket 1–AC–199].

### **Description of policy issues:**

#### *Objective of the rule:*

The objectives for the rules to be examined in this proceeding are to reflect the requirements of 1999 Wis. Act 9 (Act 9) to remove most requirements for the educational telecommunications access program from under the Commission's jurisdiction and to create rules specifying the services subject to that access program.

The Commission promulgated ch. PSC 161 pursuant to a mandate of s. 196.218 (4r) (b), Stats. (1997). Ch. PSC 161 was created as emergency rule on February 27, 1998, and became permanent on November 1, 1998. This rule covers an educational telecommunications access program that is administered by the Technology for Educational Achievement in Wisconsin (TEACH) Board.

1999 Wis. Act 9 maintains a requirement for an educational telecommunication access program; however, general responsibilities for the access program rules are shifted to the TEACH Board. The Commission is to develop rules related to eligible services to be covered by the access program.

#### *Existing policies relevant to rule, new policies proposed, and analysis of alternatives:*

1999 Wis. Act 9 moves the mandate for rules on the educational telecommunications access program from the Commission to the TEACH Board. The TEACH Board will have responsibilities to oversee an education telecommunications access program. Consequently, there is no purpose to maintaining full access program details in the Commission rules.

1999 Wis. Act 9 also created s. 196.218 (4t), Stats., which states “the commission, in consultation with the department of administration and the technology of educational achievement in Wisconsin Board, shall promulgate rules specifying the telecommunications services eligible for funding through the educational telecommunications access program . . . .” The Commission will be reviewing those existing portions of ch. PSC 161 that may be relevant to meeting this mandate for specifying eligible services.

### **Statutory authority:**

Sections 196.02 (3) and 196.218 (4t) and  
1999 Wis. Act 9 section 9141 (1) (b) 1.

### **Time estimates for rule development:**

Consultation with the Department of Administration and the TEACH Board is required for the promulgation of these rules. Based on a conversation with representatives of the Department and Board, staff anticipates that the TEACH Board will also be doing rule-making on the education telecommunications access program and some coordination of approach may be necessary. The entire process will likely take several months.

#### *Other resources necessary to develop rule:*

Section 196.218 (4t), Stats., requires that the Commission consult with the Department of Administration and the TEACH Board. The Commission staff will be working with these other agencies and will be preparing rule proposals.

#### *Contact information:*

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

Gary A. Evenson, Assistant Administrator  
Telecommunications Division  
Telephone: (608) 266–6744  
Email: [evensg@psc.state.wi.us](mailto:evensg@psc.state.wi.us)

## ***Public Service Commission***

### **Subject:**

Ch. PSC 167 – Relating to modification of rules on extended area telephone service (EAS) [Docket 1–AC–200].

### **Description of policy issues:**

#### *Objective of the rule:*

Extended area telephone service is a telephone service that allows customers in one exchange to call customers in other exchanges that are outside the customers' usual local calling area without incurring toll charges. Chapter PSC 167 contains the process for consideration of petitions seeking the establishment of extended area service (EAS) arrangements. One step in the process is to conduct a survey of customer willingness to pay the rate increase that would result if an EAS petition were granted. The objective of this rule package is to set forth details concerning the balloting process that is used to conduct this survey. Such details include:

- What information must be included in the ballot mailing.
- How to determine whether ballots have been timely submitted.
- How unmarked ballots will be handled.
- How to ballot a customer with several telephone lines.

After a hearing about concerns with the balloting process, the Legislature's Joint Committee for Review of Administrative Rules (JCRAR) requested that the details concerning the current balloting process be added to ch. PSC 167.

#### *Existing policies relevant to rule, new policies proposed, and analysis of alternatives:*

If certain threshold conditions on petitions and current calling volumes between the involved exchanges are met, the present rule requires that utilities conduct a survey of customer willingness to pay for the rate increase that would result if an EAS petition were granted. The present rule has only very general information on the process for conducting the balloting and considering the results. Recently, the Public Service Commission (Commission) has initiated various process clarifications and improvements on EAS balloting. The rule modification to be considered in this proceeding will provide details regarding these matters, as requested by the JCRAR. Most, if not all, of these details will be processes the Commission has already placed into effect.

### **Statutory authority:**

Sections 196.02 (3) and 227.11 (2), Stats.

### **Time estimates for rule development:**

It is estimated that the review and subsequent rule-making proceeding will take approximately 120 staff hours.

#### *Other resources necessary to develop rule:*

None.

#### *Contact information:*

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

Gary A. Evenson, Assistant Administrator  
Telecommunications Division  
Telephone (608) 266–6744  
Email: [evensg@psc.state.wi.us](mailto:evensg@psc.state.wi.us)

## ***Regulation and Licensing***

### **Subject:**

RL Code – Relating to standards for approval of drug testing programs.

### **Description of policy issues:**

#### *Objective of the rule:*

The objective of the rule is to create standards for approval by the Department of Regulation and Licensing of drug testing programs used by impaired professionals. Currently, drug testing procedures



are not uniform in the selection of testing dates, in procedures for collection and screening of specimens, and in reporting of results. The Department desires to expand the panel of drugs screened on a regular basis. Selection of a small number of programs and standardization of administration and laboratory procedures should lead to reduced costs to individuals in drug testing programs and to better monitoring of individuals' progress in these programs.

*Policy analysis:*

Abuse of drugs by some professionals is an ongoing and significant problem. There are a growing number of new and alternative substances which professionals have access to. In order to provide better monitoring of individuals who are required to submit to drug screening, standardization of requirements for the random selection, collection, laboratory testing, and reporting, and expansion of the panel of drugs screened for will provide more protection for the public served by professionals regulated by the Department.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) and 440.03, Stats.

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

100 hours.

*Contact information:*

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

Pamela Haack, Paralegal  
Office of Administrative Rules  
Dept. of Regulation and Licensing  
Telephone: (608) 266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)

## ***Regulation and Licensing***

**Subject:**

RL Code – Relating to home inspectors.

**Description of policy issues:**

*Objectives of the rule:*

The objectives are:

1) To make modifications so that the provisions pertaining to examinations properly address the distinction between a national examination on the principles of home inspection and an examination on the Wisconsin statutes and rules.

2) To amend the definition of "hours" as this term applies to continuing educational requirements for home inspectors.

*Policy analysis:*

Section 440.973 of the current statutes prohibits a person from being registered as a home inspector, unless the person passes an

examination approved by the Department. The Department is directed to consider the use of an examination that is similar to an examination that is required for membership in the American Society of Home Inspectors. The current rules provide for a two-part examination. One part covers the administrative rules that pertain to Wisconsin home inspectors and the principles of home inspection.

After the new regulation of home inspectors was passed, the Department began making arrangements to develop or purchase a valid and reliable examination that meets the statutory directive stated above. The Department also prepared a short examination on the Wisconsin statutes and a short examination on the administrative rules that pertain to home inspectors. Persons applying for registration before November 1, 2000 must pass the statutes examination before being registered, and will be required to pass the rules examination and the principles examination between November 1, 2000 and December 31, 2000, and must pass the statutes examination, the rules examination and the principles examination before being registered. Persons applying for registration after December 31, 2000, are required to pass the "required examination" pursuant to s. RL 133.01 (3).

Another section of the rules defines "hour," as this term pertains to continuing education requirements, as "50 minutes of classroom instruction."

Since the Department has now been able to arrange for a valid and reliable national examination on the principles of home inspection, prepared and administered by the Examination Board of Professional Home Inspectors, Inc., there will be a need for a two-part examination after December 31, 2000. The one-part will be the national. The other part will be an examination that covers both the Wisconsin statutes and the Wisconsin administrative rules. This rule-making also proposes to clarify the definition of "hour," so that it does not appear to limit acceptable continuing education courses to classroom instruction. The Department's goal is to permit the completion of continuing education courses by distance learning.

**Statutory authority:**

Sections 227.11 (2) and 440.974, Stats.

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

100 hours.

*Contact information:*

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

Pamela Haack, Paralegal  
Office of Administrative Rules  
Dept. of Regulation and Licensing  
Telephone: (608) 266-0495  
Email: [pamela.haack@drl.state.wi.us](mailto:pamela.haack@drl.state.wi.us)



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## *SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE*

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

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

#### **Agriculture, Trade and Consumer Protection**

##### *Rule Submittal Date*

On August 9, 2000, the Wisconsin Department of Agriculture, Trade and Consumer Protection referred a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

##### *Analysis*

The proposed rule affects chapter ATCP 30, relating to the use of atrazine pesticides.

##### *Agency Procedure for Promulgation*

The Department will hold public hearings on this rule after the Wisconsin Legislative Council Rules Clearinghouse completes its review. A public hearing is scheduled for Wednesday, September 13, 2000 in two sessions in the afternoon from 3:00 to 5:00 p.m. and in the evening from 6:30 to 8:00 p.m. at Lodi City Hall, 113 South Main Street in Lodi.

The Department's Agricultural Resource Management Division is primarily responsible for this rule.

##### *Contact Information*

If you have questions, you may contact:

Bruce Rheineck  
Telephone: (608) 224-4502  
Email: [rheinbd@wheel.datcp.state.wi.us](mailto:rheinbd@wheel.datcp.state.wi.us)

#### **Insurance, Commissioner of**

##### *Rule Submittal Date*

In accordance with ss. 227.14 and 227.15, Stats., the Office of the Commissioner of Insurance is submitting a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on August 10, 2000.

##### *Analysis*

These changes will affect ch. Ins 23, Wis. Adm. Code, relating to standards for insurance marketed to fund prearranged funeral plans.

##### *Agency Procedure for Promulgation*

A public hearing is not required under s. 227.16 (2) (b), Stats.

##### *Contact Information*

A copy of the proposed rule may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl at (608) 266-0110 in OCI Central Files.

For additional information, please contact Stephen Mueller at (608) 267-2833 or e-mail at [Stephen.Mueller@oci.state.wi.us](mailto:Stephen.Mueller@oci.state.wi.us) in the OCI Legal Unit.

#### **Revenue**

##### *Rule Submittal Date*

On August 14, 2000, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

##### *Analysis*

The proposed rule creates s. Tax 9.69, relating to the tobacco product manufacturers' Master Settlement Agreement.

##### *Agency Procedure for Promulgation*

A public hearing on the proposed rule is required and is scheduled for Monday, September 18, 2000 at 1:00 p.m. in Room #207, GEF #3 Building, 125 South Webster Street in Madison.

The Office of the Secretary is primarily responsible for the promulgation of the proposed rule.

##### *Contact Information*

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

Mark Wipperfurth  
Income, Sales, and Excise Tax Division  
Telephone: (608) 266-8253  
Email: [mwipperf@dor.state.wi.us](mailto:mwipperf@dor.state.wi.us)

#### **Transportation**

##### *Rule Submittal Date*

Notice is hereby given that on August 14, 2000, the Department of Transportation submitted to the Wisconsin Legislative Council Rules Clearinghouse a proposed rule affecting ch. Trans 156.

##### *Analysis*

The subject matter of the proposed rule affecting ch. Trans 156 relates to the automated partnership processing system program.

##### *Agency Procedure for Promulgation*

A public hearing is required, and is scheduled for Wednesday, October 4, 2000 at 1:00 p.m. in Room 254, Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison.

The agency organizational unit primarily responsible for the promulgation of the proposed rule is the Division of Motor Vehicles/Bureau of Vehicle Services.

##### *Contact Information*

If you have questions regarding this rule, please contact:

Julie A. Johnson, Paralegal  
Dept. of Transportation  
Telephone: (608) 267-3703  
Email: [julie.johnson@dot.state.wi.us](mailto:julie.johnson@dot.state.wi.us)

#### **Transportation**

##### *Rule Submittal Date*

Notice is hereby given that on August 14, 2000, the Department of Transportation submitted to the Wisconsin Legislative Council Rules Clearinghouse a proposed rule affecting ch. Trans 158.

***Analysis***

The subject matter of the proposed rule affecting ch. Trans 158 relates to the placement of Wisconsin-issued Motor Vehicle Identification Numbers (VINs).

***Agency Procedure for Promulgation***

A public hearing is not required under s. 227.16 (2) (b), Stats. The agency organizational unit primarily responsible for the promulgation of the proposed rule is the Division of Motor Vehicles/Bureau of Vehicle Services.

***Contact Information***

If you have questions regarding this rule, please contact:

Julie A. Johnson, Paralegal  
Dept. of Transportation  
Telephone: (608) 267-3703  
Email: [julie.johnson@dot.state.wi.us](mailto:julie.johnson@dot.state.wi.us)

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## NOTICE SECTION

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### Notice of Hearing

#### *Agriculture, Trade and Consumer Protection*

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces it will hold a public hearing on its emergency rule (ch. ATCP 16), relating to importing bovine animals, goats or cervids from a state designated by USDA as a tuberculosis "non-modified accredited" state.

#### Hearing Information

The public hearing will be held:

<u>Date &amp; Time</u>	<u>Location</u>
September 19, 2000 Tuesday Beginning at 2:00 p.m.	Room 172, DATCP Prairie Oak State Office Bldg. 2811 Agriculture Dr. MADISON, WI

#### Written Comments

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 **Monday, September 25, 2000**, to receive additional written comments.

#### Contact Information

An interpreter for the hearing-impaired will be available on request for this public hearing. Please make reservations for a hearing interpreter by **Thursday, September 7, 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 Dept. of Agriculture, Trade and Consumer Protection

Statutory authority: s. 93.07 (1)

Statutes interpreted: ss. 93.07 (10), 95.20 and 95.25

In order to protect the public from bovine tuberculosis, this emergency rule restricts the importation of animals from states that the United States Department of Agriculture (USDA) has classified as "non-modified accredited."

#### Background

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, it will pose a significant threat to the health of domestic animals and humans in the state.

The TB eradication program is administered jointly by the Wisconsin Department of Agriculture, Trade and Consumer Protection (Department) and the USDA. After several decades of intense effort, the disease was nearly eradicated in the United States. Recently the USDA reclassified Michigan from "accredited-free" to "non-modified accredited" because TB was confirmed in several cattle herds and in several native white-tailed deer. Because of the ease of transmission of TB, the substantial number of animals imported to Wisconsin, and because the last-known incident of TB in a bovine animal in Wisconsin involved a bovine that was imported

from Michigan, the Department has determined that Wisconsin needs to regulate the import of animals that originate from "non-modified accredited" states.

#### Rule Contents

##### **Pre-Import Requirements:**

Under this emergency rule, bovine animals, goats and cervids imported to Wisconsin from a tuberculosis "non-modified accredited" state must be accompanied by a certificate of veterinary inspection. The importer must obtain an import permit from the Department.

The veterinarian who completes the certificate of veterinary inspection must certify that the animal originates from a herd in which a whole herd TB test has been completed within the last 12 months. The veterinarian must certify that the whole herd test included every animal over 6 months of age in the herd, and that all test results were negative.

An imported animal must be individually tested for tuberculosis within 60 days (90 days for a cervid) prior to the import date, unless the animal is less than 6 months old on the import date. The test may be performed as part of a whole herd test if the whole herd test is performed within 60 days (90 days for a cervid) prior to the import date.

##### **Post-Import Testing:**

An animal imported to Wisconsin from a tuberculosis non-modified accredited state must be tested for tuberculosis not less than 90 days nor more than 120 days after it is imported. This testing requirement does not apply to feeder cattle that are confined to the receiving premises until they are shipped to slaughter. (The feeder cattle, when shipped to slaughter, must be accompanied by USDA form VS1-27.)

##### **Post-Import Confinement:**

Animals imported to Wisconsin from a tuberculosis non-modified accredited state may not be commingled with any other animals in this state, or removed from the premises at which they are first received in this state, until they test negative for tuberculosis or are shipped to slaughter.

##### **Exception:**

This emergency rule does not apply to animals that are imported directly to a slaughtering establishment for slaughter.

#### **Finding of Emergency**

(1) Bovine tuberculosis is a contagious, infectious and communicable disease caused by *Mycobacterium bovis* (*M. bovis*). It affects cattle, bison, deer, elk, goats and other species, including humans. Bovine tuberculosis in infected animals and humans manifests itself in lesions of the lung, bone, and other body parts. Bovine tuberculosis causes weight loss and general debilitation, and can be fatal.

(2) Wisconsin is currently classified by the United States Department of Agriculture (USDA) as "accredited-free" for tuberculosis.

(3) The USDA recently reclassified Michigan from "accredited-free" to "non-modified accredited," reflecting a higher risk of bovine tuberculosis.

(4) A significant number of bovine animals, goats and cervids are imported to Wisconsin from Michigan each year.

(5) The last known case of bovine tuberculosis in cattle in Wisconsin was confirmed in an animal imported from Michigan.

(6) If bovine tuberculosis becomes established in Wisconsin, it will pose a significant threat to the health of domestic animals and humans in this state.

(7) This emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control

a serious disease in cattle, goats and cervids and will help protect the marketability of Wisconsin-raised animals.

### **Fiscal Estimate**

The Department anticipates costs to the Department of approximately \$2000 as a result of this emergency rule. The Department can accommodate these costs in its current budget. The Department does not anticipate any additional costs to counties or other local governments.

### **Initial Regulatory Flexibility Analysis**

This emergency rule may have some financial impact on small business people who import bovine animals, goats or cervids. If these people import animals from states designated tuberculosis "non-modified" accredited, these people may incur additional costs associated with post-import testing of the animals. However, they may avoid additional testing costs by refraining from importing animals that originate from tuberculosis non-modified accredited states.

Despite the potential costs associated with testing, the rule is needed because the costs that would be incurred by small business people if bovine tuberculosis is imported to Wisconsin far exceeds any additional costs associated with testing animals that originate from tuberculosis non-modified accredited states.

### **Copies of the Emergency Rule**

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

Animal Health Division  
Telephone (608) 224-4883  
Wis. Dept. of Agriculture, Trade & Consumer Protection  
P.O. Box 8911  
Madison, WI 53708-8911

## **Notice of Hearing**

### ***Agriculture, Trade and Consumer Protection*** ***[CR 00-119]***

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a proposed amendment to ch. ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides.

### **Written Comments**

The hearing will be held at the time and place shown below. The public is invited to attend the hearing and comment on the proposed rule. The Department also invites comments on the draft environmental impact statement accompanying the rule. Following the public hearing, the hearing record will remain open until **Thursday, September 21, 2000** for additional written comments.

### **Copies of Rule**

A copy of this rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Agricultural Resource Management Division, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708-8911, or by calling (608) 224-4502. Copies will also be available at the public hearing.

### **Contact Information**

An interpreter for the hearing-impaired will be available on request for the hearing. Please make reservations for a hearing interpreter by **Friday, September 8, 2000** either by writing to Bruce Rheineck, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, (608/224-4502) or by contacting the message relay system (TTY) at **608/224-5058**. Handicap access is available at the hearing.

## **Hearing Information**

One hearing is scheduled:

<b>Date &amp; Time</b>	<b>Location</b>
<b>September 13, 2000 Wednesday 3:00 – 5:00 p.m. 6:30 – 8:00 p.m.</b>	<b>Lodi City Hall 113 South Main St. LODI, WI</b>

Handicap access is available at the hearing.

Telephone (608) 592-3247 for information on the scheduled hearing.

Written comments will be accepted until **Thursday, September 21, 2000**.

### **Analysis Prepared by Dept. of Agriculture, Trade and Consumer Protection**

Statutory authority: ss. 93.07 (1), 94.69 (9), 160.19 (2), and 160.21 (1)

Statutes interpreted: ss. 94.69, 160.19 (2) and 160.21 (1)

In order to protect Wisconsin groundwater, current rules under ch. ATCP 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards.

Based on new groundwater test data, this rule expands an area in which atrazine use is prohibited.

#### Atrazine Prohibition Areas

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 103 designated areas, including major prohibition areas in the lower Wisconsin river valley and much of Dane and Columbia counties.

This rule enlarges one current prohibition area. This will increase the statewide acreage of atrazine prohibition areas by about 1,000 acres. This rule includes a map describing the expanded prohibition area.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface complying with s. ATCP 29.151 (2) to (4).

### **Fiscal Estimate**

The rule will be administered by the Agricultural Resource Management (ARM) Division of the Department of Agriculture, Trade and Consumer Protection (DATCP). The following estimate is based on enlarging 1 existing prohibition area (PA).

Administration and enforcement of the proposal will involve new costs for the Department. Specialist and field investigator staff time will be needed for inspections and enforcement in the new PAs (0.05 FTE, cost approximately \$2,000). Enforcement activities will be conducted in conjunction with current compliance inspections, but at increased levels to ensure compliance with the additional prohibition areas. Compliance activities will be especially important in the first few years as growers, commercial applicators, dealers, and agricultural consultants in the PAs require education to comply with the new regulations.

Soil sampling conducted in the additional PAs to determine compliance with the rules will require an estimated \$500 in analytical services. In addition, a public information effort will be needed to achieve a high degree of voluntary compliance with the rule. Direct costs to produce and distribute the informational materials will be \$500.

Total Annual Costs: \$3,000

The Department anticipates no additional costs for other state agencies. Water sampling programs within the Department of

Natural Resources and local health agencies may receive short term increased interest by individuals requesting samples.

On Local Units of Government:

The rule does not mandate that local government resources be expended on sample collection, rule administration or enforcement. The rule is therefore not expected to have any fiscal impact on local units of government. County agricultural agents will likely receive requests for information on provisions of the rule and on weed control strategies with reduced reliance on atrazine. This responsibility will probably be incorporated into current extension programs with no net fiscal impact.

The Department anticipates no additional costs for other state agencies. Water sampling programs within the Department of Natural Resources and local health agencies may receive short-term increased interest by individuals requesting samples.

The complete fiscal estimate is available upon request.

### **Initial Regulatory Flexibility Analysis**

Businesses Affected:

The amendments to ch. ATCP 30 Appendix A will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine — farmers who grow corn. The proposed prohibition area contains approximately 1,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 250 acres of corn will be affected. About three producers would be affected, depending on their corn acreage and their reliance on atrazine products. These producers are small businesses, as defined by s. 227.114 (1) (a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

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

Reporting, Recordkeeping and Other Procedures Required for Compliance:

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

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

Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10.

Professional Skills Required to Comply:

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

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past this type of assistance has been provided by University Extension personnel and farm chemical dealers. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The Department anticipates these three information sources will continue to be used as the primary

source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

### **Notice to Department of Development**

The Department has given notice of this proposed rule to the Wisconsin Department of Development, as required by s. 227.114 (5), Stats.

### **Draft Environmental Impact Statement**

The Department has prepared a draft environmental impact statement (EIS) for proposed 2001 amendment to rules on the use of pesticides containing atrazine. Copies are available from the Department on request and will be available at the public hearings. Comments on the EIS should be directed to the Agricultural Resource Management Division, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708 in care of Jeff Postle. Phone 608/224-4503. Written comments on the EIS will be accepted until **Thursday, September 21, 2000.**

### **Notice of Hearing**

*Natural Resources*

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

*[CR 00-112]*

Notice is hereby given that pursuant to ss. 30.92 (5) (a) and (b) and 227.11 (2) (a), Stats., interpreting ss. 30.92 (4) (b) 2. b., 2m., 8. am. and 8. bn., Stats., the Department of Natural Resources will hold a public hearing on revisions to ch. NR 7, Wis. Adm. Code, relating to recreational boating facilities.

### **Analysis by the Dept. of Natural Resources**

1997 Wis. Act 27 and 1999 Wis. Act 9 contained legislative changes to the recreation boating facilities program. One change created an opportunity for an eligible sponsor to receive a higher cost share rate for a project if the project is considered of regional or statewide significance. Presently, eligible sponsors may receive financial cost sharing assistance at a rate of up to 60%. Under the new provision, if the project is determined to be of statewide or regional significance and the Wisconsin Waterways Commission approves, the cost share rate could be increased to 80%. The proposed rule establishes the criteria for determining statewide or regional significance.

1997 Wis. Act 27 also allowed "in-kind contributions" as an eligible part of the local cost share. The existing rules for the program allow the value of donated materials, equipment, services or labor to be used as part of the project costs borne by the project sponsor. The rule is revised to clarify "in-kind contributions" has the same meaning as "donations" in the existing rule. Program eligibility of equipment necessary to remove floating trash and debris from a waterway was also created.

### **Initial Regulatory Flexibility Analysis**

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

### **Environmental Assessment**

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



## Hearing Information

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

<b>September 12, 2000</b> <b>Tuesday</b> <b>1:00 p.m.</b>	<b>Conference Room 1</b> <b>Courthouse Annex</b> <b>1462 Strongs Ave.</b> <b>Stevens Point, WI</b>
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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 Larry Freidig at (608) 266-4897 with specific information on your request at least 10 days before the date of the scheduled hearing.

## Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. Larry Freidig, Bureau of Community Financial Assistance, P.O. Box 7921, Madison, WI 53707 no later than **Friday, September 15, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearing.

## Copies of Rule

A copy of the proposed rule [CF-33-00] and fiscal estimate may be obtained from Mr. Freidig at the address previously given.

## Fiscal Estimate

None of the proposed changes will increase costs to the state. There is no state fiscal effect. There are no local government costs.

## Notice of Hearings

### Natural Resources

*(Fish, Game, etc., Chs. NR 1--)*  
*[CR 00-118]*

Notice is hereby given that pursuant to ss. 29.014 and 227.11 (2) (a), Stats., interpreting ss. 29.014, 29.177 and 29.181, Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 10, Wis. Adm. Code, relating to deer management unit (DMU) boundaries and population goals.

## Analysis by the Dept. of Natural Resources

The Department proposes modifying 30 deer management unit (DMU) deer density goals. Goal increases are proposed in 8 DMUs and goal decreases are proposed in 22 DMUs. In the units with a proposed reduction of 10 deer, a temporary reduction of 5 deer is proposed to be used the first 3 years, followed by an additional reduction of 5 deer. The Department also proposes changing unit boundaries in 3 DMUs. One of these changes creates a metro unit (Unit 1M) around the greater Superior area. Another is a split of unit 7 into 2 units; one following the outer boundary of the Bad River Indian Reservation, and the other including the remaining area of unit 7. The other creates a new boundary between units 69A and 77M, and eliminates unit 69B.

## Initial Regulatory Flexibility Analysis

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

## Environmental Assessment

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

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

## Hearing Information

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

<b>September 11, 2000</b> <b>Monday</b> <b>7:00 p.m.</b>	<b>Room LL42</b> <b>Waupaca Co. Courthouse</b> <b>811 Harding St.</b> <b>Waupaca, WI</b>
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<b>September 12, 2000</b> <b>Tuesday</b> <b>7:00 p.m.</b>	<b>Burnett County</b> <b>Government Center</b> <b>7410 County Road K</b> <b>Siren, WI</b>
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<b>September 13, 2000</b> <b>Wednesday</b> <b>7:00 p.m.</b>	<b>Pembine Town Hall</b> <b>Sauld Street</b> <b>Pembine, WI</b>
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<b>September 13, 2000</b> <b>Wednesday</b> <b>7:00 p.m.</b>	<b>Community Center</b> <b>620 Elm Street</b> <b>Wisconsin Dells, WI</b>
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<b>September 14, 2000</b> <b>Thursday</b> <b>7:00 p.m.</b>	<b>Council Chambers</b> <b>Ashland City Hall</b> <b>601 West Main St.</b> <b>Ashland, WI</b>
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<b>September 14, 2000</b> <b>Thursday</b> <b>7:00 p.m.</b>	<b>Comfort Suites</b> <b>Hwys. J and I-94</b> <b>Pewaukee, WI</b>
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<b>September 18, 2000</b> <b>Monday</b> <b>7:00 p.m.</b>	<b>Kratochwill Memorial Bldg.</b> <b>206 N. Wisconsin St.</b> <b>Muscoda, WI</b>
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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 William Mytton at (608) 266-2194 with specific information on your request at least 10 days before the date of the scheduled hearing.

## Written Comments and Contact Information

Written comments on the proposed rule may be submitted to Mr. William Mytton, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than **Wednesday, September 20, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings.

## Copies of Rule

A copy of the proposed rule [WM-29-00] and fiscal estimate may be obtained from Mr. Mytton at the address previously given.

## Fiscal Estimate

There is no state fiscal effect. There are no local government costs.

## Notice of Hearing

### Revenue

*[CR 00-123]*

Notice is hereby given that, pursuant to s. 227.11 (2) (a), Stats., and interpreting subchs. II and III of ch. 139, Stats., and s. 895.10, Stats., the Department of Revenue will hold a public hearing at the time and place indicated below, to consider the creation of s. Tax 9.69, Wis. Adm. Code, relating to the Master Settlement Agreement between the state of Wisconsin and tobacco product manufacturers.

## Hearing Information

September 18, 2000  
Monday  
1:00 p.m.

Room #207, GEF #3 Bldg.  
125 South Webster St.  
Madison, WI

Handicap access is available at the Butler Street entrance of the building.

## Written Comments on the Rule

Interested persons are invited to appear at the hearing and may make an oral presentation. It is requested that written comments reflecting the oral presentation be given to the Department at the hearing. Written comments may also be submitted to the contact person shown below no later than **Monday, September 25, 2000**, and will be given the same consideration as testimony presented at the hearing.

## Contact Information

Mark Wipperfurth  
Department of Revenue  
125 S. Webster St.  
P.O. Box 8933  
Madison, WI 53708-8933

Telephone: (608) 266-8253  
E-mail: [mwipperf@dor.state.wi.us](mailto:mwipperf@dor.state.wi.us)

## Analysis by the Dept. of Revenue

Statutory authority: ss. 227.24 and 895.10 (4)

Statutes interpreted: subchs. II and III of ch. 139, Stats., and s. 895.10, Stats.

Section 1. Section Tax 9.69 is created to describe methods and requirements relating to collecting, maintaining and reporting data, to ascertain the amount of Wisconsin excise tax paid each year on cigarettes of each tobacco product manufacturer that elects to place funds in a qualified escrow fund or, if the Department deems it appropriate, is a participating manufacturer under the Master Settlement Agreement. The information is necessary in order to be in compliance with 1999 Wis. Act 122, the model statute enacted as part of the Master Settlement Agreement with tobacco product manufacturers.

## Text of Rule

**SECTION 1.** Tax 9.69 is created to read:

**Tax 9.69 Master settlement agreement with tobacco product manufacturers.** (1) **PURPOSE.** This section describes requirements and methods relating to collecting, maintaining and reporting data regarding the number of Wisconsin state cigarette excise tax stamps affixed to packages of cigarettes, and the amount of "roll-your-own" cigarette tobacco, sold in Wisconsin each year.

**Note:** The data collected, maintained and reported under this section shall be used to ascertain the amount of Wisconsin excise tax paid on the cigarettes of each tobacco product manufacturer that elects to place funds in a qualified escrow fund under s. 895.10, Stats., for each year, or, if the department deems it appropriate, is a participating manufacturer under the master settlement agreement between the state and tobacco product manufacturers, pursuant to 1999 Wis. Act 122.

(2) **DEFINITIONS.** In this section:

(a) "Cigarette" has the same meaning as in s. 895.10 (1) (d), Stats., and includes "roll-your-own" cigarette tobacco.

(b) "Master settlement agreement" has the same meaning as in s. 895.10 (1) (e), Stats.

(c) "Qualified escrow fund" has the same meaning as in s. 895.10 (1) (f), Stats.

(d) "Sell" or "sale" has the same meaning as in s. 139.30 (12), Stats.

(e) "Tobacco product manufacturer" has the same meaning as in s. 895.10 (1) (i), Stats., and includes both a cigarette manufacturer under subch. II of ch. 139, Stats., and a tobacco products manufacturer under subch. III of ch. 139, Stats., that sells "roll-your-own" cigarette tobacco.

(f) "Wisconsin consumer" means a consumer within this state, including a direct consumer, distributor, retailer or similar intermediary.

(3) **REPORTING REQUIREMENT.** (a) Every tobacco product manufacturer that elects to sell cigarettes to Wisconsin consumers shall, by the 15<sup>th</sup> day of each month, file a schedule with the department that reconciles the number of Wisconsin state cigarette excise tax stamps affixed to packages of cigarettes sold to Wisconsin consumers and the amount of "roll-your-own" cigarette tobacco sold to Wisconsin consumers in the previous calendar month.

(b) The schedule required under par. (a) shall contain all of the following information that is applicable:

1. A listing of each sale of cigarettes other than "roll-your-own" cigarette tobacco manufactured, or the name of the manufacturer of the cigarettes that were delivered to Wisconsin consumers, onto which state cigarette excise tax stamps were affixed.

2. A listing of each sale of "roll-your-own" cigarette tobacco manufactured, or the name of the manufacturer of the "roll-your-own" cigarette tobacco, that was delivered to Wisconsin consumers.

3. For each manufacturer listed pursuant to subd. 1., a listing of all brands of cigarettes sold and the number of Wisconsin state cigarette excise tax stamps affixed to cigarette packages with respect to each brand.

4. For each brand of cigarettes listed for each manufacturer pursuant to subd. 3., the following additional information, if known:

a. The name of the manufacturer of the cigarettes.

b. The name of the person or entity first responsible for the cigarettes being designated or identified for sale in the United States.

5. For each sale of "roll-your-own" cigarette tobacco listed for each manufacturer pursuant to subd. 2., the following additional information, if known:

a. The name of the manufacturer of the "roll-your-own" cigarette tobacco.

b. The name of the person or entity first responsible for the "roll-your-own" cigarette tobacco being designated or identified for sale in the United States, by brand.

6. Any other information the department may deem necessary to administer the provisions of this section.

(4) **ESCROW FUND CERTIFICATION REQUIREMENTS.** (a) Every tobacco product manufacturer that is not a participating manufacturer under the master settlement agreement shall by April 15 of each year certify to the department and to the attorney general that the amounts required under s. 895.10 (2) (b), Stats., have been placed into a qualified escrow account that is designated for Wisconsin judgments or release payments.

(b) The certification required under par. (a) shall include all of the following:

1. The name of the qualified financial institution where the escrow account is maintained.

2. The amount of funds placed into the escrow account since the last reporting period, based on Wisconsin sales.

3. The amounts, if any, paid out of the escrow account in judgments or release payments and the purpose of the disbursements.

4. The balance in the escrow account as of March 31 of each year.

5. A copy of the escrow account balance statement as of March 31 of each year.

(5) **RECORDKEEPING REQUIREMENTS.** Every tobacco product manufacturer required to file a schedule under sub. (3) shall maintain complete and accurate records to support the information

reported on the required schedule. These records shall be maintained for a period of 4 years from the date of sale into Wisconsin and shall include the following:

(a) Purchase records indicating the tobacco product manufacturer of the cigarettes, the date of purchase and the number of cigarettes by brand or amount of "roll-your-own" cigarette tobacco purchased, by brand.

(b) Sales records indicating to whom the sale was made, the tobacco product manufacturer of the cigarettes, the date of sale and the number of cigarettes by brand or amount of "roll-your-own" cigarette tobacco sold.

(c) The number of Wisconsin cigarette tax stamps placed on packages of cigarettes for sale in the state of Wisconsin.

(d) Any additional records deemed necessary by the secretary.

(6) REMEDIES FOR NONCOMPLIANCE. The failure of a tobacco product manufacturer to either become a participating manufacturer under the terms of the master settlement agreement or place funds into a qualified escrow fund, as provided in s. 895.10 (2) (b) 1., Stats., shall be subject to civil action and penalties under s. 895.10 (2) (b) 3., Stats.

**Note:** Section Tax 9.69 interprets subchs. II and III of ch. 139, Stats., and s. 895.10, Stats.

### **Initial Regulatory Flexibility Analysis**

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

### **Fiscal Estimate**

This rule prescribes the mechanisms for collecting, maintaining and reporting data required by the master settlement agreement with tobacco product manufacturers. It has no effect on state tax or other revenues.

## **Notice of Hearing**

### *Transportation*

*[CR 00-121]*

Notice is hereby given that pursuant to ss. 85.16 (1) and 227.11, Stats., and interpreting ss. 341.21 and 341.255 (4), Stats., the Department of Transportation will hold a public hearing at the time and place indicated below to consider the creation of ch. Trans 156, Wis. Adm. Code, relating to the automated partnership processing system (APPS) program.

### **Hearing Information**

**October 4, 2000**  
**Wednesday**  
**1:00 p.m.**

**Room 254**  
**Hill Farms State Trans Bldg.**  
**4802 Sheboygan Ave.**  
**Madison, WI**

Parking for persons with disabilities and an accessible entrance are available on the north and south sides of the Hill Farms State Transportation Building.

An interpreter for the hearing-impaired will be available on request for this hearing. Please make reservations for a hearing interpreter at least 10 days prior to the hearing.

### **Written Comments**

The public record on this proposed rule-making will be held open until close of business on **Wednesday, October 11, 2000**, to permit the submission of written comments from persons unable to attend the public hearing or who wish to supplement testimony offered at the hearing. Any such comments should be submitted to Bev Schwartz, Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7909, Madison, WI 53707-7909.

## **Analysis by Wis. Dept. of Transportation**

Statutory authority: ss. 85.16 (1) and 227.11

Statutes interpreted: ss. 341.21 and 341.255 (4)

**General Summary of Proposed Rule.** In 1995, s. 341.21, Stats., was created to provide the Department of Transportation authority to contract with any person for the provision of title and registration services under chs. 341 and 342 of the Wisconsin Statutes. This rule establishes policies and procedures by which the Department will accept and review applications from persons seeking to become contractors under the automated processing partnership system or "APPS" program. The rule also establishes policies and procedures for terminating contracts under the program, fees to be charged customers and records to be retained by contractors.

### **Fiscal Estimate**

The Department estimates that there will be minimal fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district or sewerage district, or any federally-recognized tribes or bands. For those units of government who may choose to contract with the Department to provide registration and titling services, the estimated costs of obtaining electronic access to the Department databases from a vendor will be \$7 to \$8 per title transaction and \$3 to \$5 per renewal transaction. The program standards will permit units of government to charge customers up to \$17.50 for a title transaction and up to \$10 for a renewal transaction. Therefore, there should be no net adverse fiscal impact on local governments who choose to participate in the APPS program, since it is assumed that fees from customers will offset costs of providing the services.

The proposed rule will have no fiscal effect independent of the fiscal impact of s. 341.21, Stats. It is estimated that there will be no net annualized fiscal impact on state funds, based on the assumption that fees received from agents under s. 341.255 (4), Stats., will offset any loss of counter service fees from citizens who obtain title and registration services from contractors under s. 341.21, Stats., rather than at DMV service counters.

### **Initial Regulatory Flexibility Analysis**

It is expected that small businesses will be among those entities who choose to become contractors under the APPS program. The costs of obtaining electronic access to DMV databases to provide title and registration services can be more than offset by the fees which contractors are permitted to charge for title and registration processing. The Department believes that the decision of a business to seek a contract with the DMV under s. 341.21, Stats., will be based on estimated demand for the services whether the business is large or small. The requirement of a bond has been waived for motor vehicle dealers and financial institutions which are expected to make up the majority of contractors under the program. After considering the methods mentioned in s. 227.114 (2), Stats., the Department concluded that the same program standards must apply to all contractors regardless of size. To incorporate any of the methods suggested in s. 227.114 (2), Stats., would be contrary to the objectives of s. 341.21, Stats. The Department believes that many small businesses will view the APPS program as a desirable opportunity to enhance their primary business activities by offering a related customer service which will be convenient and beneficial to both the contractor and its customers.

### **Copies of Rule and Contact Information**

Copies of the proposed rule may be obtained upon request, without cost, by writing to Bev Schwartz, Division of Motor Vehicles, Bureau of Vehicle Services, Room 253, P. O. Box 7909, Madison, WI 53707-7909, or by calling (608) 267-5253. Hearing-impaired individuals may contact the Department using TDD (608) 266-3096. Alternate formats of the proposed rule will be provided to individuals at their request.



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

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

**Administration (CR 00-80):**

Ch. Adm 43 – Relating to non-municipal electric utility public benefits fees.

**Administration (CR 00-81):**

Ch. Adm 44 – Relating to energy conservation and efficiency and renewable resource programs.

**Administration (CR 00-82):**

Ch. Adm 45 – Relating to low-income assistance public benefits.

**Regulation and Licensing (CR 00-97):**

S. RL 86.01 (6) and ch. RL 87, Appendix I – Relating to the Uniform Standards of Professional Appraisal Practice (USPAP).

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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

**Commerce (CR 00-38):**

An order repealing and recreating ch. Comm 43, relating to anhydrous ammonia.  
Effective 10-01-00.

**Workforce Development (CR 99-163):**

An order affecting chs. DWD 100 to 102, 110, 111, 126 to 129, 132, 135, 140 and 149, relating to a limited waiver of the work search requirement, ability to work and availability for work, and various minor changes relating to unemployment insurance.  
Effective 10-01-00.

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## RULES PUBLISHED IN THIS WIS. ADM. REGISTER

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*The following administrative rule orders have been adopted and published in the August 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.*

**Arts Board (CR 00-63):**

An order amending s. AB 2.09 (5), relating to the distribution of arts challenge initiative incentive grant funds.  
Effective 09-01-00.

**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.

**Health and Family Services (CR 00-52):**

An order repealing and recreating ch. HFS 12, relating to uniform procedures for caregiver background checks.  
Effective 09-01-00.

**Insurance, Commissioner of (CR 00-61):**

An order affecting ss. Ins 17.01 (3) and 17.28 (6) and (6a), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2000.  
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.

**Revenue (CR 00-23):**

An order creating s. Tax 2.32, relating to defining "gross receipts" for the recycling surcharge.  
Effective 09-01-00.

**Technical College System Board (CR 00-44):**

An order creating ch. TCS 16, relating to grants for students.  
Effective 09-01-00.

**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 00-77):**

An order amending s. Trans 276.07 (4), relating to allowing the operation of "double bottoms" and certain other vehicles on certain specified highways.  
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.

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## SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

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The following administrative rule revisions and corrections have taken place in August 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

#### Arts Board:

- Ch. AB 2**  
S. AB 2.09 (5)

#### Employe Trust Funds:

- Ch. ETF 20**  
S. ETF 20.02 (1), (2), (3) (a) and (b), (4) and (5)

#### Health and Family Services:

*(Management, Policy, etc., Chs. HFS 1--)*

- Ch. HFS 12 (entire chapter)**

*(Community Services, Chs. HFS 30--)*

- Ch. HFS 82**  
S. HFS 82.03 (2) (a), (4) (a) and (b) and (7)  
S. HFS 82.04 (4) (b) and (5)

- Ch. HFS 83**  
S. HFS 83.07 (6) (b), (7), (11), (13) and (14)

- Ch. HFS 88**  
S. HFS 88.03 (2) (a), (b) and (c), (3) (d), (4)  
and (7) (a)  
S. HFS 88.04 (4)

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

- Ch. HFS 124**  
S. HFS 124.03 (7)

- Ch. HFS 131**  
S. HFS 131.14 (5), (6), (7) (intro.) and (a), (8), (10)  
and (11) (a)

- Ch. HFS 132**  
S. HFS 132.14 (6) and (8)  
S. HFS 132.31 (6) (e)

- Ch. HFS 133**  
S. HFS 133.03 (5) to (9)

- Ch. HFS 134**  
S. HFS 134.14 (5) and (5m)

#### Insurance, Commissioner of:

- Ch. Ins 17**  
S. Ins 17.01 (3)  
S. Ins 17.28 (6) and (6a)

#### Natural Resources:

*(Environmental Protection--WPDES,  
Chs. NR 200--)*

- Ch. NR 216**  
S. NR 216.45 (entire section)

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

- Ch. NR 300**  
S. NR 300.01 (entire section)  
S. NR 300.02 (entire section)  
S. NR 300.04 (4)  
S. NR 300.06 (4)

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

- Ch. NR 400**  
S. NR 400.02 (36m)

- Ch. NR 405**  
S. NR 405.15 (2) (intro.)

- Ch. NR 406**  
S. NR 406.08 (entire section)

- Ch. NR 408**  
S. NR 408.09 (2) (intro.)

- Ch. NR 411**  
S. NR 411.07 (entire section)

#### Revenue:

- Ch. Tax 2**  
S. Tax 2.32 (entire section)

#### Technical College System Board:

- Ch. TCS 16 (entire chapter)**

#### Transportation:

- Ch. Trans 101**  
S. Trans 101.02 (1) (g) and (k), (3) (a), (b), (e) and  
(o), (5) (intro.) and (v) and (8) (a)  
S. Trans 101.04 (3) (intro.), (3m), (4) and (5)  
S. Trans 101.10 (entire section)

- Ch. Trans 102**  
S. Trans 102.20 (2) (i)  
S. Trans 102.205 (entire section)

**Ch. Trans 103**

S. Trans 103.05 (1) to (5)

**Ch. Trans 104**

S. Trans 104.03 (4) and (8) (b)  
 S. Trans 104.055 (entire section)  
 S. Trans 104.06 (5) (b) and (6) (a)  
 S. Trans 104.09 (1), (2), (3m) and (5)  
 S. Trans 104.10 (1) (d) and (e)

**Ch. Trans 117**

S. Trans 117.03 (3) (j)

**Ch. Trans 131**

S. Trans 131.03 (2) (b)

**Ch. Trans 142**

S. Trans 142.01 (entire section)  
 S. Trans 142.02 (7) (a)

**Ch. Trans 276**

S. Trans 276.07 (4)

**Ch. Trans 325**

S. Trans 325.02 (intro.) and (8)

**Ch. Trans 326**

S. Trans 326.01 (intro.) and (8)

**Ch. Trans 328 (entire chapter)****EDITORIAL CORRECTIONS**

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

**Health and Family Services:**

*(Community Services, Chs. HFS 30--)*

**Ch. HFS 82 (entire chapter) was renumbered from ch. HSS 82 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats.**

**Ch. HFS 88**

S. HFS 88.02 (4) (a) had corrections made under s. 13.93 (2m) (b) 7., Stats.

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

**Ch. HFS 124**

S. HFS 124.15 (1) (c) had corrections made under s. 13.93 (2m) (b) 7., Stats.

**Ch. HFS 132**

S. HFS 132.60 (5) (d) had a correction made under s. 13.93 (2m) (b) 7., Stats.  
 S. HFS 132.65 (1) (c) had a correction made under s. 13.93 (2m) (b) 7., Stats.

**Ch. HFS 133**

S. HFS 133.02 (6g) had a correction made under s. 13.93 (2m) (b) 7., Stats.

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## *FINAL REGULATORY FLEXIBILITY ANALYSES*

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### 1. Arts Board (CR 00-63)

Ch. AB 2 – The distribution of arts challenge initiative incentive grant funds.

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.

### 2. Employe Trust Funds (CR 97-72)

Ch. ETF 20 – Rehired annuitants.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments reported.

### 3. Health and Family Services (CR 00-1)

Ch. HFS 82 – Non-expiring licenses for a variety of medical care facilities.

Summary of Final Regulatory Flexibility Analysis:

The rule changes will not affect small businesses as defined in s. 227.114 (1) (a), Stats.

Comments of Legislative Standing Committees

No comments were received.

### 4. Health and Family Services (CR 00-52)

Chapter HFS 12 – Relating to caregiver background checks.

Summary of Final Regulatory Flexibility Analysis:

These rules apply to the following “agencies:” the Department, county social services and human services departments that license foster homes for children or carry out adoption home studies, child-placing agencies that do the same, and school boards that contract for a day care program. These rules also apply to the following licensed, certified, registered or approved “entities:”

- emergency mental health service programs;
- mental health day treatment services for children;
- community mental health programs
- developmental disability programs;

- community support programs;
- certified community alcohol and other drug abuse (AODA) prevention and treatment programs;
- family day care centers for children;
- group day care centers for children;
- day camps for children;
- foster homes and treatment foster homes for children;
- group homes for children;
- shelter care facilities for children;
- child-placing agencies;
- ambulance service providers;
- 3-4 bed adult family homes certified or licensed by the Department;
- residential care apartment complexes (formerly called assisted living facilities);
- community-based residential facilities (CBRFs);
- nursing homes and facilities for the developmentally disabled;
- hospice programs;
- home health agencies, including those that provide personal care services;
- rural medical centers; and
- hospitals.
- child-caring institutions;
- county-certified family day care providers; and
- day care providers contracted through local school boards.

Many of the entities are small businesses as “small businesses” is defined in s.227.114 (1) (a), Stats. This includes about 1/3 of the community mental health and AODA programs; nearly all the 2,665 family day care centers; nearly 1/3 of the 2,269 group day care centers; 12 of the 80 private child-placing agencies; most of the 2,800 foster homes and 10% of the 140 group homes; 25 of 450 ambulance service providers; 7 of 45 residential care apartment complexes; 600 of 1,120 CBRFs; 96 of 472 nursing homes; most of the hospice programs; and 115 of 191 home health agencies.

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.

However, the requirements found in the rules are either taken from the statutes that the rules implement, ss. 48.685 and 50.065, Stats., as created by 1997 Wis. Act 27 and amended by 1997 Wis. Act 237 and 1999 Wis. Act 9, or those statutes direct the Department to specify the requirements. The Department has not proposed more lenient provisions for small businesses as to do so would circumvent the results the statutes seeks to achieve.

Comments of Legislative Standing Committees:

No comments were received.

## 5. Insurance (CR 00–61)

Ch. Ins 17 – Annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2000.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments of Legislative Standing Committees:

The legislative standing committees had no comments on this rule.

## 6. Natural Resources (CR 99–109)

Chs. NR 216, 300, 405, 406, 408 & 411 – Fee refund or “permit guarantee” program required by s. 209.05, Stats.

Summary of Final Regulatory Flexibility Analysis:

The Department does not believe the proposed rule revisions will have a significant economic impact on small businesses. The proposed processing timelines, and the potential refund of fees, would have a beneficial impact on those small businesses that apply for permits under these provisions.

Summary of comments by Legislative Review Committees:

The rules were reviewed by the Assembly committee on Environmental and the Senate committee on Agriculture, Environmental Resources and Campaign Finance Reform. There were no comments.

## 7. Revenue (CR 00–23)

S. Tax 2.32 – Recycling surcharge.

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.

## 8. Technical College System Board (CR 00–44)

Ch. TCS 16 – Grants for students.

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.

## 9. Transportation (CR 00–57)

Chs. Trans 101–104 & 117 – Demerit point system and graduated driver license restriction extensions.

Summary of Final Regulatory Flexibility Analysis:

This rule making will have no effect on small businesses, except that it may increase revenues to commercial driving schools to the extent that some parents may have commercial schools provide their children with the training needed to meet the 30 hour practice driving requirement for driver licensing.

Summary of Comments:

No comments were reported.

## 10. Transportation (CR 00–68)

Ch. Trans 131 – Emission tests.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

## 11. Transportation (CR 00–69)

Chs. Trans 325, 326 & 328 – Motor carrier safety regulations.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

## 12. Transportation (CR 00–77)

Ch. Trans 276 – Allowing the operation of double bottoms and certain other vehicles on certain specified highways.

Summary of Final Regulatory Flexibility Analysis:

The provisions of this proposed rule adding highway segments to the designated system have no direct adverse effect on small businesses which are shippers or carriers using the newly-designated routes.

Summary of Comments:

No comments were reported.

**13. Transportation (CR 00-85)**

Ch. Trans 142 – Recreational vehicle dealer trade practices, facilities and records.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.



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## *EXECUTIVE ORDERS*

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

**Executive Order 402.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Late Sergeant Todd J. Stamper of the Crandon Police Department.

**Executive Order 403.** Relating to a Proclamation that the Flag of the United States and the Flag of the State of Wisconsin be Flown at Half-Staff as a Mark of Respect for the Brave Men and Women of the Armed Forces of the United States Who Lost Their Lives in the Korean War.

**Executive Order 404.** Relating to the Establishment of the Office of State Poet Laureate and the Governor's Poet Laureate Nomination Commission.



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