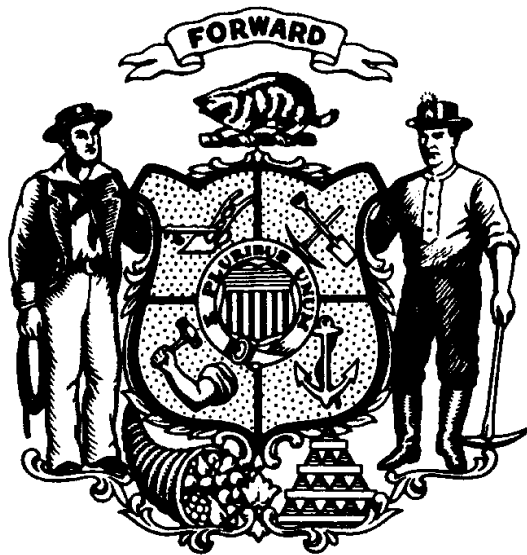


WISCONSIN ADMINISTRATIVE REGISTER

No. 537



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TABLE OF CONTENTS

Emergency Rules Now In Effect.**Pages 7 to 15.**

Administration:

Rules relating to public benefit fees.

Rules relating to energy conservation and efficiency and the renewable resource program.

Rules relating to low-income assistance public benefits.

Agriculture, Trade and Consumer Protection:

Rules relating to swine import and required tests.

Rules relating to fees required of agent municipalities inspecting retail food establishments.

Rules relating to an implied warranty on disease-free cattle and goats.

Rule relating to residential rental practices.

Rules relating to importing certain animals from a USDA-designated "non-modified accredited" state.

Commerce:

PECFA, Chs. Comm 46 and 47

Rules relating to Petroleum Environmental Cleanup Fund interagency responsibilities.

Rules relating to appeals under the PECFA program.

Health & Family Services:

Management, etc., Chs. HFS 1--

Rules relating to family care.

Health & Family Services:

Community Services, Chs. HFS 30--Rules adopted creating ch. HFS 79, relating to state Supplemental Security Income (SSI) payments. **[FIRST APPEARANCE]**

Health & Family Services:

Medical Assistance, Chs. HFS 100-108

Rules relating to the medicaid purchase plan.

Health & Family Services:

Health, Chs. HFS 110--

Rules relating to the Health Risk-Sharing Plan.

Natural Resources:

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

Rules relating to deer hunting.

Rules relating to the 2000 migratory game bird season.

Rules relating to the stewardship program.

Natural Resources:

Environmental Protection-General, Chs. NR 100--

Rules relating to the brownfield site assessment grant program.

Natural Resources:

Environmental Protection-Investigation & Remediation, Chs. NR 700--

Rules relating to sites contaminated with petroleum products from petroleum storage tanks.

Public Service Commission:

Rules relating to the definition of fuel and permissible fuel costs.

Regulation and Licensing:

Rules relating to massage therapists and bodyworkers.

Revenue:

Rules relating to retailer performance program of the Wisconsin Lottery.

Rules relating to the tobacco settlement agreement.

Workforce Development:

Economic Support, Chs. DWD 11-59

Rule relating to W-2 Program disregard of 2000 census income.

Scope Statements.

Professional Geologists, Hydrologists and Soil Scientists Examining Board:

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

Natural Resources:

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

Pharmacy Examining Board:

Public Service Commission:

Transportation:

Transportation:

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

Commerce (Tramways, Lifts and Tows, Ch. Comm 33):

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

Insurance, Commissioner of:

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

Natural Resources (Environmental Protection--General, Chs. NR 100---) and (Environmental Protection--Water Regulation, Chs. NR 300---):

Transportation:

Notices of Hearings or of Proposed Rules.

Chiropractic Examining Board:

Chiropractic Examining Board:

Pages 16 to 19.

GHSS Code – Relating to continuing education requirements.

Ch. HFS 79 – Relating to state supplemental payments for recipients of federal Supplemental Security Income (SSI) benefits, and certain recipients of state-provided Supplemental Security Income.

NR Code – Relating to implementing the Deer Management for 2000 and Beyond Project.

Ch. NR 714 – Relating to revision to ch. NR 714, Public Information and Participation, regarding notification of landowners affected by contamination migrating from source properties.

S. Phar 7.01 (1) (c) and (3) – Relating to pharmacy technicians.

Ch. PSC 116 – Relating to the revision of ch. PSC 116, Cost of Fuel, which sets forth a method for consideration of fuel costs in setting rates.

Ch. Trans 152 – Relating to the Wisconsin Interstate Fuel Tax and International Registration Program and to clarifying Department policies addressing decal accountability, permanent plate issuance, appeals, trip permits and overdue billing issues.

Ch. Trans 201 – Relating to providing for annual sign permit fees in lieu of the existing one-time outdoor advertising sign permit issuance fee, and to modifying the license requirements for persons engaged in the business of outdoor advertising.

Pages 20 to 21.

Ch. Comm 33 – Relating to tramways, lifts and tows.

Ch. HFS 97 – Relating to complaint procedures for inmates of the Wisconsin Resource Center (WRC).

S. Ins 3.39 – Relating to Medicare+Choice, Medicare Supplement and Replacement Policies.

Chs. NR 1, 50 and 51 – Relating to the stewardship program.

S. NR 116.08 and ch. NR 333 – Relating to dam design and construction standards and zoning below dams.

Ch. Trans 4 – Relating to the State Public Transit Operating Assistance Program.

Pages 22 to 28.

Hearing to consider revision to ss. Chir 4.03 and 4.05 (1) (d), relating to nutritional supplements.
[Hearing date: 10/12/00]

Hearing to consider revision to s. Chir 5.01, relating to continuing education requirements.
[Hearing date: 10/12/00]

Commerce:	<u>Tramways, Lifts and Tows, Ch. Comm 33</u> Hearings to consider revision to ch. Comm 33, relating to tramways, lifts and tows. [Hearing dates: 10/18/00, 10/19/00 and 10/20/00]
Insurance, Commissioner of:	Hearing to consider revision to s. Ins 3.39, relating to Medicare+Choice, Medicare Supplement and Replacement Policies. [Hearing date: 10/24/00]
Natural Resources:	<u>Fish, Game, etc., Chs. NR 1--</u> Hearing to consider emergency rules relating to the 2000 migratory game bird season. [Hearing date: 10/16/00]
Natural Resources:	<u>Fish, Game, etc., Chs. NR 1--</u> Hearing to consider revision of chs. NR 1, 50 and 51, relating to the stewardship program. [Hearing dates: 11/01/00 and 11/02/00]
Natural Resources:	<u>Environmental Protection--General, Chs. NR 100--</u> <u>Environmental Protection--Water Regulation,</u> <u>Chs. NR 300--</u> Hearing to consider revision to s. NR 116.08 and ch. NR 333, relating to dam design and construction standards and zoning below dams. [Hearing date: 10/19/00]
Public Service Commission:	Hearing to consider revision to ch. PSC 167, relating to new extended area telephone service arrangements. [Hearing date: 11/11/00]
Transportation:	Hearing to consider revision of ch. Trans 4, relating to the State Public Transit Operating Assistance Program. [Hearing date: 10/19/00]

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

Page 29.

Administration:	(CR 00-42) – Ch. Adm 12
Commerce:	(CR 00-86) – Ch. Comm 18
Health and Family Services:	(CR 00-84) – Chs. HFS 102, 103 and 108
Health and Family Services:	(CR 00-114) – Ch. HFS 119
Natural Resources:	(CR 00-76) – Ch. NR 190
Natural Resources:	(CR 00-103) – SS. NR 10.01, 10.12 and 10.125

Administrative Rules Filed with the Revisor of Statutes Bureau.

Page 30.

Employee Trust Funds:	(CR 00-11) – S. ETF 20.25 (1)
Financial Institutions–Banking and Financial Institutions –Savings Institutions:	(CR 00-45) – Chs. DFI–Bkg 4, DFI–SB 19 and DFI–SL 21
Health and Family Services:	(CR 00-55) – Ch. HFS 10 and ss. HFS 68.04, 82.06, 83.06, 88.06, 89.29, 89.295, 105.47, 107.28, 124.255, 132.52 and 134.52
Insurance, Commissioner of:	(CR 00-40) – S. Ins 6.59 (4) (av) and Note
Natural Resources:	(CR 00-30) – Ch. NR 195
Natural Resources:	(CR 00-74) – Ch. NR 46
Nursing, Board of:	(CR 99-126) – S. N 8.10 (6) and (7)
Transportation:	(CR 00-72) – SS. Trans 327.03 and 327.09
Transportation:	(CR 00-94) – S. Trans 134.06 (1) (d)
Transportation:	(CR 00-99) – S. Trans 276.07 (11)
Workforce Development:	(CR 00-46) – SS. DWD 270.085 and 272.085

Rules Published in this Wis. Adm. Register.**Page 31.**

Barbering and Cosmetology Examining Board:	(CR 00-19) – SS. BC Figure 5.02, Figure 5.04, Figure 5.05 and Figure 5.06
Commerce:	(CR 99-143) – Chs. Comm 2, 3, 20, 50 to 64, 66, 70, 75 and 90
Commerce:	(CR 00-38) – Ch. Comm 43
Dentistry Examining Board:	(CR 99-99) – S. DE 3.04
Employee Trust Funds:	(CR 00-11) – S. ETF 20.25 (1)
Employee Trust Funds:	(CR 00-43) – Ch. ETF 50
Employee Trust Funds:	(CR 00-62) – S. ETF 10.60 (2) and (3)
Ethics Board:	(CR 00-71) – S. Eth 1.03
Investment Board:	(CR 00-70) – S. IB 2.04
Natural Resources:	(CR 00-29) – Ch. NR 135 and ss. NR 340.05 (3m) and 340.06 (3) (i)
Natural Resources:	(CR 00-31) – Ch. NR 10 and ss. NR 11.02, 11.05, 15.022 and 16.02
Natural Resources:	(CR 00-32) – SS. NR 10.12, 10.145, 10.27, 10.40 and 15.13
Natural Resources:	(CR 00-33) – Ch. NR 20 and ss. NR 22.04, 26.10 and 26.31
Regulation and Licensing:	(CR 00-18) – S. RL 62.11
Workforce Development:	(CR 99-163) – Chs. DWD 100 to 102, 110, 111, 126 to 129, 132, 135, 140 and 149

Sections Affected by Rule Revisions and Corrections.**Pages 32 to 35.****REVISIONS**

Barbering and Cosmetology Examining Board:	Ch. BC 5
Commerce (<u>Fee Schedule, Ch. Comm 2</u>):	Ch. Comm 2
Commerce (<u>Petitions for Variance Procedures, Ch. Comm 3</u>):	Ch. Comm 3
Commerce (<u>Uniform Dwelling, Chs. Comm 20-25</u>):	Ch. Comm 20
Commerce (<u>Anhydrous Ammonia, Ch. Comm 43</u>):	Ch. Comm 43
Commerce (<u>Building and Heating, etc., Chs. Comm 50-64</u>):	Chs. Comm 50, 51, 52, 54, 55, 56, 57, 60, 62 and 64
Commerce (<u>Uniform Multifamily Dwellings, Ch. Comm 66</u>):	Ch. Comm 66
Commerce (<u>Historic Buildings, Ch. Comm 70</u>):	Ch. Comm 70
Commerce (<u>Existing Buildings, Chs. Comm 75-79</u>):	Ch. Comm 75
Commerce (<u>Public Swimming Pools, Ch. Comm 90</u>):	Ch. Comm 90
Dentistry Examining Board:	Ch. DE 3
Employee Trust Funds:	Chs. ETF 10, 20 and 50
Ethics Board:	Ch. Eth 1
Investment Board:	Chs. IB 1 and 2
Natural Resources (<u>Fish, Game, etc., Chs. NR 1--</u>):	Chs. NR 10, 11, 15, 16, 20, 22 and 26
Natural Resources (<u>Environmental Protection--General, Chs. NR 100--</u>):	Ch. NR 135
Natural Resources (<u>Environmental Protection--Water Regulation, Chs. NR 300--</u>):	Ch. NR 340
Regulation and Licensing:	Ch. RL 62
Workforce Development (<u>Unemployment Insurance, Chs. DWD 100-150</u>):	Chs. DWD 100 to 102, 110, 111, 126 to 129, 132, 135, 140 and 149

EDITORIAL CORRECTIONS

Commerce (<u>Building and Heating, etc., Chs. Comm 50–64</u>):	Chs. Comm 50 and 62
Commerce (<u>Uniform Multifamily Dwellings, Ch. Comm 66</u>):	Ch. Comm 66
Commerce (<u>Historic Buildings, Ch. Comm 70</u>):	Ch. Comm 70
Commerce (<u>Public Swimming Pools, Ch. Comm 90</u>):	Ch. Comm 90
Natural Resources (<u>Environmental Protection—Water Regulation, Chs. NR 300—</u>):	Ch. NR 340
Workforce Development (<u>Unemployment Insurance, Chs. DWD 100–150</u>):	Chs. DWD 100, 123, 129, 132, 135 and 140

Final Regulatory Flexibility Analyses.

Barbering and Cosmetology Examining Board:	(CR 00–19) – Ch. BC 5
Commerce:	(CR 99–143) – Chs. Comm 2, 3, 20, 50 to 64, 66, 70, 75 and 90
Commerce:	(CR 00–38) – Ch. Comm 43
Dentistry Examining Board:	(CR 99–99) – S. DE 3.04
Employee Trust Funds:	(CR 00–43) – Ch. ETF 50
Employee Trust Funds:	(CR 00–62) – S. ETF 10.60
Employee Trust Funds:	(CR 00–11) – S. ETF 20.25
Ethics Board:	(CR 00–71) – S. Eth 1.03
Investment Board:	(CR 00–70) – S. IB 2.04
Natural Resources:	(CR 00–29) – Ch. NR 135 and ss. NR 340.05 (3m) and 340.06 (3) (i)
Natural Resources:	(CR 00–31) – Ch. NR 10 and ss. NR 11.02, 11.05, 15.022 and 16.02
Natural Resources:	(CR 00–32) – SS. NR 10.12, 10.145, 10.27, 10.40 and 15.13
Natural Resources:	(CR 00–33) – Ch. NR 20 and ss. NR 22.04, 26.10 and 26.31
Regulation and Licensing:	(CR 00–18) – S. RL 62.11
Workforce Development:	(CR 99–163) – Chs. DWD 100 to 102, 110, 111, 126 to 129, 132, 135, 140 and 149

Pages 36 to 38.**Executive Orders.**

Executive Order No. 405.

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 Two Late Sheriff's Deputies of the Milwaukee County Sheriff's Department Who Lost Their Lives in a Helicopter Crash.

Executive Order No. 406.

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 Deputy Sheriff Ralph E. Zylka and Deputy Sheriff Sung Hui Bang of the Milwaukee County Sheriff's Office Who Lost Their Lives in a Helicopter Crash.

Page 39.

EMERGENCY RULES NOW IN EFFECT

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

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

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

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

EMERGENCY RULES NOW IN EFFECT (3)

Administration

1. Rules adopted creating **ch. Adm 43**, relating to public benefits fees

Exemption From Finding of Emergency

(See section 9101 (1zu) (a) of 1999 Wis. Act 9)

Analysis Prepared by the Department of Administration:

Statutory authority: ss. 16.004 (1), 16.957(2)(c) 4. and 5., and (4)(b), Stats.

Statute interpreted: s. 16.957(2)(c) 4. and 5., and (4), Stats.

1999 Wis. Act 9 included major provisions relating to aspects of electric utility regulation, commonly referred to as "Reliability 2000." That legislation created a new statutory framework within which public benefit programs relating to low-income energy assistance and energy conservation and renewable energy are continued and expanded. Under ss. 16.957(2)(c) and (4)(b), Stats., the Department of Administration is directed to promulgate rules setting fees to be collected by utilities from their customers, and establishing requirements and procedures related to those low-income and energy conservation programs. This rule provides mechanisms for setting, collecting, and reporting the fees, and related matters.

Publication Date: August 22, 2000
Effective Date: August 22, 2000
Expiration Date: January 19, 2001

2. Rule adopted creating **ch. Adm 44**, relating to energy conservation and efficiency and renewable resource programs.

Exemption From Finding of Emergency

(See section 9101 (1zu) (am) of 1999 Wis. Act 9)

Analysis Prepared by the Department of Administration:

Statutory authority: ss. 16.004(1) and 16.957(2)(c), 2., 2m. and 2n., Stats.

Statute interpreted: s. 16.957(2)(b) and (3)(b), Stats.

Under s. 16.957(2)(c)2, 2m., and 2n., Stats., the Department of Administration is required to promulgate rules for energy conservation and efficiency and renewable resource public benefits programs. The rule establishes requirements, procedures and criteria to be followed by program administrators in soliciting and selecting applications for grant funding to be awarded by the Department for energy programs established under s. 16.957(2)(b), Stats.

The Department believes it is neither wise nor practical to include specific detail in this rule to cover programs that are not yet in existence. These programs will be developed over a longer period of time, with a wide range of input from the Council on Utility Public Benefits, potential program providers, and recipient citizens. They will develop as the needs of the energy efficiency and conservation market becomes clearer and our collective knowledge is increased.

Examples of the variety of programs to be created under s. 16.957 (2) (b) 1., Stats., run the gamut from a simple rebate of a few cents for the purchase of energy efficient products or services to programs requiring complete engineering audits of industrial plants, arrangement of financing, performance contracting and multi-year performance monitoring. The requirements, procedures and related selection criteria necessary to implement these varying programs cannot be specified with detail in this rule. Rather, the rule is designed to allow flexibility for development of policies and procedures through detailed policy and procedure manuals for each program, consistent with Department practice for low-income assistance programs now in effect under ss. 16.385 and 16.39, Stats.

Publication Date: August 22, 2000

Effective Date: August 22, 2000

Expiration Date: January 19, 2001

3. Rules adopted creating **ch. Adm 45**, relating to low-income assistance public benefits.

Exemption From Finding of Emergency

(See section 9101 (1zu) (am) of 1999 Wis. Act 9)

Analysis Prepared by the Department of Administration:

Statutory authority: ss. 16.004(1) and 16.957(2) (c) 2., Stats.

Statute interpreted: s. 16.957(2) (a), Stats.

Under s. 16.957(2)(c), Stats., the Department of Administration is required to promulgate rules for low-income public benefits programs. The proposed rule establishes eligibility and application requirements and procedures for assistance under a low-income public benefits program established under s. 16.957(2)(a), Stats.

It is the Department's understanding that the Legislature's intent for this rule was to build upon and transition from the Low-Income Home Energy Assistance Program (LIHEAP) and the Low-Income Weatherization Assistance Program (LIWAP) currently administered by the Department under ss. 16.385 and 16.39, Stats., respectively. The Department presently utilizes extensive, detailed policy and procedure manuals under which those programs operate. Annual plans are also prepared for each of these programs which are submitted to the federal government as required by the U.S.

Department of Housing and Urban Development after extensive opportunities for public input, including public hearings. Because these programs, and the public benefits programs yet to be developed in concert with them under s. 16.957(2)(a), Stats., must be implemented during the heating season, they must be able to react to significant fluctuations of weather, energy costs and energy shortages in a relatively short period of time. For these reasons, this proposed rule is intentionally succinct, yet flexible in order to account for the specific needs of low-income assistance programs envisioned.

Publication Date: August 22, 2000
Effective Date: August 22, 2000
Expiration Date: January 19, 2001

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

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
Extension Through: October 30, 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: October 11, 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: October 27, 2000

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Community Services, Chs. HFS 30-)

Rules were adopted creating **ch. HFS 79**, relating to state supplemental security income payments.

Finding of Emergency

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

Sections 49.77 and 49.775, Stats., authorize the Department to administer Supplemental Security Income (SSI) state supplemental payments to low income elderly and disabled residents of Wisconsin and their dependent children. These SSI payments are funded by state general purpose revenue and federal Temporary Assistance for Needy Families (TANF) grant funding in excess of \$140,000,000 per state fiscal year. These payments are distributed monthly to approximately 100,000 beneficiaries and their dependent children. Neither s. 49.77 or 49.775, Stats., direct the Department to develop administrative rules to administer the program.

An unavoidable aspect of the program is the Department's need to periodically recover payments incorrectly made to benefit recipients. Overpayments and incorrect payments occur due to delays in transmission of eligibility and pricing information between the federal Social Security Administration and the Department and are not due to the Department's error or omission. On November 24, 1999, by order of the Wisconsin Court of Appeals, District II, the Department was found, absent administrative rule, to lack the authority to administratively recoup benefits overpaid to recipients who were ineligible for the benefits or to whom the Department paid an incorrect amount of benefits. The Department sought to appeal the decision to the Wisconsin Supreme Court, but recently learned that the Supreme Court will not hear the case. The Department's inability to recover payments made in error will cost the Department about \$10,000 per month. Developing and promulgating permanent administrative rules to address the Court's decision will require at least 7 months, thereby costing the Department approximately another \$70,000. The Department deems this unanticipated expense a threat to the public welfare insofar as Wisconsin and federal taxpayers should not be called upon to shoulder the burden of these unanticipated and undeserved expenses. Therefore, the Department is promulgating this emergency rule until the Department can promulgate a similar permanent rule.

This emergency rule provides the Department with the authority to recoup benefits incorrectly paid under ss. 49.77 and 49.775, Stats., and to again effectively administer both state and federal public welfare funding. By issuing this rule, the Department will

effectively recover taxpayer monies to which recipients were not entitled, pending the promulgation of permanent rules.

Publication Date: September 5, 2000
Effective Date: September 5, 2000
Expiration Date: February 2, 2001

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

EMERGENCY RULES NOW IN EFFECT

Health & Family Services

(Health, Chs. HFS 110–)

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

Exemption From Finding of Emergency

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143 (2) and (3), Stats., by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24 (1) and (3), Stats., that it make a finding of emergency. Department staff consulted with the Health Insurance Risk–Sharing Plan (HIRSP) Board of Governors on April 26, 2000 on the rules, as required by s. 149.20, Stats.

The State of Wisconsin in 1981 established a Health Insurance Risk–Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. HIRSP offers different types of medical care coverage plans for residents.

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

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

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP premium rates in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1999. The Board of Governors approved a methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula.

By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 2000. The total annual contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$10,119,482. The total annual contribution to the HIRSP budget provided by an assessment on insurers is \$9,898,358. On April 26, 2000, the HIRSP Board of Governors approved the calendar year 1999 reconciliation process and the HIRSP budget for the plan year July 1, 2000 through June 30, 2001.

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

EMERGENCY RULES NOW IN EFFECT (3)

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

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

2. Rules adopted revising **ch. NR 10**, relating to the 2000 migratory game bird season.

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. The federal government and state legislature have delegated to the appropriate agencies rule–making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid–August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule–making procedures will not allow the establishment of these changes by September 1. Failure to modify the rules will result in the failure to

provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: September 1, 2000
Effective Date: September 1, 2000
Expiration Date: January 29, 2001
Hearing Date: October 16, 2000
 [See Notice this Register]

3. Rules adopted creating s. NR 1.445 and revising ch. NR 51, relating to the stewardship program.

Exemption From Finding of Emergency

Emergency rules are necessary for the department to act as authorized under s. 23.0917, Stats., as created by 1999 Wis. Act 9. According to section 9136(10g) of this Act, the department is not required to make a finding of emergency or provide evidence that promulgating this emergency rule is necessary for the preservation of public peace, health, safety or welfare. In addition, the emergency rules promulgated under this authority remain in effect until June 30, 2001, or until the date on which the corresponding permanent rules take effect, whichever is sooner.

Analysis Prepared by the Department of Natural Resources:

Statutory authority: ss. 227.11(2), 227.24, Stats., and s. 9136 (10g), 1999 Wis. Act 9

Statutes interpreted: ss. 23.09(19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.29, 23.295, 30.24 and 30.277, Stats.

The emergency rule:

- Implements a statutory change that requires the department to obtain county approval for acquisitions in counties where greater than 66% of the land is publicly owned.
- Moves three stewardship grant programs (local park aids, urban green space, and urban rivers) from ch. NR 50 to ch. NR 51. Improves grant administration by combining all stewardship grant programs into one chapter.
- Revises and expands program definitions, including definitions for nature-based outdoor recreation and middle kettle moraine, to clarify terms, reflect statutory changes and improve grant administration.
- Implements a statutory change that expands grant eligibility to include non 501(c)(3) organizations.
- Reorganizes the structure of chapter 51 to incorporate new programs and local government programs.
- Implements statutory changes that identify priorities and expand the purposes for which nonprofit conservation organizations can receive grants. Makes minor revisions to improve grant administration.
- Makes minor revisions to bring the natural areas program in line with statutory changes.
- Establishes the administrative framework for the new bluff protection program. Defines "bluff" and sets program priorities.
- Makes minor revisions in the habitat areas and fisheries program to bring the program in line with statutory changes and improve grant administration.
- Establishes the administrative framework for acquisition of property by the department and nonprofit conservation organizations to preserve wild lakes. Defines "wild lake."
- Makes minor revisions to the stream bank program to bring the program in line with statutory changes.
- Makes minor revisions to the state trails program to improve grant administration.

- Implements a statutory change that makes nonprofit conservation organizations eligible for grants for state property development. Revises grant priorities and makes minor revisions to improve administration of the state property development grant program.

- Establishes the administrative framework and sets priorities for the new Baraboo Hills subprogram.

- Clarifies and streamlines the administration of local assistance grants to governmental units.

- Clarifies and streamlines the administration of the local park aids, urban green space, and urban rivers grant programs which provide grant funds for governmental units and nonprofit conservation organizations. Implements statutory changes that require that all grants issued under these programs be for nature-based outdoor recreation. Lists eligible nature-based projects and sets grant priorities. Also implements a statutory change that allows "shoreline enhancements" to be funded under the urban rivers program and provides a list of typical shorelines enhancements that will qualify for the program.

- Establishes the administrative framework for the new acquisition of development rights program that provides grant funds to local governments and nonprofit conservation organizations. Sets priorities and identifies other factors that will be considered in awarding grants.

- Makes minor revisions to improve administration of the Heritage state park and forest trust program.

Publication Date: September 1, 2000
Effective Date: September 1, 2000
Expiration Date: See section 9136 (10g), 1999 Wis. Act 9
Hearing Dates: November 1 & 2, 2000
 [See Notice this Register]

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
Extension Through: October 30, 2000

EMERGENCY RULES NOW IN EFFECT

Public Service Commission

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

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend ch. PSC 116 Wis. Adm. Code. Amending the definition of “fuel” in s. PSC 116.03(4) and creating s. PSC 116.04(6) would allow investor-owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the summer of 2000 and beyond. This change would assist in implementing the requirement of 1999 Wis. Act 9, s. 196.192(2)(a), Stats.

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

EMERGENCY RULES NOW IN EFFECT

Regulation and Licensing

Rules adopted revising **chs. RL 90 to 92**, relating to educational and examination requirements for massage therapists and bodyworkers.

Exemption From Finding of Emergency

Section 2 of 1999 Wis. Act 98 states that the department is not required to make a finding of emergency and that the department need not provide evidence of the necessity of preservation of the public peace, health, safety or welfare in promulgating rules.

Analysis Prepared by the Department of Regulation and Licensing:

Statutory authority: s. 227.11 (2), Stats., and s. 440.982 (1) (b), Stats., as amended by 1999 Wis. Act 98.

Statutes interpreted: ss. 440.03 (1) and 440.982 (1) (a) and (b), Stats.

The emergency rule revision to chs. RL 90, 91 and 92 is necessary to implement 1999 Wis. Act 98, relating to educational and examination requirements for massage therapists and bodyworkers. The rules redefine an approved course of instruction to state that a course of instruction may now be approved by the department in addition to being offered by a school approved by the Educational Approval Board under s. 45.54, Stats. Prior to 1999 Wis. Act 98, an approved course of instruction could only be offered by a school approved by the Educational Approval Board.

The rules provide that a course of instruction approved by the department is either: (1) an associate degree program, or a vocational diploma program in massage therapy or bodywork offered by a technical college, or (2) a course of instruction in massage therapy or bodywork offered by a school accredited by an accrediting agency recognized by the U.S. Department of Education, or the Commission on Massage Training Accreditation.

An approved course of instruction must also meet the minimum requirements set forth in s. RL 92.02 (5), consisting of 600 classroom hours satisfying the subject area requirements listed in that section. Additional amendments renumber those remaining sections where affected.

SECTIONS 2, 4 and 6 create definitions of accrediting agency, associate degree program and vocational diploma program.

SECTION 3 renumbers and amends a provision to allow the department to approve a course of instruction authorized by s. 440.982 (1) (b), Stats.

SECTION 7 amends the introduction to s. RL 91.01, removing a reference to a section that is deleted.

SECTION 8 repeals a provision relating to a registration that is no longer offered.

SECTION 9 renumbers and amends a provision relating to an approved course of instruction authorized by s. 440.982 (1) (b), Stats.

SECTION 11 renumbers and amends provisions relating to successful completion of examinations required for registration.

SECTION 13 amends a provision relating to the submitted proof pertaining to completion of an approved course of instruction authorized by s. 440.982 (1) (b), Stats.

SECTION 14 repeals a reference to a formerly approved course of instruction and creates a provision that a course of instruction from a school that is not approved by the educational approval board be from a school that is either a technical college or accredited by an accrediting agency.

SECTION 15 amends provisions to require evidence that the applicant completed a course in adult cardiopulmonary resuscitation.

Publication Date: September 3, 2000
Effective Date: September 3, 2000
Expiration Date: January 30, 2001
Hearing Date: October 3, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Revenue

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

Finding of Emergency

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

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

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

Publication Date: March 3, 2000
Effective Date: March 3, 2000
Expiration Date: July 31, 2000
Hearing Date: May 31, 2000
Extension Through: September 28, 2000

- 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

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
Extension Through: November 4, 2000

STATEMENTS OF SCOPE OF PROPOSED RULES

Professional Geologists, Hydrologists and Soil Scientists Examining Board

Subject:

GHSS Code – Relating to continuing education requirements.

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

The objective of the rule is to authorize the Board to create continuing education requirements for licenses as a condition for renewal. The Board would create rules, upon the advice of each appropriate section, as to whether rules are necessary, the topics for continuing education, and the approval process.

Policy analysis:

The proposed rule would consist of two sections. The first section would identify the continuing education requirements for renewal and consequences for untimely renewal of a license. The second section would identify the process for approval of courses, educational providers and certification of meeting continuing education requirements.

Statutory authority:

Sections 15.08 (5) (b), 15.405 (2m), 227.11 (2) and 470.03 (2), 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
Office of Administrative Rules
Dept. of Regulation and Licensing
Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us

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

Subject:

Ch. HFS 79 – Relating to state supplemental payments for recipients of federal Supplemental Security Income (SSI) benefits, and certain recipients of state-provided Supplemental Security Income.

Description of policy issues:*Description of objectives:*

The objectives are to create administrative rules that are responsive to a recent Wisconsin Court of Appeals decision finding that, absent administrative rules, the Department lacked the authority to administratively recoup benefits overpaid to benefit recipients.

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

The Department has operated the state SSI supplemental benefits program under ss. 49.77 and 49.776, Stats., for several years using administrative policies developed by the Department. One of the areas these Departmental policies addressed was when and how to recoup payments incorrectly made to recipients. In a recent decision, *Mack v. DHFS*, 231 Wis. 2d 644, 605 N.W. 2d 651 (Ct. App 1999), the Court of Appeals stated that the Department must promulgate administrative rules under ch. 227, Stats., if it is going to continue administratively recoup overpayments to ineligible recipients. Without administrative rules, the Department will be unable to continue its current practice of recouping incorrect payments. The intent of this rule is to codify existing Department administrative policies so that the Department can continue operating the benefit program as it currently does.

The rules for state supplemental payment benefits will apply to the state-only SSI cash benefits, the state's supplement to the federal SSI benefit, the state exceptional expense supplement benefit and the Wisconsin Caretaker Supplement Program.

The promulgation of this rule is not intended to increase or decrease the payments of any individual currently receiving one or more of these benefits, nor to increase or decrease the number of people eligible for any of these benefits.

Statutory authority:

Sections 49.77, 49.775 and 227.11 (2) (a), Stats.

Section 49.77, Stats., provides for the payment of state supplemental benefits to individuals who meet the resource limitations and nonfinancial eligibility requirements of the federal supplemental security income program under 42 USC 1381 to 1383d and for an additional payment for eligible recipients who reside in certain residential settings and require extensive supportive care. In addition, the state continues to pay only state-funded (state-only) supplemental income benefits for a group of individuals who were eligible for this benefit as of December 1995, but who do not receive a federal benefit. Section 49.775, Stats., provides for the payment of state supplemental benefits to custodial parents who are the recipients of federal supplemental security income.

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

Estimated hours of staff time to draft the rules – 80 staff hours.

Contact information:

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

Larry Hartzke
Administrative Rules Manager
Dept. of Health and Family Services
Telephone: (608) 267-2943
Email: hartzlr@dhfs.state.wi.us

Natural Resources

Subject:

NR Code – Relating to implementing the Deer Management for 2000 and Beyond Project.

Description of policy issues:

Subject of the administrative code action/nature of Board action:

Administrative rule proposals are needed to implement Deer Management for 2000 and Beyond Project final recommendations.

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

The Deer 2000 recommendations represent the work of seven study groups that utilized public input and independent research to address deer management concerns in the areas of agricultural damage, baiting and feeding of deer, believability of DNR population estimates, forestry and ecological issues, herd size, private land access, and the sex and age structure of the deer herd. Recommendations being forwarded involve changes to existing programs, development of new programs, education, research, and changes to the current season structure. Key groups affected include deer hunters, landowners, and farmers.

This rule/Board action represents a change from past policy.

Explain the facts that necessitate the proposed change:

Currently the deer herd in Wisconsin is well over established population goals in nearly every deer management unit in the state, even after a decade of record and near-record harvests. This overabundance of deer has led to an increase in car/deer collisions, environmental and agricultural damage, and many other density-related problems. This overabundance of deer, along with public input, spawned the Wisconsin Natural Resources Board to review the state's deer management program.

In 1996, the Board asked the Wisconsin Conservation Congress, through Deer 2000, to develop statewide strategies to manage for a healthy herd and optimize opportunities for a diverse group of users, while minimizing conflicts, keeping deer herds at goal, and maximizing safety, with as much consistency and simplicity as possible. Recommendations must give hunters predictable seasons with flexibility for addressing special herd management needs, and yet be relevant when herds are at, above, or below goals.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization. It is an adoption of federal requirements that do not include or allow for pollution prevention.

Statutory authority:

Section 29.014, Stats.

Anticipated time commitment:

The anticipated time commitment is 151 hours. Hearings are proposed to be held during December 4 and 5, 2000 and December 11 to 14, 2000.

Contact information:

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

Bureau of Wildlife Management
Dept. of Natural Resources
Telephone: (608) 266-8204
FAX: (608) 267-7857

Natural Resources**(Environmental Protection--Investigation and Remediation, Chs. NR 700--)****Subject:**

Ch. NR 714 - Relating to the revision of ch. NR 714, Public Information and Participation, regarding notification of landowners affected by contamination migrating from source properties.

Description of policy issues:

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

This rule change is being proposed in response to public comments on ch. NR 746. The comments requested that ch. NR 746 include notification of neighbors when a site investigation indicated contamination off a source property. The rule change is being proposed to ch. NR 714, Public Information and Participation. The rule specifies that persons responsible for contamination on neighboring properties must notify the neighboring property owners of the presence of the contamination within 60 days of confirming the presence of contaminants. Owners of contaminated properties, neighboring property owners, lending institutions and realtors are most likely to be interested in this issue.

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

Explain the facts that necessitate the proposed change:

Currently, ch. NR 714 requires notification of the public directly affected by contaminants, but the rule does not specify who will produce the notice nor the time-frame of the notice. The proposed rule change specifies that the person responsible for the contamination must notify owners of property affected by off-site migration within 60 days of confirming the presence of contaminant migration.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization. This rule affects properties where contamination has migrated beyond the source of contamination. The rule does ensure that persons who may be affected by the contamination are properly notified.

Statutory authority:

Sections 227.11 (2) (a), 292.11 and 292.31 and ch. 160, Stats.

Anticipated time commitment:

The anticipated time commitment is 87 hours. Three public hearings are proposed to be held in January 2001 at Madison, Milwaukee and Wausau.

Contact information:

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

Bureau of Remediation and Redevelopment
Dept. of Natural Resources
Telephone: (608) 266-2111
FAX: (608) 267-7646

Pharmacy Examining Board**Subject:**

S. Phar 7.01 (1) (c) and (3) - Relating to pharmacy technicians.

Description of policy issues:

Objective of the rule:

The objective of modifying s. Phar 7.01 (3) is to delete the reference to nonpharmacists since, under proposed s. Phar 7.015, a pharmacist may delegate delineated acts to pharmacy technicians, limited not to a predetermined pharmacist/technician ratio, but by the pharmacist's duty to generally supervise those technicians to which acts are delegated.

The objective of modifying s. Phar 7.01 (1) (c) is to remove the general reference to the acts that an undefined agent of a pharmacist may perform, since proposed s. Phar 7.015 explicitly delineates the acts that a pharmacy technician may perform.

Current requirements state that a pharmacist may supervise no more than one pharmacy intern and 2 nonpharmacists engaged in compounding and dispensing activities as described in s. Phar 7.01 (1) (c), except a higher ratio may be authorized by the Board upon request to and approval by the Board of a specific plan describing the manner in which additional interns or nonpharmacists shall be supervised. Section Phar 7.01 (1) (c) states that an agent of the pharmacist may procure, measure or count prefabricated dosage forms if a pharmacist verifies the accuracy of the agent's action. These rules need to be modified to read consistently with the proposed pharmacy rule, s. Phar 7.015, pertaining to the delegation of duties to a pharmacy technician.

Policy analysis:

Currently, s. Phar 7.01 (1) (c) and (3) are inconsistent with the proposed rule. Modifying these rules will keep consistent the standards for the circumstances under which a pharmacist may delegate acts to a pharmacy technician.

Statutory authority:

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

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

50 hours.

Contact information:

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

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

Public Service Commission

Subject:

Ch. PSC 116 – Relating to the revision of ch. PSC 116, Cost of Fuel, which sets forth a method for consideration of fuel costs in setting rates.

Description of policy issues:

Description of objective:

Chapter PSC 116 was first promulgated in 1984. Since that time, electricity demand has increased to the point of causing concerns about the reliability of the state's generation and transmission systems. The increasing demand and decreasing supply option have caused fuel costs to become more volatile over the last several years. In response to the volatility of fuel costs, and the supply and demand issues, the state's electric utilities have been pursuing new options to assure reliable electric service at the lowest possible cost. These new options are not presently included in the fuel rules. The rules would be revised to allow the costs of these new options to be considered as part of the fuel costs used in setting rates.

Description of policy issues:

The electric utilities are interested in making changes to the fuel rules because they believe fuel costs have become increasingly volatile over the last several years, making the existing fuel rules inadequate. The utilities have certain items available to meet electricity demand that are not included in the fuel rules. These items are normally classified as non-monitored expenses or reductions of revenue, included as part of the base rates in a rate case. However, these items can be used to reduce the cost or amount of purchased capacity or energy. Monitoring the cost of these items in the fuel rules would not affect base rates. Instead, monitoring would only be a factor if actual experience deviated from the forecast and the utility triggered the fuel rules. Including these items in the fuel rules should not disadvantage either the ratepayer or the shareholder.

Five principal items for inclusion in the fuel rules are the costs of:

- (1) Air conditioning load control,
- (2) Firm load curtailment,
- (3) Leased obligations,
- (4) Certain financial instruments, and
- (5) Deferral of extraordinary fuel costs.

Groups likely to be impacted:

The revision will impact the electric public utilities as defined in s. 196.20 (4) (a) 2., Stats. These are Madison Gas and Electric Company, Northern States Power Company, Wisconsin Electric Power Company, Wisconsin Power and Light Company, and Wisconsin Public Service Corporation. The revision could also impact the utilities' customers and shareholders.

Statutory authority:

Sections 196.02 (1) and (3), 227.11, and 227.24, Stats.

Estimate of time and resources needed to revise the rule:

The Commission estimates that approximately 500 hours of employee time will be required to revise the proposed rules.

Contact information:

For more information, please contact:

Sharon Hennings
Public Service Commission
Telephone: (608) 267-2160
FAX: (608) 266-3957

Transportation

Subject:

Ch. Trans 152 – Relating to the Wisconsin Interstate Fuel Tax and International Registration Program and to clarifying Department policies addressing decal accountability, permanent plate issuance, appeals, trip permits and overdue billing issues.

Description of policy issues:

Description of the objective of the rule:

This rule-making proposes to amend ch. Trans 152, relating to the Wisconsin Interstate Fuel Tax and International Registration Program, to clarify Department policies addressing decal accountability, permanent plate issuance, appeals, trip permits and overdue billing issues. In addition, 1999 Wis. Act 145 transfers appeals of certain determinations of the Department of Transportation from the Division of Hearings and Appeals to the Tax Appeals Commission. This proposed rule-making will reflect this change.

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

The current rule establishes policies concerning licensing, records requirements and reporting requirements under the terms of the International Fuel Tax Agreement (IFTA) and under the terms of the IRP. New language will be drafted to address the following issues:

1. Decal accountability. Vehicles operated under the terms of IFTA are required to display decals. There have been reports that unlicensed vehicles are displaying IFTA decals. It is believed the owners of the unlicensed vehicles are obtaining the IFTA decals from IFTA licensees who currently are not required to account for the decals obtained from the Department.

2. Permanent plate language. The Department has recently begun to issue permanent plates through its IRP program. The policies concerning the issuance of permanent plates will be codified in ch. Trans 152.

3. Tax Appeals Commission. The Governor recently signed 1999 Wis. Act 145 indicating the Tax Appeals Commission, rather than the Division of Hearings and Appeals, will hear all appeals of actions the Department takes while administering the IFTA and IRP programs. Ch. Trans 152 will be updated to reflect this change.

4. Trip permits. Language clarifying that fuel tax and registration trip permit users must retain the trip permits for audit purposes will be added to ch. Trans 152.

5. Collections. Language will be added to ch. Trans 152 defining the policy the Department will use when customers do not submit payment to the Department by the due date.

Statutory authority for the rule:

Sections 341.405 and 341.45, Stats.

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

40 hours

Contact information:

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

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

Transportation

Subject:

Ch. Trans 201 – Relating to providing for annual sign permit fees in lieu of the existing one-time outdoor advertising sign permit issuance fee and to modifying the license requirements for persons engaged in the business of outdoor advertising.

Description of policy issues:

Description of the objective of the rule:

This rule-making will amend ch. Trans 201 as required by the biennial budget bill, 1999 Wis. Act 9, to provide for annual sign permit fees in lieu of the existing one-time outdoor advertising sign permit issuance fee and to modify the license requirements for persons engaged in the business of outdoor advertising.

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

Currently, fees are charged to outdoor advertisers for erecting outdoor advertising signs which are visible from any place on the main-traveled way of any portion of an interstate highway or primary highway. These one-time fees are based on the square footage of the proposed sign, and range from \$5.00 to \$100.00. Further, an annual license to engage in the business of outdoor advertising is required with a fee of \$250.00 except for those persons who erect two or less signs yearly. Because these fees were set in 1972 and have not increased since then, the costs of administering outdoor advertising regulations has exceeded the revenues generated by those fees. The exclusion based on number of signs creates a gap in licensing for persons actively engaged in the business and owning or controlling significant numbers of signs.

The biennial budget calls for the Department to replace the old fee structure with an annual permit fee for each sign that falls under Department control, 1999 Wis. Act 9 section 1824f. The money generated will fund the administration of this fee collection portion of the outdoor advertising program, and will fund improvements to the statewide sign inventory. Wisconsin will join forty-four other states that currently impose an annual sign permit fee. In fiscal year 2000-2001, the fee is expected to raise no more than \$510,000, 1999 Wis. Act 9 section 9150 (3m).

The policy alternatives are to implement a new annual sign permit fee system, or to maintain the existing fee schedule. By maintaining the existing fee schedule, the state would continue to underwrite the costs of regulating the outdoor advertising industry with funds intended to be used for the construction and maintenance of state highways.

The Department's current regulatory program dates to 1972 and is obsolete. Records are largely maintained in paper files and inventory records from across the state are inconsistent. The funds generated by a fee will be used to modernize and update the Department's inventory and regulatory systems to take advantage of the efficiencies available through the use of computers to manage large amounts of data, and to contribute toward the annual costs of complying with the outdoor advertising regulatory system required by federal law.

Section 84.30 (10), Stats., requires the Department to license all persons engaged in the business of outdoor advertising. The Department, when drafting the current rule in 1972, excluded persons who erected 2 or fewer signs in a calendar year. Since 1972, industry practices have led to the sale of large numbers of signs between entities for the express purpose of renting the structures for outdoor advertising. Some purchasers in such transactions avoid licensing under the current rule by not erecting new signs. This rule amendment will clarify that any person or entity that maintains more than 2 signs is subject to the licensing requirement unless the signs advertise only the person's business.

Statutory authority for the rule:

Section 84.30 (10m), Stats., as created by 1999 Wis. Act 9.

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

Approximately 80 hours, which represents the collective time expected to be spent by the statewide outdoor advertising program coordinator, the Office of General Counsel, and the Bureau of Highway Operations Manager.

Contact information:

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

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

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

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

Commerce

(Tramways, Lifts and Tows, Ch. Comm 33)

Rule Submittal Date

On September 8, 2000, the Department of Commerce submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. Comm 33, relating to tramways, lifts and tows.

Agency Procedure for Promulgation

A public hearing is required and three public hearings are scheduled. The hearings will be held: Wednesday, October 18, 2000 at 10:00 a.m. in Waukesha; Thursday, October 19, 2000 at 11:00 a.m. in Eau Claire; and Friday, October 20, 2000 at 10:00 a.m. in Madison. The agency unit primarily responsible for the promulgation of the proposed rule is the Safety and Buildings Division.

Contact Information

If you have questions, please contact:

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

Health and Family Services

(Community Services, Chs. HFS 30--)

Rule Submittal Date

On September 12, 2000, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory authority: ss. 46.056 (1) and 227.11 (2), Stats.

The proposed rule-making order affects ch. HFS 97, relating to complaint procedures for inmates of the Wisconsin Resource Center (WRC).

Reason for rules. intended effects. requirements:

This order revises procedures for the resolution of complaints of inmates of the Wisconsin Resource Center.

Effective January 1, 1990, the Department's former Division of Corrections became the Wisconsin Department of Corrections, but the Wisconsin Resource Center (WRC), even though a correctional institution, remained under the administration of the Department's Division of Care and Treatment Facilities. The WRC provides psychological evaluations, specialized learning programs, training and supervision for inmates transferred from other correctional institutions because of serious behavioral problems they have

exhibited at their institutions, and whose mental health programming needs can be met by the WRC.

In 1990, the Department of Corrections established a process by which inmates of adult correctional institutions may file complaints and have them expeditiously investigated and decided. The procedures are specified in ch. DOC 310.

Periodically, inmates are transferred for treatment to the WRC. Occasionally, an inmate transferred to WRC will have an outstanding grievance that was initiated when the inmate was at the inmate's DOC facility. In addition, an inmate receiving treatment at the WRC may initiate a grievance while at WRC. To ensure continuity of the handling of grievances between DHFS and DOC, since 1990, the Department has maintained an inmate complaint resolution process in ch. HFS 97 that is virtually the same as that specified by the Department of Corrections in ch. DOC 310.

Effective May 1, 1998, the Department of Corrections sought to improve how its inmate complaint review system works by significantly modifying ch. DOC 310.

Given that the Department of Corrections made a variety of changes to its grievance process in 1998, DHFS is proposing to make comparable changes to ch. HFS 97 so that ch. HFS 97 is, once again, consistent with ch. DOC 310. These revisions to ch. HFS 97 will ensure that the same process will be available to inmates, whether they are at a Department of Corrections institution or at the WRC.

Forms:

- (1) Offender Complaint
- (2) Request for Corrections Complaint Examiner Review

Agency Procedure for Promulgation

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

Contact Information

If you have questions, please contact:

Linda Harris
Forensic Services Supervisor
Division of Care and Treatment Facilities
Telephone: (608) 267-7909

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 on September 12, 2000.

Analysis

These rule changes will affect s. Ins 3.39, relating to Medicare+Choice, Medicare Supplement and Replacement Policies.

Agency Procedure for Promulgation

A public hearing is required. The public hearing will be held on Tuesday, October 24, 2000 at 10:00 a.m. in Room 6 at the Office of the Commissioner of Insurance, 121 East Wilson Street in Madison, Wisconsin.

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 Julie E. Walsh at (608) 264-8101 or e-mail at Julie.Walsh@oci.state.wi.us in the OCI Legal Unit.

Natural Resources**(Fish, Game, etc., Chs. NR 1--)****Rule Submittal Date**

On September 14, 2000, the Department of Natural Resources submitted a proposed rule [Board Order No. CF-36-00] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects chs. NR 1, 50 and 51, relating to the stewardship program.

Agency Procedure for Promulgation

A public hearing is required and public hearings are scheduled for Wednesday, November 1, 2000 at 1:00 p.m. and Thursday, November 2, 2000 at 1:00 p.m. The hearings will be at various locations on both days via video-conferencing.

Contact Information

If you have questions or would like a copy of the proposed rules, please contact:

Ms. Janet Beach Hanson
Telephone: (608) 266-0868
Bureau of Community Financial Assistance
Dept. of Natural Resources
P.O. Box 7921
Madison, WI 53707

Natural Resources**(Environmental Protection--General,
Chs. NR 100--)****(Environmental Protection--Water Regulation,
Chs. NR 300--)****Rule Submittal Date**

On September 14, 2000, the Department of Natural Resources submitted a proposed rule [Board Order No. WT-34-00] to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects s. NR 116.08 and ch. NR 333, relating to dam design and construction standards and zoning below dams.

Agency Procedure for Promulgation

A public hearing is required and a public hearing is scheduled for Thursday, October 19, 2000 at 10:00 a.m. in Room 514, GEF #2 Building, 101 South Webster Street in Madison, Wisconsin.

Contact Information

If you have questions or would like a copy of the proposed rules, please contact:

Mr. John Coke
Telephone: (608) 266-7037
Bureau of Watershed Management
Dept. of Natural Resources
P.O. Box 7921
Madison, WI 53707

Transportation**Rule Submittal Date**

On September 15, 2000, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

The proposed rule-making order affects ch. Trans 4, relating to the State Public Transit Operating Assistance Program.

Agency Procedure for Promulgation

A public hearing is required and a public hearing is scheduled for Thursday, October 19, 2000 at 10:00 a.m. in Room 951, Hill Farms State Transportation Building, 4802 Sheboygan Ave., in Madison, Wisconsin.

The agency organizational unit responsible for the promulgation of the proposed rule is the Division of Transportation Investment Management, Bureau of Transit and Local Roads.

Contact Information

If you have questions or would like a copy of the proposed rules, please contact:

Mr. Richard A. Martin
Telephone: (608) 266-6812
Bureau of Transit and Local Roads, Room 951
Dept. of Transportation
P.O. Box 7913
Madison, WI 53707-7913

NOTICE SECTION

Notice of Hearing

Chiropractic Examining Board [CR 00-125]

Notice is hereby given that pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 446.01 (2), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal and recreate ss. Chir 4.03 and 4.05 (1) (d), relating to nutritional supplements.

Hearing Information

The public hearing will be held as follows:

<u>Date & Time</u>	<u>Location</u>
October 12, 2000 Thursday 8:45 a.m.	Room 179A 1400 East Washington Ave. MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **Thursday, October 26, 2000** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

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

Statute interpreted: s. 446.01 (2)

In this proposed rule-making order, the Chiropractic Examining Board defines the practice of chiropractic as it relates to the use of vitamins and other food and nutritional supplements. The principles and techniques of chiropractic science, and the curriculum for education and training of chiropractors, include the provision of dietary and nutritional counsel and advice and the use of vitamins and other food and nutritional supplements for the restoration and preservation of health and proper condition of chiropractic patients. Dietary and nutritional counsel and advice and the use of vitamins and other food and nutritional supplements is considered part of the practice of chiropractic and is authorized by the statutory definition of the practice of chiropractic.

Text of Rule

SECTION 1. Chir 4.03 is repealed and recreated to read:

Chir 4.03 Practice. The practice of chiropractic is the application of chiropractic science in the adjustment of the spinal column, skeletal articulations and adjacent tissue. The practice of chiropractic includes all of the following:

(1) Diagnosis and analysis to determine the existence of spinal subluxations and associated nerve energy expression. Diagnosis

and analysis may include physical examination, specimen analysis, drawing of blood, blood-analysis and the use of x-ray and other instruments.

(2) Use of procedures and instruments preparatory and complementary to treatment of the spinal column, skeletal articulations and adjacent tissue.

(3) Providing information and counseling regarding the restoration and preservation of health.

SECTION 2. Chir 4.05 (1) (d) is repealed and recreated to read:

Chir 4.05 (1) (d) The prescribing, dispensing, delivery or administration of drugs as defined in s. 450.01 (10), Stats., except nothing in this paragraph may be construed to prevent any of the following:

1. Counseling regarding the health benefits of vitamins, herbs or nutritional supplements.

2. The sale of vitamins, herbs or nutritional supplements.

Note: Counseling provided under this subparagraph shall be restricted to the restoration and preservation of health within the scope of practice of chiropractic.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

Pamela Haack
Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us
Office of Administrative Rules
Dept. of Regulation and Licensing
1400 East Washington Ave., Room 171
P.O. Box 8935
Madison, WI 53708

Notice of Hearing

Chiropractic Examining Board [CR 00-124]

Notice is hereby given that pursuant to authority vested in the Chiropractic Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and interpreting s. 446.02 (1) (b), Stats., the Chiropractic Examining Board will hold a public hearing at the time and place indicated below to consider an order to renumber s. Chir 5.01 (1); and to create s. Chir 5.01 (1) (b), (c) and (d), relating to continuing education requirements.

Hearing Information

The public hearing will be held as follows:

<u>Date & Time</u>	<u>Location</u>
October 12, 2000 Thursday 8:45 a.m.	Room 179A 1400 East Washington Ave. MADISON, WI

Written Comments

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by **Thursday, October 26, 2000** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

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

Statute interpreted: s. 446.02 (1) (b)

In this proposed rule-making order, the Chiropractic Examining Board adds requirements for specific topic areas, such as professional ethics and boundary issues, to continuing education requirements. Clarification is made that the continuing education requirement does not apply in the first biennium following initial licensure. The Board would like to use continuing education to address the areas of greatest need for chiropractors, as reflected in report disciplinary actions.

Text of Rule

SECTION 1. Chir 3.09 is created to read:

Chir 3.09 CPR certification. Every chiropractor shall maintain certification in CPR.

SECTION 2. Chir 5.01 (1) is renumbered Chir 5.01 (1) (a).

SECTION 3. Chir 5.01 (1) (b), (c) and (d) are created to read:

Chir 5.01 (1) (b) Of the 40 continuing education credit hours in sub. (1) (a), beginning in the 2-year license registration period from January 1, 2001 to December 31, 2001, every chiropractor shall complete at least 6 continuing education credit hours in radiology.

(c) Of the 40 continuing education credit hours in sub. (1) (a), beginning in the 2-year license registration period from January 1, 2001 to December 31, 2002, every chiropractor shall complete at least 4 continuing education credit hours in ethics, which shall include at least 2 hours in boundary issues.

(d) Continuing education requirements for license renewal apply to the first full 2-year period in which a chiropractor is licensed.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Information

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

Pamela Haack
Telephone: (608) 266-0495
Email: pamela.haack@drl.state.wi.us
Office of Administrative Rules
Dept. of Regulation and Licensing
1400 East Washington Avenue, Room 171
P.O. Box 8935
Madison, WI 53708

Notice of Hearings

Commerce

(Tramways, Lifts & Tows,
Ch. Comm 33)

[CR 00-132]

Notice is hereby given that pursuant to ss. 101.02 (1) and 101.17, Stats., the Department of Commerce will hold public hearings on proposed rules relating to tramways, lifts and tows.

Analysis of Proposed Rules

Statutory Authority: ss. 101.02 (1) and 101.17

Statutes Interpreted: ss. 101.02 (1) and 101.17

The Division of Safety and Buildings within the Department of Commerce is responsible for protecting the health, safety and welfare of the public by establishing reasonable and effective safety standards for the construction, repair and maintenance of public buildings and places of employment. Chapter Comm 33 contains minimum safety standards for the design, construction, installation, operation and inspection of tramways, lifts and tows.

The proposed rules consist of a complete revision of chapter Comm 33 in order to bring the chapter up to date with current technology and nationally recognized standards. The current chapter Comm 33 consists of the incorporation by reference of the 1992 edition of the American National Standards Institute (ANSI) Safety Requirements for Passenger Tramways, ANSI B77.1, with several modifications to that standard. The proposed rules incorporate the 1999 edition of the ANSI B77.1 standard, Safety Requirements for Passenger Ropeways.

In addition to the change in terminology to passenger ropeways, the proposed rules include several technical revisions in the current code. Most of the Department modifications to the ANSI standard in the current code are being removed, such as the requirements for additional signs. The current code requirements for inspections are being revised by requiring compliance with the acceptance inspections and load tests requirements in the ANSI standard. The inspection requirements are also being revised to allow periodic inspections to be performed by third party independent inspectors. The proposed rules also include new requirements for a permit to operate.

The proposed rules have been developed with the assistance of the Tramways, Lifts and Tows Code Advisory Council. The members of that citizen advisory council are as follows:

<u>Name</u>	<u>Representing</u>
Jim Engel	Wis. Ski Industries Association
Jim Hubing	National Ski Patrol System
Don McKay	Wis. Ski Industries Association
Ted Motschman	Wis. Ski Industries Association
Dennis Schulz	Ski Industry at Large
Chris Stoddard	Insurance Industry
Rob Walz	Wis. Ski Industries Association

Hearing Information

October 18, 2000 Wednesday 10:00 a.m.	Room 120 Waukesha State Office Bldg. 141 N.W. Barstow Street Waukesha
October 19, 2000 Thursday 11:00 a.m.	Room 105 Eau Claire State Office Bldg. 718 W. Clairemont Ave. Eau Claire
October 20, 2000 Friday 10:00 a.m.	Room 3C Thompson Commerce Center 201 W. Washington Ave. Madison

Interested persons are invited to appear at the hearings and present comments on the proposed rules. Persons making oral presentations are requested to submit their comments in writing. Persons submitting comments will not receive individual responses. The hearing record on this proposed rulemaking will remain open until **November 3, 2000**, to permit submittal of written comments from persons who are unable to attend a hearing or who wish to supplement testimony offered at a hearing.

These hearings are held in accessible facilities. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 266-8741 or TTY at (608) 264-8777 at least 10 days prior to the hearing date. Accommodations such as interpreters, English translators, or materials in audio tape format will, to the fullest extent possible, be made available upon request by a person with a disability.

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

Environmental Analysis

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

Initial Regulatory Flexibility Analysis

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

The rules will affect any business involved with the ownership or operation of a tramway, lift or tow.

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

The rules require the owner of a tramway, lift or tow to notify the Department by October 1 of each year if the next required periodic inspection is to be performed by a third party independent inspector.

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

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

Fiscal Estimate

The Safety and Buildings Division is responsible for administering and enforcing chapter Comm 33. The proposed rules do not contain any changes in the Division's fees charged for administering and enforcing chapter Comm 33. Also, the proposed

rules will not create any additional workload costs. Therefore, the proposed rules will not have any fiscal effect on the Division.

Notice of Hearing

Insurance

[CR 00-133]

Notice is hereby given that pursuant to the authority granted under s. 601.41(3), Stats., and the procedure set forth in under s. 227.18, Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order affecting s. Ins 3.39, Wis. Adm. Code, relating to Medicare+Choice, Medicare Supplement and Replacement Policies.

Hearing Information

October 24, 2000 Tuesday 10:00 a.m., or as soon thereafter as the matter may be reached	Room 6, OCI 121 East Wilson St. Madison, WI
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Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to: Julie E. Walsh, OCI, PO Box 7873, Madison WI 53707

Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 600.01(2), 601.41(3), 601.42, 628.34(12), 628.38, 632.81

Statutes interpreted: ss. 600.03 (28p) and (28r), 632.81

These changes bring the Wisconsin regulations in compliance with changes in federal law under the Balanced Budget Refinement Act and the Ticket To Work And Work Incentives Improvement Act of 1999 that amend section 1882 of the Social Security Act which governs Medicare Supplement Insurance. Further, these changes are also necessary to conform with the National Association of Insurance Commissioners (NAIC) Medicare Supplement Insurance Minimum Standards Model Act.

The changes specifically address the guaranteed issue provisions and the suspension of benefits and premiums. The changes also include the following: reference to a new federal program, Program of All-Inclusive Care for the Elderly (PACE), created under the Social Security Act; provisions for notice and election rights of those whose Medicare + Choice plan is terminated; modification to the notice that is provided to applicants describing Part B benefits within Medicare Supplement policies; and clarification regarding the sale of Medicare + Choice plans by full-time employees.

Initial Regulatory Flexibility Analysis

This rule does not impose any additional requirements on small businesses.

Fiscal Estimate

There will be no state or local government fiscal effect.

Contact Person

A copy of the full text of the proposed rule changes and fiscal estimate may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting:

Tammi Kuhl
Services Section
Office of the Commissioner of Insurance
at (608) 266-0110
or at 121 East Wilson Street
P. O. Box 7873
Madison WI 53707-7873

Notice of Hearing

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

Notice is hereby given that pursuant to ss. 29.014, 29.041, 29.197, 227.11(2)(a) and 227.24, Stats., interpreting ss. 29.014, 29.041 and 29.197, Stats., the Department of Natural Resources will hold a public hearing on Natural Resources Board Emergency Order No. WM–21–00(E) pertaining to the 2000 migratory game bird season. This emergency order took effect on September 1, 2000. The significant regulations are:

Ducks – The state is divided into two zones each with a 60–day season. The season in both duck zones begins at noon September 30 and continues through November 28. The daily bag limit in both zones is 6 ducks, including no more than 4 mallards of which only one may be a hen, one black duck, one pintail, one canvasback, 2 redheads, 2 wood ducks and 3 scaup.

Canada geese – The state is apportioned into three goose hunting zones: Horicon, Collins and Exterior. Other special goose management subzones within the Exterior Zone include Brown County, Burnett County, New Auburn, Rock Prairie and the Mississippi River.

The youth waterfowl hunt is established for two consecutive days and a daily bag and possession limit for geese is established.

The rule repeals and recreates baiting as it is defined under U.S. Fish and Wildlife Service migratory game bird hunting prohibited methods. The non–toxic shot requirements are also amended to be consistent with U.S. Fish and Wildlife Service rules.

The rule also allows Canada goose hunters to attach goose kill permits to the neck or leg of a harvested goose within the Horicon and Collins zones.

Hearing Information

October 16, 2000
Thursday
at 1:00 p.m.

Room 717, GEF #2
101 South Webster Street
Madison

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Jon Bergquist at (608) 266–8841 with specific information on your request at least 10 days before the date of the scheduled hearing.

Written Comments and Contact Information

Written comments on the emergency rule may be submitted to Mr. Jon Bergquist, Bureau of Wildlife Management, P.O. Box 7921, Madison, WI 53707 no later than **October 16, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the emergency rule [WM–21–00(E)] may be obtained from Mr. Bergquist.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearings

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

[CR 00–135]

Notice is hereby given that pursuant to ss. 23.09(19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.20, 23.295, 30.24 and 30.277, Stats., interpreting ss. 23.09(19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.20, 23.295, 30.24 and

30.277, Stats., the Department of Natural Resources will hold public hearings on the creation of s. NR 1.445, the repeal of ss. NR 50.16, 50.165 and 50.22, and revisions to ch. NR 51, Wis. Adm. Code, relating to the stewardship program.

Section NR 1.445 is being created to implement the provisions of s. 23.091(8)(d), Stats., which requires county board approval if the department proposes to acquire land, using stewardship funds, in a county where 66% or more of the land is owned or under the jurisdiction of a governmental entity.

Three sections of ch. NR 50 pertaining to stewardship grants to local governments are being repealed and recreated in ch. NR 51. This will combine the rules for all stewardship grants into one chapter.

The key issues addressed by ch. NR 51 changes include: creation of programs for the acquisition of development rights, bluff protection, and the Baraboo Hills. Further, it limits grants for local governments to “nature–based outdoor recreation” purposes, makes shoreline enhancements eligible under the Urban Rivers program, and make protection of the Mid–Kettle Moraine and “wild lakes” a program priority. Nonprofit conservation organization eligibility has been expanded to all stewardship programs, including state park “friends” grants.

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.

Notice is hereby further given that pursuant to ss. 23.09(19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.20, 23.295, 30.24, 30.277 and 227.24, Stats., interpreting ss. 23.09(19), (20) and (20m), 23.0917, 23.092, 23.094, 23.096, 23.098, 23.17, 23.175, 23.197, 23.27, 23.20, 23.295, 30.24 and 30.277, Stats., the Department of Natural Resources will hold public hearings on Natural Resources Board Emergency Order No. CF–35–00(E) relating to the stewardship program. This emergency order took effect on September 1, 2000. The emergency order is identical to the proposed permanent rule.

Hearing Information

November 1, 2000
Wednesday
1:00 p.m.

Video conference participation will be available at the following locations:

Room 021, GEF #2 Bldg.
101 S. Webster Street
Madison

Northern Region Office
107 Sutliff
Rhineland

DNR Northern Region Office
810 W. Maple
Spooner

Room 220
Main Building
UW–Marathon County Campus
518 South 7th Avenue
Wausau

November 2, 2000
Thursday
1:00 p.m.

Video conference participation
will be available at the following
locations:

Room 021, GEF #2 Bldg.
101 S. Webster Street
Madison

Room C103, Commons Bldg.
UW-Waukesha
1500 University Drive
Waukesha

Room 618, State Office Bldg.
200 N. Jefferson Street
Green Bay

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 Ms. Janet Beach Hanson at (608) 266-0868 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 and emergency rules may be submitted to Ms. Janet Beach Hanson, Bureau of Community Financial Assistance, P.O. Box 7921, Madison, WI 53707 no later than **November 14, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearings. A copy of the proposed rule [CF-35-00(E) & CF-36-00] and fiscal estimate may be obtained from Ms. Hanson.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearing

Natural Resources

(Environmental Protection—
Water Regulation,
Chs. NR 300—)

[CR 00-136]

Notice is hereby given that pursuant to ss. 31.02(2), 31.19, 31.33, 87.30 and 227.11(2)(a), Stats., interpreting ss. 31.02(2), 31.19, 31.33 and 87.30, Stats., the Department of Natural Resources will hold a public hearing on the revisions to s. NR 116.08 and ch. NR 333, Wis. Adm. Code, relating to dam design and construction standards and zoning below dams. The proposed revisions to ch. NR 333 update technical engineering practices associated with dam construction and repairs and provide consistency with federal guidelines regarding dam hazard ratings for dams based on downstream development. The proposed rule changes:

Add definitions for development, land use controls and open space use.

Eliminate the unnecessary term “preliminary dam hazard rating” in favor of “dam hazard rating” and allow for the assignment of a dam hazard rating for existing dams after a directive in a dam safety inspection report is issued and clarifies that the necessary dam failure analysis is to be provided by the owner.

Provide more detail on the minimum contents of the required report for the engineering hydraulic, hydrologic and stability analyses and eliminates suggested dam breach parameters since they are in the DAMBRK and FLCWAV computer model user documentation.

Include a requirement for a dam owner to submit the estimated cost of removing the dam and restoring the channel to its natural condition and allows the dam owner to use that estimate if less than the cost of construction or repair of the dam to meet the financial assurance requirements.

Greatly simplify language on dam hazard rating determinations and add language that considers the potential or probable loss of human life in the hazard rating definitions.

Eliminate the unnecessary distinction between minor and major dams.

Specify minimum standards for an adequate emergency action plan in the event of a dam failure.

Extend require time limits for department approvals or actions

Eliminate the existing paradox that a dam owner could face by trying to comply with ch. NR 333 requirements to secure a low hazard rating for the dam and the associated less costly lower spillway capacity requirements. Once the dam has met the low hazard requirements of ch. NR 333, it can be considered a “safe” dam under the current s. NR 116.08 standards. This would then allow a community under s. NR 116.08 to adopt floodplain zoning downstream of a “safe” dam that could allow development to occur below the dam. This new development would then change the dam hazard rating to significant or high and would require the dam owner to undertake significant and potentially costly modifications to increase the dam’s spillway capacity to the higher requirements of ch. NR 333 for significant or high hazard dams.

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

October 19, 2000
Thursday
at 10:00 a.m.

Room 514
GEF #2 Office Bldg.
101 South Webster Street
Madison

Notice is hereby further given that pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call John Coke at (608) 266-7037 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. John Coke, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 no later than **October 26, 2000**. Written comments will have the same weight and effect as oral statements presented at the hearing. A copy of the proposed rule [WT-34-00] and fiscal estimate may be obtained from Mr. Coke.

Fiscal Estimate

There is no fiscal effect.

Notice of Hearing

Public Service Commission

[CR 00-138]

Notice is hereby given that pursuant to s. 227.16(2)(b), Stats., the Commission will hold a public hearing on a proposed rule amending ch. PSC 167, relating to extended area telephone service in the **Amnicon Falls Hearing Room, at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, on Wednesday, November 1, 2000 at 10 a.m.** This building is accessible to people in wheelchairs through the Whitney Way (lobby) entrance. Handicapped parking is available on the south side of the building.

Written Comments

Any person may submit written comments on these proposed rules. The hearing record will be open for written comments from the public, effective immediately, and until **Friday, November 17, 2000, at noon (Thursday, November 16, 2000, at noon, if filed by fax)**. All written comments must include a reference on the filing to docket 1-AC-200. **File by one mode only.**

If filing by mail, courier, or hand delivery:

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

FAX: (608) 266-3957

Industry parties should submit **an original and 15 copies**. Members of the general public need **only file an original**.

If filing by fax: Send fax comments to (608) 266-3957. Fax filing cover sheet MUST state **“Official Filing,”** the docket number (1-AC-200), and the number of pages (limited to 20 pages for fax comments).

Analysis Prepared by the Public Service Commission of Wisconsin

Statutory authority: ss. 196.02(3) and 227.11(2)

Statute interpreted: s. 196.37

The Public Service Commission of Wisconsin proposes an order to amend ch. PSC 167 relating to the establishment of new extended area telephone service arrangements.

Section 196.37, Stats., permits the Commission to determine and order reasonable rates, tolls, charges, schedules, or joint rates when it finds, after investigation, that any such rate, toll, charge, schedule, or joint rate is unjust, unreasonable, insufficient, or unjustly discriminatory or preferential or otherwise unreasonable or unlawful.

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.

After a hearing about concerns with the survey 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 PSC ch. 167.

These rule changes add detail concerning:

Who will be surveyed.

What information must be included in the ballot mailing.

How to determine whether ballots have been timely submitted.

How to ballot a customer with several telephone lines.

When ballots will be counted.

How unmarked ballots will be handled.

A Statement of Scope on this rule was approved by the Commission on August 8, 2000, and was published in the Wisconsin Administrative Register on August 31, 2000.

Text of Proposed Rule

SECTION 1. PSC 167.08(1) shall be renumbered 167.08(1)(a) and amended to read:

(1)(a) Subsequent to the determination of the rate increments necessary to provide the requested extended area service, or reasonable variations of the requested service, the commission shall direct the utilities to conduct a survey of customer willingness to pay the necessary rate increments. ~~The survey shall be approved by the commission and distributed to all customers who would experience a rate increase if the petition for extended area service is granted.~~

SECTION 2. PSC 167.08(1)(b) and (c) shall be created to read:

(b) For purposes of this section, “customer” does not include any person who is provided with free local telephone service, or who for any reason would not experience a rate increase if extended area telephone service is approved.

(c) The survey ballot and accompanying information shall be approved by the commission. Ballots shall be addressed for return to the commission with no additional postage required. The information accompanying the ballot shall indicate all of the following:

1. The number of customers served by the balloted exchange at the time of balloting.

2. The number of “Yes” votes required to move the matter to hearing.

3. The date determined by the commission by which ballots must be postmarked or filed with the commission in order to be considered valid.

SECTION 3. PSC 167.08(1m)(a) and (b) shall be created to read:

(1m)(a) Ballots shall be distributed to all customers who will experience a rate increase if the petition for extended area telephone service is granted. A customer with several lines shall be considered a single customer, if the lines are in the same classification of service.

(1m)(b) Ballots shall be counted by the commission no earlier than one week after the deadline for the postmark or filing of ballots in sub. (1)(c)3. Voting results, including preliminary totals, shall not be released prior to this official counting. Only official ballots shall be counted. Ballots returned with no preference indicated shall be counted as “No” votes.

SECTION 4. PSC 167.08(2) shall be amended to read:

(2) Unless at least 50% of the customers in one of the surveyed exchanges respond favorably to the requested service, or to a variation of the requested service, the petition shall be denied, ~~and~~ If the petition is denied, the commission need not consider any petition for extended area telephone service between those exchanges for two 2 years.

Initial Regulatory Flexibility Analysis

The proposed rules would apply to the entities defined in ch. 196, Stats. This includes small telecommunications utilities, which are small businesses under s. 196.216, Stats., for the purposes of s. 227.114, Stats. (There are 76 small telecommunications utilities in Wisconsin.) However, these rules only come into effect if a petition for EAS is filed and certain threshold requirements on calling volumes are met. Further, this rule imposes no new requirements or procedures on utilities since they codify current practice.

Fiscal Estimate

This rule change has no fiscal impact.

Contact Information

Questions from the media may be directed to Jeffrey L. Butson, Public Affairs Director at (608) 267-0912. Other questions

regarding this matter should be directed to Tom Gross at (608) 267-2337, or by email at grosst@psc.state.wi.us. Hearing or speech-impaired individuals may also use the Commission's TTY number, (608) 267-1479.

The Commission does not discriminate on the basis of disability in the provision of programs, services, or employment. Any person with a disability who needs accommodations to participate in this proceeding or who needs to get this document in a different format should contact Tom Gross, as indicated in the previous paragraph, as soon as possible.

Notice of Hearing

Transportation

[CR 00-137]

Notice is hereby given that pursuant to ss. 85.16(1) and 227.11(2), Stats., and interpreting s. 85.20, Stats., the Department of Transportation will hold a public hearing in **Room 951 of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the 19th day of October, 2000, at 10:00 AM**, to consider the amendment of ch. Trans 4, Wis. Adm. Code, relating to the state public transit operating assistance program.

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, **October 19, 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 Richard A. Martin, Department of Transportation, Bureau of Transit and Local Roads, Room. 951, P. O. Box 7913, Madison, WI 53707-7913.

Analysis Prepared by the Wisconsin Department of Transportation

Statutory authority: ss. 85.16(1) and 227.11(2)

Statute interpreted: s. 85.20

General Summary of Proposed Rule. 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 requires the Department to amend ch. Trans 4 to establish cost efficiency standards for all transit systems participating in the state aid program. In this amendment. The Department is proposing to use the six performance measures recommended by the Transit advisory Council in 1997 as the basis for establishing the cost efficiency standards. The amendment defines the methodology to be used in establishing the standards, lays out a procedure for systems not meeting the standards to achieve compliance, and includes penalties for systems remaining out of compliance for a period of three years.

Fiscal Estimate

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any school district, vocational, technical and adult education district or sewerage district. The Department estimates that there will be no fiscal impact on liabilities of any county, city, village or town, except if the county, city, village or town is operating a transit system that is not in compliance with the cost efficiency standards set forth in this rule. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis

The proposed rule will have no adverse impact on small business.

Copies of Proposed Rule and Contact Information

Copies of the proposed rule may be obtained upon request, without cost, by writing to Richard A. Martin, Department of Transportation, Bureau of Transit and Local Roads, Room 951, P. O. Box 7913, Madison, WI 53707-7913, or by calling (608) 266-6812. Hearing-impaired individuals may contact the department using TDD (608) 266-3351. Alternative formats of the proposed rule will be provided to individuals at their request.

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

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

Administration (CR 00-42):

Ch. Adm 12 – Relating to the storage of electronic public records by state and local governments.

Commerce (CR 00-86):

Ch. Comm 18 – Relating to inspections of elevators and other mechanical lifting devices.

Health and Family Services (CR 00-84):

Chs. HFS 102, 103 and 108 – Relating to the Medicaid purchase plan.

Health and Family Services (CR 00-114):

Ch. HFS 119 – Relating to the operation of the Health Insurance Risk-Sharing Plan (HIRSP).

Natural Resources (CR 00-76):

Ch. NR 190 – Relating to lake planning grants.

Natural Resources (CR 00-103):

SS. NR 10.01, 10.12 and 10.125 – Relating to the 2000 migratory game bird season.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Employee Trust Funds (CR 00-11):

An order affecting s. ETF 20.25 (1), relating to the distribution to annuitants of the total amount distributed from the transaction amortization account to the annuity reserve under the non-statutory provisions of 1999 Wis. Act 11.

Effective 10-01-00.

Financial Institutions-Banking

Financial Institutions-Savings Institutions (CR 00-45):

An order creating chs. DFI-Bkg 4, DFI-SB 19 and DFI-SL 21, relating to financial subsidiaries.

Effective 11-01-00.

Health and Family Services (CR 00-55):

An order affecting ch. HFS 10 and ss. HFS 68.04, 82.06, 83.06, 88.06, 89.29, 89.295, 105.47, 107.28, 124.255, 132.52 and 134.52, relating to eligibility and entitlement for the family care benefit, application for the benefit, cost-sharing requirements, standards for aging and disability resource centers and for care management organizations, protections of the rights of family care applicants and enrollees, recovery of correctly- and incorrectly-paid family care benefits, and requirements for hospitals, nursing homes, community-based residential facilities (CBRFs), residential care apartment complexes, and adult family homes to provide information to certain patients, residents and prospective residents and to refer them to aging and disability resource centers.

Effective 11-01-00.

Insurance, Commissioner of (CR 00-40):

An order amending s. Ins 6.59 (4) (av) and Note, relating to the exemption of attorneys seeking licensure for title insurance from certain testing requirements.

Effective 11-01-00.

Natural Resources (CR 00-30):

An order creating ch. NR 195, relating to establishing river protection grants.

Effective 11-01-00.

Natural Resources (CR 00-74):

An order affecting ch. NR 46, relating to the administration of the Forest Crop Law and the Managed Forest Law.

Effective 11-01-00.

Nursing, Board of (CR 99-126):

An order creating s. N 8.10 (6) and (7), relating to case management and collaboration with other health care professionals by advanced practice nurse prescribers.

Effective 11-01-00.

Transportation (CR 00-72):

An order affecting ss. Trans 327.03 and 327.09, relating to motor carrier safety requirements.

Effective 11-01-00.

Transportation (CR 00-94):

An order repealing and recreating s. Trans 134.06 (1) (d), relating to the administrative procedure for designating authorized special groups and issuing special group license plates.

Effective 11-01-00.

Transportation (CR 00-99):

An order amending s. Trans 276.07 (11), relating to allowing the operation of "double bottoms" (and certain other vehicles) on certain specified highways.

Effective 11-01-00.

Workforce Development (CR 00-46):

An order affecting ss. DWD 270.085 and 272.085, relating to student worklike activities that do not constitute employment.

Effective 11-01-00.

RULES PUBLISHED IN THIS WIS. ADM. REGISTER

*The following administrative rule orders have been adopted and published in the **September 30, 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.

Barbering and Cosmetology Examining Board (CR 00-19):

An order amending ss. BC Figure 5.02, Figure 5.04, Figure 5.05 and Figure 5.06, relating to theory hours conducted by the school outside of the classroom.

Effective 10-01-00.

Commerce (CR 99-143):

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

Effective 10-01-00.

Commerce (CR 00-38):

An order repealing and recreating ch. Comm 43, relating to anhydrous ammonia.

Effective 10-01-00.

Dentistry Examining Board (CR 99-99):

An order creating s. DE 3.04, relating to the oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a licensed dental hygienist.

Effective 10-01-00.

Employee Trust Funds (CR 00-11):

An order affecting s. ETF 20.25 (1), relating to the distribution to annuitants of the total amount distributed from the transaction amortization account to the annuity reserve under the non-statutory provisions of 1999 Wis. Act 11.

Effective 10-01-00.

Employee Trust Funds (CR 00-43):

An order affecting ch. ETF 50, relating to eligible applicants for disability benefits.

Effective 10-01-00.

Employee Trust Funds (CR 00-62):

An order affecting s. ETF 10.60 (2) and (3), relating to electronic reporting for the Wisconsin Retirement System (WRS).

Effective 10-01-00.

Ethics Board (CR 00-71):

An order creating s. Eth 1.03, relating to reporting the topic of a lobbying communication.

Effective 10-01-00.

Investment Board (CR 00-70):

An order creating s. IB 2.04, relating to Investment Board title holding companies.

Effective 10-01-00.

Natural Resources (CR 00-29):

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

Effective 10-01-00.

Natural Resources (CR 00-31):

An order affecting ch. NR 10 and ss. NR 11.02, 11.05, 15.022 and 16.02, relating to hunting, trapping and captive wildlife.

Part effective 11-18-00.

Part effective 05-01-01.

Natural Resources (CR 00-32):

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

Part effective 10-01-00.

Part effective 03-01-01.

Natural Resources (CR 00-33):

An order affecting ch. NR 20 and ss. NR 22.04, 26.10 and 26.31, relating to sport fishing regulations on inland, outlying and boundary waters and fish refuges on inland waters.

Part effective 03-01-01.

Part effective 04-01-01.

Regulation and Licensing (CR 00-18):

An order amending s. RL 62.11, relating to holding classes outside of the classroom.

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.

SECTIONS AFFECTED BY RULE REVISIONS AND CORRECTIONS

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

Barbering and Cosmetology Examining Board:

Ch. BC 5

- S. BC 5.02 (entire section)
- S. BC 5.04 (entire section)
- S. BC 5.05 (entire section)
- S. BC 5.06 (entire section)

- S. Comm 50.175 (entire section)
- S. Comm 50.19 (entire section)
- S. Comm 50.21 (1), (2), (5) (b) to (h), (6) (intro.) and (7)
- S. Comm 50.22 (entire section)
- S. Comm 50.25 (entire section)
- S. Comm 50.26 (entire section)
- S. Comm 50.27 (entire section)

Commerce:

(Fee Schedule, Ch. Comm 2)

Ch. Comm 2

- S. Comm 2.52 (3) (b) and (d)

Ch. Comm 51

- S. Comm 51.01 (1a), (1g), (1m), (6m), (11a), (13m), (42b), (104a) and (114m)
- S. Comm 51.015 (entire section)
- S. Comm 51.065 (1) (b) and (c)
- S. Comm 51.15 (4)
- S. Comm 51.25 (1), (2), (3), (4) and Table 51.25-17

(Petition for Variance Procedures, Ch. Comm 3)

Ch. Comm 3

- S. Comm 3.02 (1) and (3) to (11)
- S. Comm 3.03 (3) (a), (c), (d) and (e) and (4), (6) (a) and (7)
- S. Comm 3.04 (1), (3) (d), (4), (5), (6) and (8)
- S. Comm 3.05 (2) (a) and (b), (3) (a) to (f) and (4)
- S. Comm 3.06 (2) to (10)

Ch. Comm 52

- S. Comm 52.02 (1) (b)
- S. Comm 52.60 (3) (a)

Ch. Comm 54

- S. Comm 54.05 (1) (intro.) and (4)
- S. Comm 54.12 (1) (a), (2) (b) and (f) and Table 54.12-A

(Uniform Dwelling, Chs. Comm 20-25)

Ch. Comm 20

- S. Comm 20.18 (entire section)
- S. Comm 20.24 (entire section)

Ch. Comm 55

- S. Comm 55.32 Table 55.32

(Anhydrous Ammonia, Ch. Comm 43)

Ch. Comm 43 (entire chapter)

Ch. Comm 56

- S. Comm 56.21 (entire section)
- SS. Comm 56.50 to 56.66 (entire sections)

(Building and Heating, etc., Chs. Comm 50-64)

Ch. Comm 50

- S. Comm 50.03 (5) and (6)
- S. Comm 50.04 (2), (6) and (11) to (15)
- S. Comm 50.055 (entire section)
- S. Comm 50.06 (entire section)
- S. Comm 50.10 (2) and (3)
- S. Comm 50.12 (1) (a) to (i), (1m), (1t), (2) (intro.), (b), (c) and (k), (3) (intro.) and (g), (4) (e) and (f), (5) (intro.) and (a) and (6) (a)
- S. Comm 50.13 (1) (intro.) and (2)
- S. Comm 50.14 (1) (intro.) and (c)
- S. Comm 50.15 (entire section)

Ch. Comm 57

- S. Comm 57.001 (1) (intro.) and (k) and (2) (a) to (j)
- S. Comm 57.07 (2)

Ch. Comm 60

- S. Comm 60.001 (1) (a)
- S. Comm 60.36 (1) (a)
- S. Comm 60.40 (3)

Ch. Comm 62

- S. Comm 62.34 (2)
- S. Comm 62.40 (entire section)
- S. Comm 62.493 (entire section) was renumbered from s. Comm 62.50
- S. Comm 62.496 (entire section) was renumbered from s. Comm 62.51
- SS. Comm 62.50 to 62.509 (entire sections)

Ch. Comm 64

- S. Comm 64.21 (entire section)
- S. Comm 64.22 (3) (e)

(Uniform Multifamily Dwellings, Ch. Comm 66)**Ch. Comm 66**

- S. Comm 66.02 (1) (a) to (d)
- S. Comm 66.03 (1m) and (10m)
- S. Comm 66.09 (3) and (4)
- S. Comm 66.11 (1) and (2)
- S. Comm 66.12 (2)
- S. Comm 66.14 (1) (intro.), (b) and (d), (1t) and (2) (a) and (f)
- S. Comm 66.15 (entire section)
- S. Comm 66.165 (1)
- S. Comm 66.17 (1) (a)
- S. Comm 66.18 (1) (a)
- S. Comm 66.19 (1)
- S. Comm 66.22 (entire section)
- S. Comm 66.24 (2) (b) and (k) to (m), (5) (b) and (d) to (h), (7) and (8)
- S. Comm 66.25 (entire section)
- S. Comm 66.29 (4)
- S. Comm 66.345 (3) (a)
- S. Comm 66.41 (4) (d)
- S. Comm 66.45 (2) (b)

(Historic Buildings, Ch. Comm 70)**Ch. Comm 70**

- S. Comm 70.03 (1) (a)
- S. Comm 70.07 (1) (a) and (b)
- S. Comm 70.14 (entire section)
- S. Comm 70.17 (2)

(Existing Buildings, Chs. Comm 75 to 79)**Ch. Comm 75**

- S. Comm 75.001 (1) (e)

(Public Swimming Pools, Ch. Comm 90)**Ch. Comm 90**

- S. Comm 90.16 (1)

Dentistry Examining Board:**Ch. DE 3**

- S. DE 3.04 (entire section)

Employee Trust Funds:**Ch. ETF 10**

- S. ETF 10.60 (2), (3) and (4)

Ch. ETF 20

- S. ETF 20.25 (1) (a) and (b)

Ch. ETF 50

- S. ETF 50.30 (1m)
- S. ETF 50.32 (4)
- S. ETF 50.50 (1) (c)

Ethics Board:**Ch. Eth 1**

- S. Eth 1.03 (entire section)

Investment Board:**Ch. IB 1**

- S. IB 1.03 (4)

Ch. IB 2

- S. IB 2.04 (entire section)

Natural Resources:**(Fish, Game, etc., Chs. NR 1--)****Ch. NR 10**

- S. NR 10.01 (1) (g) and (h) and (3) (es) and (h)
- S. NR 10.02 (5)
- S. NR 10.06 (2) (a) and (b), (3), (4), (5), (6), (7) and (8) (a) and (b)
- S. NR 10.09 (1) (c)
- S. NR 10.12 (12)
- S. NR 10.13 (3) (a)
- S. NR 10.145 (5) (a) and (d) and (6) (b)
- S. NR 10.20 (entire section)
- S. NR 10.27 (intro.)
- S. NR 10.31 (1) (d) and (3) (a)
- S. NR 10.34 (1)
- S. NR 10.40 (3) (f)

Ch. NR 11

- S. NR 11.02 (2) (a)
- S. NR 11.05 (2)

Ch. NR 15

- S. NR 15.022 (11)
- S. NR 15.13 (entire section)

Ch. NR 16

- S. NR 16.02 (5) (e)

Ch. NR 20

- S. NR 20.03 (18)
- S. NR 20.15 (entire section)
- S. NR 20.20 (33) (am), (b) and (g), (57) (d) and (f), (67) (ag), (am) and (as) and (73) (i) and (o)

Ch. NR 22

- S. NR 22.04 (4) and (5)

Ch. NR 26

- S. NR 26.10 (4)
- S. NR 26.31 (entire section)

(Environmental Protection--General, Chs. NR 100--)**Ch. NR 135 (entire chapter)****(Environmental Protection--Water Regulation, Chs. NR 300--)****Ch. NR 340**

- S. NR 340.05 (3m)
- S. NR 340.06 (3) (i)

Regulation and Licensing:**Ch. RL 62**

S. RL 62.11 (1) (L)

Workforce Development:**(Unemployment Insurance, Chs. DWD 100–150)****Ch. DWD 100**S. DWD 100.02 (14), (16m), (32), (34), (43), (46),
(50), (51), (66) and (67) (intro.)**Ch. DWD 101**

S. DWD 101.01 (entire section)

Ch. DWD 102S. DWD 102.02 (1)
S. DWD 102.03 (entire section)**Ch. DWD 110**

S. DWD 110.07 (8)

Ch. DWD 111

S. DWD 111.06 (1) and (2)

Ch. DWD 126S. DWD 126.02 (3)
S. DWD 126.03 (2) (b) and (c)**Ch. DWD 127**S. DWD 127.03 (6) (intro.), (a), (b) and (c)
S. DWD 127.035 (entire section)**Ch. DWD 128**

S. DWD 128.01 (5)

Ch. DWD 129

S. DWD 129.01 (2) (a)

Ch. DWD 132

S. DWD 132.05 (1) (a) and (c) and (3) (b) and (c)

Ch. DWD 135

S. DWD 135.04 (1)

Ch. DWD 140S. DWD 140.22 (entire section)
S. DWD 140.23 (entire section)**Ch. DWD 149**S. DWD 149.03 (1) (intro.) and (2)
S. DWD 149.04 (2) (intro.) and (a)**EDITORIAL CORRECTIONS**

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

Commerce:**(Building and Heating, Chs. Comm 50 to 64)****Ch. Comm 50**S. Comm 50.06 (entire section) had a correction
made under s. 13.93
(2m) (b) 1., Stats.**Ch. Comm 62**S. Comm 62.493 (1) had a correction made
under s. 13.93 (2m) (b) 7., Stats.**(Uniform Multifamily Dwellings, Ch. Comm 66)****Ch. Comm 66**S. Comm 66.17 (1) (a) had a correction made under
s. 13.93 (2m) (b) 7., Stats.
S. Comm 66.18 (1) (a) had a correction made under
s. 13.93 (2m) (b) 7., Stats.
S. Comm 66.24 (2) (i) had a correction made under
s. 13.93 (2m) (b) 7., Stats.
S. Comm 66.25 (5) (b) had a correction made under
s. 13.93 (2m) (b) 7., Stats.
S. Comm 66.36 (2) (d) had corrections made under
s. 13.93 (2m) (b) 7., Stats.**(Historic Buildings, Ch. Comm 70)****Ch. Comm 70**S. Comm 70.02 (2) (b) had a correction made
under s. 13.93 (2m) (b) 7., Stats.
S. Comm 70.17 (4) had a correction made
under s. 13.93 (2m) (b) 7., Stats.
S. Comm 70.22 (17) (a) had a correction made
under s. 13.93 (2m) (b) 7., Stats.**(Public Swimming Pools, Ch. Comm 90)****Ch. Comm 90**S. Comm 90.03 (2e) had a correction made
under s. 13.93 (2m) (b) 7., Stats.**Natural Resources:****(Environmental Protection—Water Regulation,
Chs. NR 300—)****Ch. NR 340**S. NR 340.01 (1) had a correction made under
s. 13.93 (2m) (b) 7., Stats.
S. NR 340.02 (7) had a correction made under
s. 13.93 (2m) (b) 7., Stats.**Workforce Development:****(Unemployment Insurance, Chs. DWD 100–150)****Ch. DWD 100**S. DWD 100.02 (51) had corrections made under
s. 13.93 (2m) (b) 7., Stats.

Ch. DWD 123

S. DWD 123.01 (6) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Ch. DWD 129

S. DWD 129.01 (2) (b) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Ch. DWD 132

S. DWD 132.05 (1) (b) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Ch. DWD 135

S. DWD 135.01 (1) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

S. DWD 135.02 (2) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

Ch. DWD 140

S. DWD 140.01 (2) (a) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

S. DWD 140.19 (2) had a correction made under
s. 13.93 (2m) (b) 7., Stats.

FINAL REGULATORY FLEXIBILITY ANALYSES

1. Barbering & Cosmetology (CR 00–19)

Ch. BC 5 – Theory hours conducted by the school outside of the classroom.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

2. Commerce (CR 99–143)

Chs. Comm 2, 3, 20, 50 to 64, 66, 70, 75, and 90 – One- and Two-Family Dwellings, Commercial Buildings, and Multifamily Dwellings.

Summary of Final Regulatory Flexibility Analysis:

An independent inspection agency asked that plan examination be waived for all buildings under 25,000 cubic feet in volume. Adequate data to support this waiver was not available.

An independent plan review company recommended several changes that would allow the private sector to directly perform some of the Department's plan review, rather than indirectly perform the review through agreements with local governments. The Department disagreed with the recommendation.

The independent plan review company also recommended requiring Departmentally sanctioned private-sector plan review for the projects where the Department proposed to discontinue its plan review because of voluntary design and construction supervision by a registered architect or engineer. The company noted the recommendation would satisfy a statutory requirement to obtain Departmental plan examination prior to obtaining local construction or use permits. The Department disagreed with the recommendation and is not creating an administrative rule to mandate the involvement of such private-sector entities.

The independent plan review company also recommended designating an appeals board that would be independent of the Department, for considering appeals to Departmental decisions, as occurs at local governments. The Department disagreed with the recommendation because by law the Department is the only agency responsible for public buildings and places of employment, and because another layer of delays would then result, which would not be necessary.

The independent plan review company also recommended that the appeals procedure for variances which was proposed at the Division Administrator and Secretary levels be made available also for appealing other decisions within the Division. The Department did not agree that a rule change reflecting this recommendation was needed to resolve internal conflicts.

Summary of Comments of Legislative Standing Committees:

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

3. Commerce (CR 00–38)

Ch. Comm 43 – Anhydrous Ammonia.

Summary of Final Regulatory Flexibility Analysis:

Sections 101.02 (15)(h) to (j) and 101.17, Stats., authorize the Department to promulgate rules prescribing minimum installation and operation standards for anhydrous ammonia facilities in public buildings and places of employment. The proposed rules of Clearinghouse Rule No. 00–038 are minimum requirements to meet the directives of the Statutes, and any exceptions from compliance for small businesses would be contrary to the Statutory objectives which are the basis for the rules.

Summary of Comments of Legislative Standing Committees:

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

4. Dentistry Examining Board (CR 99–99)

S. DE 3.04 – The oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a licensed dental hygienist.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

5. Employee Trust Funds (CR 00–43)

Ch. ETF 50 – Eligible disability applicants.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

6. Employee Trust Funds (CR 00–62)

S. ETF 10.60 – Electronic reporting for the Wisconsin Retirement System.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

7. Employee Trust Funds (CR 00-11)

S. ETF 20.25 – The distribution to annuitants of the total amount distributed from the transaction amortization account to the annuity reserve under the non-statutory provisions of 1999 Wis. Act 11.

Summary of Final Regulatory Flexibility Analysis:

This rule does not affect small businesses.

Summary of Comments:

No comments were reported.

8. Ethics Board (CR 00-71)

Ch. Eth 4 – The identification of a topic of a lobbying communication.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

9. Investment Board (CR 00-70)

S. IB 2.04 – Investment board title holding companies.

Summary of Final Regulatory Flexibility Analysis:

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

Summary of Comments:

No comments were reported.

10. Natural Resources (CR 00-29)

Ch. NR 135 – Nonmetallic mining reclamation.

Summary of Final Regulatory Flexibility Analysis:

The new law and this rule impose compliance and reporting requirements on small businesses. There will be little or no difference in the compliance and reporting requirements imposed on small mine operators versus large mine operators. The rule will require that all operators submit a reclamation plan for approval by the regulatory authority. The need to obtain some form of financial assurance to guarantee performance of the reclamation activities detailed in their reclamation plan will be imposed on small operators and may prove more problematic than for larger operators.

The amount of fees will be partially dependent upon the size of the mining operation. All operations will need to pay fees on an annual basis and these fees will be based, in part, on the acreage affected and unreclaimed attendant to the current operation.

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.

11. Natural Resources (CR 00-31)

Chs. NR 10, 11, 15 and 16 – Hunting, trapping and captive wildlife

Summary of Final Regulatory Flexibility Analysis:

The proposed rule regulates individual hunters and trappers. Therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The rule was reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. Public hearings were held on June 21, 2000 by each committee. The testimony centered around whether or not a dove hunting season should be established in Wisconsin. Neither committee made any recommendations to the Department for modification.

12. Natural Resources (CR 00-32)

Chs. NR 10 and 15 – Hunting, trapping and wildlife research.

Summary of Final Regulatory Flexibility Analysis:

The proposed rules are applicable to individual sportspersons or the university of Wisconsin. Therefore, a final regulatory flexibility analysis was not required.

Summary of Comments by Legislative Review Committees:

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

13. Natural Resources (CR 00-33)

Chs. NR 20, 22 and 26 – Sport fishing regulations on inland and boundary waters and fish refuges on inland waters.

Summary of Final Regulatory Flexibility Analysis:

The rules regulate individual anglers; therefore, a final regulatory flexibility analysis is not required.

Summary of Comments by Legislative Review Committees:

The rules were reviewed by the Assembly Committee on Natural Resources and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. On June 21, 2000, the Assembly Committee on Natural Resources held a public hearing. As a result of that hearing, the Committee requested that the rule be modified to remove Chetac and Birch Lakes, Sawyer and Washburn counties, from the provision that reduced the daily bag limit from 25 in total to 10 in total for panfish. The Committee also requested that a new provision setting a daily bag limit of 10 for bluegill on Chetac and Birch Lakes be included with the daily bag limit for panfish on those lakes.

A second modification recommended that the 6:00 p.m. closure on the last day of the early catch and release season for trout be changed to 12:00 a.m.

At their June 28, 2000 meeting, the Natural Resources Board adopted modifications to the rule to make the recommended changes.

14. Regulation & Licensing (CR 00-18)

S. RL 62.11 – Holding classes outside of the classroom.

Summary of Final Regulatory Flexibility Analysis:

These rules will have no significant economic impact on small businesses, as defined in s. 227.14 (1) (a), Stats.

Summary of Comments:

No comments were reported.

15. Workforce Development (CR 99-163)

Chs. DWD 100, 127, 128, 129, 132, 135, 140, 149 – Limited waiver of the work search requirement, ability to work and availability for work, and various minor changes relating to unemployment insurance.

Summary of Final Regulatory Flexibility Analysis:

The proposed rule will not have a significant impact on a substantial number of small businesses. The limited waiver of the work search requirement may help small businesses in a labor market with a temporary layoff by a primary employer because the small businesses will be less likely to be inundated with job applications from UI claimants who expect to return to work with their former employer in a limited amount of time.

Summary of Comments of Legislative Standing Committees:

The department withdrew an amendment to s. DWD 129.04(2)(a)4 in response to concerns expressed by the Senate Labor Committee.

EXECUTIVE ORDERS

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

Executive Order No. 405. 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 Two Late Sheriff's Deputies of the Milwaukee County Sheriff's Department Who Lost Their Lives in a Helicopter Crash.

Executive Order No. 406. 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 Deputy Sheriff Ralph E. Zylka and Deputy Sheriff Sung Hui Bang of the Milwaukee County Sheriff's Office Who Lost Their Lives in a Helicopter Crash.

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