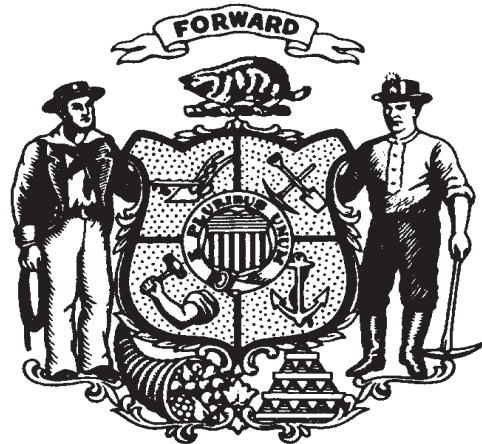


Wisconsin Administrative Register

No. 555



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Table of contents

Emergency rules now in effect.	Pages 4 to 9
Agriculture, Trade and Consumer Protection:	Rules relating to certification of drug residue screening laboratories.
Commerce:	<u>Financial Assistance for Businesses and Communities, Chs. Comm 105 to 128</u> Rules relating to brownfields redevelopment grants. Rules relating to community development block grant program. Rules relating to Wisconsin technology zone program.
Financial Institutions – Banking:	Rules relating to registration fees under the Wisconsin Consumer Act.
Health & Family Services:	<u>Health, Chs. HFS 110—</u> Rules relating to prescription drug coinsurance coverage.
Natural Resources:	<u>Fish, Game, etc., Chs. NR 1—</u> Rules relating to sturgeon spearing on the Lake Winnebago system.
Pharmacy Examining Board:	Rules relating to a pharmacy internship program.
Public Instruction:	Rules relating to the Milwaukee parental choice program.
Transportation:	Rules relating to the issuance of driver’s licenses and identification cards.
State Treasurer:	Rules relating to the Wisconsin College Savings Program Board.
Volunteer Fire Fighter and Emergency Medical Technician Service Award Board:	Rules relating to the length of service award program.
Workforce Development:	<u>Prevailing Wage Rates, Chs. DWD 290–294</u> Rules relating to wage rates and payment and performance assurance requirements.
Scope statements.	Pages 10 to 11
Health and Family Services:	Rules creating ch. HFS 43, to establish appeal procedures relating to agency determinations of child abuse or neglect.
Insurance:	Rules relating to patient’s compensation fund peer review council members’ and consultants’ expenses.

Natural Resources:	Rules revising ch. NR 10, relating to migratory game bird hunting seasons.
	Rules revising s. NR 46.30, relating to the annual adjustment of timber stumpage rates.
	Rules revising ch. NR 447, relating to violations of asbestos abatement and management rules.
	Rules revising ch. NR 428, relating to emissions averaging and trading.
Regulation and Licensing:	Rules revising to ch. RL 87, relating to the Uniform Standard of Professional Appraisal Practice (USEPA).
	Rules relating to chs. RL 80 to 87, relating to the regulation of licenses and certified real estate appraisers.
Workforce Development:	Rules revising ch. DWD 270, relating to regulation of child labor.
Submittal of rules to legislative council clearinghouse.	Pages 12 to 13
Occupational Therapists Affiliated Credentialing Board:	Relating to the licensure and regulation of occupational therapists and occupational therapy assistants.
Public Defender:	Relating to the repayment of cost of legal representation.
Public Instruction:	Relating to providing access to the 4th, 8th, and 10th grade Knowledge and Concepts Examinations and the High School Graduation Test.
Public Service Commission:	Relating to customer satisfaction surveys discretionary with respect to municipal utilities and incorporating technical corrections to ch. PSC 113.
Regulation and Licensing:	Relating to education requirements prior to first renewal, courses and examinations, approval of education programs, courses and instructors for auctioneers.
Transportation:	Relating to vehicle odometer disclosure requirements.
	Relating to motor vehicle trade practices.
Rule–making notices.	Pages 14 to 21
Controlled Substances Board:	Hearing to consider changes to ch. CSB 2, relating to classifying dichloralphenazone as a schedule IV controlled substance under federal law.
Financial Institutions – Securities:	Hearing to consider rules relating to bank sales of certificates of deposit of third–party financial institutions.
Medical Examining Board:	Hearing to consider rules relating to defining failing to cooperate in a timely manner in an investigation as unprofessional conduct.
Public Defender:	Hearing to consider rules relating to the repayment of cost of legal representation.
Public Instruction:	Hearing to consider rules relating to Milwaukee parental choice program.
Public Service Commission:	Hearing to consider rules relating to customer satisfaction surveys discretionary with respect to municipal utilities, and to incorporate technical corrections to ch. PSC 113.

Regulation and Licensing: Hearing to consider rules relating to education requirements prior to first renewal, courses and examinations, approval of educational programs, courses and instructors for auctioneers.

Transportation: Hearing to consider rules relating to motor vehicle trade practices.

Hearing to consider rules relating to vehicle odometer disclosure requirements.

Submittal of proposed rules to the legislature.

Page 22

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

(CR 01-092) – Ch. A-E 6

Commerce:

(CR 01-087) – Ch. Comm 10

(CR 01-110) – Ch. Comm 70

(CR 01-157) – Chs. Comm 122 and 128

Health and Family Services:

(CR 01-148) – Ch. HFS 119

Social Workers, Marriage and Family Therapists and Professional Counselors:

(CR 01-151) – Ch. SFC 16

Transportation:

(CR 02-005) – Ch. Trans 102

Workforce Development:

(CR 01-138) – Ch. DWD 44

(CR 02-007) – Ch. DWD 55

Rule orders filed with the revisor of statutes bureau.

Page 23

Commerce:

(CR 01-126) – Ch. Comm 95

Natural Resources:

(CR 01-115) – Ch. NR 25

(CR 01-011) – Ch. NR 45

(CR 00-110) – Chs. NR 19 and 64

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.

Copies of emergency rule orders can be obtained from the promulgating agency. The text of current emergency rules can be viewed at www.legis.state.wi.us/rsb/code.

Agriculture, Trade and Consumer Protection

Rules adopted revising **ch. ATCP 77**, relating to certification of drug residue screening laboratories and approval of laboratory analysts to perform drug residue screening tests on milk.

Finding of emergency

The Department of Agriculture, Trade and Consumer Protection ("department") finds that an emergency exists and that the following emergency rule is necessary to protect the public welfare. This emergency rule will bring Wisconsin into compliance with federal requirements. Wisconsin must comply with the federal requirements in order for Wisconsin dairy plants to continue shipping milk in interstate commerce. Interstate milk shipments are critical for the state's dairy industry, and for the overall economy and well being of the state. The facts constituting the emergency are as follows:

(1) Grade A milk shipments are governed by the Interstate Pasteurized Milk Ordinance (PMO), jointly administered by the United States Food and Drug Administration (FDA) and the National Conference of Interstate Milk Shippers (representing participating states). In order for Wisconsin dairy plants to ship milk in interstate, Wisconsin must comply with the PMO and FDA mandates related to the PMO. Under s. 97.24, Stats., the Wisconsin Legislature has directed the department to adopt rules that conform to the PMO.

(2) Under the PMO and current state rules, all raw milk received by a dairy plant must be tested for certain drug residues (antibiotics from the penicillin family of drugs).

(3) FDA approves tests used for drug residue testing. There are 15 different tests that are approved for use. Some of these tests use a mechanical reader that determines the test result and then records it on a printer tape or directly to a computer. But other approved tests are "visually read", and involve no mechanical reader. In these tests, an individual analyst

interprets a color change to determine whether drug residues are present.

(4) The department currently certifies laboratories and analysts that conduct confirmatory drug residue tests on raw milk samples. The department certifies these laboratories and analysts under ch. ATCP 77, Wis. Adm. Code. The department does not currently certify laboratories or analysts that perform only preliminary screening tests for drug residues, although it does provide training. Some preliminary screening tests use mechanical readers, while others are "visually read."

(5) On July 2, 2001, FDA issued a new directive requiring states to approve laboratories that conduct screening tests (not just confirmatory tests) for drug residues in milk. A state must conduct an on-site evaluation before approving a laboratory or analyst to conduct "visual read" screening tests. According to the FDA, the department must complete its evaluations and issue its approvals by March 1, 2002. FDA may de-certify Wisconsin milk shippers if the department fails to carry out this directive, or if milk shipments are not tested by approved laboratories and analysts. De-certification could prevent the movement of Wisconsin milk in interstate commerce.

(6) In order to ensure the continued movement of Wisconsin milk in interstate commerce, the department must adopt rules expanding the current lab certification program under ch. ATCP 77, Wis. Adm. Code. The rules will require certification of laboratories conducting drug residue screening tests. The rules will also require on-site evaluation and approval of individual analysts conducting "visual read" screening tests. The rules will create new lab certification fees to pay for the expanded program, including the cost to perform the required on-site evaluations. The department must adopt these rules as soon as possible, in order to complete the required evaluations and issue the required approvals by March 1, 2002.

(7) The department cannot create this new program, by normal rulemaking procedures, in time to meet the March 1, 2002 deadline. The department is therefore adopting this temporary emergency rule under s. 227.24, Stats., pending the adoption of "permanent" rules by normal procedures. This emergency rule is needed to ensure the continued movement of Wisconsin milk in interstate commerce, and to prevent the economic disruption that would occur if that movement were interrupted.

Publication Date:	November 15, 2001
Effective Date:	November 15, 2001
Expiration Date:	April 14, 2002
Hearing Dates:	November 29, December 4, 5 & 6, 2001

Commerce (3)

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

1. Rules adopted revising **ch. Comm 110** relating to brownfields redevelopment grants.

Finding of emergency

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

The facts constituting the emergency are as follows. Under section 3628 of 2001 Wis. Act 16, the Department must begin

accepting applications from trustees and nonprofit organizations, for brownfields redevelopment grants. And, under section 3630 of the Act, the Department must begin disallowing use of the grant funds to pay either delinquent real estate taxes or lien claims of the Department of Natural Resources or the federal Environmental Protection Agency.

The Department's rules for administering the brownfields grant program are currently contained in ch. Comm 110 Wis. Adm. Code. These current rules do not recognize trustees and nonprofit organizations as eligible applicants, and do not include disallowing grant funds for payments on either back taxes, or on state or federal lien claims.

In November, the Department expects to begin promulgating permanent rules for making ch. Comm 110 consistent with Act 16. Due to the mandatory rulemaking procedures under ch. 227, Stats., the permanent rules are not expected to become effective until July 1, 2002. In order to comply with Act 16 by accepting applications and issuing grants for trustees and nonprofit organizations prior to then, emergency rules reflecting these changes are needed, as included herein. These emergency rules also address the above disallowance for grant proceeds, and include some minor updating of the ch. Comm 110 criteria for submitting grant applications and for filing subsequent financial and program reports.

Pursuant to s. 227.24, Stats., this rule is adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes.

Publication Date: October 27, 2001

Effective Date: October 27, 2001

Expiration Date: March 26, 2002

Hearing Date: January 11, 2002

2. Rules adopted revising **ch. Comm 108**, relating to community development block grant program.

Finding of emergency

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

The facts constituting the emergency are as follows:

- Under the state's Consolidated Plan for the expenditure of U.S. Department of Housing and Urban Development Funds (HUD), the department has available Community Development Block Grant Funds specifically for community and economic development projects that typically are planned and designed during the winter months for commencement when the ground thaws.

- Having the ability to make these grants available at this time would assist eligible local governmental units with their project planning, obtain bids during a time when bids can be as much as 20 percent less than bids obtained in late winter or early spring, and allow for construction start-up early in the spring.

- Project readiness is a consideration in awarding grants under this program.

- Bid letting and contract approvals made prior to the construction season may allow for the completion of construction projects within one construction season.

- The acceptance and funding of applications at this time will provide an economic stimulus at the local government level in the form of planning, engineering and particularly construction contracts which offer high paying jobs.

This rule revision relates to changes in definitions which occurred in the 1999 Wis. Act 9; additional program funds now available from U.S. Housing and Urban Development (HUD); revising the application schedule on a continuing basis; and updating the process of scoring applications.

Currently public facility grants to eligible communities are awarded annually. Under this proposal, grants can be awarded throughout the year making it easier for communities to prepare and submit their proposals.

The rule revisions reflect the expansion of funding programs for public facilities planning to issue grants to eligible local governments for public facilities planning up to \$12,500 per plan.

Publication Date: December 1, 2001

Effective Date: December 1, 2001

Expiration Date: April 30, 2002

Hearing Date: January 16, 2002

3. Rules adopted creating **ch. Comm 107**, relating to Wisconsin technology zone program.

Finding of emergency

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

Facts constituting the emergency are as follows:

- In accordance with s. 560.02 (4), Stats., the department of Commerce has the responsibility to promulgate rules to provide for the attraction, promotion and expansion of high-technology business in the state.

- Section 560.96, Stats., makes available certain tax benefits for certified businesses within the 8 designated technology zones. Tax benefits are available to certified businesses if their tax year begins on or after January 1, 2002.

- In response to a downturn in the economy and recent economic forecasts, Governor McCallum has prioritized the need to promulgate these rules as part of his economic stimulus package.

- The technology zone program will address several action items identified by the 2000 Wisconsin Economic Summit to ensure Wisconsin's short- and long-term economic vitality and success, including:

1. Combating the state's 'brain drain' by increasing high tech jobs.

2. Linking Wisconsin's research expertise with Wisconsin firms to grow clusters of high-tech jobs.

3. Linking economic strategies across regions for power through collaboration.

- This emergency rule is being created in order that the process of designating the 8 technology zones be commenced as soon as possible and that such eligible businesses may become certified and participate in the tax benefits through the Wisconsin Technology Zone Program.

Publication Date: December 5, 2001

Effective Date: December 5, 2001

Expiration Date: May 4, 2002

Hearing Date: January 11, 2002

Financial Institutions – Banking

A rule was adopted creating **s. DFI–Bkg 80.90**, relating to registration fees under the Wisconsin Consumer Act.

Finding of emergency

2001 Wis. Act 16 authorizes the Department of Financial Institutions to adopt rules pertaining to registration fees under the Wisconsin Consumer Act. The proposed rule revises the formula for calculating these fees. Without this rule, the department is unable to effectuate the legislature's requirement that registrations be completed by February 28, 2002.

Publication Date: December 3, 2001

Effective Date: December 3, 2001

Expiration Date: May 2, 2002

Hearing Date: January 28, 2002

Health & Family Services

(Health, Chs. HFS 110—)

Rules adopted creating **s. HFS 119.07 (6m)**, relating to prescription drug coinsurance coverage.

Exemption from finding of emergency

These are emergency rules creating **s. HFS 119.07 (6m)**, Wis. Admin. Code to establish for prescription drug coverage a drug benefit separate from the medical benefits for the Health Insurance Risk–Sharing Plan (HIRSP) as authorized by **s. 149.14 (5) (e)**, Stats., as amended by 2001 Wisconsin Act 16, and **s. 149.146 (2) (am) 5.**, Stats., as created by 2001 Wisconsin Act 16. Section 9123 (9w) of the Act authorizes the department to use the emergency rulemaking procedures under **s. 227.24**, Stats., to promulgate these rules, exempts the department from making a finding of emergency, and from providing evidence that promulgating these rules as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare.

The HIRSP Board of Governors on September 13, 2001, approved the coinsurance rate and out–of–pocket limits established in these rules, as required by **s. 149.14 (5) (e)** Stats., as amended by 2001 Wisconsin Act 16 and **s. 149.146 (2) (am) 5**, Stats., as created by 2001 Wisconsin Act 16.

Analysis Prepared by the Department of Health and Family Services

The State of Wisconsin in 1981 established a Health Insurance Risk–Sharing Plan for the purpose of making

health insurance coverage available to medically uninsured residents of the state. HIRSP health insurance coverage includes prescription drug coverage. Currently, two major issues affect HIRSP prescription drug coverage. The first issue is that pharmacies have difficulty determining the financial liability of HIRSP policyholders. The second issue is that the current system of HIRSP reimbursement to policyholders for prescription drug costs is financially burdensome to HIRSP policyholders. To resolve these issues, the department proposes to implement effective January 1, 2002, new coinsurance provisions for HIRSP's drug benefit that will clarify the financial liability of HIRSP policyholders for covered prescription drug costs and eliminate the process of reimbursing policyholders for prescription drug expenses by establishing policyholders' minimum and maximum out–of–pocket costs for covered prescription drugs.

The proposed rules will affect approximately 12,000 HIRSP policyholders statewide.

Publication Date: December 20, 2001

Effective Date: January 1, 2002

Expiration Date: May 31, 2002

Hearing Date: January 29, 2002

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

Rules adopted revising **ch. NR 20**, relating to sturgeon spearing on the Lake Winnebago system.

Finding of emergency

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

Winter spear harvest of sturgeon has continued to exceed the total allowable harvest goals due to an increase in spearing pressure and the current format of the season, which allows continued spearing for 1 day following the announcement of the season closure (when 80% of the total allowable harvest is reached). Harvest on the final day of the 2001 season resulted in a final harvest that exceeded the total allowable harvest by 52%. An emergency order is needed to protect the sturgeon population by preventing continued overharvest of female sturgeon during the 2002 season while permanent rules are being developed. The early closure should reduce spearing effort by 40%, which should decrease the daily harvest and reduce the risk of exceeding the total allowable harvest on the final day of the season.

Publication Date: December 14, 2001

Effective Date: December 14, 2001

Expiration Date: May 13, 2002

Hearing Date: January 14, 2002

Pharmacy Examining Board

Rules adopted revising **chs. Phar 1 and 2**, relating to a pharmacy internship program.

Finding of emergency

2001 Wis. Act 16 creates and amends rules relating to a pharmacy internship program.

Section 3608L of Wis. Act 16, Wis. Stats. s. 450.045, which had previously authorized a Pharmacy Internship Board to implement and oversee the practice of pharmacy in this state by pharmacy interns prior to receiving licensure from the Pharmacy Examining Board.

Section 2154 of Wis. Act 16 mandates that effective December 31, 2001, the repeal of Wis. Stats. s. 450.045 becomes effective. As of December 31, 2001, there will currently be pharmacy interns still serving internships in this state and additional pharmacy students beginning January 1, 2001, who will seek to begin an internship program. However, no standards or oversight will be in place by administrative rule of the Pharmacy Examining Board which is now charged with authority for the pharmacy internship process.

The administrative rule-making process will not allow rules to be in place as of January 1, 2002, without the use of the emergency rule procedure. The emergency rule is needed therefore to effect a transfer of oversight from the extinguished Pharmacy Internship Board to the Pharmacy Examining Board as of January 1, 2001.

Publication Date: December 30, 2001
Effective Date: January 1, 2002
Expiration Date: May 31, 2002
Hearing Date: February 12, 2002

Public Instruction

Rules adopted revising **ch. PI 35**, relating to the Milwaukee parental choice program.

Finding of emergency

The Department of Public Instruction finds an emergency exists and that a rule is necessary for the immediate preservation of the public welfare. The facts constituting the emergency are as follows:

In the past, private schools that intended to participate in the Milwaukee parental choice program were required to submit to the state superintendent a notice of intent to participate by May 1, 2001 Wis. Act 16 changed the submission date of the notice from May 1 to February 1. The rules allow a private school to choose from a variety of student application periods. The student application period chosen by the private school must be indicated on its notice. Because the notice is due at the department by February 1, emergency rules must be in place as soon as possible.

Publication Date: January 28, 2002
Effective Date: January 28, 2002
Expiration Date: June 27, 2002
Hearing Date: April 9, 2002
 [See notice this Register]

Transportation

Rules adopted amending **s. Trans 102.15**, relating to the issuance of driver's licenses and identification cards.

Finding of emergency

This rule is adopted in response to the September 11, 2001, terrorist hijackings in the United States, and are intended to help uncover any possible terrorist attempting to obtain identification documents through the Wisconsin Department of Transportation. On November 21, 2001, the New York Times reported that to support their terrorism, terrorists finance applications for political asylum and thus implant terrorist cells in Western Europe. This rule change could interrupt terrorists who have applied for or received asylum in the United States and who attempt to obtain Wisconsin identification documents.

Because of the urgency of current government efforts directed at taking steps to interrupt terrorist workings, this order adopting an emergency rule shall take effect as provided below.

Publication Date: December 21, 2001
Effective Date: December 21, 2001
Expiration Date: May 20, 2002
Hearing Date: February 15, 2002

State Treasurer

Rules adopted creating **ch. Treas 1** relating to the Wisconsin College Savings Program Board.

Exemption from finding of emergency

Section 15 (1), 2001 Wis. Act 7 provides an exemption from a finding of emergency for the adoption of ch. Treas 1.

Analysis prepared by the Office of the State Treasurer

Statutory authority: Section 14.64 (2) (e), Stats., and section 15, 2001 Wis. Act 7.

Statutes interpreted: s. 14.64 *et seq.*, Stats.

The Wisconsin College Savings Program Board establishes a rule for the operation of the College Savings Program. The rule is designed to grant flexibility to program participants wherever possible, while enabling the State and its private-sector partners to administer the program in a manner that protects the program's financial integrity and viability. Maintaining eligibility as a "qualified tuition program" pursuant to section 529 of the Internal Revenue Code [26 USC 529] is another primary objective. "529" programs are eligible for a number of federal tax benefits that are attractive to families saving for future college costs. Significant features of the rule are addressed below:

Sections Treas 1.03, 1.04 and 1.05 describe who may open an account and how to open an account. Section Treas 1.06 discusses designating a successor owner and describes how to change ownership of an account. Sections Treas 1.07 and 1.08 define the account beneficiary and how to change the beneficiary on an account.

Section Treas 1.09 details how to make contributions to an account, including minimum and maximum contribution limits, and how to "roll over" an account balance to another section 529 program. IRS requirements relating to investment direction are also detailed.

Sections Treas 1.11, 1.12 and 1.13 describe account withdrawals, distributions and refunds. Special circumstances are also provided for in these sections, such as the death or disability of the beneficiary or receipt of a scholarship by a beneficiary. Section Treas 1.14 sets forth conditions under which the Board may terminate an owner's account. Sections Treas 1.15 and 1.16 address related fees and penalties.

Publication Date: January 7, 2002
Effective Date: January 7, 2002
Expiration Date: June 6, 2002
Hearing Date: March 5, 2002

Volunteer Fire Fighter and Emergency Medical Technician Service Award Board

Rules adopted creating **ch. VFF-EMT 1**, relating to the length of service award program.

Exemption from finding of emergency

Section 10 (3) (a), 1999 Wis. Act 105.

Analysis prepared by the Department of Administration:

Statutory authority: ss. 16.004 (1) and 16.25 (2), (3), (4) and (5), Stats.

Statutes interpreted: s. 16.25 *et seq.*, Stats.

Pursuant to section 16.25 (2) through (5), Stats., the Volunteer Fire Fighter and Emergency Medical Technician Service Award Board ("Board") is required to establish by rule a program ("Length of Service Awards Program" or "Program") to provide length of service awards, as described in 26 USC 457 (e) (11), to volunteer firefighters ("VFF") and municipalities that operate volunteer fire departments or contract with volunteer fire companies, and to volunteer emergency medical technicians ("EMT"). To the extent permitted by federal law, the Program is to be designed to treat length of service awards as a tax-deferred benefit under the Internal Revenue Code. The rules are to include design features for the Program, the requirements for and the qualifications of private sector entities that are eligible to provide administrative services and investment plans under the Program, and an appeal. Significant features of the rule are addressed below:

Section VFF-EMT 1.04 describes eligibility requirements for municipalities wishing to participate in the program, such as adopting a resolution or ordinance authorizing participation, developing standards for determining the service required of the individuals it sponsors in order to qualify for municipal contributions and providing for circumstances where municipalities wish to jointly operate, or contract with, the same volunteer fire department or volunteer fire company.

Section VFF-EMT 1.05 sets forth requirements and procedures for municipal contributions made on behalf of eligible volunteers, and for the state's matching contribution (up to \$250 per eligible individual annually).

Section VFF-EMT 1.06 sets forth the parameters for municipal contributions for prior service rendered before the municipality began participating in the Program. The minimum contribution for prior service is set at \$100, and those contributions may spread over a number of years. A separate accounting is required for these prior service payments.

Section VFF-EMT 1.07 sets forth the Program's vesting requirements and the various permutations possible between full and partial vesting periods and the minimum age requirement (age 60) for payout. Section VFF-EMT 1.07 (1) establishes that 20 years service is required to fully vest and,

upon reaching age 60, the award must be paid. (This requirement insures that the benefit maintains its tax deferred status.) Section VFF-EMT 1.07 (2) provides that a fully vested individual age 60 or older may continue to provide service toward a new length of service award under a new account but, for IRS rule purposes, contributions must be paid immediately and cannot accumulate. Section VFF-EMT 1.07 (3) provides for partial vesting after 10 years' service. Should the individual perform more than 10 but less than 20 years' service, upon reaching age 60, he or she will receive only 50% of the net asset value of the benefit account for the first 10 years of service rendered, and an additional 5% for each year thereafter, up to 19 years. Section VFF-EMT 1.07 (7) allows an individual to provide simultaneous service to two or more separate municipalities but, in such cases, only one year of service credit may be earned.

Section VFF-EMT 1.09 details the notice and procedure for when a VFF-EMT ceases performing service for one participating municipality and begins performing service for another municipality, which utilizes a different program administrator or vendor. Such a transfer is allowed, but the account will be frozen and a new one started with the new program administrator. However, any accumulated years of credited service will continue to count toward the vesting requirements. Section VFF-EMT 1.10 allows for benefits to be received both upon disability, or to the beneficiaries upon death of the VFF-EMT.

Section VFF-EMT 1.12 sets forth minimum program administrator qualifications. These include five years of experience providing a length of service award program, adequate marketing and enrollment services capabilities, various accounting and record keeping procedures and abilities, membership in good standing in various organizations customary in the program administrator's or investment manager's industry that provides protection against loss, and overall financial strength.

Section VFF-EMT 1.13 provides for the administration of plans offered by a program administrator under a contract with the Board, and standard provisions to be included. These include compliance with all pertinent state and federal statutes, rules and regulations, mandatory full disclosure to the Board of all fees and commissions earned directly and indirectly on the operations of the program, audits, and data processing system failure and administrative service interruption contingency plans. Also important are the required annual statements to participating municipalities and the individuals they sponsor, detailing all contributions made and the fees commissions, and charges paid that affect the individual's account.

Section VFF-EMT 1.17 provides for a two-step appeals process in which a VFF-EMT may first protest service credit issues to the participating municipality, which may consult with the program administrator. Any decision of the municipality may be reviewed at the Board's discretion. An individual who has a substantial interest affected by a Board decision may appeal directly in writing to the Board. All Board decisions are final.

Publication Date: September 21, 2001
Effective Date: September 21, 2001
Expiration Date: February 18, 2002
Hearing Date: December 27, 2001
Extension Through: April 18, 2002

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

Rules adopted revising **ch. DWD 290** and creating **ch. DWD 293**, relating to the adjustment of thresholds for application of prevailing wage rates and payment and performance assurance requirements.

Finding of emergency

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

The Department of Workforce Development is acting under its statutory authority to adjust thresholds for the application of prevailing wage laws on state or local public works projects and the application of payment and performance assurance requirements for a public improvement or public work. The thresholds are adjusted in proportion to any change in the construction cost index since the statutes were effective or the last adjustment.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately

six to seven months, until the conclusion of the permanent rule-making process. The thresholds are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process. The department is proceeding with this emergency rule to adjust the thresholds of the application of the prevailing wage rates to avoid imposing an additional administrative burden on local governments and state agencies caused by an effective decrease of the thresholds due solely to inflation in the construction industry. The department is proceeding with this emergency rule to adjust the thresholds of the application of the payment and performance assurance requirements in s. 779.14, Stats., to avoid imposing an additional administrative burden on contractors for the same reason. Adjusting the thresholds by emergency rule will also ensure that the adjustments are effective on a date certain that is prior to the time of year that the relevant determinations are generally made.

Publication Date: December 27, 2001

Effective Date: January 1, 2002

Expiration Date: May 31, 2002

Hearing Date: February 27, 2002

Scope statements

Health and Family Services

Subject

To create chapter HFS 43, to establish appeal procedures relating to agency determinations of child abuse or neglect.

Policy analysis

Currently, county departments of human services or social services (county department), the department, or licensed child welfare agencies under contract with either a county department or the Department of Health and Family Services (DHFS) must determine, after receipt of a report of suspected or threatened child abuse or neglect, whether abuse or neglect has occurred or is likely to occur. Recent revisions to the federal Child Abuse Prevention and Treatment Act (CAPTA), require that if the agency makes a determination that a specific person is responsible for the abuse or neglect, that person may appeal the determination.

In addition, recently enacted s. 48.981 (3) (c) 5m., Stats., require that the agency making the determination, within 15 days of the date of the determination, give the person against whom a determination has been made written notification of the determination, the right to appeal the determination, and the procedure for appealing the determination. Section 49.981 (3) (c) 5m., Stats., further requires that DHFS promulgate administrative rules establishing procedures for conducting an appeal of a determination that a specific person has abused or neglected a child. The rules must include a procedure permitting an appeal to be held in abeyance pending the outcome of any criminal or child in need of protection or services (CHIPS) proceeding based on the alleged abuse or neglect or any investigation that may lead to the filing of a criminal complaint or a CHIPS petition based on the alleged abuse or neglect.

The DHFS, in a proposed rulemaking order, will establish and propose procedures in accordance with the federal Child Abuse Prevention and Treatment Act and s. 48.981 (3) (c) 5m., Stats.

Statutory authority

The department's authority to create these rules is derived from ss. 49.981 (3) (c) 5m., and 227. 11 (2) (a), Stats.

Staff time required

Bureau of Program & Policies staff	120 hrs
Other Division of Children & Family Services staff –	20 hrs
OLC staff	20 hours

Insurance

Subject

Regarding Section Ins 17.285 (14), Wis. Adm. Code, relating to patients compensation fund peer review council members' and consultants' expenses.

Objective of the rule. To establish by rule the rate of compensation to be paid to members and consultants of the patients compensation fund peer review council as provided in s. 655.275 (10) of the Wisconsin statutes

Policy analysis

The 1999 revision to s. 655.275 (10) requires the Commissioner to establish by rule the rate of pay for peer review members and consultants. The Commissioner in the development of this rule will review past amounts paid for members and consultants expenses and determine a reasonable compensation rate for members and consultants services to the council.

Statutory authority

Sections 655.275 (10) and 655.004, Stats.

Staff time required

20–30 hours.

Natural Resources

Subject

Establishment of the 2002 migratory game bird hunting seasons in ch. NR 10.

Policy analysis

The proposed rule changes the basic migratory game bird hunting season rule to comply with changes required by the U.S. Fish and Wildlife Service and suggested by the public during the hearing process.

Statutory authority

Section 29.014, Stats.

Staff time required

The Department will need approximately 105 hours.

Natural Resources

Subject

Annual adjustment of timber stumpage rates in s. NR 46.30 and additional language adjustments as needed for the administration of the Managed Forest and Forest Crop Laws.

Policy analysis

The stumpage rate changes are an annual process and not a policy issue. Industrial and non-industrial forest landowners in the two forest tax laws, towns and counties with forest tax lands and landowners interested in entering into the forest tax laws are all interested in what happens to the forest tax law stumpage tables.

Statutory authority

Sections 77.06 (2), 77.91 (1) and 227.11 (2) (a), Stats.

Staff time required

The Department will need approximately 50 hours.

Natural Resources

Subject

Revisions to ch. NR 447 to specify violations of asbestos abatement and management rules that are subject to citation issuance and forfeiture collection.

Policy analysis

Citation authority will allow DNR wardens to issue citations for clearly defined violations of the asbestos

program. Issues that will potentially be raised by the regulated community will include citation forfeiture amounts.

Statutory authority

Section 285.56, Stats.

Staff time required

The Department will need approximately 225 hours.

Natural Resources

Subject

A rule to clarify provisions of ch. NR 428 and to modify the emissions trading provisions for NO_x to meet minimal criteria established by USEPA. After submitting ch. NR 428 as a SIP revision to USEPA, USEPA published guidance on minimal expectations for emissions averaging and trading programs. In order to obtain EPA approval of WI's SIP revision under this guidance, NR 428 needs to be revised. The language of ch. NR 428 needs to be modified to clarify and establish a minimal environmental benefit from averaging and trading and to establish a cap on mass emissions that is consistent with the emissions modeled in the attainment demonstration. After discussions with affected sources, two modifications to Ch. NR 428 are being proposed. First, instead of a 30 day rolling average, an ozone season limit will be established for sources that participate in emissions averaging and trading. Second, a new definition will be established for re–powered units. Repowered units shall meet the requisite emission limits for new sources in ch. NR 428, but will also be allowed to average and trade emissions consistent with the emissions cap and applicable emissions limits in ch. NR 428. In addition, discussion with affected sources has revealed a need to define a coal to gas combustion process so an appropriate emission limit may be established.

Policy analysis

Policy issues to be resolved include appropriate emissions limit for newly defined units and compliance issues for units that choose to participate in emissions averaging and trading. Groups likely to be interested in the issue include the 3 existing utilities in the nonattainment area and industry and environmental groups with interest in our state implementation plan.

Statutory authority

Sections 110, 182, 185–Federal Clean Air Act [42 USC 7410, 7511(a) 7515] and s. 285.11 (6), Stats.

Staff time required

The Department will need approximately 296 hours.

Regulation and Licensing

Subject

The Uniform Standards of Professional Appraisal Practice (USPAP), as adopted by the Appraisal Standards Board of the Appraisal Foundation.

Policy analysis

Objective of the rule. Repeal and recreate ch. RL 87, Appendix I, the Uniform Standard of Professional Appraisal Practice, to incorporate by reference the 2003 revisions to the Standards.

These rules will adopt revisions to the Standards that will be contained in the 2003 edition of the Uniform Standards of Professional Appraisal practice.

Statutory authority

Sections 227.11 (2), 458.03, 458.05 and 458.24, Stats.

Staff time required

60 hours.

Regulation and Licensing

Subject

Revision and clarification of administrative rules relating to the regulation of licenses and certified real estate appraisers.

Under federal law, the department is required to follow the guidelines set forth in the *Policy Statements Regarding State Certification and Licensing of Real Estate Appraisers* adopted by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council and the *Real Property Appraiser Qualification Criteria* established by the Appraiser Qualifications Board of the Appraisal Foundation. The proposed revisions will primarily incorporate changes relating to these guidelines.

Policy analysis

Objective of the rule. Clarify and update administrative rules. Recommended changes relate to:

- Revisions to the application, examination, experience, education and renewal requirements for licenses and certified real estate appraisers.

- Revisions relating to unprofessional conduct.

- Clarity, grammar, punctuation, and use of plain language.

Existing policies are contained in chs. RL 80 to 87 and Appendix I, Wis. Adm. Code. The proposal would do all of the following:

- Definitions

- Application, examination, experience, education and renewal requirements.

- Rules of unprofessional conduct.

- Chapters RL 80 to 87, to make minor, technical and grammatical changes.

Statutory authority

Sections 227.11 (2), 458.03 (1), 458.06, 458.08; 458.05, Stats.

Staff time required

80 hours.

Workforce Development

Subject

Revising ch. DWD 270, relating to regulation of child labor.

Policy analysis

The department will review and update the child labor rules in ch. DWD 270. The changes will include a new definition of agriculture, a prohibition on minors as bouncers or exotic dancers, a clarification of the types of volunteer work that may be done by minors under 14 years of age, and hours of labor allowed for 14– and 15–year olds who are home–schooled.

Statutory authority

Sections 103.65 to 103.82 and 227.11, Stats.

Staff time required

150 hours.

Submittal of rules to legislative council clearinghouse

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

Occupational Therapists Affiliated Credentialing Board

Rule Submittal Date

On February 15, 2002, the Occupational Therapists Affiliated Credentialing Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 448.956, 448.961, 448.962, 448.96, 448.963, 448.965, 448.966, 448.967, 448.968, 448.969 and 448.970, Stats.

The proposed rule-making order relates to the licensure and regulation of occupational therapists and occupational therapy assistants.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 22, 2002 at 9:30 a.m. in Room 179A, 1400 East Washington Avenue, Madison, Wisconsin, 53702.

Contact Person

Pamela Haack, Paralegal, Office of Administrative Rules, (608) 266-0495.

Public Defender

Rule Submittal Date

On February 27, 2002, the Office of the State Public Defender submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The Wisconsin State Public Defender Board proposes an order to amend s. PD 6.02 (1) relating to the repayment of cost of legal representation. The amendment would change the time period for fixed amounts as flat payments for the cost of representation that a person may elect to pay from 30 days to 60 days.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for April 1, 2002. The organizational unit primarily responsible for promulgation of the rule is the agency legal counsel.

Contact Person

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

Deborah M. Smith
Legal Counsel
(608) 261-8856

Public Instruction

Rule Submittal Date

On February 28, 2002, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rule creates ch. PI 28, relating to providing access to the 4th, 8th, and 10th grade Knowledge and Concepts Examinations and the High School Graduation Test.

Agency Procedure for Promulgation

Public hearings will be scheduled.

Contact Person

The Division for Reading and Student Achievement is primarily responsible for promulgation of this rule. If you have questions regarding this rule, you may contact H. Gary Cook, Director, Office of Educational Accountability, at (608) 267-9111.

Public Service Commission

Rule Submittal Date

On February 26, 2002, the Public Service Commission of Wisconsin submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

Analysis

The proposed rules relating to customer satisfaction surveys discretionary with respect to municipal utilities and incorporating technical corrections to ch. PSC 113, Wis. Adm. Code.

Agency Procedure for Promulgation

A public hearing will be held in the Amnicon Falls Hearing Room of the Public Service Commission Building, 610 North Whitney Way at 10:0 a.m. on April 30, 2002.

Contact Person

If you have any substantive questions regarding the proposed rules, you may contact Electric Division Chief Engineer, Jim Loock at (608) 266-3165. If you have any questions regarding the Commission's internal processing of the proposed rules, you may contact Attorney Leon Swerin at (608) 267-3589.

Regulation and Licensing**Rule Submittal Date**

On February 27, 2002, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: ss. 227.11 (2) and 480.08 (6), Stats.

The proposed rule–making order relates to education requirements prior to first renewal, courses and examinations, approval of education programs, courses and instructors for auctioneers.

Agency Procedure for Promulgation

A public hearing is required and will be held on March 26, 2002 at 10 a.m. in Room 281, 1400 East Washington Avenue, Madison, Wisconsin, 53702.

Contact Person

Pamela Haack, Paralegal, Office of Administrative Rules, (608) 266–0495.

Transportation**Rule Submittal Date**

On February 26, 2002, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m), Stats.

The proposed rule–making order relates to ch. Trans 154, vehicle odometer disclosure requirements.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for April 4, 2002.

The Division of Motor Vehicles, Dealer Section is responsible for promulgation of proposed rules.

Contact Person

Julie A. Johnson, Paralegal, (608) 266–8810.

Transportation**Rule Submittal Date**

On February 26, 2002, the Department of Transportation submitted a proposed rule to the Legislative Council Rules Clearinghouse.

Analysis

Statutory Authority: s. 227.14 (4m), Stats.

The proposed rule–making order relates to ch. Trans 139, motor vehicle trade practices.

Agency Procedure for Promulgation

A public hearing is required and is scheduled for April 4, 2002.

The Division of Motor Vehicles, Dealer Section is responsible for promulgation of proposed rules.

Contact Person

Julie A. Johnson, Paralegal, (608) 266–8810.

Rule–making notices

Notice of Hearing

Controlled Substances Board [CR 02–025]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Controlled Substances Board in ss. 961.11, 961.16 and 961.19, Stats., and interpreting s. 961.20 (2), Stats., the Controlled Substances Board will hold a public hearing at the time and place indicated below to consider an order to create s. CSB 2.28, relating to classifying dichloralphenazone as a schedule IV controlled substance under federal law.

Hearing Date, Time and Location

Date: **April 3, 2002**
 Time: 9:15 a.m.
 Location: 1400 East Washington Avenue
 179A
 Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by April 17, 2002, to be included in the record of rule–making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 961.11, 961.16 and 961.19, Stats.

Statute interpreted: s. 961.20 (2), Stats.

By final rule of the Drug Enforcement Administration (DEA), adopted effective August 16, 2001, dichloralphenazone was classified as a schedule IV controlled substance under the federal Controlled Substances Act (CSA). Dichloralphenazone has not been so scheduled under the Wisconsin Controlled Substances act in Chapter 961, Wis. Stats. The objective of this rule–making order is to bring the treatment of this drug into conformity with that at the federal level.

Drugs that are classified as “controlled substances” under federal and state laws are subject to higher civil and criminal penalties for their illicit possession, distribution and use. Health care providers are also subject to greater record keeping requirements respecting their obtaining, prescribing and dispensing of such drugs. This is due to the fact that certain drugs have a greater likelihood of abuse, addiction and adverse consequences to patient health if utilized inappropriately, than do other drugs. The DEA administers the CSA. In doing so, it is empowered to schedule a drug as a controlled substance. Schedule IV controlled substances are listed in 21 CFR 1308.14. Section 1308.14 (c) lists chloral hydrate as a depressant. The first sentence of 21 CFR 1308.14 (c) states that the category of schedule IV depressants includes “any material, compound, mixture, or preparation

which contains any quantity of” the substances listed in the section. Since dichloralphenazone is a compound containing chloral hydrate, it is likewise a schedule IV depressant. This forms the basis for the DEA action.

Text of rule

CSB 2.28 Addition of dichloralphenazone to schedule IV. Section 961.20 (2) (cs), Stats., is created to read:

Section 961.20 (2) (cs) Dichloralphenazone;

Fiscal estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266–0495.

Notice of Hearing

Financial Institutions – Securities

NOTICE IS HEREBY GIVEN that pursuant to sections 551.02 (3) (c), 551.31 (5) and 551.63 (2), Stats., the Division of Securities of the Department of Financial Institutions will hold a public hearing at 345 West Washington Avenue, 4th Floor Conference Room, at 10:00 a.m. on Wednesday, **May 15, 2002**, to consider the adoption of administrative rules of the Division of Securities under the Wisconsin Uniform Securities Law relating to bank sales of certificates of deposit of third–party financial institutions.

Written comments in lieu of public hearing testimony may be submitted which must be received no later than the hearing date and should be addressed to the Administrator of the Division of Securities, 345 West Washington Avenue, PO Box 1768, Madison, Wisconsin, 53701.

Statutory Authority: Sections 551.02 (3) (c), 551.31 (5) and 551.63 (2), Stats.

Statutes Interpreted: Sections 551.02 (3) (c) and 551.31 (5), Stats.

Summary Analysis Prepared by the Division of Securities

The Division currently has administrative rules in DFI–Sec 4.10 (1) to (4) entitled “Bank Agency Transactions.” That series of rules sets forth the requirements to be met for a bank, savings institution or trust company (“bank”) not to have to be licensed as a broker–dealer in Wisconsin in order to execute transactions involving various types of securities as an agent for public investor–purchasers or sellers of the securities.

Currently, when a bank sells its own certificates of deposit ("CDs") to purchasers, such does not trigger the Wisconsin securities broker-dealer licensing requirements. However, when a bank sells CDs of third-party financial institutions, such sales activities do not come within current Wisconsin statutory definitional exclusions or current administrative rules establishing exclusions from broker-dealer licensure for banks involved in effectuating securities transactions as agent for investors.

As a result, Wisconsin banks cannot engage in this activity, and Wisconsin investors cannot purchase at their "home" bank, the CDs of other financial institutions, unless and until an administrative rule with appropriate and necessary investor protections is enacted to enable those sales activities to take place. The proposed rules [which also involve a renumbering of current DFI-Sec 4.10 (1) to (4) to be DFI-Sec 4.10 (1) (a) to (d)] would create a new subsection (2) under existing Bank Agency Transactions rule s. DFI-Sec 4.10 to deal separately with this situation where the type of security involved in the transaction effectuated by the bank is a certificate of deposit issued by a third-party financial institution. Because the scope of authority under ss. 551.02 (3) (c) and 551.31 (5), Stats., for rule-making on this subject is limited to sales activities by banks, savings institutions and trust companies (the entities specified under s. 551.22 (3), Stats.), the proposed rules cannot include savings and loan associations, savings banks or credit unions (which are entities separately listed under ss. 551.22 (4) and (5), Stats.).

Because the CDs involved in such transactions under the proposed rules would be federally-insured certificates of deposit in amounts not exceeding the \$100,000 per investor insurance levels under Federal Deposit Insurance Corporation provisions (such that there is no risk of loss of principal to an investor), the entirety of the existing rules under DFI-Sec 4.10 (1) to (4) is not made applicable. Rather, in addition to those parts of current rules s. DFI-Sec 4.10 (1) to (4) that will be utilized, the proposed rules include several of the specific requirements currently contained in existing administrative rule DFI-Sec 4.11 relating to sales to the public by securities broker-dealers of so-called "brokered certificates of deposit."

The components of the proposed rule include the following:

(1) Supervisory requirements to be met by the bank regarding persons involved in providing administrative services and executing the CD transactions, which requirements correspond to existing requirements in current rule s. DFI-Sec 4.10 (1) (b) 2.

(2) Record-keeping requirements to be met by the bank relating to the CD transactions that correspond to existing requirements in current rule DFI-Sec 4.10(2).

(3) Disclosure requirements to be met--applicable to general advertising materials as well as materials used individually with investors--that are derived from current "brokered certificates of deposit" rule subsections in DFI-Sec 4.11 (1).

(4) The certificates of deposit involved in transactions under the rule may not exceed \$100,000 per investor such that, due to the existence of FDIC deposit insurance up to that level, there is no risk of loss of principal to investors.

A copy of the proposed rules to be considered may be obtained upon request to the Division of Securities, Department of Financial Institutions, 345 West Washington Avenue, 4th Floor, P.O. Box 1768, Madison, Wisconsin 53701.

Fiscal Estimate

A summary of the fiscal effects of the proposed rule revisions is as follows: (i) No one-time revenue fluctuations or annual fiscal effects; (ii) No long-range fiscal implications; (iii) No fiscal effect on local units of government.

Initial Regulatory Flexibility Analysis

1. Types of small businesses that could be affected by certain of the rule revisions are:

Because the proposed rules are applicable only to banks, the standard small business considerations under 227.114 (1) (a), Stats., are not involved. Additionally, because all Wisconsin investors are entitled to the public investor protection benefits of the proposed rules, the rules do not differentiate in their applicability based on the size of the bank conducting the sales activities under the rules.

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

Under par. (d) of proposed new DFI-Sec 4.10 (2), banks making sales of the CDs of third-party financial institutions pursuant to the rule are required to make and retain for a three (3) year period, a record of CD purchases made. The rule provides that such record-keeping requirements can be satisfied by keeping copies of purchase applications and customer checks, or copies of confirmations from the issuing financial institution.

Copies of Rule and Contact Person

A copy of the full text of the proposed rule revisions and fiscal estimate may be obtained from:

Randall E. Schumann (608) 266-3414
Legal Counsel for the Division of Securities
Department of Financial Institutions
345 West Washington Avenue, 4th Floor
P. O. Box 1768
Madison, WI 53701

Notice of Hearing

Medical Examining Board

[CR 02-008]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Medical Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats., and interpreting ss. 448.015 (4) and 448.02 (3), Stats., the Medical Examining Board will hold a public hearing at the time and place indicated below to consider an order to create s. Med 10.02 (2) (zc), relating to defining failing to cooperate in a timely manner in an investigation as unprofessional conduct.

Hearing Date, Time and Location

Date: **April 24, 2002**
Time: 8:30 a.m.
Location: 1400 East Washington Avenue
Room 179A
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by May 15, 2002 to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing.

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats.

Statutes interpreted: ss. 448.015 (4) and 448.02 (3), Stats.

The Medical Examining Board wants to include as unprofessional conduct the failure of a credential holder to cooperate in a timely manner with an investigation. The board wants it to be unprofessional conduct on the part of the credential holder for failing to cooperate by providing information the board has requested in a pending investigation within 30 days and be able to charge that credential holder with unprofessional conduct for failing to cooperate. The board has attempted on several occasions to obtain information from a credential holder on a complaint the board has received which they wish to investigate further but need information from the credential holder.

Text of Rule

SECTION 1. Med 10.02 (2) (cz) is created to read:

Med 10.02 (2) (zc) After a request by the department, failing to cooperate in a timely manner with the department's investigation of a complaint filed against the credential holder. There is a rebuttable presumption that a credential holder who takes longer than 30 days to respond to a request of the department has not acted in a timely manner.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

Notice of Hearing

Public Defender [CR 02-031]

NOTICE IS HEREBY GIVEN that pursuant to s. 977.02 (4m) Stats., and interpreting s. 977.075 (1) Stats., the Office of the State Public Defender will hold a public hearing at 315 North Henry Street, 2nd Floor, in the city of Madison, Wisconsin, on the **1st day of April 2002**, from 9:00 a.m. to 11:00 a.m. to consider the amendment of s. PD 6.02, related to the repayment of cost of legal representation. Reasonable accommodations will be made at the hearing for persons with disabilities.

Analysis prepared by the Wisconsin State Public Defender

Section 977.075 requires that the state public defender board establish by rule a program for repayment of the cost of legal representation. Section 977.075 (1) requires that the

state public defender board establish by rule fixed amounts as flat payments for the cost of representation that a person may elect to pay. Section PD 6.02 (1) is the original rule that was promulgated as required by s. 977.075 (1). The rule provides a flat payment schedule for persons electing to pay within 30 days of the appointment of counsel.

The state public defender board authorized a pilot project beginning in April 1998 in the 14 counties listed below. This project provided 60 days, instead of 30, to pay the lower prepayment amount as satisfaction of the payment obligation.

Adams	Forest	Langlade	Oneida
Price	Waupaca	Vilas	Florence
Kenosha	Marathon	Portage	Taylor
Wood	Lincoln		

The board authorized the expansion of the project to include Milwaukee in January 2000. Based on 24 months of data, the number of prepayments increased about 2.6% annually in Milwaukee. The 14 counties in the project outside of Milwaukee experienced a 3.3% increase in prepayments.

The proposed rule would amend s. PD 6.02 (1) to provide a 60-day flat payment option for all counties. It is anticipated that such a rule would result in similar increases in payments in the additional counties.

Statutory authority for rule: s. 977.02 (4m), Stats.

Statute interpreted: s. 977.075 (1), Stats.

Fiscal Estimate

It is anticipated that expanding the 60 day prepayment option statewide will increase revenues annually approximately \$110,000. Copies of the full fiscal estimates are freely available from the contact person.

Initial Regulatory Flexibility Analysis

The proposed amendment would not have a regulatory effect on small businesses.

Copies of Rule and Contact Person

For copies of the proposed amendment to the rule, or if you have questions, please contact Deborah Smith, Legal Counsel, 315 North Henry Street, Madison, WI 53703-3018; (608) 261-8856.

Written Comments

Written comments regarding this rule may be submitted in addition to or instead of verbal testimony at the public hearing. Such comments should be addressed to the contact person at the address stated above, and must be received by April 1, 2002.

Notice of Hearing

Public Instruction [CR 02-023]

NOTICE IS HEREBY GIVEN That pursuant to s. 227.11 (2) (a), Stats., and interpreting s. 119.23, Stats., the Department of Public Instruction will hold a public hearing as follows to consider emergency and proposed permanent rules, relating to Milwaukee parental choice program. These rules were promulgated as emergency rules effective January 28, 2002. The hearing will be held as follows:

Hearing Date, Time and Location

April 9, 2002	Milwaukee
4:00 – 6:00 p.m.	Milwaukee Technical College 700 West State Street Room M616

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Bob Soldner at (608)

266-7475 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

Copies of Rule and Contact Person

The administrative rule is available on the internet at <http://www.dpi.state.wi.us/dpi/dfm/pb/choiceeme.html>. A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to: lori.slauson@dpi.state.wi.us or by writing to:

Lori Slauson, Administrative Rules and Federal Grants Coordinator

Department of Public Instruction
125 South Webster Street
P.O. Box 7841
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above email or street address no later than April 15, 2002, will be given the same consideration as testimony presented at the hearing.

Analysis prepared by the Department of Public Instruction

2001 Act 16 modified provisions under s. 119.23, Stats., relating to the Milwaukee Parental Choice Program (MPCP). To reflect the statutory changes Chapter PI 35 would be modified to:

- Change the date a private school must annually submit notice of its intent to participate in the program from May 1 to February 1.

- Reduce payments from MPCP summer school by 60%.

Other changes would be made to better ensure that participating schools are safe and make it easier for parents to participate in the program, including:

- Creating optional open application periods for participating private schools starting in the 2002-03 school year.

- Changing the dates student applications are due at the department.

- Stating that submission of temporary permits would not meet the safety requirements of this program.

In addition, the following technical modifications would be made to Chapter PI 35:

- Define in rule, rather than by cross-reference to statute, "pupils enrolled" and "membership."

- Eliminate conflicting language related to the attendance standard that schools can meet to continue participation in the program in the following school year.

- Clarify the language related to counting students for the purpose of payment under the program and the requirement to return checks received by the school for students not present on the count dates.

- Modify references to the name of the program in the rule to make it consistent with the statutory name of the program.

Fiscal Estimate

Local and State

The rules make several modifications to the Milwaukee Parental Choice Program (MPCP). It is assumed the only rule modification that will have a fiscal effect is the reduction in the MPCP summer school payment made as a result of 2001 Wisconsin Act 16.

In FY02, prior to the enactment of Act 16, the MPCP summer school payment was calculated by multiplying the FTE summer school choice membership (158 FTE) by the per

pupil payment of \$5,553 totaling approximately \$877,400. Act 16 requires the per pupil payment amount for summer school to be multiplied by 40%, reducing the summer school payment by 60%. For example, if the new calculation under Act 16, were applied to the FY02 summer school payment, \$350,900 ($\$5,553 \times 40\% \times 158 \text{ FTE}$) would have been paid. This amount is \$526,500 (60%) less than what was paid using the previous formula (\$877,400).

Under current law, 45% of the MPCP's cost is funded from a reduction in general equalization to Milwaukee Public Schools (MPS) and 55% from state general purpose revenue. MPS can replace the reduction in state aid with an increase in its property tax levy. Therefore, this provision:

Could allow MPS to reduce its levy by \$236,925 ($\$526,500 \times 45\%$).

Would allow the state to provide \$289,575 less in funding ($\$526,500 \times 55\%$).

Private Schools

As described above, Act 16 will reduce payments made to private schools offering MPCP summer school by 60%.

Agency

These rules will not have a fiscal effect on agency revenues or costs.

Initial Regulatory Flexibility Analysis

The proposed rules will not have an additional fiscal effect on small businesses as defined under s. 227.114 (1) (a), Stats., in implementing the provisions under Act 16.

Notice of Hearing

Public Service Commission

[CR 02-027]

Hearing Date, Time and Location

Tuesday, April 30, 2002, 10:00 a.m.

Public Service Commission, 610 North Whitney Way, Madison, WI (Amnicon Falls Hearing Room – 1st Floor).

The Commission proposes an order to make application of s. PSC 113.0609, Wis. Adm. Code, relating to customer satisfaction surveys discretionary with respect to municipal utilities, and to incorporate technical corrections to ch. PSC 113, Wis. Adm. Code.

NOTICE IS GIVEN that pursuant to s. 227.16 (2) (b), Stats., a hearing will be held on Tuesday, April 30, 2002, at 10:00 a.m., in the Amnicon Falls Hearing Room at the Public Service Commission Building, 610 North Whitney Way, Madison, Wisconsin, to consider the revision of these service rules for electric utilities. This building is accessible to people in wheelchairs through the Whitney Way first floor (lobby) entrance. Parking for people with disabilities is available on the south side of the building. Any person with a disability who needs additional accommodations should contact the docket coordinator listed at the end of this notice.

Analysis prepared by the Public Service Commission

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

Statute interpreted: ss. 196.499 (14) and 196.58 (4), Stats.

The objective of this rulemaking is to make modifications to ch. PSC 113, Wis. Adm. Code, based upon review after the repeal and recreation of the Chapter, which became effective in August 2000.

The proposed revisions to ss. PSC 113.0402 (3) (b) and 113.0403 (4) (b), Wis. Adm. Code, are proposed to modify the timing requirements to be consistent with other sections in the chapter.

The proposed revisions to ss. PSC 113.0607 (2) (b) 6, 113.0701 (1), (2), (4), (6), (7), (8), 113.0912 (1) (a), 113.0913

(1) (a) and 133.0914 (1) (a), Wis. Adm. Code are to provide more accurate descriptive language in the various rule sections.

The objective of the revision to s. PSC 113.0609, Wis. Adm. Code relating to customer satisfaction surveys is to make the provision of such surveys by municipal utilities discretionary. Its purpose in part is to recognize that municipal utilities focus solely on core electric utility services, are small in size, and have a close relationship with their customers. The intention of the surveys is to ensure that competition in non-core services does not adversely affect the quality and value of core utility services. The implementation of the surveys by the municipal utilities would be an unnecessary cost burden with less benefit from mandated surveys of municipal customers than would be gained from surveys of customers of larger investor-owned utilities.

The proposed revision to s. PSC 113.0803 (1) Wis. Adm. Code would add the phrase "residential care apartment complex or similar facility" to follow Commission decisions incorporating such facilities as exempted from the separate metering requirement.

The proposed elimination of s. PSC 113.0811 (4) Wis. Adm. Code is because prepayment meters are not allowed.

A statement of scope on this rule was approved by the Commission on September 13, 2001, and was published in the Wisconsin Administrative Register on October 15, 2001.

TEXT OF PROPOSED RULE

SECTION 1. PSC 113.0402 (3) (b) is amended to read:

PSC 113.0402 (3) (b) Upon termination of a guarantee contract, or whenever the utility deems the guarantee insufficient as to amount of surety, a cash deposit or new or additional guarantee may be required upon 20-day written notice to the customer. The service of any customer who fails to comply with these requirements may be disconnected upon ~~8-10~~ days' written notice.

SECTION 2. PSC 113.0403 (4) (b) is amended to read:

PSC 113.0403 (4) (b) On termination of a guarantee contract, or whenever the utility deems the amount of surety insufficient, a cash deposit or a new or additional guarantee may be required on 20-day written notice to the customer. The service of a customer who fails to comply with these requirements may be disconnected on 8 10 days written notice, subject to the establishment of an installment payment agreement.

SECTION 2. PSC 113.0607 (2) (b) 1a is amended to read:

PSC 113.0607 (2) (b) 1a 1. Inspection a. The Plan shall include a schedule for the periodic inspection as ~~approved by the commission~~ of all facilities owned and operated by the utility and used to provide electric service to its customers. The Plan shall describe the method for inspection of each type of equipment as designated by the reporting utility. Checklist/report forms shall be included in the Plan.

SECTION 4. PSC 113.0607 (2) (b) 6 is amended to read:

PSC 113.0607 (2) (b) 6 Reporting requirements. Each utility shall provide a periodic report to the commission showing compliance with its Preventative Maintenance Plan. The report shall include a list of inspected circuits and facilities, the condition of the facilities according to established rating criteria, schedules established and success at meeting the established schedules. For generation facilities, the report shall include a summary of each generating unit's operating performance statistics based on the utility's GADS data, or other accepted industry data convention. Reported generating unit performance data shall include net dependable capacity, capacity factor, forced outage rate, scheduled outage rate factor, primary fuel and

production technology type. The commission shall establish a periodic report schedule for each utility of at least once every 2 years.

SECTION 7. PSC 113.0609 (1) is amended to read:

113.0609 (1) Using methods approved by the commission, ~~the utility~~ each municipally owned electric public utility, as directed by the commission where there is cause to do so, and each investor-owned electric public utility, on an annual basis, shall fund ~~annual-regular~~ quantitative assessments, made by an independent entity, of the satisfaction of all customer classes with the services they have received from the utility. The results of these assessments shall be filed with the commission. The utility shall provide to the commission a detailed report of the information from any research it has conducted in the past year to help assess:

(a) The satisfaction of the utility's customers with the services they have received from the utility.

(b) The specific new services or alterations to existing services desired by customers.

SECTION 6. PSC 113.0701 (1) is amended to read:

113.0701 (1) "Flicker" or "voltage flicker," as described by ~~IEEE Standard 1100-1992~~ the Authoritative Dictionary of IEEE Standards Terms-7th Ed., means a variation of input voltage sufficient in duration to allow visual observation of a change in electric light intensity.

Section 7. PSC 113.0701 (2) is amended to read:

113.0701(2) "Harmonic distortion," as defined by ~~IEEE Standard 1100-1992~~ the Authoritative Dictionary of IEEE Standards Terms-7th Ed. means a mathematical representation of the distortion of the pure sine waveform. Distortion of the pure sine waveform is typically caused by loads that draw current discontinuously or whose impedance varies during the cycle of the input ac voltage waveform.

SECTION 8. PSC 113.0701 (4) is amended to read:

113.0701 (4) "power quality," as defined by ~~IEEE Standard 1100-1992~~ the Authoritative Dictionary of IEEE Standards Terms-7th Ed., means the concept of powering and grounding sensitive electronic equipment in a manner that is suitable to the operation of that equipment.

SECTION 9. PSC 113.0701 (6) is amended to read:

113.0701 (6) "Sag," as defined by ~~IEEE Std 1100-1992~~ the Authoritative Dictionary of IEEE Standards Terms-7th Ed., means an rms reduction in the ac voltage at the power frequency, for durations from a half-cycle to a few seconds.

SECTION 10. PSC 113.0701 (7) is amended to read:

113.0701 (7) "Swell," as defined by ~~IEEE Std. 1100-1992~~ the Authoritative Dictionary of IEEE Standard Terms-7th Ed., means an rms increase in the ac voltage, at the power frequency, for durations from a half-cycle to a few seconds.

SECTION 11. PSC 113.0701 (8) is amended to read:

PSC 113.0701 (8) "Transient," as defined by ~~IEEE Std. 1100-1992~~ the Authoritative Dictionary of IEEE Standards Terms-7th Ed., means a subcycle disturbance in the ac waveform that is evidenced by a sharp but brief discontinuity of the wave form. It ~~M~~may be of either polarity and may be additive to or subtractive form the nominal waveform.

SECTION 12. PSC 113.0803 (1) is amended to read:

PSC 113.0803 (1) Individual electric meters required for non-transient multi-dwelling unit residential buildings, mobile home parks, and for commercial establishments. Each dwelling in a multi-dwelling unit residential building and mobile home park constructed after March 1, 1980, shall have installed a separate electric meter for each such dwelling unit. Dwelling unit means a structure or that part of a structure which is used to or intended to be

used as a home, residence or a sleeping place by one or more persons maintaining a common household and shall exclude transient multi-dwelling buildings and mobile home parks; for example, hotels, motels, campgrounds, hospitals, community-based residential facilities, residential care apartment complexes or similar facilities, nursing homes, college dormitories, fraternities, and sororities.

Section 13. PSC 113.0811 (4) is repealed.

Section 14. PSC 113.0912 (1) (a) is amended to read:

PSC 113.0912 (1) (a) Before being placed in service. For new meters given a prior test by the manufacturer, the manufacturer's certified test results may be substituted for this requirement. ~~for all meters tested under the provisions of s. PSC 113.0921.~~

Section 15. PSC 113.0913 (1) (a) is amended to read:

PSC 113.0913 (1) (a) Before being placed in service. For new meters given a prior test by the manufacturer, the manufacturer's results may be substituted for this requirement. ~~for all meters tested under the provisions of s. PSC 113.0921.~~

Section 16. PSC 113.0914 (1) (a) is amended to read:

PSC 113.0914 (1) (a) Before being placed in service. For new meters given a prior test by the manufacturer, the manufacturer's certified test results may be substituted for this requirement. ~~for all meters tested under the provisions of s. PSC 113.0921.~~

EFFECTIVE DATE; This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, as provided in s. 227.22 (2) (intro), Stats.

Initial Regulatory Flexibility Analysis

In s. PSC 113.0403 (4) (b), Wis. Adm. Code, there is an increase in the written notice required to be provided to the commercial customer prior to disconnection. In s. PSC 113.0609 (1), Wis. Adm. Code, municipal utilities would be allowed to provide customer satisfaction surveys on an as needed basis rather than annually. Section PSC 113.0803 (1) Wis. Adm. Code, would add residential care apartment complexes or similar facilities to the type of unit excluded from requiring a separate electric meter for each dwelling unit. Otherwise the proposed rules will have no effect on small business.

Fiscal Estimate

This rule has no fiscal impact. A completed Fiscal Estimate form is included as Attachment A.

Copies of Rule and Contact Person

Questions regarding this matter should be directed to docket coordinator Terri Kosobucki at (608) 267-3595. 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 obtain this document in a different format should contact the docket coordinator listed above.

Notice of Hearing

Regulation and Licensing [CR 02-030]

NOTICE IS HEREBY GIVEN that pursuant to authority vested in the Department of Regulation and Licensing in ss. 227.11 (2) and 480.08 (6), Stats., and interpreting s. 480.08

(6), Stats., the Department of Regulation and Licensing will hold a public hearing at the time and place indicated below to consider an order to repeal ss. RL 128.02 (2), 128.04 (5) and 128.07; to amend ss. RL 128.02 (1), (4) and 128.04 (1); to repeal and recreate s. RL 128.03; and to create ss. RL 128.015 and 128.04 (1m) and a Note following s. RL 128.04 (1m), relating to education requirements prior to first renewal, courses and examinations, approval of educational programs, courses and instructors.

Hearing Date, Time and Location

Date: **March 26, 2002**

Time: 10:00 a.m.

Location: 1400 East Washington Avenue
Room 281
Madison, Wisconsin

Appearances at the Hearing

Interested persons are invited to present information at the hearing. Persons appearing may make an oral presentation but are urged to submit facts, opinions and argument in writing as well. Facts, opinions and argument may also be submitted in writing without a personal appearance by mail addressed to the Department of Regulation and Licensing, Office of Administrative Rules, P.O. Box 8935, Madison, Wisconsin 53708. Written comments must be received by April 5, 2002, to be included in the record of rule-making proceedings.

Analysis prepared by the Department of Regulation and Licensing

Statutes authorizing promulgation: ss. 227.11 (2) and 480.08 (6), Stats.

Statutes interpreted: s. 480.08 (6), Stats.

In this proposed rule-making order the Department of Regulation and Licensing, with the advice and counsel of the Auctioneer Board, amends ch. RL 128 for the purpose of reestablishing continuing education requirements for registered auctioneers. The current provisions in ch. RL 128, state the requirements for the approval of courses and instructors, the certification of completion of courses, and an optional test-out examination. However, these provisions have had no validity since December 31, 2000, because a sunset provision in s. RL 128.07 stated that this chapter only applied to registered auctioneers when renewing a registration as an auctioneer for the January 1, 1999-December 31, 2001 biennium.

In proposing to reestablish continuing education for auctioneers, the department proposes to amend several of the provisions that are in the current rule and to create a few new provisions. The following substantive changes are proposed:

Section RL 128.02 (1) reduces the number of continuing education hours from 9 to 6 hours each biennium. This section continues the requirement for an indefinite period of time. This section also exempts registrants from the continuing education requirement if they had obtained an initial registration certificate within 6 months before the renewal deadline.

Section RL 128.03 (1) gives the department the authority, with the advice and recommendations of the board, to determine the contents of the 6 hours of instruction every 2 years before the beginning of a new licensing biennium. Section RL 128.03 (2) requires a course provider to give a written examination subsequent to the completion of instruction of each course. A registered auctioneer would be required to pass the examination in order to receive credit for the course. The rule also defines the nature of the examination and the requirements for passing the examination.

Section RL 128.04 (1m) describes the conditions for approval of distance education courses. "Distance education" is defined in s. RL 128.015.

Fiscal Estimate

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

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

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

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

Copies of this proposed rule are available without cost upon request to: Pamela Haack, Department of Regulation and Licensing, Office of Administrative Rules, 1400 East Washington Avenue, Room 171, P.O. Box 8935, Madison, Wisconsin 53708 (608) 266-0495.

Notice of Hearing

Transportation [CR 02-028]

NOTICE IS HEREBY GIVEN that pursuant to ss. 218.0152 (1) and 227.11, Stats., and interpreting ss. 218.0116 (1) (cm), (e), (gm), (im) 2., (j) and (km), 218.0141 and 218.0144, Stats., the Department of Transportation will hold a public hearing in **Room 421** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **4th** day of **April**, 2002, at **1:00 PM**, to consider the amendment of ch. Trans 139, Wis. Adm. Code, relating to motor vehicle trade practices.

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.

The public record on this proposed rule making will be held open until close of business April 5, 2002, 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 Adam Boardman, Division of Motor Vehicles, Dealer Section, Room 806, P. O. Box 7911, Madison, Wisconsin 53707-7911.

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

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 218.0152 (1) and 227.11, Stats.

STATUTES INTERPRETED: ss. 218.0116 (1) (cm), (e), (gm), (im) 2., (j) and (km), 218.0141 and 218.0144, Stats.

General Summary of Proposed Rule. Currently, ch. Trans 139 prohibits motor vehicle dealers from charging a "processing" or "doc" (documentation) fee relating to a vehicle purchase for functions the dealer must perform prior to the vehicle's delivery. The lone exception to this rule [Trans 139.05(8)(b)] allows a dealer licensee who has contracted with the Department, in accordance with the provisions of s. 341.21, Stats., to charge a purchaser a fee in

the amount contained in the contract for the dealer's services relating to the processing or distribution of an original or renewal registration or a certificate of title. This processing fee is the \$17.50 "Electronic Title/Plate Filing Fee" charged in conjunction with the APPS (Automated Partners in Processing) on-site registration program.

The proposed policy change will eliminate the prohibition on "doc" fees, and allow a dealer to charge a reasonable fee for functions the dealer must perform prior to the vehicle's delivery, including: performing inspections, collecting and reporting fees and taxes, performing background checks on odometer history, filing registration and title on behalf of purchasers, and purchasing required forms. The proposed change would not impinge upon the dealer's ability to charge an optional processing fee in conjunction with the APPS program. Motor vehicle dealers are subject to a number of statutes and regulations. A processing fee is not required by law. Any rule change, including allowing a dealer to charge a customer a "doc" fee, would need to be consistent with the applicable statutes and regulations. This may include revising other rules and placing conditions, including full disclosure of the fee, upon a dealer charging a customer "doc" fees.

Fiscal Estimate

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be minimal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis.

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

Copies of Rule and Contact Person

Copies of this proposed rule can be obtained, without cost, by writing to Adam Boardman, Division of Motor Vehicles, Dealer Section, 4802 Sheboygan Avenue, Room 806, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 264-9538. Alternate formats of the proposed rule will be available to individuals upon request.

Notice of Hearing

Transportation [CR 02-029]

NOTICE IS HEREBY GIVEN that pursuant to ss. 85.16 (1), 218.0146 (1), 218.0152 (3), 227.11 (2) (a), 342.155 (1) (c), 342.156 (5), 342.157 and 342.16 (1) (c), Stats., and interpreting ss. 218.0146, 342.155, 342.156, 342.157, 342.16 (1g), Stats., the Department of Transportation will hold a public hearing in **Room 421** of the Hill Farms State Transportation Building, 4802 Sheboygan Avenue, Madison, Wisconsin on the **4th** day of **April**, 2002, at **1:00 PM**, to consider the amendment of ch. Trans 154, Wisconsin Administrative Code, relating to vehicle odometer disclosure requirements.

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.

The public record on this proposed rule making will be held open until close of business Friday, April 5, 2002, 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 Adam Boardman, Division of Motor Vehicles, Dealer Section, Room 806, P. O. Box 7911, Madison, Wisconsin 53707-7911.

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

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: ss. 85.16 (1), 218.0146 (1), 218.0152 (3), 227.11 (2) (a), 342.155 (1) (c), 342.156 (5), 342.157 and 342.16 (1) (c), Stats.

STATUTES INTERPRETED: ss. 218.0146, 342.155, 342.156, 342.157 and 342.16 (1g), Stats.

General Summary of Proposed Rule

Chapter Trans 154 establishes the Department of Transportation's interpretation of statutes relating to the implementation of the provisions of the federal odometer law, as they affect regulation of vehicle odometer disclosure.

When reassigning ownership of a new motor vehicle which has not been previously titled or registered, ch. Trans 154 currently requires the dealer to complete an odometer disclosure on a "conforming" odometer disclosure statement. This rule making will amend s. Trans 154.03 (2) (a) by replacing the existing requirement with the requirement that the odometer disclosure shall be recorded in the designated spaces provided on the manufacturer's document of origin when disclosing mileage that is actual. When the odometer reading is not "actual," a separate conforming document will be required. The odometer reading is not "actual" if that odometer reading differs from the vehicle's mileage. An odometer reading can be not actual for a variety of reasons, including an odometer calibration error, mileage in excess of the designed mechanical odometer limit, accident, fire, fraud,

etc. However, most of these reasons for a not actual reading are uncommon to new cars.

The manufacturer's document of origin was specifically designed to facilitate ownership and odometer tracking in an effective and consistent manner. Adopting the policy of disclosing mileage on the manufacturer's document of origin, without requiring an additional "conforming" document, will increase interstate and intrastate consistency, will decrease redundancies created by recording the mileage on the manufacturer's document of origin and on a separate conforming document, will align the state law more closely with the federal law, 49 CFR 580.17, and will promote goodwill and efficiency.

Fiscal Estimate

The Department estimates that there will be no fiscal impact on the liabilities or revenues of any county, city, village, town, school district, vocational, technical and adult education district, sewerage district, or federally-recognized tribes or bands. The Department estimates that there will be no fiscal impact on state revenues or liabilities.

Initial Regulatory Flexibility Analysis

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

Copies of Rule and Contact Person

Copies of this proposed rule can be obtained, without cost, by writing to Adam Boardman, Division of Motor Vehicles, Dealer Section, 4802 Sheboygan Avenue, Room 806, P. O. Box 7911, Madison, WI 53707-7911, or by calling (608) 264-9538. Alternate formats of the proposed rule will be available to individuals upon request.

Submittal of proposed rules to the legislature

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

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

(CR 01-092)

Ch. A-E 6, relating to the number of required semester credits in land surveying for an applicant applying with a bachelor's degree in civil engineering.

Commerce

(CR 01-087)

Ch. Comm 10, relating to flammable, combustible and hazardous liquids.

Commerce

(CR 01-110)

Ch. Comm 70, relating to historic buildings.

Commerce

(CR 01-157)

Chs. Comm 122 and 128, relating to health care loan assistance.

Health and Family Services

(CR 01-148)

Ch. HFS 119, relating to the health Insurance Risk-Sharing Plan (HIRSP) with limits on HIRSP policyholder out-of-pocket expenses for covered prescription drugs.

Social Workers, Marriage and Family Therapists and Professional Counselors

(CR 01-151)

Ch. SFC 16, relating to supervised clinical practice.

Transportation

(CR 02-005)

Ch. Trans 102, relating to the issuance of driver's licenses and identification card.

Workforce Development

(CR 01-138)

Ch. DWD 44, relating to child support incentive payments.

Workforce Development

(CR 02-007)

Ch. DWD 55, relating to day care certification.

Rule orders filed with the revisor of statutes bureau

The following administrative rule orders 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 date of these rules could be changed. Contact the Revisor of Statutes Bureau at gary.poulson@legis.state.wi.us or (608) 266-7275 for updated information on the effective dates for the listed rule orders.

**Commerce
(CR 01-126)**

An order affecting ch. Comm 95, relating to mobile home parks.
Effective 4-1-02

**Natural Resources
(CR 01-115)**

An order affecting ch. NR 25, relating to commercial fishing in Lake Superior and Lake Michigan.
Effective 3-1-02

**Natural Resources
(CR 01-011)**

An order affecting ch. NR 45, relating to public use of department lands.
Effective 5-1-02

**Natural Resources
(CR 00-110)**

An order affecting chs. NR 19 and 64, relating to ATV and snowmobile education fees.
Effective 5-1-02

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