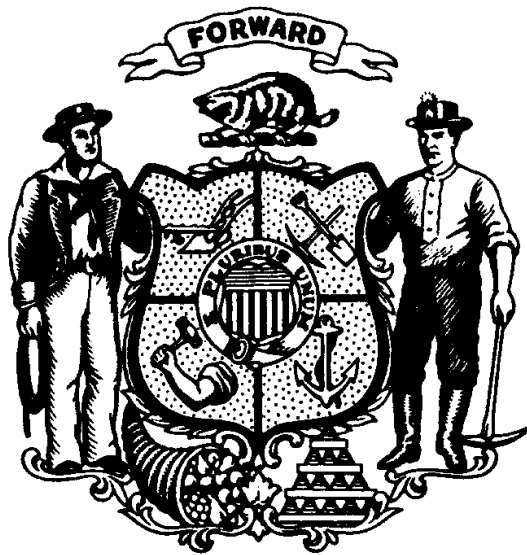


WISCONSIN ADMINISTRATIVE REGISTER

No. 493



Publication Date: January 14, 1997
Effective Date: January 15, 1997

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EMERGENCY RULES NOW IN EFFECT

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

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

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

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

EMERGENCY RULES NOW IN EFFECT

Department of Agriculture, Trade & Consumer Protection

Rule adopted creating **s. ATCP 139.04 (11)**, relating to prohibiting the sale of butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons for use as refrigerants in mobile air conditioners.

Finding of Emergency

(1) On June 2, 1995, the United States Environmental Protection Agency ("EPA") issued a final rule prohibiting the use of HC-12a, a hydrocarbon-based refrigerant containing liquified petroleum gas, as a refrigerant in mobile air conditioning systems. EPA prohibited HC-12a, and a predecessor product called OZ-12, because of safety risks associated with the use of flammable refrigerants in mobile air conditioning systems. According to EPA, the manufacturer of HC-12a did not provide adequate information to demonstrate that the product was safe when used in a mobile air conditioning system.

(2) Despite the current EPA rule, at least one company is currently engaged in manufacturing and distributing HC-12a for use in motor vehicle air conditioning systems. The Idaho manufacturer argues that EPA lacks jurisdiction to regulate the sale of its product. HC-12a is currently being offered, distributed or promoted for sale at wholesale and retail outlets in Wisconsin and surrounding states, for use as a refrigerant in mobile air conditioning systems.

(3) HC-12a is a highly flammable substance, as defined by the American Society of Testing and Materials (ASTM) standard test procedure for refrigerants, the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE), and Underwriter's Laboratories. Use of HC-12a or its predecessor, OZ-12, in mobile air conditioning systems is inconsistent with standards adopted by the Society of Automotive Engineers.

According to those standards, refrigerants used in mobile air conditioning systems must be of low toxicity, and must be nonflammable and nonexplosive.

(4) At least 13 states have enacted legislation prohibiting the sale of refrigerants for use in air conditioning or refrigeration systems unless those refrigerants meet flammability standards or are specifically approved for their intended use.

(5) HC-12a and other hydrocarbon-based refrigerants, when sold for use in motor vehicle air conditioning systems, present a serious risk to public health and safety for the following reasons:

(a) Motor vehicles and mobile air conditioning systems are not currently designed to use flammable refrigerants, or to prevent hazards associated with flammable refrigerants.

(b) Refrigerants in mobile air conditioning systems commonly leak into the engine compartments or passenger compartments of motor vehicles. Leaking refrigerant is often routed into the passenger compartment through the air distribution system from the evaporator. Hydrocarbon refrigerants, which are heavier than air, will tend to accumulate in low or confined spaces of a motor vehicle.

(c) Hydrocarbon refrigerants are flammable at low concentrations.

(d) Internal components of a motor vehicle provide many potential sources of ignition for flammable refrigerants. Passenger activities, such as smoking, may also create ignition sources.

(e) Fires or explosions resulting from the ignition of leaked flammable refrigerant may cause serious bodily injury or death to motor vehicle passengers. Automotive technicians who test for leaks, or who repair or service mobile air conditioning systems containing flammable refrigerants, are also at risk.

(6) The risk to public health and safety cannot be adequately addressed by product packaging or labeling, for the following reasons:

(a) The use of flammable hydrocarbon-based products in motor vehicle air conditioning systems is inherently hazardous. That hazard will not be materially altered by mere packaging or labeling.

(b) Use is hazardous to persons who are not aware that the refrigerant is present, and have not have seen or read the product label.

(c) Current product labels for HC-12a already contain a warning statement that the contents are under pressure and are extremely flammable. Current labels direct use by qualified personnel only, and list other cautions and instructions when recharging a mobile air conditioning system with this substitute refrigerant. These label statements do not materially alter the hazard inherent in the use for which the product is sold. There are few if any protective actions which a customer or technician could take to reduce the hazards associated with use of the product.

(d) There are no automotive industry standards which would allow a flammable refrigerant to be used in a motor vehicle air conditioning system as currently designed.

(7) Flammable hydrocarbon-based refrigerants, including HC-12a, OZ-12, and other refrigerants containing butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons, pose a serious risk to public health and safety when sold for use as refrigerants in mobile air conditioners. At this time, the public health and safety can only be protected by keeping these products out of the channels of commerce in this state. The department can and should adopt rules, under ss. 93.07(1) and 100.37(2), Stats., prohibiting the sale of such products in this state.

(8) Pending the adoption of rules according normal administrative rulemaking procedures, it is necessary to adopt

emergency rules under s. 227.24, Stats., to protect the public health, safety and welfare.

Publication Date: October 9, 1996
Effective Date: October 9, 1996
Expiration Date: March 8, 1997
Hearing Date: November 15, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Commerce

Rules adopted repealing **ch. DOD 13** and creating **ch. Comm 113**, relating to the annual allocation of volume cap.

Finding of Emergency

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

Historically, s. 560.032, Stats. has been interpreted by the legislature and certain legislative attorneys to provide that the annual allocation for the distribution of volume cap established by the Department of Commerce expires at the end of each calendar year. To comply with this interpretation, the Department is required to repeal and recreate the volume cap rule annually. The proposed permanent rule for 1997 is in process. Without this emergency rule, which is effective upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes, there will be several months during which Wisconsin will be unable to take advantage of the approximately \$260 million of volume cap and thus risk losing the jobs and investment that would be created by Wisconsin businesses that otherwise would make use of the federally subsidized financing during the period. Adoption of the rule will insure that there is no gap in the use of this development tool and that the jobs and investment occur.

Publication Date: December 30, 1996
Effective Date: December 30, 1996
Expiration Date: May 29, 1997

EMERGENCY RULES NOW IN EFFECT

Department of Corrections

Rules adopted creating **s. DOC 309.05 (2)(d)**, relating to inmate mail.

Finding of Emergency

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

Wisconsin state prison inmates outgoing mail is generally not reviewed or censored. Inmates have used mail to:

1. Contact the victims of their crimes, which has caused severe emotional distress;
2. Threaten and harass elected officials, law enforcement officers, and other persons; and
3. Defraud mail order and other businesses.

Since November 1, 1993, pursuant to Internal Management Procedure #35, the department has stamped outgoing inmate mail to indicate that the mail was sent from the Wisconsin state prison

system. IMP #35 was adopted to protect victims of crime, the public, and businesses from inmate harassment and fraud.

The Wisconsin Court of Appeals ruled in an unpublished decision that IMP #35 had to be promulgated as an administrative rule.

In order to protect the public welfare of the state, it is necessary for the department to adopt the following emergency rule to ensure that victims of crime are not further victimized by inmate mail, that members of the public are not threatened or harassed, and that businesses are not defrauded.

Publication Date: August 15, 1996
Effective Date: August 15, 1996
Expiration Date: January 12, 1997
Hearing Dates: January 10, 13 & 14, 1997

EMERGENCY RULES NOW IN EFFECT (3)

Health and Social Services

(Community Services, Chs. HSS 30--)

1. Rules were adopted revising **ss. HSS 55.70 to 55.76**, relating to administration of child care funds.

Exemption From Finding of Emergency

The Legislature in s. 275 (2) of 1995 Wis. Act 289 directed the Department to promulgate rules relating to public assistance required under chs. 46, 48 and 49, Stats., as affected by the Acts of 1995, before July 1, 1996, for the period before permanent rules take effect, by using emergency rulemaking procedures but without having to make a finding of emergency. These are public assistance-related rules. They are for administration of health care funds. They will take effect on July 1, 1996.

Analysis

The Department's rules for county agency, tribal agency and other child care administrative agency administration of funds for child day care under s. 46.98, Stats., are revised by this order to bring the rules into compliance with statute changes made by 1995 Wis. Acts 27 and 289 and changes in federal regulations, including federal regulations for child care and development block grant funding, 45 CFR Parts 98 and 99, and at-risk child care, 45 CFR Part 257, since the rules were last revised in late 1991; to made policies relating to eligibility for low-income child care more like child care eligibility policies under the Job Opportunities and Basic Skills (JOBS) training program under 42 USC 682 and s. 49.193, Stats.; to prevent and deal with fraud; and to clarify the applicability of certain policies.

Key changes are the following:

1. Income Eligibility

Income eligibility for low income child care is changed to be in compliance with changes made in s. 46.98 (4), Stats., by Act 289.

2. Costs Charged to Parents

Parent co-payment responsibilities are revised to be those established in state law based on family income and the cost of care.

3. Eligibility for Parents in Training or Educational Programs

Parent eligibility to received low-income child care funds when the parents are in training or educational programs is modified so that only parents under 20 years of age enrolled in high school or an equivalent program are eligible, in compliance with Act 289 changes in the statutes.

4. Loss of Eligibility

A local agency is permitted to determine that a parent is no longer eligible for child care funds if the parent fails to make required co-payments or provides false information to the agency about income or other matters affecting eligibility.

5. Recovery of Funds

Rules are added in compliance with 1995 Wis. Act 27 to provide for recovery of funds from a parent if the parent was not eligible for child care funds, and for recovery of an overpayment made to a provider when the provider is responsible for the overpayment.

6. Reimbursement

Local agencies are permitted to reimburse parents under certain circumstances for the cost of health care services or to make funds available to parents for the purchase of child care services, and local agencies are directed when to reimburse child care providers on the basis of authorized units of service or for days of attendance.

7. Authorized Child Care Providers

Local agencies are permitted to make payments, under certain conditions, to child care providers who are not licensed or certified, including:

- a. When an AFDC recipient is involved in orientation, enrollment or initial assessment in the JOBS program.
- b. When child care is on–site and short–term for parents in training or education programs.
- c. When short–term care is needed for a child who is ill and not allowed to receive care from a regulated provider.

8. Higher Rates for Higher Quality Care

Local agencies are required to pay higher for child care to providers who meet higher quality of care standards, as allowed under federal regulations.

9. Reimbursement Rate Categories

Reimbursement rates are required to two age categories and five provider types, a change from earlier policy.

10. Elimination of Rules for Respite Child Care

Rules for respite child care are eliminated, now that there is no longer a separate fund program. The 1995–97 state budget folded funding for respite child care into general community aids allocations for counties.

Publication Date: June 29, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996
Extension Through: January 26, 1997

2. Rules adopted revising ss. HSS 55.55 to 55.63, relating to certification of child care providers.

Exemption From Finding of Emergency

The Legislature in s. 275 (2) of 1995 Wis. Act 289 directed the Department to promulgate rules relating to public assistance required under chs. 46, 48 and 49, Stats., as affected by the Acts of 1995, before July 1, 1996, for the period before permanent rules take effect, by using emergency rulemaking procedures but without having to make a finding of emergency. These are public assistance–related rules. They are for certified child care. They will take effect on July 1, 1996.

Analysis

The Department's current rules for certification of family day care providers, in–home day care providers and school–age day care programs are amended by this order to bring the rules into compliance with recent statute changes, in particular the changes made by 1995 Wis. Act 289 in establishing Wisconsin Works (W–2), a new system of assistance for families with dependent children which will replace Aid to Families with Dependent Children (AFDC), and to add needed protections for children, reduce or eliminate unnecessary requirements and clarify the authority of certifying agencies.

Key changes include:

1. Provisional Certification

Modifying standards for provisional certification so that no training is required, in compliance with Act 289 changes in the statutes.

2. Limited Certification

Deleting the category of limited certification, in compliance with Act 289 changes in the statutes.

3. Training for Regular Certification

Deleting the optional requirement to add 5 hours of initial training for regular certification, in order to standardize regulation statewide.

4. Criminal Records Check

Adding requirements for state criminal records checks and FBI criminal record check under certain circumstances, as required by Act 289 changes in the statutes.

5. Certification Fee

Permitting counties and tribal agencies to charge certification fees, as allowed under Act 289, not to exceed licensing fees for family day care centers plus the cost of criminal record checks.

6. Acceptance of Certification

Providing that certification issued by one certifying agency is to be accepted as valid by other certifying agencies.

7. Certification Exemption

Exempting specified child care arrangements from certification because those arrangements are short–term.

8. Sanction Authority

Giving sanction authority to certifying agencies when there is danger to the health, safety or welfare of children in care.

9. School–Age Programs

Adding requirements related to swimming pools and water safety.

Adding requirements for the safety of vehicles transporting children.

Deleting requirements for:

- a. Physical exams for children and staff (replaced by a health history requirement).
- b. 75 square feet of outdoor space per child.
- c. Daily outdoor activities.
- d. A place for rest or relaxation.
- e. Ongoing communication with the child's parent.
- f. Making copies of the certification standards available to all parents.

10. Parochial and Private Schools

Deleting rules related to certification of parochial and private schools since those programs can become licensed in order to receive public child care funding.

11. Parent Checklist

Deleting the rules requirement that parents in certified family day care and in–home day care complete and return a checklist of basic certification standards but permitting counties and tribes to continue to require it.

12. Other New or Changed Rules

- a. Clarifying what is acceptable supervision and limiting the number of hours a provider can provide child care per day.
- b. Requiring TB tests for all certified providers.
- c. Requiring proper hand washing for child care providers and children.
- d. Changing the water testing requirement when a public water supply is not available to be a one–time test prior to or within 3 months of initial certification.
- e. Requiring certified providers to report relevant information to the certifying agency.
- f. Prohibiting consumption of alcoholic beverages or controlled substances on the premises during hours of operation.

g. Prohibiting discrimination.

Publication Date: June 29, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996
Extension Through: January 26, 1997

3. Rules adopted repealing s. HSS 55.76 (5), created as an emergency rule relating to the administration of child care funds and required co-payments.

Finding of Emergency

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

Congress has just enacted welfare reform legislation which makes major changes to the federal welfare system, in many cases replacing federal entitlements with block grants to the states. The Governor has directed the creation of a Child Care Working Group to analyze the impact that the federal legislation will have on child care in Wisconsin and on the Wisconsin works program, and to analyze and identify effective methods and funding sources to increase child care options and expand the availability of affordable child care. Under these circumstances, it is necessary to withdraw the schedule for child care co-payments and the phase-in co-payment formula which were implemented by emergency rule on July 1 of this year. This will avoid the administrative problems and costs that would otherwise be incurred if these rules are changed again as a result of the new federal law.

Publication Date: August 13, 1996
Effective Date: August 13, 1996
Expiration Date: November 28, 1996
Extension Through: January 26, 1997

EMERGENCY RULES NOW IN EFFECT

Health and Family Services

(Medical Assistance, Chs. HSS 100-)

Rules adopted revising chs. HSS 101, 105 and 107, relating to Medical Assistance coverage of school-based medical services.

Exemption From Finding of Emergency

The Legislature in s. 9126 (7m) of 1995 Wis. Act 27 directed the Department to promulgate rules required under s. 49.45 (39), Stats., as created by Act 27, by using emergency rulemaking procedures, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency.

Analysis

The 1995-97 Budget Act, 1995 Wis. Act 27, created s. 49.45 (39), Stats., which requires the Department of Health and Social Services to reimburse school districts and Cooperative Educational Service Agencies (CESAs) for Medical Assistance school-based services. This rule-making order describes the covered services: speech, language, audiology and hearing services; occupational therapy; physical therapy; nursing services; psychological services, counseling and social work; developmental testing and assessments; transportation; and certain durable medical equipment. The order also explains the recordkeeping collaboration

with other health care providers required of school-based service providers.

Publication Date: June 15, 1996
Effective Date: June 15, 1996
Expiration Date: November 12, 1996
Hearing Dates: June 26, 27, 1996
Extension Through: January 10, 1997

EMERGENCY RULES NOW IN EFFECT (2)

Health and Family Services

(Health, Chs. HSS 110-)

1. Rules adopted revising chs. HSS 172, 175, 178, 195 to 198, relating to permits and permit fees.

Finding of Emergency

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

The Department and agent local government health departments regulate campgrounds, camps, the operation of swimming pools that serve the public, restaurants, hotels and motels, tourist rooming houses, bed and breakfast establishments and food vending operations, under the authority of ss. 254.47 and 254.61 to 254.88, Stats., to ensure that these facilities comply with health, sanitation and safety standards established by the Department by rule. The Department's rules are in chs. HSS 172, 175, 178, 195, 196, 197 and 198, Wis. Adm. Code. None of these facilities may operate without receiving a permit from the Department or an agent local government health department. A permit is evidence that a facility complies with the Department's rules on the date of issuance of the permit. All permits except those for bed and breakfast establishments are one-year permits. A facility is charged a permit fee. Permit fee revenues support the regulatory program.

In 1993 the Budget Act for 1993-95 directed the Department to establish permit fees by rule beginning July 1, 1994. Until then the fees had been set by statute.

This rulemaking order increases permit fees effective July 1, 1996, by about 10% for campgrounds; recreational and educational camps; swimming pools that serve the public; restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending operators and commissaries. It also increases preinspection fees for restaurants; hotels, motels and tourist rooming houses; bed and breakfast establishments; and food vending commissaries.

The fees are increased to cover higher costs for these regulatory programs.

The rules are being promulgated as emergency rules to protect public health and safety. The fee increases will take effect on July 1, 1996, which is the beginning of a new permit period. Raising the fees as provided in this order will enable the Department to avoid running a deficit in program revenue and so avoid having to reduce inspections of food-serving, lodging and recreational facilities and taking longer to respond to foodborne and waterborne disease outbreaks.

The fees established by this order do not apply to facilities regulated by local health departments granted agent status under s. 254.69, Stats. Permit fees for those facilities are established by the local health departments, pursuant to s. 254.69 (2) (d), Stats.

Publication Date: June 8, 1996
Effective Date: July 1, 1996
Expiration Date: November 28, 1996
Hearing Date: August 28, 1996
Extension Through: January 26, 1997

2. Rules adopted revising **ch. HSS 172**, relating to public swimming pools.

Finding of Emergency

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

The Department and agent local government health departments regulate the operation of public swimming pools under the authority of s. 257.47, Stats., to ensure that these facilities comply with health, sanitation and safety standards established by the Department by rule. The Department rules are in ch. HSS 172, Wis. Adm. Code. No public swimming pool may operate without having a permit from the Department or an agent local government health department.

This rulemaking order clarifies and updates the definition of public swimming pool, updates requirements for lifeguards and adds rescue tubes as required lifeguard equipment.

Section 254.47 (1), Stats., directs the Department to define "public swimming pool," in rule, for purposes of the regulatory program. The current rule definition has not been changes for many years and has some resulting ambiguity, one reason being that some types of facilities are called by new names.

The requirements under s. HSS 172.05 (2) (a)3. for lifeguard certification have to be modified due to changes in American Red Cross and the American Heart Association courses. The rules changes will ensure that all lifeguards are qualified to fulfill their duties as specified in ch. HSS 172. The exception under s. HSS 172.05 (2) (c) to lifeguard certification for persons holding a current American Red Cross Water Safety Instructor certificate is removed. This is because the American Red Cross Water Safety Instructor certification course no longer includes course work in lifesaving methods. The change, however, will allow persons currently certified under the old program to the use of that certification until it expires.

New lifeguard training incorporates use of rescue tubes. These tubes are therefore made required equipment when lifeguards are provided.

These changes are needed to protect the health and assure the safety of persons using public swimming pools.

Publication Date: June 22, 1996
Effective Date: June 22, 1996
Expiration Date: November 19, 1996
Hearing Date: August 28, 1996
Extension Through: January 17, 1997

EMERGENCY RULES NOW IN EFFECT

Health & Social Services (Economic Support, Chs. HSS 200-)

Rules adopted creating s. **HSS 201.135**, relating to time limits on benefits for AFDC recipients participating in the JOBS program.

Exemption From Finding of Emergency

The Legislature in s. 275 (3) of 1995 Wis. Act 289 directed the Department to promulgate the rule required under s. 49.145 (2) (n), stats., as created by Wis. Act 289, by using emergency rulemaking procedures but without having to make a finding of emergency. The rule will take effect on October 1, 1996.

Analysis Prepared by the Department of Workforce Development

Under the Aid to Families with Dependent Children (AFDC) program an individual may apply and be determined eligible for AFDC benefits with no regard to whether the individual has received benefits in the past or the number of months an individual may have already received benefits. Wisconsin Works (W-2), the replacement program for AFDC, as created by 1995 Wis. Act 289, includes a provision limiting the amount of time an individual may receive AFDC benefits, W-2 employment position benefits or a combination thereof. Under s. 49.145 (2) (n), Stats., as created by 1995 Wis. Act 289, the total number of months in which an adult has actively participated in the Job Opportunities and Basic Skills (JOBS) program under s. 49.193, Stats., or has participated in a W-2 employment position or both may not exceed 60 months. The months need not be consecutive. Extensions to the 60 month time limit may be granted only in unusual circumstances in accordance with rules promulgated by the Department. Section 49.141 (2) (b), Stats., as created by 1995 Wis. Act 289, provides that if a federal waiver is granted or federal legislation is enacted, the Department may begin to implement the W-2 program no sooner than July 1, 1996. Participation in JOBS under s. 49.193, Stats., begins to count toward the 60-month limit beginning on October 1, 1996.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) was signed into law by President Clinton on August 22, 1996. It creates the Temporary Assistance for Needy Families (TANF) program which proves that a state may not use any part of the TANF grant to provide assistance to a family that includes an adult who has received assistance for 60 months, whether consecutive or not, under a state program funded by the TANF block grant. Wisconsin submitted its TANF Block Grant State Plan to the Federal Administration for Children and Families on August 22, 1996. The Department will implement time limits October 1, 1996, for AFDC recipients who are actively participating in the Job Opportunities and Basic Skills (JOBS) Training Program. Implementation of the time limits is part of the continuing transition from AFDC to the W-2 program. W-2 will be implemented statewide in September 1997.

Time limits reinforce the idea that AFDC is a temporary support for families, rather than a long-term source of income. Wisconsin's Work Not Welfare (WNW) demonstration project which is operating in Fond du Lac and Pierce Counties, has shown that time limits create a sense of urgency for families to actively seek alternatives to AFDC. Time limits stress mutual responsibility: government provides support and services designed to promote employment and participants who are able must prepare for and enter employment.

The rule defines the term "actively participating" in the JOBS program and includes criteria county or tribal economic support agency would use to determine whether an extension of the 60 month time limit should be granted. The Department retains the right to review an economic support agency's decisions related to extensions.

Publication Date: September 30, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: November 19, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations (Uniform Dwellings, Chs. ILHR 20-25)

Rules adopted revising **chs. ILHR 20 and 21**, relating to one- and two-family dwellings constructed in flood hazard zones.

Finding of Emergency

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

The Federal Emergency Management Agency (FEMA) has informed some municipalities that it will no longer allow variances to a local ordinance that prohibits the construction of homes in flood fringe areas where the foundation extends below the base flood elevation. FEMA regulations allow this type of construction in some locations but require the construction to meet a suitable building code. The Uniform Dwelling Code, which regulates new home construction in Wisconsin, has never addressed this issue. FEMA's actions have halted some residential projects, causing serious financial hardship for those affected Wisconsin builders and residents.

The proposed rules add requirements to the Uniform Dwelling Code for construction in flood fringe areas in order to meet FEMA requirements. The primary source of these rules is the National Building Code published by Building Officials and Code Administrators International, Incorporated (BOCA).

Publication Date: May 8, 1996
Effective Date: May 8, 1996
Expiration Date: October 5, 1996
Hearing Date: July 17, 1996
Extension Through: February 1, 1997

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

[Workforce Development] (Labor Standards, Chs. ILHR 270-279)

Rules adopted revising **ch. ILHR 272**, relating to the minimum wage.

Finding of Emergency

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

The minimum wage set by federal law will be raised to \$4.75 per hour effective October 1, 1996. The federal minimum wage covers many but not all of the employers and employees in the state, and it is not always easy for a particular employer to know if it is covered by state or federal law. If the state did not act quickly to adjust its minimum wage rules in response to the change in federal law, many employers and employees would be subjected to confusion and uncertainty in the calculation and payment of wages.

Publication Date: August 28, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: December 17, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Commissioner of Insurance

1. Rule adopted revising **s. Ins 18.07 (5) (b)**, relating to a decrease in 1996-97 premium rates for the health insurance risk-sharing plan.

Exemption From Finding of Emergency

Pursuant to s. 619.14 (5) (e), Stats., the commissioner is not required to make a finding of an emergency to promulgate this emergency rule.

1996-97 Premium Adjustments

The Commissioner of Insurance, based on the recommendation of the Health Insurance Risk-Sharing Plan ("HIRSP") board, is required to set the annual premiums by rule. The rates must be calculated in accordance with generally accepted actuarial principles and must be set at 60% of HIRSP's operating and administrative costs. This rule adjusts the premium rates for the period of October 1, 1996 through June 30, 1997, based upon a recalculation of costs and subsidy payments for the 1996-1997 fiscal year. This adjustment represents a 12% reduction in premium payments for the both the non-subsidized major medical and medicare plans for person under age 65. The rates for low-income persons entitled to a premium reduction under s. Ins 18.07 (5) (b) are not affected.

Publication Date: September 4, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: November 8, 1996

2. A rule adopted creating **s. Ins 3.46 (18)**, relating to the requirements for tax deductible long term care insurance.

Finding of Emergency

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

The recently passed federal "Kassebaum-Kennedy" law, P.L. 104-191, set certain standards for allowing favorable tax treatment of long term care insurance policies. The existing Wisconsin administrative rules pertaining to long term care do not meet these criteria and require changes. These changes will allow tax deductible long term care insurance policies to be sold to Wisconsin residents as soon as possible.

Publication Date: December 20, 1996
Effective Date: January 1, 1997
Expiration Date: May 31, 1997

EMERGENCY RULES NOW IN EFFECT (6)

Natural Resources

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

1. Rules were adopted revising **chs. NR 10 and 11**, relating to the 1996 deer hunting seasons.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public

welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and to minimize deer nuisance problems, thereby protecting the public peace, health, safety or welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify our rules will result in the failure to provide hunting opportunity and comply with administrative rules.

Publication Date: May 3, 1996
Effective Date: August 12, 1996
Expiration Date: January 9, 1997
Hearing Date: June 11, 1996

- Rules adopted revising emergency rules relating to the 1996 deer hunting seasons

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and to minimize deer nuisance problems, thereby protecting the public peace, health, safety or welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify our rules will result in the failure to provide hunting opportunity and comply with administrative rules.

Publication Date: August 9, 1996
Effective Date: August 12, 1996
Expiration Date: January 9, 1997
Hearing Date: September 12, 1996

- Rules adopted revising **ch. NR 10**, relating to the 1996 migratory game bird season.

Finding of Emergency

The emergency rules procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. The federal government and state legislature have delegated to the appropriate agencies rule-making authority to control the hunting of migratory birds. The State of Wisconsin must comply with federal regulations in the establishment of migratory bird hunting seasons and conditions. Federal regulations are not made available to this state until mid-August of each year. This order is designed to bring the state hunting regulations into conformity with the federal regulations. Normal rule-making procedures will not allow the establishment of these changes by September 1. Failure to modify our rules will result in the failure to provide hunting opportunity and continuation of rules which conflict with federal regulations.

Publication Date: September 3, 1996
Effective Date: September 3, 1996
Expiration Date: January 31, 1997
Hearing Date: October 14, 1996

- Rules adopted amending **s. NR 25.05 (1) (e)**, relating to sport and commercial fishing for yellow perch in Lake Michigan.

Finding of Emergency

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

The yellow perch population in Lake Michigan is rapidly declining. This decline reflects six consecutive years of extremely poor reproduction. Commercial harvests of adult yellow perch must

be limited immediately in order to maximize the probability of good reproduction in the near future.

Publication Date: October 1, 1996
Effective Date: October 1, 1996
Expiration Date: February 28, 1997
Hearing Date: November 11, 1996

- Rule adopted creating **s. NR 27.07**, relating to notice of receipt of an application to incidentally take an endangered or threatened species.

Exemption From Finding of Emergency

1995 Wis. Act 296 establishes authority in the department of natural resources to consider applications for and issue permits authorizing the incidental take of an endangered or threatened species while a person is engaged in an otherwise lawful activity. Section 29.415 (6m) (e), Stats., as created, requires the department to establish by administrative rule a list of organizations, including nonprofit conservation groups, that have a professional, scientific or academic interest in endangered species or in threatened species. That provision further provides that the department then give notification of proposed takings under that subsection of the statutes to those organizations and establish a procedure for receipt of public comment on the proposed taking.

The proposed rule lists a number of organizations the department is familiar with as being interested in endangered and threatened species; a notification procedure to be used to notify them, and others, of a proposed taking; and a public comment procedure to be used for consideration of public comments. The notification procedure is not limited to mail distribution, but is broad to allow other forms of notification, such as electronic mail.

Publication Date: November 18, 1996
Effective Date: November 18, 1996
Expiration Date: See section 12m, 1996 Wis. Act 296
Hearing Date: January 14, 1997

- Rules adopted revising **chs. NR 25 and 26**, relating to the Lake Superior fisheries management plan.

Finding of Emergency

The waters of Lake Superior were not part of the extensive off-reservation treaty rights litigation known as the Voigt case. The parties stipulated that the Lake Superior rights would be dealt with, to the extent possible, by agreement rather than litigation. This rule represents the implementation of the most recent agreement between the State and the red Cliff and Bad River Bands. In order to comply with the terms of the agreement, the State must change its quotas and commercial fishing regulations at the earliest possible date. In accordance with the agreement, the Bands have already made these changes. Failure of the State to do so will not only deprive state fishers of the increased harvest opportunities available under the agreement, but could also jeopardize the agreement, putting the entire Lake Superior fishery at risk of litigation.

Publication Date: November 18, 1996
Effective Date: November 28, 1996
Expiration Date: April 27, 1997
Hearing Date: December 17, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Public Instruction

- Rules adopted revising **ch. PI 11**, relating to dispute resolution concerning children with exceptional educational needs between school boards and parents.

Finding of Emergency

Wisconsin is required under state and federal law to provide a due process hearing system for the resolution of special education disputes between parents and school districts. 1996 Wis. Act 431 will significantly revise that process and will require the department rather than school districts to conduct the due process hearings. Although the Act outlines the process, it does not fully describe the manner in which hearings are to be initiated, the manner in which hearing officers will be appointed, their qualifications and duties. The current rules addressing those issues will not apply under the new statutory process. It is, therefore, necessary to adopt an emergency rule addressing these issues so that the due process hearing system will remain available to parents and districts when the Act becomes effective.

Publication Date: June 25, 1996
Effective Date: June 25, 1996
Expiration Date: November 22, 1996
Hearing Dates: September 9 & 10, 1996
Extension Through: January 20, 1997

- Rules were adopted revising **ch. PI 11**, relating to the handicapping condition of significant developmental delay.

Finding of Emergency

1995 Wis. Act 298 adds an alternative category of significant developmental delay for the identification of disabled preschoolers when the diagnosis is not clear. The Act becomes effective July 1 and requires the department to conduct inservice training for early childhood special education teachers and directors and pupil services personnel in identifying children with significant development delay to ensure that only children meeting the criteria established by the department by rule are so identified.

In order to establish identification criteria under the significant developmental delay category and in order to conduct the required training sessions prior to the 1996-97 school year, rules must be in place as soon as possible.

Publication Date: July 31, 1996
Effective Date: July 31, 1996
Expiration Date: December 28, 1996
Hearing Dates: September 9 & 10, 1996
Extension Through: February 25, 1997

EMERGENCY RULES NOW IN EFFECT (3)

Transportation

- Rules adopted revising **ch. Trans 269**, relating to transportation of garbage or refuse permits.

Finding of Emergency

The Department of Transportation finds that an emergency exists and that a rule is necessary for the immediate preservation of the public peace, safety and welfare. A statement of the facts constituting the emergency is: Interstate status of this portion of I-39 that had been USH 51 became effective upon completion of signage. Signage was completed on August 23, 1996. Without this emergency rule in place, overweight movement of garbage, which had been allowed, will no longer be allowed on this highway segment, while overweight movement of scrap will be allowed. This will force garbage trucks to move on surface streets, creating safety hazards for other traffic and creating economic hardship for garbage haulers (and municipalities which pay for garbage and refuse

hauling), as there are no nearby detours paralleling this stretch of highway.

Publication Date: September 9, 1996
Effective Date: September 9, 1996
Expiration Date: February 6, 1997
Hearing Date: October 30, 1996

- Rules adopted revising **ch. Trans 76**, relating to general transportation aids.

Finding of Emergency

The Department of Transportation finds that an emergency exists for the following reason: In *Schoolway Transp. Co. v. Division of Motor Vehicles*, 72 Wis. 2d 223 (1976), a changed interpretation of a statute was held to be a rule. The interpretation is being administered as law and the Department will rely upon it to make aids payments. This interpretation is in direct contrast to the manner in which the statute was previously administered by the Department. Therefore, the Department must promulgate the changed interpretation as a rule or it is invalid. In order to make the change in time to implement it for aids estimates and payment purposes, the Department must promulgate this interpretation as an emergency rule.

Publication Date: October 25, 1996
Effective Date: October 25, 1996
Expiration Date: March 24, 1997
Hearing Date: December 16, 1996

- Rules adopted revising **ch. Trans 117**, relating to occupational driver's license.

Finding of Emergency

1995 Wis. Act 269 rewrote state law regarding the issuance of occupational licenses. That Act goes into effect on November 1, 1996. Absent this emergency rule making, the Department will lack rule authority necessary to administer the new law. This emergency rule will permit the Department to issue occupational licenses until the permanent rule establishing procedures for issuing occupational licenses are in place. Therefore, the Department of Transportation finds that an emergency exists and that the rule is necessary.

Publication Date: November 1, 1996
Effective Date: November 1, 1996
Expiration Date: March 31, 1997
Hearing Date: November 26, 1996

EMERGENCY RULES NOW IN EFFECT

Workforce Development (Economic Support)

Rules adopted renumbering **subch. VII of ch. HSS 55** and creating **s. DWD 56.08**, relating to the administration of child care funds and required parent copayments.

Finding of Emergency

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

The Governor has directed the Child Care Working Group to analyze the impact that the federal legislation will have on child care in Wisconsin and on the Wisconsin Works program, and to analyze and identify effective methods and funding sources to increase child care options and expand the availability of affordable child care. The

Governor has approved a new schedule for child care copayments and this rule places the new schedule into operation. The use of an emergency rule allows the implementation of the new schedule immediately.

Publication Date: December 30, 1996
Effective Date: December 30, 1996
Expiration Date: May 29, 1997

EMERGENCY RULES NOW IN EFFECT

Workforce Development **(Wage Rates, Chs. ILHR 290-294)**

Rules adopted revising **ch. ILHR 290**, relating to the determination of prevailing wage rates for workers employed on state or local public works projects.

Finding of Emergency

The Department of Workforce Development finds that an emergency exists and that rules are necessary for the immediate

preservation of the public peace, health, safety and welfare. A statement of the facts constituting the emergency is:

1995 Wis. Act 213 made a number of major changes to the laws which require the department to determine prevailing wage rates for state and local public works projects. In place of a case-by-case investigations, the Department of Workforce Development is required to conduct an annual survey of employers and issue prevailing wage rate determinations for all trades or occupations in all areas of the state throughout the year based on the survey data. The statutes also provide that members of the public, employers, local governmental units and state agencies may ask the DWD to review prevailing wage rate determinations under a number of specified circumstances.

This emergency rule establishes deadline and appeal criteria for the process that will be used to compile the 1996 survey results and consider requests for review. The use of an emergency rule for this purpose will benefit the public, employers local governments units and state agencies by giving them clear information as to the procedures to be followed, and it will also help the DWD to meet the statutory requirement that prevailing wage rates be compiled and issued promptly.

Publication Date: December 11, 1996
Effective Date: December 11, 1996
Expiration Date: May 10, 1997

STATEMENTS OF SCOPE OF PROPOSED RULES

Financial Institutions

Subject:

Ch. DFI-CU 54 – Relating to real estate mortgage loans in credit unions.

Description of policy issues:

Description of the objective of the rule:

The objective of this rule is to permit Wisconsin credit unions to make loans to their members secured by real estate in accordance with applicable state or federal rules, regulations and statutes.

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

Ch. CU 54 establishes policy and documentation requirements for real estate lending. It exempts loans of \$25,000 or less, or loans less than 20% of the regular reserve, whichever amount is smaller, from the requirements of this chapter. It also limits the aggregate of real estate secured loans to 50% of the total assets of the credit union. The rule also prevents credit unions from granting real estate equity loans in excess of 80% loan-to-value.

The proposed changes to the rule will provide guidance for real estate lending, but will allow credit unions to adopt written policies to direct the real estate lending activities that will be more specific to their individual operations. The loan policies of the individual credit unions will contain limitations directly applicable to the credit union.

The recent modernization of the Wisconsin credit union statutes provides additional authority to the credit unions and their boards and places more of the burden on the directors and management to establish operating policies for the credit union. Ch. CU 54 should be updated to comply with the recent recodification of ch. 186, Wis. Stats. (1995 Wis. Act 151).

Statutory authority:

SS. 186.235 (8) and 227.11 (2), Stats.

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

Estimated time to be spent by state employees — 40 hours. Review by industry — 5 hours. Review/approval by the Credit Union Review Board — 5 hours.

Regulation and Licensing

Subject:

RL Code – Relating to private detective agencies, private detectives, and private security persons.

Description of policy issues:

Objective of the rule:

The Department has three objectives for this proposed rule-making:

☞ To make modifications suggested by a rules review committee, relating to statutory authority, form, style, placement, clarity, grammar, punctuation, plain language and related issues.

☞ To make a few relatively minor policy changes of provisions which have caused administrative problems for the Department, especially provisions relating to the use of business names.

☞ To make changes necessitated by the enactment of 1995 Wis. Act 461, which will become effective on July 1, 1997.

Policy analysis:

The current statutes and rules do not provide for the Department issuing security permits to security guards employed by licensed private detective agencies; however, the Department was granted this authority by 1995 Wis. Act 461. Any rules which do not adequately address this new authority or which conflict with it must be amended or repealed. Amendments are primarily needed for provisions relating to applicants who have been convicted of a felony, relating to reporting violations of law, relating to creating an exception to the requirement that a private detective agency have a written contract with a person before providing services and relating to the issuance of private security permits and temporary private security permits by the Department.

Current rules require a private detective agency to obtain a separate private detective agency license for each business name it wishes to use in the operation of its business or for each branch or division office which it operates under a name which differs from the name on its license certificate. This proposed rule-making would require a private detective agency to notify the Department in writing of its intent to use a specified business name, branch office or division name before operating under that name. A separate license would not be required; nor would a fee be required.

Chapter RL 31 does not contain language concerning the provision of accommodations for people with disabilities. Such language would be created as pertaining to applicants for a credential as a private detective or a private security person.

This proposed rule-making will propose that an exception from the written contract requirement be created for those instances when a private detective agency provides services to an attorney, another licensed private detective or someone else in an emergency situation which requires immediate service and there is insufficient time to prepare a written agreement. This exception would be a response to concerns expressed by private detective agencies after the current rule was created.

Statutory authority:

SS. 227.11 (2) and 440.42, Stats.

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

25 hours.

Revenue

Subject:

Notice is hereby given, pursuant to s. 227.135, Stats., that the Department of Revenue plans to promulgate administrative rules affecting s. Tax 11.12, relating to sales and use tax exemption for certain items used in farming.

Description of policy issues:

Objective of the proposed rule:

The objectives of the proposed rule order are:

1) To explain an interpretation of the law which has been made by the Department of Revenue, relating to the exemption for certain containers used in farming, and

2) To clarify that when buying certain machines, farmers may claim exemption only if they buy the machines without installation by the retailer, even though the machines may later be attached to, fastened to, connected to or built into real property or may become an addition to, component of or capital improvement of real property.

This rule order will revise s. Tax 11.12, Wis. Adm. Code.

Existing policies:

The proposed rule order reflects the Department of Revenue's existing policy of providing accurate information to taxpayers, practitioners and Department employees regarding:

a) The exemption for certain containers used exclusively in the business of farming; and

b) The conditions under which certain purchases of machines by farmers qualify for sales and use tax exemption.

Policy alternatives:

☹ Do nothing. The rule will be incorrect in that it will not reflect current policy regarding farmers' purchases of certain containers and it will not be clear regarding the conditions under which certain purchases of machines by farmers qualify for sales and use tax exemption.

Statutory authority:

Section 227.11 (2) (a), Stats.

Estimate of staff time required:

The Department estimates it will take approximately 40 hours to develop this rule order. This includes drafting the rule order, review by appropriate parties and preparing related documents. The Department will assign existing staff to develop the rule order.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

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

Regulation & Licensing

Rule Submittal Date

On December 18, 1996, the Department of Regulation and Licensing submitted to the Legislative Council Rules Clearinghouse a proposed rule-making order repealing s. RL 50.03 and 50.05, renumbering ch. RL 50, renumbering and amending s. RL 50.02; amending s. RL 52.02 (2), 52.04 (2) (b), 53.02 (3), 54.04 (1) (b), (3) and (4), 54.05 (2) and (3); and creating ch. RL 50 and s. RL 52.04 (2) (d).

Analysis

Statutes authorizing promulgation: ss. 157.19, 157.62 (2) and (7), 227.11 (2), 440.91, 440.92 (6) and (7)

Statutes interpreted: ss. 157.11, 157.19, 157.62, 157.63, 440.91 and 440.92

In this proposed rule-making order, the Department of Regulation and Licensing rennumbers ch. RL 50 to ch. RL 51 and creates a new ch. RL 50, which defines a term used in ch. 440, Stats., and which specifies the additional information which the Department may require of applicants for registration as a cemetery authority, a cemetery salesperson or a preneed seller. 1989 Wis. Act 307 initially required the Department to establish by rule fees for the registration of cemeteries, cemetery salespersons and preneed sellers of cemetery merchandise. The Act also stated and continues to state that the Department may establish by rule a report filing fee. Chapter RL 50 initially established such fees; however, the Biennial Budget Bill, 1991 Wis. Act 39, created statutory fees for registering cemetery authorities, cemetery salespersons and preneed sellers. Therefore, ch. RL 50 was amended to remove the registration fees. It still requires a \$40.00 reporting filing fee, with some exceptions. This rule proposal repeals the report filing fee required of cemetery authorities and preneed sellers of cemetery merchandise.

The Department proposes removing the report filing fee from the rules because the registration renewal fees in s. 440.08 (2) (a) 21, 22 and 23, Stats., are based on a formula which includes the costs of regulation and enforcement. This formula is used to determine the renewal fees of all professions and occupations regulated by the Department. Costs associated with reviewing annual reports and conducting financial audits of care accounts and preneed trust accounts should be included in the registration renewal fee. There is no need for a separate report filing fee in the rule. The rule proposal also repeals obsolete provisions, removes the requirement that certain application forms or requests be notarized and clarifies several existing provisions in the rules.

Agency Procedure for Promulgation

A hearing date has not yet been established.

Contact Person

Pamela Haack, Rules Center Coordinator
Telephone (608) 266-0495

Veterinary Examining Board

Rule Submittal Date

On December 20, 1996, the Veterinary Examining Board submitted to the Legislative Council Rules Clearinghouse a proposed rule-making order repealing and recreating s. VE 4.01 (3).

Analysis

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 453.03 (1)

Statute interpreted: s. 453.06 (1)

In this proposed rule-making order, the Veterinary Examining Board repeals and recreates s. VE 4.01 (3) to require applicants who have graduated from a school not approved by the Board to complete and obtain certification from the Educational Commission for Foreign Veterinary Graduates. This amendment will only allow those applicants who have completed and obtained their ECFVG (Educational Commission for Foreign Veterinary Graduates) certification to be eligible for licensure as a veterinarian in Wisconsin.

Under the current rule, an applicant who has graduated from a school not approved by the Board, which includes all schools outside the United States and Canada with one exception, has three alternative routes to licensure. First, the applicant may complete the ECFVG program. Second, the applicant may demonstrate that requirements for a license in the applicant's country of original licensure, including educational and examination requirements, are substantially equivalent to the requirements in this state. Third, the applicant may establish equivalency of his or her education and pass the National Veterinary Licensing Examinations.

Unlike the ECFVG program, which carries out extensive testing and remediation to ensure that foreign graduates fully meet standards imposed by the licensing jurisdictions in this country, the Board has found itself unable to make informed decisions and judgments relating to the equivalency of standards for licensure in other countries so as to permit the Board to ensure that endorsement candidates from other countries do in fact meet the minimum requirements imposed by this state upon graduates of approved schools of veterinary medicine.

Agency Procedure for Promulgation

A public hearing will be held on February 12, 1997.

Contact Person

Pamela Haack, Rules Center Coordinator
Telephone (608) 266-0495

NOTICE SECTION

Notice of Hearings

Agriculture, Trade & Consumer Protection

► (Reprinted from December 31, 1996 *Wis. Adm. Register*)

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) announces that it will hold public hearings on a proposed rule prohibiting the sale of butane, propane, and other flammable refrigerants for use in mobile air conditioning systems. This rule creates s. ATCP 139.04 (11), Wis. Adm. Code.

Hearing Information

The Department will hold public hearings at the following locations and times:

January 14, 1997 Tuesday 12:30 p.m. to 3:30 p.m.	Lecture Room #6201 Building 6 Northeast Wis. Tech. College 2740 W. Mason St. GREEN BAY, WI
January 16, 1997 Thursday 1:00 p.m. to 4:00 p.m.	Room 108 Education Building Western Wis. Tech. College 405 Eighth St. North LACROSSE, WI
January 17, 1997 Friday 10:00 a.m. to 2:00 p.m.	Central Conference Room Southeast Regional Office DATCP-Consumer Protect. Bureau 10930 W. Potter Rd. MILWAUKEE, WI
January 21, 1997 Tuesday 1:00 p.m. to 4:00 p.m.	Room E-101 (formerly Room 451) North Central Wis. Tech. College 1000 West Campus Dr. WAUSAU, WI

Written Comments

Following the public hearings, the hearing record will remain open until **January 31, 1997** to receive additional written comments. Written comments should be submitted to:

Tom Stoebig, Environment & Product Safety Section
 Wisconsin Consumer Protection Bureau
 2811 Agriculture Drive
 P.O. Box 8911
 Madison, WI 53708

Copies of the rule will be available at the public hearings, or may be obtained free of charge by writing to the above address or by calling (608) 224-4944.

An interpreter for the hearing-impaired will be available on request for this public hearing. Please make reservations for a hearing interpreter by **January 10, 1997** either by writing to Jamie Tukiendorf, Division of Trade and Consumer Protection, P.O. Box 8911, Madison, WI 53708-8911 (telephone 608-224-4924) or by calling the Department TDD at 224-5058.

Analysis Prepared by the Dept. of Agriculture, Trade & Consumer Protection

Statutory authority: ss. 93.07 (1) and 100.37 (2)

Statute interpreted: s. 100.37

On October 4, 1996, the Department adopted a temporary emergency rule to ban flammable refrigerants in mobile air conditioning systems. The Department is now proposing an identical "permanent" rule. The proposed rule prohibits the sale of butane, propane, mixtures of propane and butane, or other gaseous hydrocarbons for use as refrigerants in mobile air conditioners. The rule exempts refrigerants that are sold and properly labeled for uses approved by the U.S. Environmental Protection Agency, and which meet recognized industry standards related to flammability for those specific uses.

Background

The Department administers s. 100.45, Stats., which regulates the repair and servicing of mobile air conditioners and trailer refrigerant equipment. This program helps ensure the safe use and recovery of ozone-depleting refrigerants and their substitutes. The program complements a similar U.S. Environmental Protection Agency ("EPA") program under the 1990 Clean Air Act Amendments.

Under federal law, domestic production of CFC-12 and other Class I ozone-depleting substances were phased out on January 1, 1996. This has resulted in an increase in the wholesale price of CFC-12 which, in turn, has pushed the automotive servicing industry to look at possible non-ozone depleting refrigerant substitutes.

Under federal law, the EPA has authority to review and approve substitutes to ozone-depleting refrigerants. Thus far, EPA has reviewed and approved nine separate refrigerant substitutes for use in motor vehicle air conditioning. Seven of these are currently being marketed in the U.S.

Since March, 1994, the EPA has prohibited the use of flammable, hydrocarbon-based substances as a substitute for R-12, an ozone-depleting refrigerant commonly used in motor vehicle air conditioning systems. EPA prohibited the use of these products in mobile air conditioners because of safety risks associated with these flammable refrigerants.

An Idaho-based company has continued to manufacture and distribute a hydrocarbon-based refrigerant, called HC-12a, for use in mobile air conditioners. The company has argued that the EPA lacks jurisdiction to regulate substitutes to non-ozone depleting substances. In addition, federal law governing the review and approval of substitute refrigerants only prohibits the use of unapproved substances, not the sale and marketing of these products.

In recent months, the Department has investigated several instances of the sale and distribution of HC-12a in Wisconsin. Labeled as containing liquefied petroleum gas, HC-12a is being marketed as an "ozone safe", "natural organic refrigerant" for use in motor vehicle air conditioning and refrigeration systems.

The Department has used existing regulatory authority under s. 100.45 (3) (a), Stats., which prohibits the sale of any refrigerant in containers holding less than 15 pounds, to direct the removal of small cans of HC-12a. However, 22-lb. pressurized cylinders of HC-12a have also been found on the premises of one of the businesses under investigation.

DATCP Authority under Wisconsin's Hazardous Substances Law

As part of its consumer product safety program, the Department administers Wisconsin's Hazardous Substances Law under s. 100.37, Stats. The law defines a "hazardous substance" to include any substance or mixture of substances which is flammable or combustible "if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use." The statute exempts certain products such as foods, drugs, pesticides, cosmetics and ammunition. But none of these exemptions applies to HC-12a or other hydrocarbon-based refrigerants.

The Department may identify "hazardous substances" by rule, and may regulate "hazardous substances" in various ways. The Department may, by rule:

- Require precautionary labeling of hazardous substances.
- Restrict the use of hazardous ingredients.
- Prescribe package safety standards.
- Ban the sale of hazardous substances if less restrictive alternatives are inadequate to protect public health and safety.

Under s. 100.37, Stats., the Department proposes to prohibit the sale of flammable hydrocarbon-based refrigerants for use in mobile air conditioning because of their serious risk to public health and safety. At this time, public health and safety can only be protected by keeping these products out of the channels of commerce in Wisconsin.

Public Health and Safety Risks Cited

HC-12a is a highly flammable, and potentially explosive substance. Independent testing by the Wisconsin Occupational Health Laboratory has identified a product composition of 62% propane, 23% butane and 12% isobutane.

Motor vehicles and mobile air conditioners are not currently designed to use flammable substances, or to prevent the safety hazards associated with those substances. The Society of Automotive Engineers has issued a standard which states that refrigerants used in mobile air conditioning systems must be of low toxicity, and must be nonflammable and nonexplosive.

Refrigerants commonly leak into engine compartments and passenger compartments of motor vehicles. Flammable refrigerants pose a danger in a mobile air conditioning system where they may come in contact with numerous ignition sources. Potential leak sources include evaporators, flexible hoses, and compressor shaft seals. Hydrocarbon-based refrigerants also pose a greater likelihood of leakage because of higher pressures which these substances exhibit within a motor vehicle air conditioning system. Fires or explosions resulting from the ignition of leaked flammable refrigerant may cause serious bodily injury or death to motor vehicle passengers.

Numerous national organizations and trade industry groups, including the Association of International Automobile Manufacturers, the American Automobile Manufacturers Association, the National Automobile Dealers Association, the Mobile Air Conditioning Society and the International Mobile Air Conditioning Association, have expressed concern and issued warnings regarding the use of flammable refrigerants in motor vehicle air conditioning systems.

Automotive technicians who repair or service mobile air conditioners are also at risk. Leak detection equipment used by service technicians utilize technologies that provide a source of ignition for leaking flammable refrigerants. Underwriters Laboratories, recognized under state and federal law for testing and approving refrigerant recovery and recycling equipment, has also issued a warning to equipment operators on the use of flammable refrigerants.

At least thirteen states have enacted specific legislation prohibiting sale and use of refrigerants in air conditioning or refrigeration systems unless those refrigerants meet flammability standards or are specifically approved for their intended use.

The Department does not believe that further precautionary labeling would adequately address the hazard inherent in the use of these products. Rather, the safety concern can only be effectively addressed by a sales prohibition. Safer, federally approved refrigerant substitutes are available. One such refrigerant, R-134a, has been used by auto manufacturers in new motor vehicles since 1992. Although the Department is unable to identify any deaths or serious injuries to date from the use of hydrocarbon-based refrigerants, the Department believes that the risk is sufficiently serious to warrant permanent rulemaking.

Text of Proposed Rulemaking Order

SECTION 1. ATCP 139.04 (11) is created to read:

ATCP 139.04 (11) Substances containing butane, propane, mixtures of butane and propane, or other gaseous hydrocarbons when sold or intended for use as refrigerants in mobile air conditioners, as defined under s. 100.45 (1) (b), Stats. This subsection does not apply to substances used as refrigerants which are properly labeled and intended for specific end uses approved by the United States environmental protection agency, and which meet recognized industry standards related to flammability for that specific end use.

SECTION 2. The rule contained in this order shall take effect on the first day of the month following publication in the *Wisconsin Administrative Register*, as provided under s. 227.22 (2) (intro), Stats.

Fiscal Estimate

This Department does not expect this proposed rule to have any fiscal effect. Any workload increase resulting from the rule will be absorbed by existing staff responsible for administering the Department's mobile air conditioning refrigerant use and recovery program.

Copies of Proposed Rule and Fiscal Estimate

A copy of the proposed rule and fiscal estimate can be obtained at no charge by making a written request to:

Tom Stoebig
Telephone (608) 224-4944
Bureau of Consumer Protection, DATCP
2811 Agriculture Dr.
P.O. Box 8911
Madison, WI 53708-8911

Regulatory Flexibility Analysis

See page 22 of the December 31, 1996 *Wis. Adm. Register*.

Notice of Hearing

Funeral Directors Examining Board

Notice is hereby given that pursuant to authority vested in the Funeral Directors Examining Board in ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 445.125 (3m) (b) 2.b. and (j) 1. and 2., Stats., as created by 1995 Wis. Act 295, and interpreting s. 445.125 (3m), Stats., the Funeral Directors Examining Board will hold a public hearing at the time and place indicated below to consider an order to create ch. FD 6 relating to the registration and regulation of agents authorized to represent funeral directors or funeral establishments in the sale or solicitation of burial agreements that are funded with the proceeds of a life insurance policy.

Hearing Information

February 5, 1997
Wednesday
10:00 a.m.

1400 E. Washington
Room 179A
Madison, WI

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 **February 10, 1997** 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) and 227.11 (2), and s. 445.125 (3m) (b) 2. b. and (j) 1. and 2., as created by 1995 Wis. Act 295.

Statute interpreted: s. 445.125 (3m) and (j) 1. and 2., as created by 1995 Wis. Act 295.

In this proposed rule–making order, the Funeral Directors Examining Board creates rules relating to the registration and regulation of agents authorized to represent funeral directors or funeral establishments in the sale or solicitation of burial agreements that are funded with the proceeds of a life insurance policy. These rules are the result of 1995 Wis. Act 295 which created a new category of sales agents and gave the board the authority to promulgate rules regarding them.

Section FD 6.01 sets forth the statutory authority and purpose for the proposed rules. Section FD 6.02 provides definitions of terminology used in the proposed rules. Section FD 6.03 specifically outlines the registration process for sales agents. Section FD 6.04 requires a funeral director to notify the board when an agency relationship is terminated. Section FD 6.05 sets forth the training requirements for agents. Section FD 6.06 identifies the procedure for obtaining approval for educational training programs. Section FD 6.07 creates the standards for burial agreements funded by the proceeds of life insurance. Section FD 6.08 sets out the contractual standards necessary for an agent and operators of funeral establishments. Section FD 6.09 identifies the requirements that are essential before a burial trust can be terminated. Section FD 6.10 outlines the restrictions on the solicitation of burial agreements that are funded by the proceeds of life insurance.

Text Of Rule

SECTION 1. Chapter FD 6 is created to read:

Chapter FD 6 BURIAL AGREEMENTS FUNDED WITH LIFE INSURANCE

FD 6.01 AUTHORITY AND PURPOSE. The rules in ch. FD 6 are adopted by the funeral directors examining board under the authority of ss. 15.08 (5) (b), 227.11 (2), 445.125 (3m) (b) 2. b. and (j) 1. and 2., Stats., and govern the registration and regulation of agents.

FD 6.02 DEFINITIONS. As used in ch. FD 6:

(1) “Agent” means an authorized representative of a funeral director or funeral establishment who may sell or solicit the sale of a burial agreement that is funded with the proceeds of a life insurance policy.

(2) “Board” means the funeral directors examining board.

(3) “Department” means the department of regulation and licensing.

(4) “Evidence of attendance” means an official transcript, student grade report, or a written form furnished by a program provider which specifies satisfactory completion of an educational training program.

(5) “Program provider” means an educational institution, governmental agency, professional or trade association of foundation or a private firm or individual whose function is educational programming.

FD 6.03 REGISTRATION REQUIREMENTS. (1) A licensed funeral director or operator of a funeral establishment shall submit an application with all of the following information:

(a) The identity of any agent authorized by s. 445.125 (3m), Stats., to sell or solicit the sale of a burial agreement that is funded with the proceeds of a life insurance policy on behalf of the licensed funeral director or operator of a funeral establishment.

(b) The agent’s Wisconsin life insurance intermediary’s license number and expiration date, and the insurer or insurers with whom the agent is listed to represent.

(c) Evidence satisfactory to the board that the agent has completed the training requirements as provided in s. FD 6.05.

(2) The application shall be accompanied by the fee authorized in s. 440.05 (1), Stats.

(3) Upon receipt of an application and payment of the fees, the board may issue a registration card to an agent.

Note: Application forms are available upon request to the Funeral Directors Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

FD 6.04 CHANGE OF EMPLOYMENT. A licensed funeral director or owner of a funeral establishment shall notify the board within 30 calendar days of the termination of any contract he or she has with an agent.

FD 6.05 TRAINING REQUIREMENTS. (1) Before an agent may sell or solicit the sale of a burial agreement funded by life insurance proceeds, he or she shall complete at least 20 hours of approved educational training.

(2) Educational training shall include the following subjects:

(a) The funeral industry practice regulations of the federal trade commission, and any other applicable federal statutes and regulations related to the funeral service industry, including but not limited to, the occupational safety and health act.

(b) The funeral industry practice regulations contained in the Wisconsin statutes and administrative code, including but not limited to, burial agreements and any applicable impoverishment provisions.

(c) The ethics of funeral service marketing.

(d) Funeral service and final disposition options.

(e) Funding mechanisms for burial agreements.

(f) Financial benefits available at the time of death including, but not limited to, veteran’s benefits, social security income, pensions, and human services benefits.

(g) Grief communication skills.

(3) Educational training credit for participation in a multiple–day program, in which each day of the program is a prerequisite for each succeeding day, shall be granted only for completion of the entire program.

(4) Credit for attendance at an educational training shall be given to an agent if the program has been approved by the board and if the agent provides evidence of attendance satisfactory to the board.

(5) After completing any required training program, an agent shall take and successfully pass a comprehensive examination administered by the program provider.

FD 6.06 APPROVAL OF EDUCATIONAL TRAINING PROGRAMS. (1) To obtain approval of an educational training program, the program provider shall submit an application to the board on a form provided by the board which shall include evidence of all of the following:

(a) Information that the program relates to the following subject areas:

1. The funeral industry practice regulations of the federal trade commission, and any other applicable federal statutes and regulations related to the funeral service industry, including but not limited to, the occupational safety and health act.

2. The funeral industry practice regulations contained in the Wisconsin statutes and administrative code, including but not limited to, burial agreements and applicable impoverishment provisions.

3. The ethics of funeral service marketing.

4. Funeral service and final disposition options.

5. Funding mechanisms for burial agreements.

6. Financial benefits available at the time of death including, but not limited to, veteran’s benefits, social security income, pensions, and human services benefits.

7. Grief communication skills.

(b) The program is available to all agents regardless of membership or affiliation with any organization.

(c) The provider of the educational training program agrees to monitor the continuous attendance of participants and to furnish to each participant evidence of having attended and completed the program at the location of the program.

(2) A separate application shall be submitted for each educational training program. Approval of an educational training program expires on December 31 of each odd–numbered year.

(3) A program provider shall apply for approval of an educational training program at least 30 days prior to its presentation.

(4) An educational training program may include subject content other than that specified in sub. (1); however, the board shall limit its approval only to that part and time segments of the program which relate to subject areas specified in sub. (1).

(5) In-service educational training programs sponsored by a funeral establishment or insurance company are not eligible for credit unless the programs are available to all agents and meet all other requirements in this section.

Note: Application forms are available upon request to the Funeral Directors Examining Board, 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708.

FD 6.07 STANDARDS FOR BURIAL AGREEMENTS FUNDED BY LIFE INSURANCE PROCEEDS. (1) A written burial agreement shall include all of the following:

(a) The identity of the funeral establishment and the insurer or insurers that the agent represents.

(b) The identity of the funeral establishment that will be used to provide the funeral services or merchandise under the agreement.

(c) The nature and extent of any price guarantees for the funeral merchandise or funeral services, or any other guarantees that exist.

(d) Information that a life insurance policy is involved in or connected to, or is being used to fund, the burial agreement.

(e) The type of insurance instrument that is being used to fund the burial agreement.

(f) The effect on the burial agreement of all of the following:

1. Changing the life insurance policy, including, but not limited to, changing the assignment of the policy proceeds, changing the beneficiary designation, or changing the use of the proceeds.

2. Any penalties incurred by the policyholder as a result of failing to make premium payments.

3. Any penalties incurred or money received as a result of cancellation or surrender of the life insurance policy.

(g) A statement of funeral goods and services selected under the burial agreement and the price of each item or service provided under the burial agreement, including a statement as to whether the purchase price of the funeral merchandise and services are guaranteed at the time the burial agreement is arranged or whether the price is to be determined at the time of need. If the price of funeral merchandise or services is to be determined at the time of need, those prices may not exceed the prices as set forth in the funeral establishment's general price list required under the funeral industry practices regulations of the federal trade commission.

(h) All information concerning what occurs, and whether any entitlements arise, if there is a difference between the proceeds of the life insurance policy and the amount of money actually needed to fund the burial agreement.

(i) Any restrictions, including geographic restrictions, or penalties relating to delivery or performance under the burial agreement, including any restrictions or penalties relating to the inability of the operator of the funeral establishment to perform.

(j) A statement as to whether the sales commission or other form of compensation is being paid to the agent who sells or solicits the sale of a burial agreement and the life insurance used to fund the burial agreement and, if so, the identity of any other persons to whom the commission or other compensation is paid.

(k) The following statement in not less than 12-point boldface type: **"Burial agreements are regulated by the Wisconsin Funeral Directors Examining Board. Should you have a complaint, please contact the board at 1400 East Washington Avenue, P.O. Box 8935, Madison, Wisconsin 53708."**

FD 6.08 CONTRACTUAL STANDARDS FOR AGENTS AND OPERATORS OF FUNERAL ESTABLISHMENTS. A copy of each contract between an agent and an operator of a funeral establishment shall be sent to the board along with the agent's application for registration as required in s. FD 6.03. A contract

between an agent and an operator of a funeral establishment shall include all of the following:

(1) A statement that the agent is currently licensed as a life insurance intermediary in Wisconsin and is currently listed with an insurer or insurers who is authorized to sell life insurance used to fund a burial agreement in Wisconsin.

(2) A statement that the agent has received the required training pursuant to s. 445.125 (3m) (b) 2 a, Stats., and will obtain any additional training as required by the board.

(3) A statement that the agent shall immediately notify the operator of the funeral establishment at any time while the contract between the agent and operator of the funeral establishment is in effect if any of the following occur:

(a) The agent's life insurance license is suspended or revoked.

(b) There are any changes to listings with insurers.

(4) A statement that the agent will abide by the funeral industry practices regulations of the federal trade commission, and all applicable Wisconsin statutes and rules.

(5) A statement as to whether the sales commission or other form of compensation is being paid to the agent who sells or solicits the sale of a burial agreement and the life insurance used to fund the burial agreement and, if so, the identity of any other persons to whom the commission or other compensation is paid.

FD 6.09 REQUIREMENTS FOR TERMINATING A BURIAL TRUST. Written notice shall be sent to the board by an agent, licensed funeral director or operator of the funeral establishment when a consumer terminates a trust as established under s. 445.125 (1), Stats. The following information shall be included in the written notice that an agent, funeral director, or operator of a funeral establishment gives to a consumer and to the board when the consumer terminates a burial trust and converts to a burial agreement funded by the proceeds of a life insurance policy:

(1) The name of the individual for whom the existing burial trust is intended.

(2) The date on which the original burial trust agreement was made.

(3) The name of the funeral establishment that was designated on the original burial trust agreement.

(4) The name of the bank, trust company, savings and loan association, or savings bank in which the burial trust funds have been held.

(5) The current value of the trust.

(6) The name of the life insurance company issuing the life insurance policy intended to fund the burial agreement.

(7) The name of the agent who sells the life insurance policy.

(8) The name of the funeral establishment that will be designated on the life insurance policy as the beneficiary.

FD 6.10 SOLICITATION OF BURIAL AGREEMENTS FUNDED WITH THE PROCEEDS OF A LIFE INSURANCE POLICY. No funeral director, owner of a funeral establishment, or agent may initiate any telephone call by live voice or by using an automatic telephone dialing system or an artificial or prerecorded voice for the purpose of selling or soliciting a burial agreement funded by the proceeds of a life insurance policy to:

(1) The telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment.

(2) Any residential telephone line without the prior express written consent of the called party.

(3) Any business telephone line without the prior express written consent of the called party.

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

Veterinary Examining Board

Notice is hereby given that pursuant to authority vested in the Veterinary Examining Board in ss. 15.08 (5) (b), 227.11 (2) and 453.03 (1), Stats., and interpreting s. 453.06 (1), Stats., the Veterinary Examining Board will hold a public hearing at the time and place indicated below to consider an order to repeal and recreate s. VE 4.01 (3) relating to evidence that would be required in order to obtain a veterinary license of a candidate who is not a graduate of a school that has been approved by the board.

Hearing Information

February 12, 1997	1400 E. Washington Ave.
Wednesday	Room 179A
11:15 a.m.	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 **February 21, 1997** 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 453.03 (1)

Statute interpreted: s. 453.06 (1)

In this proposed rule–making order the Veterinary Examining Board repeals and recreates s. VE 4.01 (3) to require applicants who have graduated from a school not approved by the board to complete and obtain certification from the Educational Commission for Foreign Veterinary Graduates. This amendment will only allow those

applicants who have completed and obtained their ECFVG (Educational Commission for Foreign Veterinary Graduates) certification to be eligible for licensure as a veterinarian in Wisconsin.

Under the current rule, an applicant who has graduated from a school not approved by the board, which includes all schools outside the United States and Canada with one exception, has three alternative routes to licensure. First, the applicant may complete the ECFVG program. Second, the applicant may demonstrate that requirements for a license in the applicant’s country of original licensure, including educational and examination requirements, are substantially equivalent to the requirements in this state. Third, the applicant may establish equivalency of his or her education and pass the national veterinary licensing examinations. Unlike the ECFVG program, which carries out extensive testing and remediation to ensure that foreign graduates fully meet standards imposed by the licensing jurisdictions in this country, the board has found itself unable to make informed decisions and judgments relating to the equivalency of standards for licensure in other countries so as to permit the board to ensure that endorsement candidates from other countries do in fact meet the minimum requirements imposed by this state upon graduates of approved schools of veterinary medicine.

Text of Rule

SECTION 1. VE 4.01 (3) is repealed and recreated to read:

VE 4.01 (3) A person holding a current unrestricted license to practice veterinary medicine in a country other than the United States or Canada, who is not a graduate of a school of veterinary medicine approved by the board, in addition to the requirements of sub. (2), shall submit evidence that applicant has successfully completed the certification program of the educational commission for foreign veterinary graduates of the American veterinary medical association.

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

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

Agriculture, Trade & Consumer Protection

(CR 96-142):

Ch. ATCP 30 Appendix A – Relating to atrazine use restrictions

Public Defender (CR 96-152):

S. PD 6.05 (1) (b) – Relating to reimbursement from parents of juveniles.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Agriculture, Trade & Consumer Protection
(CR 96-149):

An order repealing s. HSS 165.21 and creating ch. ATPC 77, relating to laboratory certification fees.
Effective 02-01-97.

Commerce (CR 96-99):

An order affecting chs. ILHR 20 and 21 in the Uniform Dwelling Code, relating to one- and two-family dwelling construction in flood hazard zones.
Effective 03-01-97.

Commerce (CR 96-100):

An order affecting chs. ILHR 20 and 21 in the Uniform Dwelling Code, relating to soil erosion at one- and two-family dwelling construction sites.
Effective 03-01-97.

Medical Examining Board (CR 92-162):

An order affecting chs. Med 1 to 8, 19 and 20 and s. Med 14.03, relating to open book examinations on statutes and rules, examination reviews and claim of examination error, and requirements relating to licensure of applicants with disabilities.
Effective 03-01-97.

Natural Resources (CR 96-98):

An order amending ss. NR 25.03 (1) (a) and 25.06 (1) (a) 2. and creating s. NR 25.03 (1) (a) 2., relating to commercial fishing licenses and the annual lake trout harvest limit on Lake Superior.
Effective 02-01-97.

Regulation & Licensing (CR 96-130):

An order affecting ss. RL 34.01 and 34.011, relating to conditions for transporting firearms in vehicles by private security persons.
Effective 02-01-97.

Regulation & Licensing (CR 96-150):

An order creating ch. RL 130, relating to examinations and continuing education requirements for interior designers.
Effective 02-01-97.

Revenue (CR 96-75):

An order affecting s. Tax 11.83, relating to the Wisconsin sales and use tax treatment of motor vehicles.
Effective 03-01-97.

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