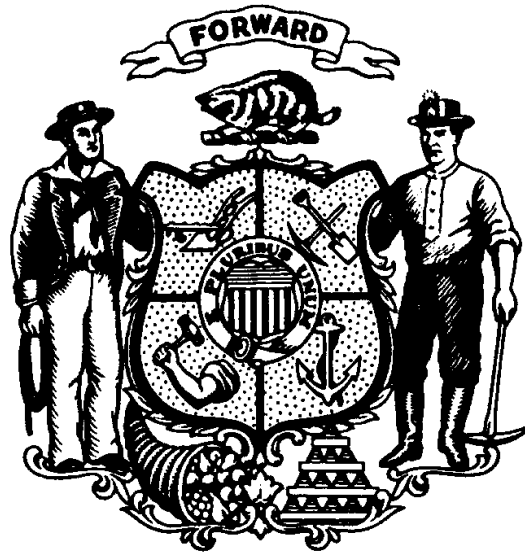


WISCONSIN ADMINISTRATIVE REGISTER

No. 483



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REVISOR OF STATUTES BUREAU
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NOTICE SECTION

Notice of Hearings

Agriculture, Trade & Consumer Protection (Reprinted from Feb. 29, 1996 Wis. Adm. Register)

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed rule, relating to grain warehouse keepers and grain dealers. This rule amends ch. ATCP 99, Wis. Adm. Code.

Written Comments

The Department will hold the hearings at the dates and places shown below. The public is invited to attend the hearings and comment on the proposed rule. Following the public hearings, the hearing record will remain open until **March 20, 1996** for additional written comments.

Copies of Rule

A copy of the rule may be obtained, free of charge, from:

Division of Trade & Consumer Protection
Telephone (608) 224-4970
Dept. of Agriculture, Trade & Consumer Protection
2811 Agriculture Dr.
P.O. Box 8911
Madison, WI 53708-8911

Copies will also be available at the public hearings.

An interpreter for the hearing-impaired will be available upon request for these hearings. Please make reservations for a hearing interpreter by contacting Judy Jung (608) 224-4972 or by contacting the TDD at the Department at (608) 224-5058.

Hearing Information

The hearings are scheduled as follows:

March 12, 1996 Tuesday Commencing at 1:00 p.m. <i>Handicapped Accessible</i>	Company E Room Menasha Public Library 440 First Street Menasha, WI
March 14, 1996 Thursday Commencing at 12:00 p.m. <i>Handicapped Accessible</i>	Room 105 Eau Claire State Office Bldg. 718 North Clairemont Eau Claire, WI

March 15, 1996
Friday
Commencing at 1:00 p.m.
Handicapped Accessible

Room 172
State Agriculture Building
2811 Agriculture Drive
Madison, WI

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

Statutory authority: ss. 127.02 (3) (d) and 127.15

Statutes interpreted: ch. 127

In order to protect grain producers, the Department of Agriculture, Trade and Consumer Protection currently regulates grain warehouse keepers and grain dealers under ch. 127, Stats. Grain warehouse keepers and grain dealers must be licensed, must file financial statements with the Department, and must file security with the Department if they fail to meet minimum financial standards.

The Legislature recently made substantial changes to the grain security law under ch. 127, Stats. The changes, contained in 1995 Wis. Act 42, took effect on September 1, 1995.

The Department has adopted rules under ch. ATPC 99, Wis. Adm. Code, to interpret ch. 127, Stats. This rule amends the Department's current rules to incorporate the recent legislative changes. This rule also increases license and inspection fees, clarifies financial statement and security filing requirements, simplifies the disclosures which grain dealers must make to producers, and makes other changes designed to clarify the current rules.

Licensing Grain Warehouse Keepers and Grain Dealers

1995 Wis. Act 42 requires warehouse keepers and grain dealers to hold a "license" from the Department, rather than a "registration certificate" as before. This rule incorporates this new terminology.

1995 Wis. Act 42 created a new license category of "class B2" grain dealers. "Class B2" grain dealers are feed mill operators who buy less than \$50,000 worth of grain from producers per year, and who use no "deferred payment" or "deferred price" contracts. "Class B2" grain dealers are no longer licensed as class B grain dealers. They will pay lower license fees than class B grain dealers, and will not have to file annual financial statements or meet minimum financial standards. This rule incorporates the new license category.

Financial Statements

Under current law, grain warehouse keepers and certain grain dealers must file annual financial statements with the department. Under 1995 Wis. Act 42, class B grain dealers must now file annual financial statements if they use "deferred payment" or "deferred price" contracts. The Department may require supplementary or interim financial statements, as necessary.

This rule modifies current rules related to financial statements, consistent with ch. 127, Stats.:

- It updates and clarifies current filing requirements, consistent with ch. 127, Stats.
- It clarifies current requirements related to the form and content of financial statements. It also clarifies which financial statements must be reviewed or audited by a CPA.
- It allows sole proprietors to prepare portions of their financial statements on a historical cost basis, thereby saving accounting costs.
- It allows the Department, for good cause, to extend a filing deadline for up to 30 days.

Minimum Financial Standards

Under current law, grain warehouse keepers and certain grain dealers must meet minimum financial standards. 1995 Wis. Act 42 made the following changes which are incorporated in this rule:

- It required class B grain dealers to meet minimum financial standards if they use "deferred payment" or "deferred price" contracts.
- It changed the minimum financial standards for grain dealers to reflect financial risk. Under the new standards:
 - * Grain dealers must have a current ratio of at least 1.25 to 1.0 at fiscal year end, and at least 1.0 to 1.0 at other times.
 - * Grain dealers must have total assets which exceed total liabilities by at least \$15,000, or by the amount of equity needed to achieve a debt-to-equity ratio of not more than 5.0 to 1.0, whichever is greater. The equity requirement is no longer capped at a maximum of \$500,000.
- It made allowances for normal seasonal fluctuations of certain assets and liabilities. Under 1995 Wis. Act 42 and this rule, a warehouse keeper or grain dealer may offset certain liabilities against certain current assets, so that normal seasonal and operational fluctuations do not have an undue impact on equity requirements.

Security Requirements

Under current law, grain warehouse keepers and certain grain dealers must file security with the Department if they fail to meet minimum financial standards. 1995 Wis. Act 42 made the following changes which are incorporated in this rule:

- It required class B grain dealers using "deferred payment" or "deferred price" contracts to file security with the Department if they fail to meet minimum financial standards.
- It changed the method used to calculate the amount of security required of grain dealers. Under 1995 Wis. Act 42 and this rule, a grain dealer must file security equal to the sum of the following:
 - * The total amount which the grain dealer owed to producers on "deferred payment" contracts as of the last day of the previous month.
 - * The total amount which the grain dealer owed to producers on "deferred price" contracts as of the last day of the previous month (based on contract pricing formulas and market prices on that day).
 - * Beginning September 1, 1996, an amount equal to 35% of the dollar amount of the grain dealer's average monthly purchases from producers for the 3 months in which the grain dealer made the largest monthly purchases from producers during the preceding 12 months. (1995 Wis. Act 42 increased this percentage in stages, from 20% in the year ending August 31, 1996, to 35% in the year beginning September 1, 1996.)
- It eliminated the former security cap of \$500,000 for warehouse keepers and grain dealers.

- It eliminated, as a form of security that may be filed with the Department, a security interest in grain inventory or accounts receivable.

Monthly Reports of Grain Purchases

Under current law, certain grain dealers who fail to meet minimum financial standards must file monthly reports with the Department showing amounts of grain purchased. 1995 Wis. Act 42 extended this monthly reporting requirement to class B grain dealers who use “deferred payment” or “deferred price” contracts (if they fail to meet minimum financial standards). The Department uses the monthly reports to monitor the adequacy of the security filed by grain dealers. This rule incorporates the statutory reporting requirements.

“Deferred Payment” and “Deferred Price” Contracts

“Deferred payment” and “deferred price” contracts, if not properly managed, can create serious financial risks. 1995 Wis. Act 42 made the following changes which are incorporated in this rule:

- The amount of security required of grain dealers depends, in part, on their use of “deferred payment” or “deferred price” contracts.
- A grain purchase contract must be in writing unless the grain dealer pays within 7 days. The new 7–day grace period recognizes operational realities in the grain business.
- A grain dealer must make full and final payment under a “deferred payment” or “deferred price” contract by a specified payment date which is not more than 180 days after the contract price is determined.

Grain Dealer Disclosures to Producers

Under current rules, a grain dealer must disclose to grain producers the basis on which the grain dealer is licensed. As a result of the statutory changes made by 1995 Wis. Act 42, the current disclosures are no longer fully accurate. This rule simplifies and shortens the disclosures which grain dealers must make, and modifies the disclosures to make them consistent with current law.

Ownership of Grain

This rule clarifies that when a grain owner delivers grain to a person who is both a warehouse keeper and a grain dealer, the grain owner retains ownership rights until one of the following occurs:

- The recipient acquires title to the grain pursuant to a sales contract that is documented by a purchase receipt or other writing.
- The grain owner transfers title to a third person.

Fee Changes; General

Under the grain security program, the Department:

- Licenses grain warehouse keepers and grain dealers.
- Reviews annual financial statements for compliance with minimum financial standards.
- Demands security from warehouse keepers and grain dealers who fail to meet minimum financial standards. The Department holds the security for the benefit of producers in the event that a grain warehouse keeper or grain dealer defaults in its obligations to producers.
- Monitors security amounts for compliance with legal standards, based on the amount of a warehouse keeper’s or grain dealer’s financial obligations to producers.
- Audits grain accounts and inspects grain inventories for compliance with legal requirements.
- Investigates default claims, and determines the amount of actual defaults to producers. The Department may convert available security to pay allowed producer claims, or take other legal action to recover unpaid claims for producers.
- Regulates the business practices of grain warehouse keepers and grain dealers to reduce financial risks to producers, and to prevent fraudulent or deceptive practices.
- Enforces ch. 127, Stats., and ch. ATCP 99, Wis. Adm. Code.

The Department’s grain security program is funded by a combination of license fees (PRO, or program revenue), general tax dollars (GPR, or general purpose revenue) and federal contracts (FED revenue). Under the 1995–97 biennial budget act, a total of 1.68 FTE (full–time equivalent) positions in the Department’s grain security program were converted from GPR to PRO funding, effective July 1, 1997.

This rule increases license and inspection fees for grain warehouse keepers and grain dealers in order to fund the conversion of staff from GPR to PRO revenue, and in order to offset projected license revenue shortfalls resulting from consolidated ownership of grain warehouse and grain dealer operations. The rule also changes the fee structure to create a more equitable distribution of fees.

Current license fees generate an average of approximately \$179,000 per year. The proposed fees will generate approximately \$223,000 in 1996 and \$270,000 in each subsequent year. License fees will fund approximately 59% of overall program costs, compared to 31% currently.

Warehouse Keepers; Fee Changes

This rule increases grain warehouse fees as follows:

- The current basic license fee of \$50 is increased to \$75 effective September 1, 1996, and to \$100 effective September 1, 1997.
- The current license fee of \$25 for each additional business location is increased to \$50 effective September 1, 1996, and to \$75 effective September 1, 1997.
- The current inspection fee of \$300 for warehouses with storage capacity of less than 150,000 bushels is increased to \$375 effective September 1, 1996, and to \$425 effective September 1, 1997.
- The current inspection fee of \$325 for warehouses with storage capacity of at least 150,000 bushels but less than 250,000 bushels is increased to \$425 effective September 1, 1996, and to \$475 effective September 1, 1997.
- The current inspection fee of \$375 for warehouses with storage capacity of at least 250,000 bushels but less than 500,000 bushels is increased to \$475 effective September 1, 1996, and to \$525 effective September 1, 1997.
- The current inspection fee of \$425 for warehouses with storage capacity of at least 500,000 bushels but less than 750,000 bushels is increased to \$525 effective September 1, 1996, and to \$575 effective September 1, 1997.
- The current inspection fee of \$475 for warehouses with storage capacity of at least 750,000 bushels but less than 1,000,000 bushels is increased to \$575 effective September 1, 1996, and to \$625 effective September 1, 1997.
- The current inspection fee of \$525 for warehouses with storage capacity of at least 1,000,000 bushels but less than 2,000,000 bushels is increased to \$700 effective September 1, 1996, and to \$725 effective September 1, 1997.

- The current inspection fee of \$525 for warehouses with storage capacity of at least 2,000,000 bushels but less than 3,000,000 bushels is increased to \$800 effective September 1, 1996, and to \$825 effective September 1, 1997.
- The current inspection fee of \$525 for warehouses with storage capacity of at least 3,000,000 bushels but less than 4,000,000 bushels is increased to \$900 effective September 1, 1996, and to \$925 effective September 1, 1997.
- The current inspection fee of \$525 for warehouses with storage capacity of 4,000,000 bushels or more is increased to \$1,000 effective September 1, 1996, and to \$1,025 effective September 1, 1997.

Grain Dealers; Fee Changes

This rule increases grain dealer fees as follows:

- A class A grain dealer currently pays a basic license fee of \$400, a fee of \$10 for each additional truck (if more than one), and a surcharge of \$250 if the grain dealer's annual financial statement is not audited. Effective September 1, 1996, this rule increases the basic license fee to \$500, imposes a fee of \$175 for each additional business location, increases the truck fee to \$25 per additional truck, and increases the surcharge for an unaudited financial statement to \$350. Effective September 1, 1997, this rule increases the basic license fee to \$525, increases the fee for each additional business location to \$225, increases the truck fee to \$45 per additional truck, and increases the surcharge for an unaudited financial statement to \$425.

- A class B grain dealer currently pays a basic license fee of \$175 and a fee of \$10 for each additional truck (if more than one). Effective September 1, 1996, this rule increases the basic license fee to \$200, increases the truck fee to \$25 per additional truck, and imposes a surcharge of \$350 if the grain dealer's annual financial statement is not audited. Effective September 1, 1997, this rule increases the basic license fee to \$225, increases the truck fee to \$45 per additional truck, and increases the surcharge for an unaudited financial statement to \$425.

- A class B2 grain dealer currently pays a basic license fee of \$50 and a fee of \$10 for each additional truck (if more than one). Effective September 1, 1996, this rule increases the truck fee to \$25 per additional truck. Effective September 1, 1997, this rule increases the basic license fee to \$75, and increases the truck fee to \$45 per additional truck.

- A class C grain dealer is not required to be licensed, but may voluntarily apply for a license. A class C grain dealer who voluntarily applies for a license must currently pay a basic license fee of \$50. Effective September 1, 1996, this rule increases the basic license fee to \$75.

- Under current law, a grain dealer must pay a license fee surcharge of \$500 if the grain dealer is caught operating without a required license, except that 1995 Wis. Act 42 provides for a lesser surcharge of \$250 for class B2 grain dealers. This rule incorporates the lesser surcharge for class B2 grain dealers.

Rule Organization and Drafting

This rule makes a number of drafting changes to improve the organization and clarity of the current rules, and to make the current rules more consistent with the statutory language enacted under 1995 Wis. Act 42.

Fiscal Estimate

(Please see the February 29, 1996 *Wisconsin Administrative Register*, page 9.)

Initial Regulatory Flexibility Analysis

(Please see the February 29, 1996 *Wisconsin Administrative Register*, page 9.)

Notice of Hearing

State Emergency Response Board

The State Emergency Response Board (SERB) has promulgated an emergency rule in order to allow continuation of the Wisconsin Hazardous Materials Transportation Registration Program established under s. 166.20(7g), Stats. The SERB promulgated a rule, ch. ERB 4, to implement the program. The original rule had a sunset date of June 30, 1995. A revised ch. ERB 4 was promulgated December 1, 1995 but was superseded by statutory changes to s. 166.20(7g), Stats., enacted in the DOT 1995 – 1997 biennial budget. The emergency rule will enable the Wisconsin Department of Transportation (DOT) to collect registration fees for the billing period July 1, 1995 through June 30, 1996.

The SERB, the Division of Emergency Government and DOT are jointly developing a permanent rule to reflect the statutory fee structure enacted by the Legislature in the DOT 1995–1997 biennial budget.

This public hearing is being held in order to comply with administrative rules procedures which require a public hearing to be held on emergency rules. Therefore,

Notice is hereby given that pursuant to ss. 166.20(7g) and 227.24(4), Stats., and interpreting s. 166.20(7g), Stats., the State Emergency Response Board will hold a public hearing to consider Chapter ERB 4 relating to fees for transporters and offerors of hazardous material. The public hearing is scheduled as follows:

April 2, 1996
Tuesday
10:00 a.m.

Dept. of Military Affairs
Auditorium
2400 Wright Street
Madison, WI

Persons making oral statements are requested to submit their comments in writing either at the time of the hearing or no later than **April 2, 1996**. Persons unable to make an oral statement may submit written comments which will have the same weight and effect as oral statements presented at the hearing. All written comments should be submitted to Jan Grunewald, State Emergency Response Board, 2400 Wright St., P. O. Box 7865, Madison, WI 53707–7865 and must be received no later than **March 29, 1996**.

The hearing site is fully accessible to persons with disabilities.

Fiscal Estimate

Under the previous rule the fee structure generated approximately \$700,000 annually. The emergency rule incorporates the same fee structure, as enacted in the statutes, and will continue revenues at the same level.

Notice of Hearings

State Emergency Response Board

The State Emergency Response Board is amending ch. ERB 1 relating to reporting requirements for temporary construction and batch plants.

The State Emergency Response Board (SERB) has promulgated ch. ERB 5 as an emergency rule in order to meet the requirements of 1995 Wis. Act 13 and is promulgating the permanent rule at the same time.

These public hearings are being held in order to comply with administrative rule procedures which require a public hearing to be held on emergency rules and proposed rules. Therefore,

Notice is hereby given that pursuant to ss. 166.20(2)(b), (7)(a), 227.11(2)(a), Stats., and interpreting s. 166.20(7)(b), Stats., the State Emergency Response Board will hold public hearings to consider amending ch. ERB 1 relating to temporary construction facility reporting. And furthermore, that pursuant to ss. 166.20(2)(b), (2)(bg), 166.21(2), 227.11(2)(a), Stats. and interpreting ss. 166.20(2)(bg), (2)(br), 166.21(1), (2), (3), Stats., the State Emergency Response Board will hold public hearings to consider ch. ERB 5, relating to computer grants. The public hearings are scheduled as follows:

Hearing Information

March 28, 1996
Thursday
Beginning: 9:00 a.m.
Dept. of Military Affairs
Auditorium
2400 Wright Street
Madison, WI

March 28, 1995
Thursday
Beginning: 2:00 p.m.
Marathon County Courthouse
Room 149
500 Forest St.
Wausau, WI 54403

Persons making oral statements are requested to submit their comments in writing either at the time of the hearing or no later than **March 28, 1996**. Persons unable to make an oral statement may submit written comments which will have the same weight and effect as oral statements presented at the hearings. All written comments should be submitted to William Clare, State Emergency Response Board, 2400 Wright St., P.O. Box 7865, Madison, WI 53707-7865 and must be received no later than **March 28, 1996**.

The hearing sites are fully accessible to people with disabilities.

Analysis prepared by the State Emergency Response Board

Statutory Authority: ss. 166.20(2)(b), (7)(a), 227.11(2)(a)

Statute Interpreted: s. 166.20 (7)(b)

The Wisconsin State Emergency Response Board proposes an order to amend ch. ERB 1, relating to temporary construction facility hazardous chemical inventory reporting.

Plain Language Summary

This amendment establishes alternative reporting requirements for temporary construction projects due to their unique and temporary nature. The amendment is responsive to the need to provide useful and current 24 hour emergency response information for the duration of the construction project which can be effectively utilized by local fire department personnel. The current submission of the large construction project plans and specifications would be eliminated. Reporting exemptions under s. 166.20(5)(a)3, Stats., would no longer be applicable. All temporary construction sites which meet the definition for a temporary construction facility would need to submit the report and a \$20.00 fee, unless they are exempt under s. 166.20(7)(d), Stats.

Text of Rule

SECTION 1. ERB 1.01 is amended to read:

The purpose of this chapter is to establish a fee payment structure for owners or operators of facilities housing with hazardous chemicals present, as required by s. 166.20 (7), Stats.

SECTION 2. ERB 1.02 (3), (4), (5), (6), (7), (8), (9), (10), is amended to read:

(3) "Contractual documents" means a written representation of the nature of the project including a site location diagram along with information similar to that found in a set of Plans and Specifications. "Committee" has the meaning given at s. 166.20(1)(b), Stats.

(4) "Emergency planning notification fee statement" means the form prepared by the board for the purpose of collecting the fee under s. ERB 1.03 or claiming the exemption under s. ERB 1.06.

(4)(5) "Facility" has the meaning given in s. 166.20 (1) (c), Stats.

(6) "Fee remittance form" means the form prepared by the board for the purpose of collecting the fee under s. ERB 1.04.

(5)(7) "Hazardous chemical" has the meaning given in s. 166.20 (1) (f), Stats.

(6)(8) "Inventory form fee statement" means the form prepared by the board for the purpose of collecting the fee under s. ERB 1.04 or claiming exemption of the fee under s. ERB 1.06.

(7)(9) "Petroleum marketing facility" means a facility where petroleum products are stored for retail or resale, and received by tank vessels, tank car or tank vehicle, and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, tank car, tank vehicle, or portable tank, and where petroleum products used as motor fuels are stored and dispensed from fixed equipment into vehicle fuel tanks. Retail applies to all instances of resale as defined in state law. Resale facilities also include every person engaged in the business of making sales to the general public at retail within this state.

(8)(10) "Planning notification fee statement" means the form prepared by the board for the purpose of collecting the fee under s. ERB 1.03 or claiming exemption of the fee under s. ERB 1.06.

(9)(11) "Plans and specifications" means a two-dimensional graphic representation of the design, location, layout, and dimensions of the project, or parts thereof, seen in a horizontal plane viewed from above and a part of the contract documents contained in the project manual consisting of written requirements for materials, equipment, construction systems, standards, and workmanship. Under the Uniform Construction Index, the specifications comprise 16 divisions. "Road de-icing agent" means substances used alone or in combination with an abrasive material to supplement winter maintenance operations intended to provide adequate traction for pedestrians and vehicles properly equipped for winter driving conditions.

(10)(12) "Site plan" means facility floor plans which indicate the storage location of hazardous chemicals on the site as required under s. ERB 1.04 (2)(1).

(13) "Temporary construction facility" means a facility under construction containing more than 50,000 total cubic feet of new structure or 50,000 cubic feet of remodeled structure or additions or transportation construction project as defined by s. 84.013(1), Stats., as well as all sites within the project limits.

SECTION 3. ERB 1.04 is amended to read:

ERB 1.04, Hazardous chemical inventory reporting and inventory form fee:

(1) An owner or operator of a facility required to submit an inventory form under s. 166.20 (5) (a) 3., Stats., shall submit a tier 2 inventory form, a site plan, and the appropriate fee and inventory form fee statement on or before March 1, 1990 and annually thereafter on or before March 1. The appropriate inventory form fee shall be due on or before the due date established by the board.

(2) An owner or operator of a facility that has submitted an inventory form pursuant to s. 166.20 (5) (a) 3., Stats., for the previous reporting period and which is no longer subject to the inventory form reporting requirements for the current reporting period shall return any inventory form fee statement received from the board with a notation stating the reason(s) why the facility is no longer subject to the inventory form reporting requirements.

(3) ~~An~~ The primary contractor or owner or operator of a temporary construction facility as defined by ERB 1.02(11), and that may store hazardous chemicals or extremely hazardous chemicals at or above the appropriate threshold reporting quantity during the construction operations, shall submit the site location diagram and floor plans contained within the plans, and shall file the project specifications and a Temporary Construction Site Facility Emergency Response and Hazardous Chemical Report to the board, committee and all local fire departments with jurisdiction over the facility, and shall submit the appropriate fee under sub. (6) to the board, within 105 calendar days after the building permit is obtained or the contract is awarded.

~~(4) An owner or operator of a temporary construction facility, and that stores hazardous chemicals or extremely hazardous chemicals at or above the appropriate threshold reporting quantity during the construction operations, and which does not use formal plans and specifications or is not required to obtain a building permit, shall cause to be filed contractual documents and a Construction Site Emergency Response and Hazardous Chemical Report Form with the board, committee and fire departments with the appropriate fee under sub. (6) within 10 days from the date of the contract award.~~

~~(5)(4) An owner or operator of a batch plant shall submit an inventory form list specifying the hazardous chemicals that will be present at or above the appropriate threshold reporting quantity or a copy of the operator's OSHA HazCom Chemical Inventory, and the Construction Batch Plant Site Emergency Response and Hazardous Chemical Report form with a generic site location diagram plan or manufacturer's assembly diagram showing the relationship of the batch plant components within 40 15 calendar days from the time a the batch plant is first brought into the state and set up for actual operation. A generic site location diagram or manufacturer's assembly diagram showing the relationship of the batch plant components shall accompany the initial Superfund Amendments Reauthorization Act submittal to the board, committee and all local fire departments with jurisdiction over the site. If a batch plant is relocated into a county or fire district that had previously received the submittal, the owner or operator shall submit only the Batch Plan Relocation Form to the, committee, fire departments where the batch plant has and the state emergency response board with the state emergency response board identification number. The facility I.D. # assigned to the batch plant by the board shall be listed on the form, in the area provided.~~

~~(5) If a batch plant is relocated, the owner or operator shall submit a Batch Plan Emergency Response and Hazardous Chemical Report to the board, committee, and all fire departments with jurisdiction over the facility within 15 calendar days from the date the batch plant is relocated and set up for actual operation.~~

(6) The owner or operator of a batch plant that stores hazardous chemicals at or above the appropriate threshold reporting quantity, may report under sub. (1) , in lieu of reporting under sub. (4).

~~(6)(7) Except as provided under s. ERB 1.07, the appropriate inventory form fee required under this section is:~~

(a) For facilities submitting an inventory forms listing one hazardous chemical subject to inventory form fee calculations and a maximum daily amount of less than 100,000 pounds, \$150. Facilities with an actual maximum daily amount of 100,000 pounds or more, \$180.

(b) For facilities submitting an inventory forms listing 2 to 10 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$300. Facilities with a cumulative actual maximum daily amount of \$100,000 pounds or more, \$360.

(c) For facilities submitting an inventory forms listing 11 to 100 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$450. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$540.

(d) For facilities submitting an inventory forms listing 101 to 200 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$550. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$660.

(e) For facilities submitting an inventory forms listing 201 to 300 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$650. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$780.

(f) For facilities submitting an inventory forms listing 301 to 400 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$750. Facilities with a cumulative actual maximum daily amount of 100,000 pounds or more, \$900.

(g) For facilities submitting an inventory forms listing 401 to 500 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$850. Facilities with a cumulative actual maximum daily amount of \$100,000 pounds or more, \$1020.

(h) For facilities submitting an inventory forms listing over 500 hazardous chemicals subject to inventory form fee calculations and a cumulative actual maximum daily amount of less than 100,000 pounds, \$950. Facilities with a cumulative actual maximum daily amount of \$100,000 pounds or more, \$1140.

(i) For temporary construction facilities ~~submitting plans and specifications or contractual documents~~ a Construction Site Emergency Response and Hazardous Chemical Report , \$20.

(j) For batch plants ~~submitting an inventory form specifying the hazardous chemicals that will be on-site or a copy of the OSHA HazCom Chemical Inventory and the Construction Site Emergency Response and Hazardous Chemical Report form~~, \$20.

SECTION 4. ERB 1.06 is amended to read;

ERB 1.06 Exemptions, emergency planning notification fee.

SECTION 5. ERB 1.07 (intro.) and (2) are amended to read:

ERB 1.07 Exemptions, inventory form fee. A facility is not required to pay a fee under s. ERB 1.04 if a facility meets the exemption criteria in s. 166.20(7)(d), Stats., any of the following apply:

(2) A facility is not required to pay a fee under s. ERB 1.04 ~~(6)(7)~~ (a) to (h) if it is a temporary construction facility or a batch plant reporting under s. ERB 1.04 (3) ~~to or (5)(4)~~ unless the facility or batch plant chooses to file as under s. ERB 1.04 (1).

Note: A copy of the inventory form fee statement, Tier Two form, planning notification fee statement, ~~and a Construction Site Facility Emergency Response and Hazardous Chemical Report, Batch Plant Emergency Response and Hazardous Chemical Report, Fee Remittance form, and list of local emergency planning committees~~ may be obtained by contacting the State Emergency Response Board, 4802 Sheboygan Ave., Room 99A 2400 Wright Street, Room 212, P.O. Box 7865, Madison, Wisconsin 53707-7865, telephone 608-267-7314 242-3221.

Initial Regulatory Flexibility Analysis

Inventory fees required under s. 166.20(7), Stats., currently provides for alternative hazardous chemical reporting and a \$20.00 reporting fee for temporary construction facilities. The proposed revisions for temporary construction facilities reporting would require the submission of only a Temporary Construction Facility Emergency Response and Hazardous Chemical Report.

This would provide relief from costs associated with determining if reportable amounts of hazardous chemicals are present, and from the costs associated with the current submission requirements of the Construction Site Emergency Response and Hazardous Chemical Report, site location diagram, floor plans contained in the plans, and the project specifications. The \$20.00 fee remains the same. Reporting exemptions under s. 166.20(5)(a)3, Stats., would no longer be applicable

All temporary construction sites which meet the definition for a temporary construction facility would need to submit the report and the \$20.00 fee, unless exempt under s. 16.20(7)(d), Stats..

This rule revision would impact small business by reducing the costs associated with determining if the temporary construction facility will have reportable amounts of hazardous chemicals. Small businesses with fewer than 10 FTE in the state are already exempt from fees. Section 166.20(7)(d), Stats., provides for a fee exemption for facilities with operators with fewer than 10 full time equivalent (FTE) employees in the state.

Fiscal Estimate

Currently, a temporary construction site must determine if they have threshold amounts of reportable hazardous chemicals present during the construction operations and make the report submission and the \$20.00 fee, unless exempt under s. 166.20 (7) (d), Stats.

During 1994 there were 392 temporary construction facilities which submitted the report and \$20.00 fee, for revenue totaling \$7,840.00. During 1995 there were 458 temporary construction facilities which submitted the report and \$20.00 fee, for revenue totaling \$9,160.

The following is a breakdown of the approximate number of construction projects which occurred during 1995 which would be subject to the revised requirements:

New construction:	1019
Additions:	581
Alterations:	499
Permissions to start:	293
Major road projects:	37
Milwaukee projects	
new commercial:	79
commercial remodeling:	505
Other DILHR plans	
reviewed:	<u>3024</u>
TOTAL:	6037

The SERB facilities database currently has 13,202 facilities which have determined their reporting status. 5,779 or 44% of these facilities are listed as not subject to the hazardous chemical inventory reporting requirements because they did not have reportable amounts of hazardous chemicals. Therefore, it is assumed that 44% of the 6,037 construction projects or 2,656 construction projects would not have reportable amounts of hazardous chemicals present and there would be 3,381 temporary construction facilities that would be subject to the new definition of a temporary construction facility and reporting.

Assuming an initial 60% rate of compliance, 2,229 temporary construction facilities would be subject to the proposed definition of a temporary construction facility and revised reporting requirements, and would submit the report and the \$20.00 fee. This would result in annual revenue totaling \$40,580.00. This amount, less the \$9,160.00 in revenue currently generated annually, would result in a net increase of approximately \$31,420.00 in annual revenue from temporary construction facility reporting.

Analysis prepared by the State Emergency Response Board

Statutory Authority: ss. 166.20(2)(b), (bg), 166.21(2), 227.11(2)(a)

Statutes Interpreted: ss. 166.20 (2)(bg), (br), 166.21(1), (2), and (3)

The Wisconsin State Emergency Response Board proposes an order to create ch. ERB 5 relating to the computer grant.

Plain Language Summary

The computer grant rule establishes guidelines for the computer grant to county Local Emergency Planning Committees. The rule requires the State Emergency Response Board to establish grant procedures to implement this rule. The rule allows Local Emergency Planning Committees to purchase computer equipment under this grant for specific use within the county emergency management program to comply with state and federal planning requirements.

The rule requires that matching costs for computer equipment are to be based on a 4 year grant cycle. For one year of the 4 year grant cycle, up to a maximum of \$6,000 of the cost of computer equipment shall be eligible for reimbursement. For each of the remaining 3 years of the 4 year grant cycle, up to a maximum of \$2,000 of the cost of computer equipment shall be eligible for reimbursement.

SECTION 1. Chapter ERB 5 is created to read:

CHAPTER ERB 5
COMPUTER GRANT

ERB 5.01 Purpose. The purpose of this chapter is to establish guidelines for the computer grant to committees as required by s.166.20(2)(bg), Stats.

ERB 5.02 Definitions. In this chapter:

- (1) "Board" has the meaning given in s.166.20 (1) (a), Stats.
- (2) "Committee" has the meaning given in s. 166.20 (1) (b), Stats.
- (3) "Grant Period" is a 12 month time frame as established by the board.

ERB 5.03 Eligibility. Any committee may apply to the board for an annual computer equipment grant.

Note: Grant applications shall be submitted to the Division of Emergency Government, Regional Office, with jurisdiction over the committee, on forms prescribed by the board.

ERB 5.04 Procedures.

- (1) The board shall establish specific grant procedures to implement this section and shall make the procedures available annually to the committees.
- (2) The grant procedures shall define in-kind match.
- (3) Committees may amend grant applications as prescribed by the board.
- (4) The grant application and reimbursement request due dates shall be established by the board.
- (5) The grant application and reimbursement request must be approved by the committee prior to submission to the board.
- (6) Records concerning the grant program, including documentation of expenditures, shall be maintained and available for audit purposes according to state and federal requirements.
- (7) The computer equipment grant may be combined with any other committee grant administered by the board.

Note: The grant procedures shall be distributed by the board to the committees along with the grant application materials.

ERB 5.05 Eligible Costs.

(1) A committee may receive a computer grant under this chapter for the purchase of computer equipment to be used for specific use within the county emergency management program to comply with ss 166.20 and 166.21, Stats, 42 USC 11001–11050, 49 CFR 110, and other hazardous materials planning requirements that may be required by federal or state law.

Note: 42 USC 11001–11050 refers to Title III of the Superfund Amendments and Reauthorization Act. 49 CFR 110 refers to Hazardous Materials Public Sector Training and Planning Grants.

(2) Computer grants under this chapter shall be based on a 4 year grant cycle which shall begin with the 1996 grant year. For one year of the 4 year grant cycle, up to a maximum of \$6,000 of the cost of computer equipment shall be eligible for reimbursement. For each of the remaining 3 years of the 4 year grant cycle, up to a maximum of \$2,000 of the cost of computer equipment shall be eligible for reimbursement.

(3) Computer equipment must be purchased during the grant period to be eligible for reimbursement from the annual computer grant, for that grant period. Equipment purchased during a specific grant period can only be reimbursed from the grant covering that specific period.

- (4) The board shall determine what computer equipment will be eligible during a grant period and shall include this information with the grant application.
- (5) The percentage cost of computer equipment which shall be eligible during a grant period is as specified in s. 166.21 (2)(bm).

ERB 5.06 Ineligible Costs. The board shall not make a grant for any of the following:

- (1) Undocumented costs.
- (2) Costs for any computer equipment charged against any other state grant.
- (3) Computer equipment costs for which any other gifts or grants have been received by the committee in an amount greater than the statutory eligible percentage of the cost of the equipment.
- (4) Other costs determined ineligible by the board.

ERB 5.07 Appeals Process. The board shall establish an appeals process by which committees can appeal computer grant determinations.

Note: The appeals process is included in the computer grant procedures.

Initial Regulatory Flexibility Analysis

The computer administrative rule required under s. 166.20 (2) (bg), Stats., will not impact small business. The computer grant is a grant between Local Emergency Planning Committees and the state. The grant does not impose any fees or regulations.

Fiscal Estimate

Since 1990 the equipment grant has allowed a maximum of \$6,000 per year to be reimbursed for computer equipment. A maximum total of \$10,000 for computer and hazmat response equipment has been in place since 1993. The only fiscal change to the Computer Equipment Grant administrative rule is to limit the maximum reimbursement amount to \$6,000 for 1 year of a 4 year cycle and to \$2,000 for the remaining 3 years of the 4 year cycle.

This should have no effect on the total grant dollars awarded to the counties as it is anticipated that dollars not available for computer equipment will be used by counties for hazmat response equipment.

Notice of Hearing

Commissioner of Insurance

The Commissioner of Insurance, pursuant to the authority granted under s. 601.41 (3), Stats., and according to the procedures under s. 227.18, Stats., will hold a public hearing in **Room 23, 121 East Wilson Street, Madison, Wisconsin, on April 4, 1996, at 10:00 a.m.**, or as soon thereafter as the matter may be reached, to amend s. Ins 6.20 (6) (a); to renumber s. Ins 6.20 (3) (f) to (j); to repeal and recreate s. Ins 6.20 (6) (b) and (c) and to create s. Ins 6.20 (3) (f) and (l) and (6) (d) to (f), Wis. Adm. Code, relating to investments by town mutual insurers.

Summary of Proposed Rule

This proposed rule revises the rule governing town mutual insurer investments. The rule will allow town mutual insurers greater flexibility in making investments. The rule requires town mutuals to invest most assets in bonds, preferred stock and certain other investments which are rated BBB or are investments which are relatively low risk investments.

The rule permits town mutual insurers to invest in certain other specified investments which are higher risk. A town mutual insurer may invest in higher risk investments only if it already has lower risk investments in an amount equal to its liabilities plus the greater of \$300,000, 50% of gross premiums or 33% of net premiums.

The rule also requires a town mutual insurer board to establish an investment plan and "grandfathers" investment in certain stock issued by a town mutual reinsurer while subjecting any future acquisitions to the general restrictions of the rule.

Fiscal Estimate

There will be no state or local government fiscal effect.

Initial Regulatory Flexibility Analysis

This rule may have an impact on town mutual insurers which are small businesses.

Contact Person

A copy of the text of the proposed rule and fiscal estimate may be obtained from Meg Gunderson, Services Section, Office of the Commissioner of Insurance, 121 East Wilson Street, P. O. Box 7873, Madison, Wisconsin 53707-7873, (608) 266-0110.

Notice of Public Hearing

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

Notice is hereby given that pursuant to authority vested in the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors in ss. 15.08 (5) (b) and 227.11 (2), Stats., and s. 457.09, Stats., as created by 1995 Wis. Act 150, and interpreting s. 457.09, Stats., the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors will hold a public hearing at the time and place indicated below to consider an order to amend s. SFC 2.01 (5); and to create s. SFC 3.13, relating to social worker training certificates.

Hearing Information

**March 27, 1996
Wednesday
9:15 A.M.**

**Room 179A
1400 East Washington Ave.
Madison, WI**

Written Comments

Interested people are invited to present information at the hearing. People 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:

Office of Administrative Rules
Dept. of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708

Written comments must be received by **April 10, 1996** to be included in the record of rule-making proceedings.

Analysis Prepared by the Dept. of Regulation and Licensing

Statutes authorizing promulgation: ss. 15.08 (5) (b) and 227.11 (2); and also s. 457.09 as created by 1995 Wis. Act 150

Statute interpreted: s. 457.09

This proposed rule-making order defines administrative guidelines for a social worker certificate as created by 1995 Wis. Act 150 (s. 457.09, Stats.). The Act creates a nonrenewable social worker training certificate which allows the certificate holder to use the title "social worker" if the holder does the following:

- 1) Submits evidence that is satisfactory to the Social Worker Section of the Examining Board of Social Workers, Marriage and Family Therapists and Professional Counselors documenting that they hold a bachelor's degree in psychology, sociology, criminal justice or other human service program approved by the section.
- 2) Submits a statement to the Social Worker Section that they are seeking to attain a social worker degree equivalency while holding a social worker training certificate.
- 3) Seeks to attain a social worker degree equivalency by completing courses relating to social work welfare policy and services, social work practice methods with individuals, families, small groups, communities, organizations and social institutions, and human behavior in the social environment, including human growth and development and social systems theory.
- 4) Completes a human services internship that involves at least 400 hours of direct practice with clients and that is supervised by a certified social worker who has a bachelor's or master's degree in social work, or one year of social work employment that involves direct practice with clients and that is supervised by a certified social worker who has a bachelor's or master's degree in social work.
- 5) Pays the appropriate fee.

These proposed rules include a social worker training certificate holder who can use the title "certified social worker," delineate the requirements for qualifying for and maintaining a training certificate, and how a social worker training certificate holder could qualify for a social worker certificate.

Section SFC 2.01 (5) is amended to include "social worker training certificate holder" as an individual qualified to use the title social worker. Section SFC 3.13, social worker training certificate, is created to delineate the training certificate application requirements of social worker degree equivalency, internship and employment requirements, supervision requirements and the granting of social worker certification requirement.

Text of Rule

SECTION 1. SFC 2.01 (5) is amended to read:

SFC 2.01 (5) "Certified social worker" means a person who holds a certificate under s. 457.08 (1) or 457.09, Stats.

SECTION 2. SFC 3.13 is created to read:

SFC 3.13 Social worker training certificate. (1) APPLICATION REQUIREMENTS. The social worker section shall grant a training certificate to an applicant who submits the fee under s. 440.05 (6), Stats., together with the completed, signed application form and:

- (a) A certificate of professional education, signed and sealed by the chancellor, dean or registrar of the school from which the applicant has graduated with a bachelor's degree in psychology, sociology, criminal justice or another human service program approved by the section.
- (b) Verification that the applicant has a bachelor's degree from an accredited college or university, at the time the applicant graduated from the program or school.
- (c) Verification that the applicant is seeking to attain social worker degree equivalency under s. 457.09 (4), Stats., during the period in which the certificate is valid.
- (d) All pertinent information relating to any convictions or pending charges for all crimes and any traffic offenses which did or could result in revocation or suspension of the applicant's license.

(2) SOCIAL WORKER DEGREE EQUIVALENCY. To attain social worker degree equivalency to a bachelor's degree in social work under the terms of s. 457.09 (4) and (4m) (b), Stats., and to qualify to take the national social work examination, a social worker training certificate holder shall demonstrate by certified transcript from an accredited college or university, sent directly to the section, that the applicant has taken at least a total of 4 courses, each consisting of a minimum of either 3 semester hours or 4 quarter hours of academic credit distributed among the following subject areas:

(a) *Social welfare policy and services.* At least one course of at least 3 semester hours or 4 quarter hours academic credit. Qualifying course work in this area must include the history, mission and philosophy of the social work profession, the impact of social policy on health and well-being, the effect of social policy on social work practice, current social policy analysis, political and organizational processes used to influence policy, the process of policy formulation, and the framework for current social policy analysis in light of the principles of social and economic justice.

(b) *Social work practice methods with individuals, families, small groups, communities, organizations and social institutions – generalist practice methods.* At least 2 courses each consisting of at least 3 semester hours or 4 quarter hours academic credit. Each qualifying course in these areas must include:

1. Practice content which emphasizes professional relationships that are characterized by mutuality, collaboration, respect for the client system and incorporates use of professional social work supervision.
2. Practice assessment which focuses on the examination of client strengths and problems in the interaction among individuals and between people and their environments.
3. Knowledge, values and skills to enhance human well-being and amelioration of the environmental conditions that affect people adversely.
4. Approaches and skills for practice with clients from differing social, cultural, racial, religious, spiritual and class backgrounds and with systems of all sizes.
5. Social work values and ethics.
6. Differential assessments and intervention skills to serve diverse at-risk populations.

(c) *Human behavior in the social environment, including human growth and development, and social systems theory.* At least one course of at least 3 semester hours or 4 quarter hours academic credit. Qualifying course work in this area must include theories and knowledge of human biological, psychological, and social development, and the impact of social and economic forces on individuals and social systems.

(3) **INTERNSHIP AND EMPLOYMENT REQUIREMENT.** To qualify to take the national social work examination, a training certificate holder shall demonstrate to the section, by written certification from his or her supervisor sent directly to the section, that he or she engaged in and successfully completed one of the following:

(a) A human services internship that was part of the program leading to the degree the certificate holder specified to satisfy the requirement in s. 457.09 (1) (c) and (4m) (b), Stats., or completed while holding the training certificate, and involved at least 400 hours of direct practice with clients and that was supervised by a social worker certified under this chapter and who has a bachelor's or master's degree in social work.

(b) One year of social work employment that was part of the program leading to the degree the certificate holder specified to satisfy the requirement in s. 457.09 (1) (c) and (4m) (b), Stats., or completed while holding the training certificate, which involved at least 400 hours of face-to-face client contact in not less than 12 months, and that was supervised by a social worker certified under this chapter who has a bachelor's or master's degree in social work.

(4) **SUPERVISION REQUIREMENTS.** In addition to the minimum qualifications for supervisors specified in sub. (3), supervision of qualifying human services internship or employment shall include the direction of social work practice in a face-to-face individual session of at least one hour duration during each week of supervised practice of social work, and shall further comply with s. SFC 4.01 (1) (a) and (3). Supervision may be exercised by a person other than an employment supervisor.

(5) **GRANTING SOCIAL WORKER CERTIFICATION.** Subject to s. 457.26 (2), Stats., the section shall grant a social worker certificate to a training certificate holder who has demonstrated social worker degree equivalency, completed a supervised human services internship or social work employment, and passed the national social worker examination and state law examination, all as required under this section and s. 457.09, Stats.

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 & Contact Person

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

Pamela Haack, (608) 266-0495
Office of Administrative Rules
Dept. of Regulation & Licensing
1400 East Washington Avenue, Room 171
P.O. Box 8935
Madison, WI 53708

Notice of Public Hearing

University of Wisconsin System

Notice is hereby given that, pursuant to ss. 36.11 (1) (c) and 227.16, Stats., the Board of Regents of the University of Wisconsin System will hold a public hearing at the time and place indicated below to consider amendments to ss. UWS 18.02 and 18.06 (1), Wis. Adm. Code, relating to conduct on university lands.

Hearing Information

May 9, 1996
Thursday
At 1:00 p.m.

Room 1820 Van Hise Hall
1220 Linden Drive
Madison, WI

Analysis Prepared by UW System

The revisions to ss. UWS 18.02 and 18.06 (1), Wis. Adm. Code, are proposed to clarify the university's authority to prohibit and control the discharge of pollutants to its storm sewer systems. The 1987 amendments to the Federal Clean Water Act, together with implementing state statutes (s. 147.021, Stats.) and administrative rules (ch. NR 216, Wis. Adm. Code), require the issuance of storm water discharge permits for certain municipal storm sewer systems, sites of industrial activity, and construction sites. The Wisconsin Department of Natural Resources (DNR) is responsible for implementing these provisions, and for the issuance of permits. UW–Madison is currently subject to the permit requirement, and other university campuses operating storm sewer systems may become subject to the requirement in future.

In order for UW–Madison and other UW System institutions to obtain a required permit, the university must demonstrate that it has adequate legal authority to prohibit and control unauthorized discharges to its storm sewer system. The proposed amendments in ch. UWS 18 clarify that the discharge of pollutants to storm water or storm sewers on university lands is prohibited.

Summary of Rules

The proposed amendment to s. UWS 18.06 (1), Wis. Adm. Code, adds language specifically prohibiting the discharge of pollutants to storm water or storm sewers on or serving university lands. In addition, s. UWS 18.02, Wis. Adm. Code, creates definitions for the terms “discharge pollutants to storm water,” “discharge pollutants into storm sewers” and “pollutants” that are consistent with DNR definitions. The inclusion of these changes in ch. UWS 18, Wis. Adm. Code, will make clear that the university has the power to prosecute illegal storm water or storm sewer discharges on university lands. Enforcement will occur through the forfeiture and citation procedures of s. UWS 18.07 and s. 778.25, Stats.

Fiscal Estimate

The proposed rules have no fiscal effect. They have no effect on small businesses.

Copies of the Rules

A copy of the proposed rules and the full fiscal estimate may be obtained at no charge from:

Secretary of the Board of Regents
University of Wisconsin System
1860 Van Hise Hall
1220 Linden Drive
Madison, WI 53706

Contact People

Patricia A. Brady, (608) 262–6497
1744 Van Hise Hall
1220 Linden Drive
Madison, WI

Judith A. Temby, (608) 262–2324
1860 Van Hise Hall
1220 Linden Drive
Madison, WI

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 Milwaukee Journal Sentinel. 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

Rules were adopted amending **ch. ATCP 100 (note)** and creating **s. ATCP 100.76 (3m)** and **subchapter VI of ch. ATCP 100**, relating to price discrimination in milk procurement.

FINDING OF EMERGENCY

- 1) Each year, Wisconsin's approximately 27,000 dairy farmers sell approximately \$3 billion worth of milk to dairy plant operators. Milk sales represent the primary or exclusive source of income for thousands of Wisconsin farm families.
- 2) Currently, many dairy plant operators appear to be discriminating between milk producers in the amount paid for milk. Many operators appear to be paying higher prices to large producers which cannot be fully justified on the basis of milk quality or differences in procurement cost. Discrimination in milk prices may injure small milk producers and competing dairy plant operators, and may contribute to unwarranted concentration in the dairy industry.
- 3) Recently, discrimination in milk prices has reached historic highs, with some dairy plants paying volume premiums of up to 70 cents to 90 cents per hundredweight. In order to pay volume premiums at this level, a dairy plant operator must reduce the price paid to other producers. This affects the livelihood of many smaller milk producers, and may affect their ability to continue farming.
- 4) The state of Wisconsin Department of Agriculture, Trade and Consumer Protection is responsible for enforcing s. 100.22, Stats., which prohibits dairy plant operators from discriminating between milk producers in the prices paid to those producers. However, a dairy plant operator may defend a discrimination in prices if the operator can prove that the discrimination is based on differences in milk quality, is justified on the basis of differences in procurement costs, or is justified in order to meet competition.

5) The Department recently completed a survey of dairy plant pricing programs. The Department presented the survey results to the Board of Agriculture, Trade and Consumer Protection on November 14, 1994. The survey suggests that many dairy plant operators are paying discriminatory prices which cannot be justified on the basis of differences in milk quality or procurement costs. Many of the surveyed dairy plant operators claimed that

their discriminatory prices were justified in order to meet prices offered by competitors. Many operators stated that they were willing to reduce their discriminatory payments to levels that could be cost-justified if their competitors would do the same. But compliance by an individual dairy plant operator may put that operator in an untenable competitive position unless the operator's competitors also comply.

6) Enforcement of s. 100.22, Stats., is hampered by the lack of clear standards in the law. For example, there are no clear standards of cost-justification or "meeting competition." Currently, there are no rules interpreting s. 100.22, Stats. Clarifying rules would facilitate compliance and enforcement.

7) Effective January 1, 1996, federal milk marketing orders will be modified to incorporate a new system of milk component pricing. Dairy plant operators will be making changes to their payment schedules and computer programs in order to implement the new component pricing system. Although the marketing order changes do not address the issue of discrimination in milk pricing, they provide an opportunity for all dairy plant operators to modify their pay programs to comply with s. 100.22, Stats. Simultaneous compliance by dairy plant operators would minimize competitive losses by individual dairy plant operators who choose to comply.

8) In order to promote prompt and effective compliance with s. 100.22, Stats., and to minimize continuing harm to dairy plant operators and smaller milk producers, it is necessary to adopt rules interpreting s. 100.22, Stats., before January 1, 1996. Failure to adopt rules by January 1, 1996 will reduce the chance of securing industry-wide compliance with s. 100.22, Stats., and may therefore result in continuing harm to milk producers and competition.

9) The Department cannot adopt interpretive rules by normal rulemaking procedures by January 1, 1996. Pending the adoption of rules by normal rulemaking procedures, it is therefore necessary to adopt emergency rules to protect the public welfare.

Publication Date: January 1, 1996
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: February 1, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Corrections

Rules were adopted revising **ch. DOC 328**, relating to the procedure and timing for collecting fees charged for supervision.

EXEMPTION FROM FINDING OF EMERGENCY

In section 6360 in 1995 Wis. Act 27, the Legislature directed the Department to promulgate rules required under ss. 304.073 (3) and 304.074 (5), Stats., for supervision fees charged to probationers and parolees by using the emergency rule-making procedures under s. 227.24, Stats., but without having to make a finding of emergency. These rules will remain in effect until replaced by permanent rules.

ANALYSIS PREPARED BY THE DEPARTMENT OF CORRECTIONS

This rule-making order implements ss. 301.08 (1) (c), 304.073 and 304.074, Stats., establishing the procedure and timing for collecting fees charged for supervision.

Currently, offenders on probation or parole pay no supervision fee. Through this emergency rule making order, the Department will charge offenders on probation and parole a supervision fee. Offenders under

administrative or minimum supervision and supervised by the Department will pay a fee sufficient to cover the cost of supervision. Offenders under medium, maximum, or high risk supervision will pay a supervision fee based on the ability to pay.

These rules exempt an offender who is supervised by another state under an interstate compact from paying a Wisconsin supervision fee. An offender who is serving a concurrent sentence of prison and probation or parole is not required to pay the supervision fee while in prison.

These rules authorize the Department to contract with a vendor to provide monitoring of an offender. Offenders who are on monitoring are required to pay a fee sufficient to cover the cost of monitoring, supervision by the Department and cost of administering the contract.

These rules require the Department to establish the rate for supervision and monitoring fees and to provide the offender with the supervision fee schedule.

These rules require offenders to comply with the procedures of the Department or vendor for payment of the supervision or monitoring fee. These rules require the Department to provide the offender with a copy of the procedures for paying the supervision or monitoring fee. These rules permit an offender to pay the supervision fee in monthly installments or in a lump sum.

These rules permit the Department to take certain action for the offender's failure to pay the supervision or monitoring fee. The actions include counseling, wage assignments, review of supervision level, recommendation for revocation of probation or parole and any other appropriate means of obtaining the supervision or monitoring fee.

Publication Date: December 21, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Dates: February 13, 16 & 22, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Development

Rules were adopted revising **ch. DOD 15**, relating to the Community-Based Economic Development Program.

FINDING OF EMERGENCY

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

1995 Wis. Act 27 created a new program within the Community-Based Economic Development Program that provides funding for regional economic development activity. (See s. 560.14 (4), Stats., which was created by the Act.) Section 560.14 (5) (b), Stats., requires that the Department adopt rules containing criteria for evaluating applications for funding under this program before it may award a grant.

The Department already has several proposed projects before it that will create substantial new employment and investment. To avoid the loss of these economic development opportunities, this order creates a rule so that the Department has the authority to make up to \$100,000 available to support regional economic development. The emergency order will preserve the welfare of Wisconsin citizens by insuring that the jobs are created and the investments are made.

Publication Date: November 27, 1995
Effective Date: November 27, 1995
Expiration Date: April 26, 1996
Hearing Date: January 9, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Emergency Response Board

1. Rules adopted creating **ch. ERB 5**, relating to a grant for local emergency planning committees.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in section 10(m) of 1995 Wis. Act 13 directed the Board to promulgate rules under s. 166.20 (2) (bg), Stats., as created by this Act, to establish an amount that may be an eligible cost for computers in an emergency planning grant under s. 166.21 (2) (bm), Stats., but without having to make a finding of emergency. The rule will remain in effect until replaced by permanent rules, but not to exceed the time authorized under s. 227.24 (1) (c) and (2), Stats.

ANALYSIS

Statutory Authority: ss. 166.20 (2) (b), (bg), 166.21 (2), 227.11 (2) (a) Statutes Interpreted: ss. 166.20 (2) (bg), (br), 166.21 (1), (2), (3)

Plain Language Summary

The computer grant rule establishes guidelines for the computer grant to county Local Emergency Planning Committees. The rule requires the State Emergency Response Board to establish grant procedures to implement this rule. The rule allows Local Emergency Planning Committees to purchase computer equipment under this grant for specific use within the county emergency management program to comply with state and federal planning requirements.

The rule requires that matching costs for computer equipment are to be based on a 4-year grant cycle. For one year of the 4-year grant cycle, up to a maximum of \$6,000 of the cost of computer equipment shall be eligible for reimbursement. For each of the remaining 3 years of the 4-year grant cycle, up to a maximum of \$2,000 of the cost of the computer equipment shall be eligible for reimbursement.

Publication Date: December 5, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: March 28, 1996
 [See Notice this Register]

2. Rules adopted revising **ch. ERB 4**, relating to a fee for transporting hazardous material.

FINDING OF EMERGENCY

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

It is necessary to provide adequate protection against the risks to life and property inherent in the transportation of hazardous materials in commerce.

This emergency rule is being promulgated to allow continuation of the Wisconsin hazardous materials transportation registration program established in s. 166.20(7g), Stats. The State Emergency Response Board (SERB) promulgated a rule, ch. ERB 4, to implement the program. The original rule had a sunset date of June 30, 1995. A revised ch. ERB 4 was promulgated December 1, 1995, but was superseded by statutory changes to s. 166.20(7g), Stats., enacted in the Department of Transportation (DOT) biennial budget.

The emergency rule will enable the DOT to collect registration fees for the billing period July 1, 1995 through June 30, 1996. This was agreed upon as a necessary step by several agencies including SERB, Division of Emergency Government and DOT in consultation with Legislative Council and Joint Committee For Review of Administrative Rules staff. Through this collection, DOT will meet the statutory requirement to collect an annual registration fee for the transport of hazardous materials. These fees are deposited to the State Transportation Fund to partially offset the DOT

appropriations funding the Level A and Level B hazardous materials emergency response teams in Wisconsin. The legislature has supported the emergency response team system in Wisconsin by adopting legislation to authorize teams and fund them through a combination of fees and the State Transportation Fund.

The SERB, the Department of Military Affairs–Division of Emergency Government and the Department of Transportation are jointly developing a permanent rule to reflect the statutory fee structure enacted by the legislature in the DOT 1995–97 biennial budget. It is expected a revised permanent rule will be promulgated later this year.

Publication Date: February 23, 1996
Effective Date: February 23, 1996
Expiration Date: July 22, 1996
Hearing Date: April 2, 1996
 [See Notice this Register]

EMERGENCY RULES NOW IN EFFECT (2)

Wisconsin Gaming Commission

1. Rules were adopted creating **ch. WGC 45**, relating to licensing requirements for the conduct of a raffle.

FINDING OF EMERGENCY

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

As a result of the passage of 1995 Wis. Act 27, s. 563.935, Stats., was created, and the amending of existing s. 563.93, Stats. These two statutes provide distinction between a Class A and a Class B raffle license authorized by the Wisconsin Gaming Commission's Office of Charitable Gaming. It has been determined that administrative rules must be promulgated to address the statutory changes.

The new rules are created to establish licensing criteria relating to the conduct of raffles authorized under a Class A or Class B raffle license. Without the promulgation of these rules, authorized raffles would be subject to inconsistencies, incorrect interpretations and mistakes contrary to the intent of the statute.

Publication Date: November 17, 1995
Effective Date: November 17, 1995
Expiration Date: April 16, 1996
Hearing Dates: January 8, February 5, 1996

2. A rule was adopted amending **s. WGC 24.13 (1) (d)**, relating to simulcasting fees.

FINDING OF EMERGENCY

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

The previous fee of \$50 per performance made simulcasting cost prohibitive, and as a result, prevented the expansion of employment and

residual economic benefits. The emergency rule will allow for the increased economic activity.

Publication Date: March 1, 1996
Effective Date: March 1, 1996
Expiration Date: July 29, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Health and Social Services

(Community Services, Chs. HSS 30–)

1. Rules were adopted creating **ch. HSS 38**, relating to treatment foster care for children.

EXEMPTION FROM FINDING OF EMERGENCY

The legislature in s. 182 (1) of 1993 Wis. Act 446 directed the Department to promulgate rules under s. 48.67 (1), Stats., as amended by Act 446, for licensing treatment foster homes, to take effect on September 1, 1994, by using the emergency rule-making procedures under s. 227.24, Stats., but without having to make a finding of emergency. They will remain in effect until replaced by permanent rules.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

This rule-making order implements s. 48.67 (1), Stats., as amended by 1993 Wis. Act 446, which directs the Department to promulgate rules establishing minimum requirements for issuing licenses to treatment foster homes, including standards for operation of those homes.

Treatment foster care is a family-based and community-based approach to substitute care and treatment for children who are medically needy or emotionally disturbed and for some developmentally disabled children, and could be an alternative to institutionalization for some children. Treatment foster care is provided in a foster home by foster parents who meet education and training requirements which exceed the requirements for regular foster care, and by social service, mental health and other professional staff.

A number of public and private agencies have recently begun providing "treatment foster care" but since there are no standards currently for this type of care, those programs vary considerably in the type and quality of services they provide. These rules establish minimum standards that agencies, professional staff and foster parents would have to meet in order to claim that they are providing treatment foster care.

The rules require treatment foster homes to comply with ch. HSS 56 for regular foster homes except when there is a conflict between a provision of these rules and ch. HSS 56, in which case these rules take precedence.

The rules cover making application to a licensing agency for a treatment foster home license, licensee qualifications, licensee responsibilities, respite care for foster parents, responsibilities of the providing agency, the physical environment of a treatment foster home, care of the children and training for treatment foster parents.

Publication Date: September 1, 1994
Effective Date: September 1, 1994
Expiration Date: 1993 Wis. Act 446, s. 182
Hearing Dates: January 24, 25 & 26, 1995

2. Rules adopted revising **ch. HSS 73**, relating to an exception to limits on use of community long-term support funds for services used by CBRF residents.

EXEMPTION FROM FINDING OF EMERGENCY

The legislature in s. 9126 (5) (c) of 1995 Wis. Act 27 directed the Department to promulgate the rules required under ss. 46.27 (2) (h) 2 and 46.277 (5r), Stats., as created by Act 27, by using emergency rule-making procedures but without having to make a finding of emergency. These are the rules. They will take effect on January 1, 1996.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

The 1995-97 Budget Act, 1995 Wis. Act 27, created ss. 46.27 (3) (f) and 46.277 (3) (c), Stats., to require counties, beginning January 1, 1996, to limit the amount of spending for services received by persons who reside in community-based residential facilities (CBRFs) from the annual allocations received for the provision of long-term community support services to no more than 25% of each allocation for the calendar year. Act 27 also added provisions in ss. 46.27 and 46.277, Stats., that prohibit counties from using funds from an allocation that exceed the maximum allowable to pay for services for a person who resides in a CBRF or intends to reside in a CBRF and is initially applying for services unless the Department grants an exception for the person on hardship grounds under conditions specified by rule.

Through this rule-making order the Department is establishing conditions of hardship on the basis of which it will make exceptions to the limitations on spending for services provided to CBRF residents from the annual allocations for community long-term support services.

Publication Date: December 27, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996
Hearing Date: February 13, 1996

EMERGENCY RULES NOW IN EFFECT (5)

Health and Social Services

(Health, Chs. HSS 110--)

1. Rules adopted revising chs. HSS 152, 153 and 154, relating to estate recovery under certain aid programs.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 9126 (32g) (b) of 1995 Wis. Act 27 directed the Department to promulgate rules for implementation of s. 49.482 (5), Stats., as created by Act 27, 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 PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

1995 Wis. Act 27 created s. 49.482, Stats., to require the Department to file a claim against the estate of a person who received assistance under s. 49.48, Stats., and ch. HSS 152 in paying for treatment of chronic renal disease, under s. 49.483, Stats., and ch. HSS 154 in paying the medical costs of adult cystic fibrosis, or under s. 49.485, Stats., and ch. HSS 153 in paying for blood products and supplies used in the home treatment of hemophilia, or against the estate of the surviving spouse of a person who received the assistance.

Section 49.482 (5), Stats., as created by Act 27, requires the Department to promulgate rules that establish standards for determining whether the recovery of the assistance would work an undue hardship in individual cases. If an undue hardship is found to exist, the Department is directed to waive application of the recovery requirement in that case.

This rulemaking order contains standards on the basis of which the Department will decide if recovery of assistance from the estate of a recipient or the estate of the recipient's surviving spouse would constitute an undue hardship in individual cases. If an undue hardship is found to exist, the Department is directed to waive application of the recovery requirement in that case.

This rulemaking order contains standards on the basis of which the Department will decide if recovery of assistance from the estate of a recipient or the estate of the recipient's surviving spouse would constitute an undue hardship to an heir or beneficiary of the estate. The order also establishes the application and review processes for an undue hardship waiver and the applicant's appeal rights. The provisions are identical to those currently used

for undue hardship waivers from estate claims made to recover Medical Assistance benefits.

Publication Date: October 31, 1995
Effective Date: November 1, 1995
Expiration Date: March 30, 1996
Hearing Dates: November 13 & 17, 1995

2. Rules were adopted revising ss. HSS 122.06 and 122.07, relating to review of projects concerning new nursing home designs.

FINDING OF EMERGENCY

The Department of Health and 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:

A capital expenditure by or on behalf of a nursing home that exceeds \$1,000,000 is subject to prior review and approval by the Department under subch. II of ch. 150, Stats. An approved project has a maximum cost per bed limit computed under s. HSS 122.07 (1) (c).

The Legislature in s. 10 of 1993 Wis. Act 290 directed the Department to study the issue of the relationship between the design and construction of nursing homes and the formula for determining approvable proposed bed costs under s. HSS 122.07 within the context of health care cost containment.

The Department on January 31, 1995 submitted its report to the Legislature on nursing home design and construction in relation to the formula for determining maximum bed costs. While the study dealt primarily with traditional nursing home designs, the Department stated in the report that its Division of Health was developing rules to permit the study of new nursing home designs which increase capital costs per bed but decrease operating costs. The rules would increase the maximum cost per bed for projects that will permit study of the impact of nursing home design and management approaches on the health of nursing home residents and the cost of care. New nursing home designs may exceed the maximum costs per bed but reduce operating costs.

The Department is publishing the necessary rules by emergency order because of the length of the permanent rulemaking process and also the length of the Department's project approval process which cannot begin until the rules are in effect. An emergency order will give the Department the opportunity to act now to improve care for nursing home residents and possibly lower the overall costs of care.

This order creates rules which will increase the cost per bed maximum for two or three pilot projects that will demonstrate new nursing home designs.

The rules establish conditions for the announcement and acceptance of applications, criteria for review of applications and a selection process when there are more applicants that meet the requirements for project approval than can be approved.

Publication Date: November 29, 1995
Effective Date: November 29, 1995
Expiration Date: April 28, 1996
Hearing Date: January 18, 1996

3. Rules were adopted creating ch. HSS 182, relating to lead poisoning prevention grants.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 9126 (27x) (b) of 1995 Wis. Act 27 directed the Department to promulgate rules required under s. 254.151, Stats., as created by Act 27, 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. They will take effect on publication in the *Milwaukee Journal Sentinel*.

ANALYSIS

These rules implement the requirement in s. 254.151, Stats., as amended by 1995 Wis. Act 27, that the Department establish criteria by rule for the award of grants to fund educational programs, including programs for health

care providers, about the dangers of lead poisoning or exposure to lead; to fund lead poisoning or lead exposure screening, care coordination and follow–up services, including lead inspections, for or on behalf of children under the age of 6, not covered by third–party payers; to fund administration and enforcement activities of local health departments that, under s. 254.152, Stats., are designated by the Department to be its agents for administration and enforcement of ss. 254.11 to 254.178, Stats.

The grant program was established in mid–1994. The requirement that the Department’s criteria for awarding grants be set out in rules was added by Act 27 in mid–1995. The amount available in the appropriation for grant awards is \$879,000 for each year of the 1995–97 biennium.

The rules identify who may apply or a grant, describe the application process, provide for preliminary review of applications by the Department for compliance with format and content requirements set out in the relevant request for proposals (RFP), provide for evaluation of applications by one or more review committees appointed by the Department and specify 14 criteria for use in that final review; note that the Department will award grants based on the recommendations of the review committee or committees and taking into consideration other specified factors and describe the awards process and conditions that are imposed when grants are awarded.

Publication Date: December 5, 1995

Effective Date: December 5, 1995

Expiration Date: May 4, 1996

Hearing Date: January 16, 1996

4. A rule was adopted creating s. **HSS 110.05 (3m)**, relating to authorized actions of emergency medical technicians–basic.

FINDING OF EMERGENCY

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

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings are now specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective January 1, 1996 and directed the Department to have rules in place on that date that specify what those actions are. The Department has separate chapters of rules for licensing EMTs–basic, EMTs–intermediate and EMTs–paramedic. This emergency order amends ch. HSS 110, which includes rules for licensing EMTs–basic; to specify the actions that EMTs–basic may carry out.

Through a separate rulemaking order, the Department is revising the whole of ch. HSS 110, its rules for licensing ambulance service providers and EMTs–basic, to specify the authorized actions of EMTs–basic and, at the request of the new Emergency Medical Services Board under s. 146.58, Stats., to update the entire chapter. The proposed permanent rules have already been reviewed by the Legislative Council and the public and will soon be submitted to the presiding officers of the Legislature for review by standing committees but will not take effect until April 1, 1996 at the earliest. Therefore the Department, in order to have the rules that specify the authorized actions of EMTs–basic in effect by January 1, 1996, when s. 146.50 (6m), Stats., will be repealed, is publishing the authorized actions subsection of the proposed permanent rules by this emergency order. This must be done because s. 146.50 (6m), which takes effect on January 1, 1996, provides that an EMT–basic may undertake only those actions that are authorized in rules promulgated by the Department. If those rules are not in effect on that date, ambulance services will not be able to provide emergency medical services using EMTs–basic and consequently there will be reduced availability of emergency medical services and a threat to public safety.

Publication Date: December 26, 1995

Effective Date: January 1, 1996

Expiration Date: May 30, 1996

Hearing Dates: March 1 & 8, 1996

5. Rules adopted creating ss. **HSS 111.04 (2m)** and **112.04 (3m)**, relating to authorized actions of emergency medical technicians–intermediate and paramedic.

FINDING OF EMERGENCY

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

Actions that emergency medical technicians (EMTs) are authorized to carry out in providing emergency medical care in prehospital and interfacility settings are now specified in s. 146.50 (6m), Stats. A recent session law, 1993 Wis. Act 251, repealed that statute effective January 1, 1996 and directed the Department to have rules in place on that date that specify what those actions are. The Department has separate chapters of rules for licensing EMTs–basic, EMTs–intermediate and EMTs–paramedic. This emergency order amends ch. HSS 111, rules for licensing EMTs–intermediate, and ch. HSS 112, rules for licensing EMTs–paramedic, to specify the actions that EMTs–intermediate and EMTs–paramedic may carry out.

Through separate permanent rulemaking orders, the Department is revising chs. HSS 111 and 112 in their entirety in order to specify the authorized actions of EMTs–intermediate and EMTs–paramedic and, at the request of the new Emergency Medical Services Board under s. 146.58, Stats., to update the chapters. However, those rulemaking orders have not yet been transmitted to the Legislative Council for review and therefore will not likely take effect until July 1, 1996 at the earliest. Consequently, the Department, in order to have the rules that specify the authorized actions of EMTs–intermediate and EMTs–paramedic in effect by January 1, 1996, when s. 146.50 (6m), Stats., will be repealed, is publishing the authorized actions subsections of the proposed revised permanent rules by this emergency order. This must be done because s. 146.50 (6n), Stats., which takes effect on January 1, 1996, provides that EMTs–intermediate and EMTs–paramedic may undertake only those actions that are authorized in rules promulgated by the Department. If those rules are not in effect on that date, ambulance services will not be able to provide emergency medical services using EMTs–intermediate or EMTs–paramedic and consequently there will be reduced availability of emergency medical services and a threat to public safety.

Publication Date: December 27, 1995

Effective Date: January 1, 1996

Expiration Date: May 30, 1996

Hearing Dates: March 1 & 8, 1996

EMERGENCY RULES NOW IN EFFECT (4)

Health & Social Services

(Economic Support, Chs. HSS 200–)

1. Rules adopted revising ch. **HSS 230**, relating to county relief programs funded by block grants.

FINDING OF EMERGENCY

The Department of Health and 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:

These rules for the administration of county relief programs funded by relief block grants under subch. II of ch. 49, Stats., as affected by 1993 Wis. Act 27, Section 49.02 (7m), Stats., as created by Act 27, directs the Department to promulgate rules for use of relief block grants and specifies that the rules include procedures that county relief agencies are to observe in obtaining block grants, procedures that they are to follow in making eligibility determinations, procedures by which a county relief agency may waive certain eligibility requirements and procedures for a relief applicant or recipient to appeal agency eligibility determinations.

The rules included in this order apply to all Wisconsin counties, including Milwaukee county which, under s. 49.025, Stats., will receive a relief block grant that is to be used only to provide health care services to dependent persons, whereas the other counties are eligible for block grants that can be used to provide cash grants as well as health care services to dependent persons.

As provided in s. 9426 (13) of 1995 Wis. Act 27, county relief programs funded by block grants will take the place of county–administered general

relief on January 1, 1996. Department rules are necessary for implementation of county relief programs funded by block grants, in particular for the appeal provisions in the rules. Section 9126 (13) of Act 27 directed the Department to submit proposed rules to the Legislative Council no later than October 1, 1995. The proposed rules were submitted to the Legislative Council for review on September 29, 1995 and were taken to public hearing on November 30, 1995. They will soon be submitted to the presiding officers of the Legislature for review by standing committees after which they will be filed and prepared for publication but will not likely take effect until April 1, 1996.

The Department through this order is publishing these rules as emergency rules to be effective from January 1, 1996 until the permanent rules take effect so that county relief programs will be operated in a fair and clear manner statewide for the benefit of applicants for assistance and recipients of assistance.

- Publication Date:** December 27, 1995
- Effective Date:** January 1, 1996
- Expiration Date:** May 30, 1996
- Hearing Date:** February 13, 1996
2. Rules adopted revising **ch. HSS 211**, relating to tribal medical relief programs.

FINDING OF EMERGENCY

The Department of Health and 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:

These are rules for the administration of tribal medical relief programs funded by relief block grants under subch. II of ch. 49, as affected by 1995 Wis. Act 27.

Section 49.02 (7m), Stats., as created by Act 27, directs the Department to promulgate rules for use of relief block grants and specifies that the rules are to include procedures that tribal governing bodies are to follow in obtaining block grants, procedures that they are to follow in making eligibility determinations, standards for waiver of certain eligibility requirements, and procedures for a relief applicant or recipient to appeal an adverse eligibility determination.

Section 49.029, Stats., as created by Act 27, directs the Department to promulgate rules for distribution of medical relief block grant funds to eligible tribal governing bodies.

As provided in s. 9426 (13) of 1995 Wis. Act 27, tribal medical relief programs funded by block grants will take the place of the Relief to Needy Indian Persons (RNIP) program on January 1, 1996. Department rules are necessary for implementation of these programs funded by block grants, in particular because of the appeal provisions in the rules and formula for distributing relief block grant funds to eligible tribal governing bodies.

- Publication Date:** December 28, 1995
- Effective Date:** January 1, 1996
- Expiration Date:** May 30, 1996
- Hearing Date:** February 13, 1996

3. Rules adopted revising **ch. HSS 201**, relating to a benefit cap pilot project under the AFDC program.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 12 (1) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.19 (11s), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on January 1, 1996.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

Under s. 49.19, Stats., a family can apply and be determined eligible for the Aid to Families with Dependent Children (AFDC) program. If a family is determined eligible, the AFDC benefit amount is based, in part, on family

size. The maximum amount of AFDC benefits a family can receive currently increases when an additional child is born.

On January 1, 1996, Wisconsin will implement the AFDC Benefit Cap Demonstration Project, authorized under s. 49.19 (11s), Stats., as created by 1995 Wis. Act 12. The purpose of this demonstration is to test whether eliminating the increase in the AFDC grant when an additional child is born will encourage families on welfare to delay having more children until they are financially able to support them.

Under the demonstration project, a family will not receive an automatic increase in the AFDC grant when an additional child is born. Starting on January 1, 1996, a child born to a current or new recipient more than ten months after first receipt of benefits will be counted in the family size for AFDC assistance standard purposes but not for purposes of benefit determination. An exception will be made for a child born as a result of rape or incest. The benefit cap will first apply to children born on or after November 1, 1996. A child born on or after that date, although not counted in the family size for the purpose of determining the amount of the grant, will be counted for Medical Assistance and food stamp purposes, and the family will be entitled to receive other social service assistance for the child.

These are the rules for implementation of the AFDC Benefit Cap Demonstration Project. The rules describe how the Department will choose AFDC recipients who must participate in the demonstration, and outline the Department's responsibilities in administering the demonstration project.

- Publication Date:** December 27, 1995
- Effective Date:** January 1, 1996
- Expiration Date:** May 30, 1996
- Hearing Date:** February 16, 1996
4. Rules were adopted revising **chs. HSS 201 and 206**, relating to pay for performance demonstration project under the AFDC program.

EXEMPTION FROM FINDING OF EMERGENCY

The Legislature in s. 12 (2) and (3) of 1995 Wis. Act 12 permitted the Department to promulgate the rules required under s. 49.193 (3m) and (9m), Stats., as created by Act 12, by using emergency rulemaking procedures but without having to make a finding of emergency. They will take effect on March 1, 1996.

ANALYSIS PREPARED BY THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Under s. 49.19, Stats., families inquiring about the Aid to Families with Dependent Children (AFDC) program are immediately encouraged to apply for assistance without exploring possible alternatives to welfare. Once determined eligible, many families come to consider the AFDC program a program of long-term financial support, sometimes spanning generations. Yet AFDC was originally meant to be a temporary, emergency program.

Wisconsin has obtained approval from the Food and Consumer Service of the U.S. Department of Agriculture and from the Administration for Children and Families of the U.S. Department of Health and Human Services to conduct a Pay for Performance (PFP) demonstration project beginning March 1, 1996. The major objective of the Pay for Performance demonstration project is to focus on freedom from public assistance by encouraging immediate attachment to the work force and helping families explore alternatives to AFDC before becoming dependent on AFDC. The demonstration project will be conducted statewide except in Dane, Dodge, Jefferson and Waushara counties. In those counties individuals may be assigned to a control group which will be exempt from the demonstration project requirements to permit evaluation of the demonstration project. Statutory authority for the Department to operate two related demonstration projects, Self-Sufficiency First and Pay for Performance, was included in 1995 Wis. Act 12. Under the federal government's terms and conditions of approval for demonstration project, the Department is now calling the combined project Pay for Performance.

The first component of the Pay for Performance demonstration project encourages alternatives to AFDC through services of a financial planning resource specialist (FPRS) and up-front job search. This component is directed at helping applicants identify alternatives to AFDC, facilitating immediate orientation and referral to the Job Opportunities and Basic Skills (JOBS) program and requiring job search before receiving AFDC.

Cooperation is made an AFDC eligibility requirement. An individual who fails without good cause to cooperate with these requirements will be ineligible to receive AFDC benefits for himself or herself and his or her family.

For an individual who becomes an AFDC recipient after fulfilling the applicant job search requirements, there is a second component of the Pay for Performance demonstration project. This requires the JOBS case manager to design an employability plan for the recipient that focuses on employment at the earliest opportunity and requires the recipient to participate in a set number of hours of participation in JOBS program activities or work to maintain AFDC eligibility. Failure, without good cause, to maintain participation as assigned will result in sanction sin the next possible month based on the number of hours missed without good cause multiplied by the federal minimum wage. Failure to participate in at least 25% of the assigned hours will result in no AFDC benefits being paid for that month and a reduction to \$10 in food stamp benefits.

These are the rules for the implementation of the Pay for Performance demonstration project.

Publication Date: March 1, 1996
Effective Date: March 1, 1996
Expiration Date: July 29, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Petroleum Products, Ch. ILHR 48)

Rules were adopted revising **ch. ILHR 48**, relating to labeling of oxygenated fuels.

FINDING OF EMERGENCY

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

1995 Wis. Act 51 requires reformulated fuels to be labeled with the oxygenate that they contain. The labels are to be constructed and displayed in a manner specified by the department by rule. The act takes effect on the 14th day after the day of publication.

In order to permit compliance with the law, the department must adopt rules using the emergency rule procedure.

Publication Date: September 13, 1995
Effective Date: September 13, 1995
Expiration Date: February 10, 1996
Hearing Date: November 15, 1995
Extension Through: April 9, 1996

EMERGENCY RULES NOW IN EFFECT

Industry, Labor & Human Relations

(Building & Heating, etc., Chs. ILHR 50–64)
 (Multi–Family Dwellings, Ch. ILHR 66)

Rules were adopted revising **chs. ILHR 57 & 66**, relating to multifamily dwellings.

FINDING OF EMERGENCY

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

The facts constituting the emergency are as follows. As required by ss. 101.14 (4m) and 101.971 to 101.978, Stats., the Department adopted rules earlier this year establishing uniform construction standards for multifamily dwellings. The rules include some minor technical provisions which have been difficult to apply and which are needlessly disrupting new construction.

The proposed rules essentially reinstate the existing requirements that applied to smaller apartments prior to adoption of the current rules, and clarify and simply other problematic minor technical provisions.

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

Publication Date: August 14, 1995
Effective Date: August 14, 1995
Expiration Date: January 11, 1996
Hearing Date: December 11, 1995
Extension Through: May 9, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Insurance

1. Rules were adopted revising **s. Ins 3.25**, relating to credit life 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 rule adjusts the rate charged for credit life insurance upward from 32¢ to 39¢ per hundred dollars of initial indebtedness and requires that credit life insurance in amounts less than \$15,000 be issued without underwriting. This rate increase is necessary to provide adequate provisions for expenses of insurers.

A public hearing was held on the rule on September 27, 1995. The rule was sent to the Legislature on November 22, 1995 and there has been no comment or modification sought.

The permanent rule will be effective after publication, probably February 1, 1996. This emergency rule is identical to the permanent rule, only with an effective date of January 1, 1996. The January 1, 1996 effective date is necessary so that insurers and creditors can change the new rates for the entire year.

Publication Date: December 28, 1995
Effective Date: January 1, 1996
Expiration Date: May 30, 1996

2. Rules adopted creating **s. Ins 18.13 (5)**, relating to cost–containment rules.

FINDING OF EMERGENCY

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

The rule permits the Health Insurance Risk–Sharing Plan (HIRSP) Board to create a network of providers that have agreed to give discounts in addition to the mandatory discount of 10%. This rule is necessary to implement cost–containment measures allowed by statute. These measures become necessary to help control costs that have threatened a funding crisis for the HIRSP program. That funding crisis poses a potentially deleterious effect upon HIRSP policyholders and the insurance industry.

Publication Date: January 8, 1996
Effective Date: January 8, 1996
Expiration Date: June 6, 1996
Hearing Date: March 1, 1996

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules were adopted amending s. NR 20.03 (1) (g) 2. b. and creating s. NR 20.036, relating to sturgeon spearing in Lake Winnebago.

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 the facts constituting the emergency is:

Department Fisheries staff have recently shown that due to increasing spearing pressure and increasing spearer success rates the Winnebago lake sturgeon population, particularly the mature female portion, is experiencing overexploitation. Improvements in system water quality along with optimal weather conditions have provided clear water and optimal spearing conditions in recent years resulting in three of the four highest harvests on record since 1990. To prevent the possible overharvest of sturgeon during the 1996 spearing season, an Emergency Order is required.

Publication Date: February 2, 1996
Effective Date: February 2, 1996
Expiration Date: July 1, 1996
Hearing Date: March 12, 1996

EMERGENCY RULES NOW IN EFFECT

State Public Defender

Rules were adopted revising ch. PD 6, relating to payment of attorney fees.

FINDING OF EMERGENCY

The State Public Defender Board finds that an emergency exists and that rules are necessary for the immediate preservation of the public peace, health, safety or welfare. The statement of facts constituting the emergency is as follows:

It is essential that the Office of the State Public Defender collect for the cost of representation from persons who have the present or future ability to reimburse the agency for the cost of providing counsel. The proposed rules are needed to establish procedures for determining clients' ability to pay and for referring uncollected accounts to the department of administration for collection. The proposed rules also establish that the agency shall provide written notice to clients of the repayment obligation for the cost of legal representation. The 1995-97 biennial budget calls upon the agency to collect approximately \$2.9 million from clients in the first year of the biennium and approximately \$3.3 million in the second year of the biennium. Thus, it serves the public interest that the proposed emergency rules be created.

Publication Date: November 20, 1995
Effective Date: November 20, 1995
Expiration Date: April 19, 1996
Hearing Date: January 11, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Public Instruction

1. Rules adopted revising chs. PI 3 and 4, relating to substitute teacher permits, special education program aide licenses, principal licenses and general education components.

FINDING OF EMERGENCY

Current rule requirements relating to substitute teacher permits and special education program aide licenses are prescriptive and, in some cases, have caused a shortage of qualified individuals to teach as substitutes or special education aides. The emergency rule provides flexibility in licensing and hiring qualified substitute teachers, special education aides, and principals.

Current rule requirements provide for two levels of school principal licensure, with different requirements for each level. The two levels of licensure are "elementary/middle level" and "middle/secondary level." 1995 Wisconsin Act 27 (the 1995-97 biennial budget bill) provides that a school principal license must authorize the individual to serve as a principal for any grade level. The emergency rule conforms principal licensure rules with statutory language requirements.

Current provisions relating to general education components/professional education program requirements are overly prescriptive for campuses. The UW-System has initiated a requirement that puts a ceiling on the number of credits in an undergraduate program (140) and the department is moving to a performance-based approach to licensing where the knowledge and skills of license candidates will be assessed rather than just counting the credits that they have taken in college. The emergency rule provides flexibility for university systems to offer quality educational programs without prescribing what must or must not be included in their general education component.

In order for teachers to apply for or renew a substitute teacher permit, special education aide license or principal license to be effective for the upcoming school year (licenses are issued July 1 through June 30) and for schools to hire qualified staff from a sufficient pool of applicants, rules must be in place as soon as possible. Also, in order to allow the UW-system more flexibility to offer education programs for the upcoming school year, rules need to be in place as soon as possible.

Therefore, the state superintendent finds that an emergency exists and that promulgation of emergency rules is necessary to preserve the public welfare.

Publication Date: August 21, 1995
Effective Date: August 21, 1995
Expiration Date: January 18, 1996
Hearing Date: November 1, 1995
Extension Through: March 17, 1996

2. Rules adopted creating s. PI 11.13(4) and (5), relating to interim alternative educational settings for children with EEN who bring firearms to school.

FINDING OF EMERGENCY

In order to apply the new federal "stay-put" exception in Wisconsin, as described in the analysis and relating to children with EEN who bring a firearm to school, the administrative rule regarding placement of children during due process proceedings must be changed and in place before the next school year begins.

Therefore, the state superintendent finds that an emergency exists and that promulgation of emergency rules is necessary to preserve the public welfare.

Publication Date: August 21, 1995
Effective Date: August 21, 1995
Expiration Date: January 18, 1996
Hearing Dates: November 1 & 7, 1995
Extension Through: May 1, 1996

EMERGENCY RULES NOW IN EFFECT

Regulation and Licensing

Rules adopted amending **s. RL 2.02**, and creating **ch. RL 9**, relating to establishing a procedure for determining whether an applicant for credential renewal is liable for any delinquent taxes.

FINDING OF EMERGENCY

Under statutes created by 1995 Wis. Act 27, the Department of Regulation and Licensing must deny applications for license renewal filed by applicants who are liable for delinquent state taxes. These provisions first apply to applications submitted to the Department of Regulation and Licensing or to an examining board or affiliated credentialing board attached to the department to renew credentials that expire on or after January 1, 1996.

Section 440.03 (12), Stats., as created by 1995 Wis Act 27, requires the department to establish a procedure for making a determination concerning the liability of credential holders for delinquent taxes owed to this state. Newly created s. 440.08 (2r), Stats., provides that before granting an application to renew a credential issued under chs. 440 to 480, Stats., the department shall determine in accordance with the procedure established under s. 440.03 (12), Stats., whether the applicant for a credential renewal is liable for any delinquent taxes owed to this state. If the department determines that an applicant is liable for any delinquent taxes owed to this state, the department is required to deny the application, subject to the right of the applicant to have the denial reviewed at a hearing before the department.

Because the treatment of these provisions first apply to renewals applications that expire on or after January 1, 1996, and the department has determined that there are at least 40,000 credential holders whose credential will expire on January 1, 1996, preservation of the public peace, health, safety or welfare necessitates putting these rules into effect prior to the time it would take effect if the department complied with the notice, hearing and publication requirements set forth in ch. 227, Stats.

In this order the Department of Regulation and Licensing creates ch. RL 9 to establish a procedure for making the determination whether an applicant for credential renewal is liable for any delinquent taxes owed to this state and to describe the procedures available to a credential holder whose application for renewal is denied because the applicant is liable for delinquent state taxes.

The proposed rules define terms including "liable for any delinquent taxes owed to this state," the term used in ss. 440.03 (12) and 440.08, Stats., as created by 1995 Wis. Act 27. The rules describe the method to be used for determining whether an applicant for renewal is liable for delinquent taxes. Under the procedures, the name and social security number or federal employer identification number of an applicant is compared with information at the Wisconsin Department of Revenue to identify individuals and organizations liable for delinquent taxes. If an applicant is identified as owing taxes, a notice is mailed to the applicant stating that the application shall be denied unless delinquent taxes are paid within 10 days. If delinquent taxes are not paid following a notice of intent to deny or if an applicant fails to complete an application form, the department shall deny the renewal application.

The rules provide for an applicant who has been denied renewal because of liability for delinquent taxes to request a hearing. Procedural rules include rules governing a notice of hearing, service of documents and the conduct of the hearing.

Publication Date: November 14, 1995
Effective Date: November 14, 1995
Expiration Date: April 13, 1996
Hearing Date: January 29, 1996

EMERGENCY RULES NOW IN EFFECT

Department of Revenue

Rules adopted revising **ch. Tax 18**, relating to the 1996 assessment of agricultural property.

FINDING OF EMERGENCY

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

1995 Wis. Act 27, published July 28, 1995, changes the way agricultural land is valued for property tax purposes. Under the law, the assessed value of each parcel of agricultural land in 1996 is the same as the assessed value of that parcel in 1995. Buildings and improvements to agricultural land continue to be assessed at their full market value.

Since 1995 Wis. Act 27 affects assessments as of January 1, 1996, an emergency rule is necessary for the efficient and timely assessment of agricultural land in 1996.

In particular, the rule addresses the following needs:

- repealing obsolete terms defined by rule
- defining the terms "land devoted primarily to agricultural use", "other", and "parcel of agricultural land"
- providing instructions for assessing "agricultural land" and "other" land classifications in 1996.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of the rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

Publication Date: December 6, 1995
Effective Date: December 6, 1995
Expiration Date: May 5, 1996
Hearing Date: January 25, 1996

EMERGENCY RULES NOW IN EFFECT (2)

Department of Transportation

1. A rule was adopted amending **s. Trans 4.06 (4)**, relating to the Urban Mass transit Operating Assistance Program.

FINDING OF EMERGENCY

Under the current administrative rule, ch. Trans 4, recipients of state transit aid must contribute a minimum local share of 20% towards such aid. Under current practice, private transportation providers who contract with the recipient have been permitted to contribute the local share. Public policy considerations require amendment of the rule to make certain that only the recipient is permitted to contribute the local share of transit aid.

The Wisconsin Department of Transportation finds that an emergency exists regarding the public welfare. Without the emergency rule, there would be insufficient lead time for recipients to respond to the rule's impact on their budgets. Also, additional lead time may be required for recipients to re-bid contracts with private transportation providers, if necessary.

Publication Date: September 28, 1995
Effective Date: September 28, 1995
Expiration Date: February 25, 1996
Hearing Date: November 3, 1995
Extension Through: March 30, 1996

2. Rules were adopted revising **ch. Trans 131**, relating to the Motor Vehicle Inspection and Maintenance Program.

FINDING OF EMERGENCY

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

and welfare. A statement of the facts constituting the emergency is that Southeastern Wisconsin is currently unable to meet federal air quality standards. Southeastern Wisconsin is one of nine regions in the United States designated as areas with "severe" air pollution problems. This air quality problem results in all area residents breathing air that is not healthy.

Since motor vehicles are the largest contributor to the area's air quality problem, the Wisconsin Department of Transportation finds that an emergency exists regarding the public health. The enhanced I/M program resulting from the proposed rule is a necessary part of the state's plan to achieve the volatile organic compound (VOC) emission reductions required by the Clean Air Act. The program will account for over one-third of the

VOC reductions required by Wisconsin's 15% VOC Reduction Plan. By implementing the changes proposed in the rule, the air quality in Southeastern Wisconsin area can be improved. If such improvement does not occur, other more costly controls on small business and industry would be required. By taking action at this time, the major and most cost effective measure is utilized to meet Wisconsin's clean air goal.

Publication Date: December 4, 1995

Effective Date: December 4, 1995

Expiration Date: May 3, 1996

Hearing Date: January 11, 1996

***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.

Health & Social Services ([CR 95-182](#)):

Ch. HSS 211 – Relating to tribal medical relief programs funded by block grants.

Industry, Labor & Human Relations ([CR 93-32](#)):

S. ILHR 83.035 – Relating to petitions for variance and private sewage systems.

Industry, Labor & Human Relations ([CR 93-33](#)):

S. ILHR 83.23 – Relating to mound type private sewage systems.

Regulation and Licensing ([CR 95-205](#)):

Ch. RL 127 – Relating to the sale of real estate at an auction.

Revenue ([CR 95-169](#)):

SS. Tax 2.09, 2.105, 2.12 and 3.94 – Relating to:

- 1) Claims for refund;
- 2) The reproduction of franchise or income tax forms;
- 3) Notice of federal audit adjustments and federal or other states' amended returns; and
- 4) Amended Wisconsin returns.

Revenue ([CR 95-209](#)):

S. Tax 12.07 – Relating to assessor certification for municipalities in Kenosha county.

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.

Banking, Office of the Commissioner of (CR 95-119):

An order affecting s. Bkg 3.05, relating to leasing of personal property.
Effective 04-01-96.

Banking, Office of the Commissioner of (CR 95-120):

An order affecting s. Bkg 3.01, relating to bank-owned banks, lending and depository authority.
Effective 04-01-96.

Medical Examining Board (CR 95-49):

An order creating s. Med 10.02 (2) (za) and ch. Med 21, relating to requirements for patient health care records.
Effective 05-01-96.

Natural Resources (CR 95-102):

An order amending s. NR 165.06 (2) (b), (6) and (7) (a), relating to the interest rate subsidy for the small loan program.
Effective 04-01-96.

Natural Resources (CR 95-165):

An order amending s. NR 212.40, relating to water quality based allocations of pollutant discharges to waters of the state.
Effective 04-01-96.

Savings & Loan, Office of the Commissioner of (CR 95-114):

An order repealing and recreating s. SB 8.03, relating to liquidity levels required for savings banks.
Effective 04-01-96.

**Savings & Loan, Office of the Commissioner of
Banking, Office of the Commissioner of
Credit Unions, Office of the Commissioner of
(CR 95-214):**

An order amending ss. Bkg 14.10, CU 63.10, S-L 12.10 and SB 12.10, relating to advertising the ownership of remote service units, customer bank communication terminals and remote terminals (collectively referred to as automatic transfer machines (ATM's)).
Effective 04-01-96.

Transportation, Dept. of (CR 95-200):

An order affecting ss. Trans 310.01, 310.02, 310.03, 310.04 and 310.05, relating to child restraint standards.
Effective 05-01-96.

Transportation, Dept. of (CR 95-201):

An order affecting s. Trans 4.06 (4), relating to the urban mass transit operating assistance program.
Effective 04-01-96.

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