



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 05-066

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]**

#### 2. Form, Style and Placement in Administrative Code

- a. Throughout the analysis and in most provisions of the proposed rule, “Stat.” should be changed to “Stats.”
- b. In Item 4. of the analysis, “ch. 50” should be changed to “ch. Ins 50.”
- c. In the first paragraph of Item 10. of the analysis, “and/or” should be changed to “and” or “or,” as appropriate. [s. 1.01 (9) (a), Manual.]
- d. In SECTION 1, the title to s. Ins 50.30 should be shown, even if it is not amended. [s. 1.05 (3) (c), Manual.]
- e. Neither s. Ins 50.30 (2) (intro.) nor (4) (b) 3. (intro.) explain the relationship between the following subunits. It appears that in s. Ins 50.30 (2) (intro.), “shall:” should be changed to “shall do all of the following:”. It appears that in s. Ins 50.30 (4) (b) 3. (intro.), “from:” should be changed to “from doing any of the following:”. [s. 1.03 (8), Manual.]
- f. In s. Ins 50.30 (4) (b) 1., “sub. (2) and (3)” should be changed to “subs. (2) and (3).” [s. 1.07 (2), Manual.]
- g. In s. Ins 50.30 (4) (b) 3. a. “subd. 1” should be followed by a period.
- h. Section Ins 50.30 (4) (b) 2. indicates that subd. 1. “shall not be construed.” It should be changed to “may not be construed.” [s. 1.01 (2), Manual.]

i. SECTION 3 specifies various statutes under which the rule may be enforced. This provision will not be included in the administrative code. If the intention is to have it included, it should be revised (to avoid reference to “this rule”) and assigned a number in the administrative code. If the intention is not to have it included and it is being provided for informational purposes, the information should be included as part of the analysis, not part of the proposed order.

j. SECTION 4 indicates that the rule takes effect the first day of the month after publication. However, SECTION 5 indicates that the rule “first applies on and after December 31, 2005.” These provisions are inconsistent, and it appears that this part of the initial applicability provision should be deleted.

k. The remaining portion of SECTION 5 indicates that the rule first applies with respect to financial statements and actuarial opinions required to be filed for calendar year 2005 and subsequent years. This is appropriate content for an initial applicability provision, but it should be revised to follow the pattern in s. 1.02 (3m), Manual, namely, by stating that: “This rule first applies to financial statements and actuarial opinions filed for calendar year 2005.”

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

Current ss. Ins 42.05 (2), 45.06 (intro.), and 47.08 (3) refer to the loss reserve certification required under s. Ins 50.30. Since s. Ins 50.30 is being renumbered s. Ins 50.30 (1), it may be useful to change the cross-references in these provisions to s. Ins 50.30 (1).

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the first sentence of Item 3. of the analysis, “field” should be changed to “filed.”

b. The first sentence of Item 5. of the analysis indicates that s. Ins 50.30 currently requires licensed property and casualty insurers that file a National Association of Insurance Commissioners (NAIC) financial statement to also file an actuarial opinion. While this is correct, there appears to be nothing intrinsic to current s. Ins 50.30 that limits its applicability to property and casualty insurers. It might be useful to add the phrase “among others” to this first sentence of Item 5. to acknowledge that s. Ins 50.30 is not so limited.

c. In the last sentence of Item 9. of the analysis, “based bureau” should be changed to “based on bureau”.

d. The last paragraph of Item 10. of the analysis indicates that the proposed rule includes a conditional requirement that an insurer with a one-year adverse development in excess of 5% of surplus during three of the last five years must provide commentary. However, the proposed rule includes no such requirement. Either the analysis or the proposed rule must be changed to make them consistent.

e. Section Ins 50.30 (2) (a) indicates that a domestic property and casualty insurer required to file an actuarial opinion must “annually” submit an actuarial opinion summary. The rule does not specify when this summary must be filed (unless the NAIC instructions do so). If

the intent is that it be filed with the annual financial statement under s. Ins 50.20 and the statement of actuarial opinion under s. Ins 50.30 (1), this should be specified in order to avoid ambiguity.

f. Section Ins 50.30 (3) requires a domestic property and casualty insurer to prepare an actuarial report and underlying work papers to support an actuarial opinion. There is no requirement that the report and underlying work papers be filed with the Office of the Commissioner of Insurance (OCI). Is that the intention?

g. Moreover, the rule does not explicitly state that the actuarial report and underlying work papers must be provided by a domestic property and casualty insurer on request of OCI. This stands in contrast to s. Ins 50.30 (3) which provides that a licensed, but non-domiciled, insurer must provide this information to OCI upon request.

h. The rule should be reviewed to clarify what access OCI has to the actuarial report and underlying work papers of domestic property and casualty insurers.

i. Section Ins 50.30 (2) (b) refers to “underlying work papers”; s. Ins 50.30 (3) refers to “supporting work papers”; and s. Ins 50.30 (4) (a) and (b) 1. refer to “work papers.” It would eliminate confusion if one term were selected and used consistently.

j. Similarly, s. Ins 50.30 (2) (b) and (4) (b) 1. refer to an “actuarial report”; s. Ins 50.30 (3) refers to a “report”; and s. Ins 50.30 (4) (a) refers to a “supporting actuarial report.” It would eliminate confusion if one term were selected and used consistently.

k. Section Ins 50.30 (4) (a) indicates that s. Ins 50.30 does not restrict OCI from engaging an actuary, at the insurer’s expense, to review the actuarial opinion under s. Ins 50.30 (1) and “to prepare the supporting actuarial report or work papers.” Is it the intention that the actuary engaged by OCI would actually prepare the supporting actuarial report and work papers or simply review these materials? If it is the latter, s. Ins 50.30 (4) (a) should be revised.

l. Section Ins 50.30 (4) (b) 3. a. refers to sharing documents with state, federal, and international regulatory agencies and state, federal, and international law enforcement officials. Section 601.465 (3) (e), Stats., includes local regulatory agencies and local law enforcement officials. Is there a reason they are not also included in s. Ins 50.30 (4) (b) 3. a. or b.?