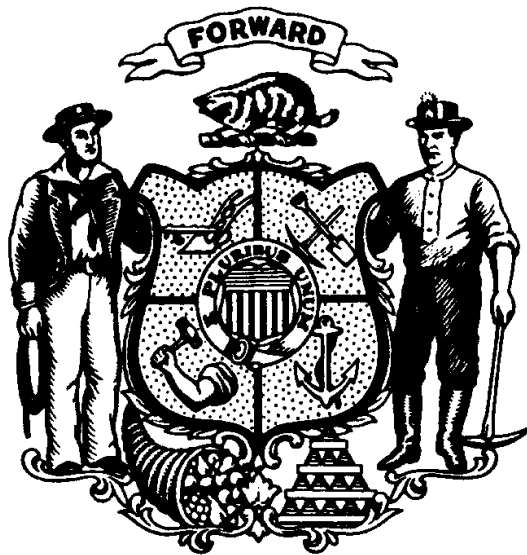


# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 529**



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## EMERGENCY RULES NOW IN EFFECT

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

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

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

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

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### EMERGENCY RULES NOW IN EFFECT

#### Agriculture, Trade & Consumer Protection

Rules adopted revising s. ATCP 100.45, relating to security of dairy plant payments to milk producers.

#### Finding of Emergency

(1) Section 100.06, Stats., is designed to provide "reasonable assurance" that dairy farmers will be paid for the milk they produce. Under ss. 97.20(2)(d)2. and 100.06, Stats., a dairy plant must, as a condition to licensing, comply with applicable security requirements under s. 100.06, Stats., and department rules under ch. ATCP 100, Wis. Adm. Code. Since dairy plant licenses expire on April 30 annually, dairy plants must comply with applicable security requirements in order to qualify for license renewal on May 1 of each year.

(2) Under s. 100.06, Stats., and ch. ATCP 100, a dairy plant operator who purchases milk from producers must do one of the following:

(a) File with the department of agriculture, trade and consumer protection ("department") audited financial statements which show that the operator meets minimum financial standards established by s. 100.06, Stats.

(b) File security with the department in an amount equal to at least 75% of the operator's "maximum liability to producers," as calculated under s. ATCP 100.45(5).

(c) Enter into a dairy plant trusteeship under ch. ATCP 100, Subch. V.

(3) Under s. ATCP 100.45(5), a dairy plant operator's "maximum liability to producers" is based on the plant operator's largest monthly purchase of milk during the *preceding* license year. Milk prices hit all time record highs in 1998, dramatically increasing monthly dairy plant payrolls. Security requirements for the 1999 license year are currently based on these inflated 1998 monthly

payrolls, even though 1999 monthly payrolls have dropped dramatically in response to price changes.

(4) Since December 1998, the average market price for raw milk has fallen by approximately 40%. Dairy economists expect BFP average prices to remain at least 12% to 16.2% below last year's average during 1999. Because of the dramatic decline in milk prices, dairy plants have smaller producer payroll obligations than they had in 1998.

(5) Prices received by Wisconsin dairy plants for processed dairy products have also fallen dramatically since December. This has created serious financial hardships for some dairy plants.

(6) Current security requirements, based on 1998 producer prices and payrolls, are excessive in relation to current payroll obligations and impose an added financial burden on dairy plants. Current security requirements under s. ATCP 100.45(5), based on last year's prices, are at least 31 to 48% higher than they would be if calculated at current prices.

(7) Because of the dramatic decline in dairy prices, some dairy plant operators are required to file large amounts of additional security, often amounting to millions of dollars. This is a major expense for affected operators. Operators may find it difficult, financially, to obtain and file the required security. If a dairy plant is unable to file the required security in connection with the May 1, 1999 license renewal, the department will be forced to take action against the dairy plant's license. This could result in the forced closing of some unsecured dairy plants. The forced closing of an unsecured plant may, in turn, result in serious financial losses to producer patrons.

(8) By requiring excessive security based on last year's prices, current rules are making it unnecessarily difficult and expensive for dairy plants to obtain and file security. This could contribute to the financial failure of some dairy plants, or to the forced closing of some unsecured plants. Dairy plant financial failures or closings, if they occur, may cause serious and widespread financial injury to milk producers in this state. This constitutes a serious and imminent threat to the public welfare.

(9) In order to reduce the risk of dairy plant financial failures or forced closings, rule amendments are urgently needed to adjust dairy plant security requirements to appropriate levels based on current milk prices. The rule amendments will relieve financially stressed dairy plants from unnecessary financial burdens and will make it easier for those dairy plants to file security with the department. That, in turn, will reduce the risk of dairy plant financial failures, or the forced closing of unsecured plants, which may adversely affect milk producers.

(10) Rule amendments, to be effective, must be promulgated prior to the dairy plant license year beginning May 1, 1999. That is not possible under normal rulemaking procedures. Therefore, the following emergency rule is needed to protect the public welfare.

(11) Should milk prices rise beyond the levels currently anticipated for the license year beginning May 1, 1999, so that security filed under this emergency rule is less than 75% of a dairy plant operator's current monthly producer payroll, the operator is required to notify the department of that fact under s. 100.06, Stats., and s. ATCP 100.20(3). The department may demand additional security at that time.

**Publication Date:** April 20, 1999  
**Effective Date:** May 1, 1999  
**Expiration Date:** September 28, 1999  
**Hearing Date:** May 18, 1999  
**Extension Through:** January 25, 2000

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Commerce***

#### **(PECFA – Chs. Comm 46–47)**

Rules adopted creating **ch. Comm 46**, relating to “Petroleum Environmental Cleanup Fund Interagency Responsibilities,” and relating to site contaminated with petroleum products from petroleum storage tanks.

### **Exemption From Finding of Emergency**

On September 22, 1999, the Joint Committee for Review of Administrative Rules adopted a motion pursuant to s. 227.26 (2) (b), Stats., that directs the Departments Commerce and Natural Resources to promulgate as an emergency rule, no later than October 22, 1999, the policies and interpretations under which they intend to administer and implement the shared elements of the petroleum environmental cleanup fund program.

In administering the fund, the Departments had previously relied upon a Memorandum of Understanding for classifying contaminated sites and addressing other statements of policy that affect the two Departments. The rule that is being promulgated details the policies and interpretations under which the agencies intend to administer and guide the remedial decision making for sites with petroleum product contamination from petroleum product storage tank systems.

The rule defines “high priority site,” “medium priority site,” and “low priority site,” and provides that the Department of Natural Resources has authority for high priority sites and that the Department of Commerce has authority for low and medium priority sites. The rule requires transfer of authority for sites with petroleum contamination in the groundwater below the enforcement standard in ch. NR 140 from the Department of Natural Resources to the Department of Commerce. The rule also establishes procedures for transferring sites from one agency to the other when information relevant to the site classification becomes available.

**Publication Date:** October 20, 1999  
**Effective Date:** October 20, 1999  
**Expiration Date:** March 18, 2000  
**Hearing Date:** November 18, 1999

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Commerce***

#### **(Financial Resources for Communities, Chs. Comm 105 to 128)**

Rules adopted creating **ch. Comm 111**, relating to certified capital companies.

### **Finding of Emergency**

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

### **Analysis of Rules**

Statutory Authority: ss. 560.31, 560.34 (1m) (b), and 227.24  
 Statutes Interpreted: ss. 560.31, 560.34 (1m) (b), and 227.24

On June 17, 1999, the Department of Commerce (Commerce) held a public hearing on proposed rules in response to 1997 Wis. Act

215. That act provides tax credits to persons that make certain investments in certified capital companies that are certified by Commerce. Legislators and persons interested in the rules testified at the hearing and requested that Commerce adopt an emergency rule that would (1) allow persons to apply for certification to become certified as capital companies, (2) allow persons to apply to make a certified capital investment in a certified capital company, and (3) set forth the operational and reporting requirements of certified capital companies required under the law. Since then, articles in the newspaper as well as business journals have pointed out the lack of venture capital in the state hinders high-tech growth and making that capital available will benefit Wisconsin as it has done in other states. This emergency rule is necessary to begin implementation of the law and to place Wisconsin in a better position to make capital available to draw high-tech industries, create new businesses, and expand existing businesses that will ultimately create new jobs and benefit all its citizens.

**Publication Date:** July 23, 1999  
**Effective Date:** July 23, 1999  
**Expiration Date:** December 19, 1999  
**Hearing Date:** August 17, 1999  
**Extension Through:** February 16, 2000

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Crime Victims Rights Board***

Rules adopted creating **ch. CVRB 1**, relating to the rights of crime victims.

### **Finding of Emergency**

The Crime Victims Rights Board 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:

The Crime Victims Rights Board was created by 1997 Wis. Act 181, effective December 1, 1998, to enforce victims' rights established by Wis. Const. Art. I, s. 9m, adopted in 1993. The Wisconsin Constitution states that the Legislature shall provide remedies for the violation of victims' constitutional rights. The Board's process represents the only means of enforcing the remedies available to victims of crime who are not provided with the rights guaranteed to them by the Wisconsin Constitution and the Wisconsin statutes. The Board can issue reprimands to correct violations of victims' rights, seek forfeitures in egregious cases, and seek equitable relief to enforce victims' rights. The Board can also work to prevent future violations of victims' rights by issuing reports and recommendations on crime victims' rights and services.

Complaints must be presented to the Department of Justice before they can be presented to the Board. The Department estimates that it receives 200 complaints annually involving the treatment of crime victims. The Department has no authority to enforce victims' rights; the Department can only seek to mediate disputes. Of those complaints, approximately 25 per year cannot be resolved to the parties' satisfaction, and are therefore ripe for the Board's consideration. There are presently 5 complaints that could be referred to the Board if the Board were able to receive and act on complaints.

Until the Board establishes its complaint process by administrative rule, it is unable to provide the remedies constitutionally guaranteed to crime victims.

**Publication Date:** September 17, 1999  
**Effective Date:** September 17, 1999  
**Expiration Date:** February 14, 1999  
**Hearing Date:** November 9, 1999

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## EMERGENCY RULES NOW IN EFFECT

### *Employe Trust Funds*

Rules adopted revising s. ETF 20.25 (1), relating to the distribution to annuitants from the transaction amortization account to the annuity reserve under 1999 Wis. Act 11.

### Finding of Emergency

The Department of Employe Trust Funds, Employe Trust Fund Board, Teacher Retirement Board and Wisconsin Retirement Board find that an emergency exists and that administrative rules are necessary for the immediate preservation of the public welfare. A statement of the facts constituting the emergency is:

The Public Employe Trust Fund was created for the purpose of helping public employes to protect themselves and their beneficiaries against the financial hardships of old age, disability, death, illness and accident. The Trust Fund thus promotes economy and efficiency in public service by facilitating the attraction and retention of competent employes, by enhancing employe morale, by providing for the orderly and humane departure from service of employes no longer able to perform their duties effectively, and by establishing equitable benefit standards throughout public employment. There are approximately 102,000 annuitants of the Wisconsin Retirement System, of whom about 80% reside throughout the State of Wisconsin. The Department of Employe Trust Funds estimates that up to 7,000 public employes covered by the Wisconsin Retirement System will retire and take annuity benefits effective during 1999.

WRS participants who retire during 1999 are not eligible to have their retirement benefits calculated using the higher formula factors for pre-2000 service which are provided by the treatment of Wis. Stats. 40.23 (2m) (e) 1. through 4. by 1999 Wis. Act 11. Section 27 (b) 2. of the Act directs that any funds allocated to the employer reserve in the Trust Fund as a result of the \$4 billion transfer mandated by the Act, which exceed \$200,000,000 shall be applied towards funding any liabilities created by using the higher formula factors with respect to pre-2000 service.

If the existing administrative rule mandating proration is not revised, then the distribution of the funds transferred into the annuity reserve by Act s. 27 (1) (a) of 1999 Wis. Act 11 will be prorated with respect to annuities with effective dates after December 31, 1998, and before January 1, 2000. The extraordinary transfer of funds from the Transaction Amortization Account (TAA) mandated by 1999 Wis. 11 causes funds, which would otherwise have remained in the TAA to be recognized and fund annuity dividends in later years, to instead be transferred into the annuity reserve in 1999 and paid out as an annuity dividend effective April 1, 2000. Normally, annuities effective during 1999 would receive only a prorated dividend. If this occurred with respect to this extraordinary distribution, then annuitants with annuity effective dates in 1999 would be deprived of a portion of the earnings of the Public Employe Trust Fund that would otherwise have affected their annuities as of April 1, 2001 and in subsequent years.

Promulgation of an emergency rule is the only available option for revising the effect of Wis. Adm. Code s. ETF 20.25 (1) before December 31, 1999. Accordingly, the Department of Employe Trust Funds, Employe Trust Funds Board, Teacher Retirement Board and Wisconsin Retirement Board conclude that preservation of the public welfare requires placing this administrative rule into effect

before the time it could be effective if the Department and Boards were to comply with the scope statement, notice, hearing, legislative review and publication requirements of the statutes.

**Publication Date:** December 27, 1999  
**Effective Date:** December 31, 1999  
**Expiration Date:** May 29, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Department of Financial Institutions* Division of Securities

Rules adopted revising s. DFI-Sec 5.01 (4), relating to investment adviser representative competency examination grandfathering provisions.

### Finding of Emergency and Analysis

The Division of Securities of the Department of Financial Institutions for the State of Wisconsin 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 follows:

The Division recently adopted for January 1, 2000 effectiveness as part of its annual rule revision process for 1999, a new administrative rule in s. DFI-Sec 5.01(3) that prescribes a new examination requirement for investment advisers and investment adviser representatives seeking licensure in Wisconsin on or after January 1, 2000. That new examination requirement, which includes completely revised Series 65 and Series 66 examinations, was developed over a 3-year period by a Project Group of the North American Securities Administrators Association ("NASAA").

The new NASAA examination requirement (which also included certain "grandfathering"/examination-waiver provisions) was approved by vote of NASAA member states (including Wisconsin) at the NASAA 1999 Spring Conference to become effective on December 31, 1999. The NASAA membership vote was accompanied by a recommendation that for uniformity purposes, each NASAA member state complete the necessary steps to adopt and have effective by January 1, 2000, the new examination requirement conforming to the NASAA format in all respects.

Following the adoption on November 18, 1999 by the Division of the new investment adviser examination requirement in s. DFI-Sec 5.01(3) as part of the Division's annual rule revision process, it was noted that the "grandfathering"/examination waiver provisions that had been included in s. DFI-Sec 5.01(4) did not track the NASAA Model language in two respects.

Because it is critical that the grandfathering provisions for the new Wisconsin investment adviser examination requirement be uniform with those of the other NASAA member states as of the coordinated January 1, 2000 date so that applicants for licensing in Wisconsin receive equivalent treatment to that accorded them by other states in which they may be seeking licensure, this emergency rulemaking for January 1, 2000 effectiveness is necessary.

The emergency rulemaking action is comprised of two provisions which do the following: (1) provide an examination waiver in new section DFI-Sec 5.01(4)(e) for any applicant licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. on January 1, 2000; and (2) provide an examination waiver in amended section DFI-Sec 5.01(4)(b) for any

applicant that has been licensed as an investment adviser or investment adviser representative in any jurisdiction in the U.S. within two years prior to the date the application is filed.

**Publication Date:** December 28, 1999  
**Effective Date:** January 1, 2000  
**Expiration Date:** May 30, 2000

## EMERGENCY RULES NOW IN EFFECT

### Gaming Division

Rules adopted creating **ch. Game 27**, relating to the conduct of pari-mutuel snowmobile racing.

### Finding of Emergency

The Department of Administration's Division of Gaming 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:

In January of 2000 a snowmobile promoter proposes to offer pari-mutuel wagering on snowmobile races conducted in Wisconsin. Section 562.124, Stats., allows for pari-mutuel snowmobile racing with the requirement that the Division of Gaming regulate the racing and promulgate all rules necessary to administer the statutory provision in the statutes.

Since this will be the first occasion within the United States that there will be pari-mutuel wagering on a motor sport or mechanical event, the Division of Gaming took extra time in preparing and reviewing the proposed rules with emphasis and attention directed toward the health, welfare and safety of the participants, workers and the public. Additionally, the Division of Gaming is incorporating standards by reference, specifically the Oval Sprint Racing Rules; Sno-Cross Racing Rules; and the General Competition Rules, excluding Enforcement, Discipline and Violation, of International Snowmobile Racing, Incorporated as identified in the *1999-2000 ISR Snowmobile Racing Yearbook*. These rules, which were made public in October of 1999 were reviewed extensively, once again with an emphasis on the health, welfare and safety of the prior noted individuals.

The conduct of pari-mutuel snowmobile racing will create additional jobs, increase tourism within the State of Wisconsin and generate revenues for the Division of Gaming.

**Publication Date:** December 23, 1999  
**Effective Date:** December 23, 1999  
**Expiration Date:** May 21, 2000

## EMERGENCY RULES NOW IN EFFECT

### Health & Family Services

(Management, Technology, etc., Chs. HFS 1-)

A rule was adopted revising **chapter HFS 12, Appendix A**, relating to caregiver background checks.

### Finding of Emergency

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

Since October 1, 1998, the Department has been implementing statutes that became effective on that date that require use of uniform procedures to check the backgrounds of persons who apply to the Department, to a county social services or human services department that licenses foster homes for children and carries out adoption home studies, to a private child-placing agency that does the same or to a school board that contracts for day care programs, to provide care or treatment to persons who need that care or treatment, or who apply to a regulated entity to be hired or contracted with to provide services to the entity's clients or who propose to reside as a non-client at the entity. The statutes, ss. 48.685 and 50.065, Stats., direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction, finding or charge, who have in their backgrounds a specified conviction, finding or charge substantially related to the care of clients, from operating a service provider organization, providing care or treatment to persons who need that care or treatment or otherwise having contact with the clients of a service provider.

The new statutes, commonly referred to as the Caregiver Law, were effective on October 1, 1998, for applicants on or after that date for licensure, certification or other agency approval, and for persons applying to be hired by or to enter into a contract with a regulated entity on or after that date to provide services to clients or to take up residence as a non-client at a regulated entity.

For regulated agencies approved before October 1, 1998, and for persons employed by, under contract to or residing as non-clients at regulated entities before October 1, 1998, the Caregiver Law's required uniform procedures and "bars" are to apply beginning on October 1, 1999. That is to say, by October 1, 1999, background checks, using the uniform procedures, are to be completed for all service providers who were approved before October 1, 1998, and for all employees, contractors and non-client residents employed by, under contract to or living at a regulated entity before October 1, 1998, and action taken to withdraw approval, terminate employment or end a contract, as appropriate.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. Chapter HFS 12 included an appendix which consisted of a list of crimes. The original list specified 159 crimes for conviction of any one of which a person would be barred permanently (45 crimes), all programs, or would be barred temporarily, all programs, pending demonstration of rehabilitation, from being approved to be a service provider or from providing care or treatment to clients or otherwise having access to clients. The October 1998 emergency rules were modified in December 1998 and February 1999 by emergency order, and were replaced by permanent rules effective July 1, 1999. The Crimes List in the current permanent rules specifies 117 crimes with 9 being permanent bar crimes for all programs.

This order again modifies ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes is reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being permanent bar crimes for all programs. The change to the ch. HFS 12 Crimes List is being made at this time because the 1999-2001 Budget Bill, now before the Legislature but not likely to take effect before October 1, 1999, is expected to provide for a more modest Crimes List than the one now appended to ch. HFS 12. This means that the Legislature intends that some persons who under the current rules would lose their jobs effective October 1, 1999, will be able to keep their jobs. The Department has the authority to further modify the Crimes List so that it corresponds to how the Legislature, after having heard arguments since October 1998 about how the Caregiver Law should be amended and implemented, wants it to work. This is what the Department is doing through this order.

**Publication Date:** September 16, 1999  
**Effective Date:** September 16, 1999  
**Expiration Date:** February 13, 2000  
**Hearing Date:** October 28, 1999



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## EMERGENCY RULES NOW IN EFFECT

### *Health & Family Services*

#### **(Community Services, Chs. HFS 30-)**

Rules adopted revising **ch. HFS 50**, relating to adoption assistance programs.

#### **Finding of Emergency**

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

This rulemaking order amends ch. HFS 50, the Department's rules for facilitating the adoption of children with special needs, to implement changes to the adoption assistance program statute, s. 48.975, Stats., made by 1997 Wisconsin Act 308. Those changes include permitting a written agreement for adoption assistance to be made following an adoption, but only in "extenuating circumstances;" permitting the amendment of an adoption assistance agreement for up to one year to increase the amount of adoption assistance for maintenance when there is a "substantial change in circumstances;" and requiring the Department to annually review the circumstances of the child when the original agreement has been amended because of a substantial change in circumstances, with the object of amending the agreement again to either continue the increase or to decrease the amount of adoption assistance if the substantial change in circumstances no longer exists. The monthly adoption assistance payment cannot be less than the amount in the original agreement, unless agreed to by all parties.

The amended rules are being published by emergency order so that adoption assistance or the higher adoption assistance payments, to which adoptive parents are entitled because of "extenuating circumstances" or a "substantial change in circumstances" under the statutory changes that were effective on January 1, 1999, may be made available to them at this time, now that the rules have been developed, rather than 7 to 9 months later which is how long the promulgation process takes for permanent rules. Act 308 directs the Department to promulgate rules that, among other things, define extenuating circumstances, a child with special needs and substantial change in circumstances.

**Publication Date:** November 16, 1999

**Effective Date:** November 16, 1999

**Expiration Date:** April 13, 2000

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## EMERGENCY RULES NOW IN EFFECT (2)

### *Health & Family Services*

#### **(Medical Assistance, Chs. HFS 101-108)**

1. Rules were adopted revising **chs. HFS 101 to 103, and 108**, relating to operation of BadgerCare health insurance program.

#### **Finding of Emergency**

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

This order creates rules that specify how a new program called BadgerCare, established under s. 49.665, Stats., will work. Under BadgerCare, families with incomes up to 185% of the federal poverty level, but not low enough to be eligible for regular Medical

Assistance (MA) coverage of their health care costs, and that lack access to group health insurance, are eligible to have BadgerCare pay for their health care costs. The order incorporates the rules for operation of BadgerCare into chs. HFS 101 to 103 and 108, four of the Department's chapters of rules for operation of the MA program.

BadgerCare is projected to cover over 40,000 currently uninsured Wisconsin residents, including more than 23,000 children, by the end of 1999.

Benefits under BadgerCare will be identical to the comprehensive package of benefits provided by Medical Assistance. The existing Wisconsin Medicaid HMO managed care system, including mechanisms for assuring the quality of services, improving health outcomes and settling grievances, will be used also for BadgerCare.

Department rules for the operation of BadgerCare must be in effect before BadgerCare may begin. The program statute, s. 49.665, Stats., was effective on October 14, 1997. It directed the Department to request a federal waiver of certain requirements of the federal Medicaid Program to permit the Department to implement BadgerCare not later than July 1, 1998, or the effective date of the waiver, whichever date was later. The federal waiver letter approving BadgerCare was received on January 22, 1999. It specified that BadgerCare was not to be implemented prior to July 1, 1999. Once the letter was received, the Department began developing the rules. They are now ready. The Department is publishing the rules by emergency order so that they will go into effect on July 1, 1999, rather than at least 9 months later, which is about how long the process of making permanent rules takes, and thereby provide already authorized health care coverage as quickly as possible to families currently not covered by health insurance and unable to pay for needed health care.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate BadgerCare and in the process provide more specificity than s. 49.665, Stats., about the nonfinancial and financial conditions of eligibility for BadgerCare; state who is included in a BadgerCare group and whose income is taken into consideration when determining the eligibility of a BadgerCare group; expand on statutory conditions for continuing to be eligible for BadgerCare; exempt a BadgerCare group with monthly income at or below 150% of the federal poverty level from being obliged to contribute toward the cost of the health care coverage; and set forth how the Department, as an alternative to providing Medical Assistance coverage, will go about purchasing family coverage offered by the employer of a member of a family eligible for BadgerCare if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

**Publication Date:** July 1, 1999

**Effective Date:** July 1, 1999

**Expiration Date:** November 28, 1999

**Hearing Dates:** August 26, 27, 30 & 31, 1999

**Extension Through:** January 26, 2000

2. Rules adopted creating **ss. HFS 106.12 (9) and 108.02 (9)(f)**, relating to discovery rights in contested case proceeding involving health care providers under the MA program.

#### **Finding of Emergency**

The Department of Health and Family 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:

In Wisconsin, contested case proceedings for which state agencies must hold administrative hearings are by statute divided into three categories. Class 1 cases involve situations in which the agency has substantial discretionary authority (such as rate setting or the grant or denial of a license) but no imposition of a sanction or penalty is involved; Class 2 contested cases involve the imposition of a sanction or penalty; and Class 3 cases are those not included in

Class 1 or Class 2. Under s. 227.45(7), Stats., in a Class 2 proceeding the parties have an automatic right to take and preserve evidence prior to the hearing by using discovery procedures such as depositions and interrogatories, but in a Class 1 or Class 3 proceeding the parties generally do not have the right to use discovery unless rules of the agency specifically provide for that right.

The Department of Health and Family Services does not have rules providing for discovery in a Class 1 or Class 3 contested case. Accordingly, discovery has not been available for Class 1 or Class 3 cases except with respect to certain witnesses identified in s. 227.45 (7), Stats. The Department of Administration's Division of Hearings and Appeals handles cases delegated from this Department. Recently, a hearing examiner in the Division of Hearings and Appeals issued an order in a Class 3 case which held that, because the Division of Hearings and Appeals has its own rules allowing discovery in all cases, those rules override the absence of any mention of discovery in the Department of Health and Family Services' rules concerning hearing rights and procedures.

This Department believes that an emergency exists. If other hearing examiners issue similar rulings, the Department of Health and Family Services would be subject to discovery in all cases. This means that in the absence of Department rules that provide otherwise, the process of litigation for Class 1 and Class 3 cases would be significantly prolonged for all parties and the additional administrative costs to the Department associated with that process (including the need to hire additional program staff, attorneys, and support staff to handle the depositions, interrogatories, and other discovery procedures) would be considerable.

There is a particularly high volume of Class 1 and Class 3 cases involving Medical Assistance program providers. Accordingly, these rules are issued to make clear that discovery remains unavailable in Class 1 and Class 3 Medical Assistance contested case proceedings involving providers.

**Publication Date:** December 23, 1999  
**Effective Date:** December 23, 1999  
**Expiration Date:** May 21, 2000

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Health and Family Services*** **(Health, Chs. HSS/HFS 110-)**

Rules were adopted revising **ch. HFS 119**, relating to the Health Insurance Risk-Sharing Plan.

### **Exemption From Finding of Emergency**

Section 149.143 (4), Stats., permits the Department to promulgate rules required under s. 149.143(2) and (3), Stats. by using emergency rulemaking procedures, except that the Department is specifically exempted from the requirement under s. 227.24(1) and (3), Stats., that it make a finding of emergency. These are the rules. Department staff consulted with the HIRSP Board of Governors on April 30, 1999 on the proposed rules, as required by s. 149.20, Stats.

### **Analysis Prepared by the Department of Health and Family Services**

The State of Wisconsin in 1981 established a Health Insurance Risk-Sharing Plan (HIRSP) for the purpose of making health insurance coverage available to medically uninsured residents of the state. One type of coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This coverage is called Plan 2. Medicare (Plan 2) has a \$500 deductible. Approximately 17% of the 7,291 HIRSP policies in effect on March 31, 1999 were of the Plan 2 type.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP Plan 2 premium rates in accordance with the authority and requirements set out in s. 149.143 (2) (a) 2., Stats. The Department is required to set premium rates by rule. These rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

There are separate sets of tables in ch. HFS 119 that show unsubsidized and subsidized Plan 2 premium rates. Both sets of tables are amended by this order to increase the premium rates because Plan 2 costs, which historically have been running about 50% less than Plan 1 costs, began to increase several years ago and now are running at about 67% of Plan 1 costs. The Plan 2 premium rates need to be increased to cover increased costs of treatment for individuals enrolled under Plan 2. The order increases these premium rates by about 18%.

In January 1999, the Department published an emergency rule order to increase HIRSP unsubsidized Plan 2 premium rates by about 10%, with the intention of increasing those rates again in July 1999 to the level provided for in this order. However, in May 1999 the Legislature's Joint Committee for the Review of Administrative Rules (JCRAR) refused to extend the effective period of that part of the January 1999 emergency rule order relating to premium rate increases, with the result that effective May 31, 1999, the rates reverted back to the rates in effect before January 1, 1999. Consequently, to increase rates effective July 1, 1999, the Department through this rulemaking order has based the increased rates on the rates in effect prior to January 1, 1999.

The Department through this order is also adjusting the total HIRSP insurer assessments and provider payment rates in accordance with the authority and requirements set out in s. 149.143 (2)(a)3. and 4., Stats. With the approval of the HIRSP Board of Governors and as required by statute, the Department reconciled total costs for the HIRSP program for calendar year 1998. The Board of Governors approved a reconciliation methodology that reconciles the most recent calendar year actual HIRSP program costs, policyholder premiums, insurance assessments and health care provider contributions collected with the statutorily required funding formula. By statute, the adjustments for the calendar year are to be applied to the next plan year budget beginning July 1, 1999.

The result of this reconciliation process for calendar year 1998 indicated that insurance assessments collected were greater than the 20% of costs (net of the GPR contribution from appropriation s. 20.435(5)(af), Stats.), required of insurers. Also, the calendar year 1998 reconciliation process showed that an insufficient amount was collected from health care providers. As a result of this reconciliation, the insurer assessments for the time periods July 1, 1999 through December 31, 1999 and January 1, 2000 through June 30, 2000, are reduced to offset the overpayment in 1998. The total adjustments to the provider payment rates for the same time periods are sharply increased in order to recoup the provider contribution that was not collected in calendar year 1998. The budget for the plan year ending June 30, 2000 and the calendar year 1998 reconciliation process were approved by the HIRSP Board of Governors in April 1999.

**Publication Date:** June 30, 1999  
**Effective Date:** July 1, 1999  
**Expiration Date:** November 28, 1999  
**Hearing Date:** September 9, 1999  
**Extension Through:** January 26, 2000

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## **EMERGENCY RULES NOW IN EFFECT**

### ***Higher Educational Aids Board***

Rules adopted amending **s. HEA 11.03 (3)** and creating **s. HEA 11.03 (5)**, relating to the Minority Teacher Loan Program.

### **Finding of Emergency**

The 1989 Wis. Act 31 created s. 39.40, Stats., which provides for loans to minority students enrolled in programs of study leading to

licensure as a teacher. The Wisconsin Higher Educational Aids Board (HEAB) administers this loan program under s. 39.40 and under ch. HEA 11. Current rules require that a student be enrolled full time and show financial need to be considered for participation in the Minority Teacher Loan Program. Students who did not enroll full time and did not show financial need were allowed to participate in the program in the past when part of the program was administered by another administrative body. These students are enrolled in teacher education programs that train teachers specifically for the school districts named in the statutes that outline the intent of the Minority Teacher Loan Program. Unless the Board changes its rules, many participating students will lose their eligibility in the program. This will cause a hardship to those students who relied on the interpretation of the prior system administration. Revising the rules would allow students who participated in the program in the past to continue to participate. The proposed revision will not affect expenditures of State funds for the Minority Teacher Loan Program.

**Publication Date:** August 6, 1999  
**Effective Date:** August 6, 1999  
**Expiration Date:** January 3, 2000  
**Hearing Date:** October 28, 1999  
**Extension Through:** March 2, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Natural Resources*

#### **(Environmental Protection–Water Regulation, Chs. NR 300–)**

Rules adopted creating **ch. NR 303**, relating to department determinations of navigability for farm drainage ditches.

#### **Exemption From Finding of Emergency**

The Department was directed by the JCRAR under s. 227.26 (2) (b), Stats., to promulgate emergency rules regarding navigability for farm drainage ditches.

#### **Analysis Prepared by the Department of Natural Resources**

Statutory authority: s. 227.26 (2)(b)

Statute interpreted: s. 30.10 (4)(c)

This order codifies present department program guidance for staff making navigability determinations for farm drainage ditches, identifying various methods and information to be relied on when making such determinations.

**Publication Date:** May 1, 1999  
**Effective Date:** May 1, 1999  
**Expiration Date:** September 28, 1999  
**Hearing Dates:** June 16 and 17, 1999  
**Extension Through:** January 25, 2000

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## EMERGENCY RULES NOW IN EFFECT

### *Natural Resources*

#### **(Environmental Protection–Investigation and Remediation, Chs. NR 700–)**

Rules adopted creating **ch. NR 746**, relating to sites contaminated with petroleum products from petroleum storage tanks.

#### **Finding of Emergency**

The Wisconsin Natural Resources Board 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 contributing to the emergency is:

The Department of Commerce has adopted administrative rules under ss. 101.143 and 101.144, Stats., to implement the Petroleum Environmental Cleanup Fund Act (PECFA). The purpose of PECFA is to reimburse responsible persons for the eligible costs incurred to investigate and remediate petroleum product discharges from a petroleum product storage system or home oil tank system. The recent emergency rule, ch. Comm 46, was adopted by both the Department of Natural Resources and the Department of Commerce in January 1999, incorporating parts of a Memorandum of Understanding between the two agencies that relates to the classification of contaminated sites and creating risk screening criteria for assessing petroleum–contaminated sites. However, ch. Comm 46 expired on September 27, 1999, prior to publication of the permanent rule. The emergency rule, ch. NR 746, is being proposed in order to ensure rules continue in effect during the time period between now and when the permanent rule is published. This action is also in response to a resolution adopted by the Joint Committee for Review of Administrative Rules (JCRAR), which directed the Department of Commerce and the Department of Natural Resources to promulgate a new emergency rule for this interim time period.

The emergency rule was approved and adopted by the State of Wisconsin Natural Resources Board on September 29, 1999.

**Publication Date:** October 20, 1999  
**Effective Date:** October 20, 1999  
**Expiration Date:** March 18, 2000  
**Hearing Date:** November 18, 1999

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## EMERGENCY RULES NOW IN EFFECT

### *Revenue*

Rule adopted creating **s. Tax 18.08 (4)**, relating to assessment of agricultural land.

#### **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 Wisconsin Act 27 changed the way agricultural land is valued for property tax purposes. The law requires the Farmland Advisory Council to make recommendations regarding the transition from valuation under prior law to valuation under current law, and requires the department to promulgate rules to implement those recommendations.

On October 18, 1999, the Farmland Advisory Council recommended that agricultural land be assessed as of January 1,

2000 and thereafter according to value in agricultural use. Major Wisconsin farm organizations, among others, have petitioned the Department under s. 227.12, Stats., to promulgate an administrative rule implementing the Council's recommendation.

Since the Department holds assessor schools in November and typically publishes the next years use-value guidelines prior to January 1 of that year, an emergency rule requiring assessment of each parcel of agricultural land according to its value in agricultural use is necessary for the efficient and timely assessment of agricultural land as of January 1, 2000.

**Publication Date:** November 30, 1999  
**Effective Date:** November 30, 1999  
**Expiration Date:** April 27, 2000  
**Hearing Date:** January 7, 2000

## EMERGENCY RULES NOW IN EFFECT

### Transportation

Rules adopted revising **ch. Trans 4**, relating to requiring the use of a fully allocated cost methodology when evaluating bids solicited for transit service in a competitive process.

### Exemption From Finding of Emergency

Chapter Trans 4 establishes the Department's administrative interpretation of s. 85.20, Stats. and prescribes administrative policies and procedures for implementing the state urban public transit operating assistance program authorized under s. 85.20, Stats. 1999 Wis. Act 9, section 9150(2bm), requires the Department to adopt an emergency rule to amend Chapter Trans 4 by adding a section that requires that cost proposals submitted by a publicly owned transit system in response to a request for proposals issued by a public body for the procurement of transit services to be funded under the state urban transit operating assistance program must include an analysis of fully allocated costs. The analysis must include all of the publicly owned system's costs, including operating subsidies and capital grants. This analysis shall be the basis for evaluating costs when ranking proposals.

Pursuant to 1999 Wis. Act 9, section 9150(2bm)(b), the Department is not required to provide evidence that the rule is necessary for the preservation of the public peace, health, safety or welfare, and is not required to provide a finding of emergency.

**Publication Date:** December 12, 1999  
**Effective Date:** December 12, 1999  
**Expiration Date:** See 1999 Wis. Act 9, section 9150 (2bm)  
**Hearing Date:** February 14, 2000

## EMERGENCY RULES NOW IN EFFECT

### Workforce Development

#### (Prevailing Wage Rates, Ch. DWD 290-294)

A rule was adopted revising **s. DWD 290.155**, relating to the annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.

### Finding of Emergency

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

The Department of Workforce Development is acting under its statutory authority to annually adjust thresholds for the application of prevailing wage laws on state or local public works projects. The thresholds are adjusted in accordance with any change in construction costs since the last adjustment. The last adjustment was by emergency rule in January 1999 based on construction costs in December 1998. The Department uses the construction cost index in the December issue of the Engineering News-Record, a national construction trade publication, to determine the change in construction costs over the previous year. The current construction cost index indicates a 2.3% increase in construction costs over the previous year. This increase in construction costs results in an increase in the threshold for application of the prevailing wage laws from \$33,000 to \$34,000 for single-trade projects and from \$164,000 to \$168,000 for multi-trade projects.

If these new thresholds are not put into effect by emergency rule, the old thresholds will remain effective for approximately six months, until the conclusion of the permanent rule-making process. Between January 1, 2000, and July 1, 2000, a single-trade project with a minimum estimated project cost of more than \$33,000 but less than \$34,000 or a multi-trade project with an estimated cost of more than \$164,000 but less than \$168,000 would not be exempt from the prevailing wage laws, as they would be if the emergency rule were promulgated. The threshold adjustments for application of the prevailing wage laws are based on national construction cost statistics and are unlikely to be changed by the permanent rule-making process. The Department is proceeding with this emergency rule to avoid imposing an additional administrative burden on local governments and state agencies.

**Publication Date:** December 29, 1999  
**Effective Date:** January 1, 2000  
**Expiration Date:** May 30, 2000

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## STATEMENTS OF SCOPE OF PROPOSED RULES

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### **Revenue**

#### **Subject:**

S. Tax 2.32 – Relating to the definition of gross receipts for recycling surcharge purposes.

#### **Description of policy issues:**

##### *Objective of the proposed rule:*

The objective of the proposed rule is to define “gross receipts” for purposes of calculating the recycling surcharge.

##### *Policy analysis:*

The policies set forth in this rule are new policies, to reflect new law. If the rule is not submitted to Legislative Council staff, the Department will not be in compliance with section 9143(3d) of 1999 Wis. Act 9.

#### **Statutory authority:**

Section 71.80 (1) (c), Stats.

#### **Estimate of staff time required:**

The Department estimates it will take approximately 40 hours to develop this rule order.

### **Revenue**

#### **Subject:**

SS. Tax 18.05 and 18.08 – Relating to the assessment of agricultural land for property tax purposes.

#### **Description of policy issues:**

##### *Description of the objectives of the proposed rule:*

Objectives of the proposed rule are to:

- Make permanent the emergency rule regarding use value assessment of agricultural land, effective upon publication on November 30, 1999. Under the emergency rule, beginning with assessments as of January 1, 2000, agricultural land is assessed according to its value in agricultural use.
- To update technical references regarding the definition of agricultural land.

##### *Policy analysis:*

Existing policies are as set forth in the rules. New policies being proposed include revisions to s. Tax 18.08 to fully implement use value assessment of agricultural land, beginning January 1, 2000. On October 18, 1999, the Farmland Advisory Council under s. 73.03 (49), Stats., recommended that the Department fully implement use value assessment of agricultural land. The Department has promulgated an emergency rule to implement the Council’s recommendation. However, since emergency rules are temporary, a permanent rule is needed for the orderly, efficient assessment of agricultural land.

The proposed amendment also updates the definition of “agricultural use”. “Agricultural use” is defined under s. Tax 18.05 in part by reference to the federal Standard Industrial Classification Manual, 1987 edition. In 1997 the Executive Office of the President issued a revised classification system, the North American Industry Classification System. The permanent rule amends the definition of “agricultural use” to update the references to the 1987 Manual with references to the 1997 Classification System. This amendment has no policy implications.

“Agricultural use” includes land eligible for enrollment in specified federal agricultural programs which, under the current rule, are identified by date and Code of Federal Regulations (CFR) references. The date and CFR references have become outdated and the proposed rule updates those references. The proposed rule also repeals the reference to the Dairy Price Support program since land is not a factor for purposes of participating in that program.

#### **Statutory authority:**

Section 70.32 (2) (c) 1. and (2r), Stats.

#### **Estimate of staff time required:**

The Department estimates that it will take approximately 160 staff hours to develop this rule order.

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

#### **Subject:**

S. DWD 290.155 – Relating to annual adjustment of thresholds for application of the prevailing wage rates for state or local public works projects.

#### **Description of policy issues:**

##### *Objective of the rule:*

The state prevailing wage rate laws require that when a state agency or local governmental unit constructs a public works project, it must obtain a prevailing wage rate determination from the Department of Workforce Development and require that the contractors and subcontractors on the project pay their employees in accordance with those wage rates. Under ss. 66.293 (5) and 103.49 (3g), Stats., and as adjusted under s. DWD 290.155, the state prevailing wage rate laws do not apply to any “single–trade public works project” (a project involving the employment of primarily one trade) when the estimated cost is below \$33,000, and it does not apply to any “multi–trade public works project” when the estimated cost is below \$164,000. Also under ss. 66.293(5) and 103.49(3g), Stats., the Department is required to adjust the dollar amounts of the threshold limits each year, in proportion to any change in construction costs since the limits were last determined. The objective of the proposed rule is to amend the current threshold limits to \$34,000 for single–trade projects and \$168,000 for multi–trade projects, based on a 2.3% increase in the construction cost index between December 1998 and December 1999.

##### *Existing policies and new policies included in the proposed rule and an analysis of policy alternatives:*

The Construction Cost Index in the December issue of the *Engineering News–Record*, a construction trade publication, is used to measure any change in building costs over the previous year. The thresholds for application of the prevailing wage laws are increased 2.3% to reflect a 2.3% increase in construction costs.

#### **Statutory authority for the proposed rule:**

SS. 66.293 (5) and 103.49 (3g), Stats.

#### **Estimate of the amount of time employees will spend developing the proposed rule and of other resources needed to develop the rule:**

Less than 20 hours.

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## *SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE*

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

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

#### **Agriculture, Trade and Consumer Protection**

##### **Rule Submittal Date**

On December 20, 1999, the Department of Agriculture, Trade and Consumer Protection has referred a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule affects chs. ATPC 10 to 12, Wis. Adm. Code, relating to animal health.

##### **Agency Procedure for Promulgation**

A public hearing is required and the Department will hold public hearings on this rule after the Wisconsin Legislative Council Rules Clearinghouse completes its review. The Department's Animal Health Division is primarily responsible for this rule.

##### **Contact Information**

If you have questions, you may contact:

Clarence J. Siroky, D.V.M.  
Telephone: (608) 224-4872

#### **Employment Relations--Merit Recruitment and Selection**

##### **Rule Submittal Date**

On December 20, 1999, the Division of Merit Recruitment and Selection in the Department of Employment Relations submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule relates to providing examination materials to hiring managers for use in interviews, and to removing individuals who do not appear for interviews from lists of candidates.

##### **Agency Procedure for Promulgation**

A public hearing is required. It is not yet scheduled. The Division of Merit Recruitment and Selection in the Department of Employment Relations is responsible for developing this rule.

##### **Contact Information**

Elizabeth Reinwald  
Legislative Liaison  
Telephone: (608) 266-5316  
FAX: (608) 267-1020  
Email: [Elizabeth.Reinwald@der.state.wi.us](mailto:Elizabeth.Reinwald@der.state.wi.us)

#### **Commissioner of Insurance**

##### **Rule Submittal Date**

In accordance with ss. 227.14 and 227.15, the Office of the Commissioner of Insurance submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse on December 29, 1999.

##### **Analysis**

These changes will affect s. Ins 6.57 (4), Wis. Adm. Code, relating to lowering the listing fees for resident insurance agents.

##### **Agency Procedure for Promulgation**

A public hearing is required. The date for the public hearing is Tuesday, February 8, 2000.

##### **Contact Information**

A copy of the proposed rule may be obtained from the OCI internet WEB site at <http://www.state.wi.us/agencies/oci/ocirules.htm> or by contacting Tammi Kuhl at (608) 266-0110 in OCI Central Files. For additional information, please contact:

Robert Luck  
OCI Legal Unit  
Telephone: (608) 266-0082  
Email: [Robert.Luck@oci.state.wi.us](mailto:Robert.Luck@oci.state.wi.us)

#### **Public Instruction**

##### **Rule Submittal Date**

On December 21, 1999, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule creates ch. PI 44, relating to alternative education grants.

##### **Agency Procedure for Promulgation**

A public hearing is required. Public hearings will be scheduled. The Division for Learning Support: Instructional Services is primarily responsible for promulgation of this rule.

##### **Contact Information**

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

Larry Allen, Director  
Education Options  
Telephone: (608) 267-2402

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## NOTICE SECTION

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### Notice of Hearing

*Commissioner of Insurance*

**[CR 99-170]**

Notice is hereby given that pursuant to the authority granted under s. 601.41 (3), Stats., and the procedure set forth in s. 227.18, Stats., the Office of the Commissioner of Insurance (OCI) will hold a public hearing to consider the adoption of the proposed rule-making order affecting s. Ins 6.57 (4), Wis. Adm. Code, relating to lowering the listing fees for resident insurance agents.

### Hearing Information

**Date & Time**

February 8, 2000  
Tuesday  
10:00 A.M.

**Location**

Room 6  
OCI  
121 East Wilson St.  
MADISON, WI

### Analysis Prepared by the Office of the Commissioner of Insurance

Statutory authority: ss. 600.01 (2), 601.31 (1) (n), 601.41 (3), 601.42, 628.11 and 628.34 (12)

Statutes interpreted: ss. 600.01 and 628.34 (12)

Wisconsin has experienced a strong economy and a growing and competitive insurance industry. At the same time, OCI has been a good fiscal steward and has not grown at the same rate as the insurance industry, allowing OCI to reduce fee collections. Effective use of information technology and increased efficiency in agency operations has resulted in a reduced need for revenue from

the industry. This change would lower the listing fees paid by insurers for resident agents from \$8.00 to \$7.00.

### Written Comments

Written comments on the proposed rule will be accepted into the record and receive the same consideration as testimony presented at the hearing if they are received at OCI within 14 days following the date of the hearing. Written comments should be addressed to:

Robert Luck, OCI  
P.O. Box 7873  
Madison, WI 53707

### Fiscal Estimate

There will be no state or local government fiscal effect.

### Initial Regulatory Flexibility Analysis

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

### Copies of Rule and Contact Information

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

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

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

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

**Agriculture, Trade and Consumer Protection****(CR 99-133):**

Ch. ATPC 105 – Relating to retailers of motor fuel meeting competition from other retailers' credit card promotions (selling motor vehicle fuel below cost).

**Chiropractic Examining Board (CR 99-148):**

S. Chir 4.07 – Relating to practice while suspended.

**Commerce (CR 99-86):**

Chs. Comm 5, 82 and 84 – Relating to credentials and fire sprinkler systems.

**Commerce (CR 99-122):**

Ch. Comm 90 – Relating to design and installation of public swimming pools.

**Commerce (CR 99-139):**

Ch. Comm 32 – Relating to public employe safety and health.

**Elections Board (CR 99-150):**

S. ElBd 1.28 – Relating to express advocacy.

**Physical Therapists Affiliated Credentialing Board****(CR 99-66):**

Chs. PT 1 to 5 – Relating to the definition of physical therapy aide, the tests of English, written English and spoken English, general supervision of physical therapist assistants, and direct supervision of physical therapist assistants and physical therapy aides.

**Public Service Commission (CR 98-174):**

Ch. PSC 100 – Relating to wholesale merchant plants.

**Public Service Commission (CR 99-131):**

Ch. PSC 111 – Relating to the replacement of advance plans with strategic energy assessments and revision of requirements for certificates of public convenience and necessity.

**Revenue (CR 99-134):**

S. Tax 11.96 – Relating to delivery of an ordinance to adopt or repeal a county or premier resort area tax.

**Transportation (CR 99-144):**

Ch. Trans 316 – Relating to wood harvesting slashers.



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## ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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*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.*

**Chiropractic Examining Board (CR 99–40):**

An order creating s. Chir 3.08, relating to use of limited liability entities in chiropractic practice.

Effective 03–01–00.

**Employment Relations Commission (CR 99–104):**

An order affecting ch. ERC 33, relating to school district professional employe collective bargaining agreements and the calculation of a qualified economic offer.

Effective 02–01–00.

**Health and Family Services (CR 95–140):**

An order repealing and recreating ch. HFS 52, relating to residential care centers for children and youth, formerly called child care institutions.

Effective 09–01–00.

**Health and Family Services (CR 99–113):**

An order amending ss. HFS 119.07 (6) (b) (intro.), Medicare Plan tables, (c) 2. (intro.) and tables and 119.15, relating to operation of the Health Insurance Risk–Sharing Plan (HIRSP).

Effective 03–01–00.

**Transportation (CR 99–136):**

An order affecting ss. Trans 252.02 and 252.05, relating to escort vehicles.

Effective 03–01–00.

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