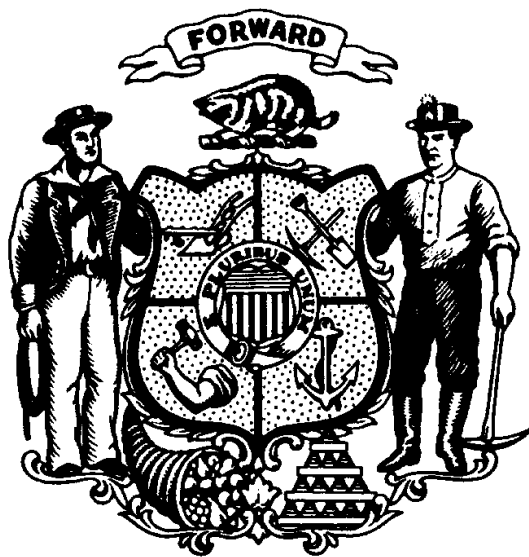


# *WISCONSIN ADMINISTRATIVE REGISTER*

**No. 530**



Publication Date: February 14, 2000  
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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

#### 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

#### 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  
**Extension Through:** April 13, 2000

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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

**Hearing Date:** February 11, 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  
**Hearing Date:** March 13, 2000

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## EMERGENCY RULES NOW IN EFFECT (2)

### *Gaming Division*

1. 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

2. Rule adopted repealing **ch. Game 27**, relating to the conduct of pari-mutuel snowmobile racing, which was created by emergency rule on December 23, 1999.

### Finding of Emergency

Based upon the public opposition to this emergency rule, the Department has reconsidered its creation of ch. Game 27 as an

emergency rule. The Department will instead pursue creation of the proposed rule under the permanent rulemaking procedures.

**Publication Date:** January 15, 2000  
**Effective Date:** January 15, 2000  
**Expiration Date:** May 21, 2000

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## 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  
**Hearing Dates:** February 24, & 28, 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:** March 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  
**Hearing Date:** March 8, 2000  
 [See Notice this Register]

\*On January 20, 2000, the Joint Committee for Review for Administrative Rules suspended these emergency rules under s. 227.19 (4) (d)1., Stats.

## 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:** March 1, 2000

## **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

## **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

## **EMERGENCY RULES NOW IN EFFECT (4)**

### ***Public Instruction***

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

### **Finding of Emergency**

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

Emergency rules are necessary to clarify the eligibility criteria and requirements for parents and participating private schools in time for schools to properly establish procedures for the 2000–2001 school year. Furthermore, emergency rules are necessary to allow the private schools to begin planning summer school programs. The

department is in the process of developing permanent rules, but such rules will not be in place prior to January 2000.

The requirements established under this rule have been discussed with the private schools and initial indications reflect an acceptance of these provisions.

**Publication Date:** January 4, 2000  
**Effective Date:** January 4, 2000  
**Expiration Date:** June 2, 2000

- Rules adopted creating **ch. PI 10**, relating to supplemental aid for school districts with a large area.

### Finding of Emergency

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

1999 Wis. Act 9 appropriated \$125,000 to be awarded by the department to eligible school districts in the 1999–2000 school year. Emergency rules are necessary to clarify the eligibility criteria and procedures for school districts to apply for funds under the program.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

**Publication Date:** January 28, 2000  
**Effective Date:** January 28, 2000  
**Expiration Date:** June 26, 2000  
**Hearing Date:** March 15, 2000  
 [See Notice this Register]

- Rules adopted creating **ch. PI 24**, relating to state aid for achievement guarantee contracts and aid for debt service.

### Finding of Emergency

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

#### State Aid for Achievement Guarantee Contracts:

The department will send SAGE contract information to school districts by mid-February and require proposed contracts to be submitted to the department by April 1, 2000. Emergency rules are necessary to clarify the eligibility criteria and requirements for school districts applying for state aid for achievement guarantee contracts in time for the 2000–2001 school year.

#### Partial Debt Service Reimbursement:

On or after October 29, 1999, a school board must adopt an initial resolution under s. 67.05 (6a), Stats., for issuance of bonds where the purpose for borrowing includes providing funds for classroom expansion necessary to fulfill a contract under s. 118.43, Stats. Emergency rules are necessary to clarify the criteria and procedures for SAGE school districts to receive partial debt service reimbursement for the 2000–2001 school year.

The proposed rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

**Publication Date:** January 28, 2000  
**Effective Date:** January 28, 2000  
**Expiration Date:** June 26, 2000  
**Hearing Date:** March 15, 2000  
 [See Notice this Register]

- Rules adopted creating **ch. PI 44**, relating to alternative education grants.

### Finding of Emergency

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

1999 Wis. Act 9 appropriated \$5,000,000 to be awarded by the department to eligible school districts or consortia of school districts in the 2000–2001 school year. Emergency rules are necessary to clarify the eligibility criteria and procedures for school districts or consortia of school districts to apply for funds under the program.

The rules contained in this order shall take effect upon publication as emergency rules pursuant to the authority granted by s. 227.24, Stats.

**Publication Date:** January 28, 2000  
**Effective Date:** January 28, 2000  
**Expiration Date:** June 26, 2000  
**Hearing Dates:** March 9, 14 & 15, 2000  
 [See Notice this Register]

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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

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## EMERGENCY RULES NOW IN EFFECT

### Wisconsin Technical College System

Rules adopted creating **ch. TCS 16**, relating to grants for students.

### Finding of Emergency

The Wisconsin Technical College System (WTCS) 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 facts constituting the emergency is:

1999 Wis. Act 9 (the 2000–2001 biennial budget bill) took effect on October 29, 1999. That act created ss. 20.292(1)(ep) and 38.305, Stats. An annual appropriation of \$6,600,000 GPR in the second fiscal year of the 2000–2001 biennium was established. These funds are to be awarded by the WTCS Board as grants to students who are attending a Wisconsin technical college on a full-time basis and who are enrolled in a vocational diploma or associate degree program.

The Act requires the WTCS Board to promulgate rules to implement and administer the awarding of these grants. The Board has begun the permanent rule making process for establishing administrative rules for these student grants, but cannot complete the required public hearing and review of these rules prior the start of the upcoming school year, which begins on July 1, 2000. Moreover, prospective students evaluate their educational options, including costs, as early as February preceding their graduation from high school. Therefore, for the TOP Grant program to be implemented and the funds distributed to each technical college district, and in turn to each eligible student, in time for the upcoming school year, emergency administrative rules must be established immediately.

**Publication Date:** February 1, 2000  
**Effective Date:** February 1, 2000  
**Expiration Date:** June 30, 2000

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## 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

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## 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  
**Hearing Date:** February 28, 2000

[See Notice this Register]

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## *STATEMENTS OF SCOPE OF PROPOSED RULES*

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### ***Dept. of Administration (Wisconsin Land Council)***

**Subject:**

Adm Code – Relating to Comprehensive Planning Grants and Transportation Planning Grants to local governmental units.

**Description of policy issues:**

*Description of the objective of the proposed rule:*

The objective of the proposed rule is to establish procedures, methodology and evaluation criteria for comprehensive planning grants to local governmental units pursuant to s. 16.965, Stats., and Transportation Planning Grants to local governmental units pursuant to s. 16.9651, Stats., as created in 1999 Wis. Act 9.

*Description of policy issues:*

A limited set of precedence-setting criteria were established for these two new grant programs within 1999 Wis. Act 9. Both grants are integrally related to the new comprehensive plan language established in s. 66.0295, Stats.

A series of issues requires further investigation through this rule process by the Department of Administration and Wisconsin Land Council pursuant to issuing these grants. These issues, which relate to the establishment of procedures, methodology and evaluation criteria, include:

- 1) Precedence in applications;
- 2) Deciding factors in awarding grants;
- 3) The relation to the comprehensive plan pursuant to s. 66.0295, Stats.;
- 4) The review procedures for completed plans; and
- 5) The long-term implications of the grant process.

The proposed rule will remove subjectivity in making a determination on the grant applicants and provide verification for the procedures used by the Department and Wisconsin Land Council in determining grant awards.

**Statutory authority for the rule:**

Sections 16.004 (1), 16.965 (5), and 227.11 (2) (a), Stats.

**Staff time required:**

The Department estimates 200 hours to promulgate this rule.

### ***Employe Trust Funds***

**Subject:**

ETF Code – Relating to the requirement that employers reporting more than 250 employes on the annual earnings and service detail must report using an electronic reporting format.

**Description of policy issues:**

*Objectives of the rule:*

The objective of this rule is to streamline the Department's processing of annual detail reports, reduce the number of participant account discrepancies due to keying errors, and reduce the cost associated with contracting with private vendors for the keying of paper reports. This rule will also reduce the amount of time spent by internal staff and WRS employers in identifying and resolving discrepancies in participant accounts due to keying errors.

*Policy analysis:*

Currently, s. ETF 10.60 (2), Wis. Adm. Code states, "The secretary may, for specified employers or types of coverage, provide for summary reporting on a monthly basis to accompany the monthly remittance required in sub. (1) (b) and detailed reporting on a quarterly, semi-annual, or annual basis."

The rule does not spell out the manner in which employers should report their annual employe detail to the Wisconsin Retirement System (WRS). Currently, many large employers participating in the WRS continue to report annual detail transactions on paper. This is an inefficient use of time and due to keying errors, can result in participant account errors, which must be corrected at a later date.

This requirement for electronic reporting is similar to that of the Internal Revenue Service (IRS), which requires employers having more than 250 employes to report their earning information on an electronic basis.

*Policy alternatives to the proposed rule:*

There is no alternative to the rule, since s. 40.06 (1) (d), Stats. requires that the Department fix the time and the types of reporting which must be completed. Sections 40.06 (2) and (3), Stats., specify the consequences when reports are not received in a timely manner.

**Statutory authority for the rule:**

Sections 40.03 (1) (m) and (2) (g), (h) and (i) and 40.06 (1), (2) and (3), Stats.

**Staff time required:**

The Department estimates that state employes will spend 30 hours to develop this rule.

### ***Financial Institutions (Div. of Banking)***

**Subject:**

DFI-Bkg Code – Relating to authorizing of state-chartered banks to control or hold an interest in financial subsidiaries.

**Description of policy issues:**

*Description of the objective of the rule:*

The proposed rule would allow state-chartered banks, with the prior approval of the Division of Banking, to control or hold an interest in financial subsidiaries. A financial subsidiary would engage in activities that are financial in nature or incidental to a financial activity. The objective of the rule is to ensure that state-chartered banks will not be at a competitive disadvantage to other financial institutions that have received similar authority under the Gramm-Leach-Bliley Act of 1999.

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

The Gramm-Leach-Bliley Act of 1999 creates a financial subsidiary that can be used by national banks to engage in many of the same financial activities that are permitted under the Act for the new financial holding companies. The new authority substantially exceeds the current authority for subsidiaries of state-chartered banks.

State-chartered banks will be at a competitive disadvantage if they are not granted similar authority to engage in the new financial activities through financial subsidiaries. National banks are permitted under the Act to control or hold an interest in financial subsidiaries to engage in activities that are financial in nature or incidental to a financial activity except, as a principal, for real estate development, real estate investment activities, certain insurance underwriting and merchant banking. These financial activities are substantially broader than “the business of banking or incidental to the business of banking activities” currently permitted for subsidiaries of state-chartered banks under s. DFI-Bkg 3.04.

State-chartered banks are permitted by statute to “undertake any activity, exercise any power or offer any financially related product or service in the state that any other provider of financial products or services may undertake, exercise or provide or that the division finds to be financially related.”

The proposed rule is consistent with Section 121 (d) of the Act which creates new Section 46 of the Federal Deposit Insurance Act. This new section permits insured state banks to control or hold an interest in a financial subsidiary subject to the safety and soundness firewalls established by that section of the Act. The proposed rule would be the implementing provision under state law which may be necessary for state-chartered banks to exercise this new authority.

**Statutory authority for the rule:**

Section 221.0322 (2), Stats.

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

Estimated time to be spent by state employees — 40 hours. No other resources are necessary.

***Financial Institutions  
(Div. of Savings Institutions)***

**Subject:**

DFI-SB Code – Relating to authorizing of state-chartered savings banks to control or hold an interest in financial subsidiaries.

**Description of policy issues:**

*Description of the objective of the rule:*

The proposed rule would allow state-chartered savings banks, with the prior approval of the Division of Savings Institutions, to control or hold an interest in financial subsidiaries. A financial subsidiary would engage in activities that are financial in nature or incidental to a financial activity. The objective of the rule is to ensure that state-chartered savings banks will not be at a competitive disadvantage to other financial institutions that have received similar authority under the Gramm-Leach-Bliley Act of 1999.

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

The Gramm-Leach-Bliley Act of 1999 creates a financial subsidiary that can be used by national banks to engage in many of the same financial activities that are permitted under the Act for the new financial holding companies. The new authority substantially exceeds the current authority for subsidiaries of state-chartered savings banks.

State-chartered savings banks will be at a competitive disadvantage if they are not granted similar authority to engage in the new financial activities through financial subsidiaries. National banks are permitted under the Act to control or hold an interest in financial subsidiaries to engage in activities that are financial in nature or incidental to a financial activity except, as a principal, for real estate development, real estate investment activities, certain insurance underwriting and merchant banking.

State-chartered savings banks are permitted by statute to “undertake any activity, exercise any power or offer any financially related product or service in the state that any other provider of financial products or services may undertake, exercise or provide or that the division finds to be financially related.”

The proposed rule is consistent with Section 121 (d) of the Act which creates new Section 46 of the Federal Deposit Insurance Act. This new section permits insured state banks to control or hold an interest in a financial subsidiary subject to the safety and soundness firewalls established by that section of the Act. The proposed rule would be the implementing provision under state law which may be necessary for state-chartered savings banks to exercise this new authority.

**Statutory authority for the rule:**

Section 214.03, Stats.

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

Estimated time to be spent by state employees — 40 hours. No other resources are necessary.

***Financial Institutions  
(Div. of Savings Institutions)***

**Subject:**

DFI-SL Code – Relating to authorizing of state-chartered savings and loans to control or hold an interest in financial subsidiaries.

**Description of policy issues:**

*Description of the objective of the rule:*

The proposed rule would allow state-chartered savings and loans, with the prior approval of the Division of Savings Institutions, to control or hold an interest in financial subsidiaries. A financial subsidiary would engage in activities that are financial in nature or incidental to a financial activity. The objective of the rule is to ensure that state-chartered savings and loans will not be at a competitive disadvantage to other financial institutions that have received similar authority under the Gramm-Leach-Bliley Act of 1999.

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

The Gramm-Leach-Bliley Act of 1999 creates a financial subsidiary that can be used by national banks to engage in many of the same financial activities that are permitted under the Act for the new financial holding companies. The new authority substantially exceeds the current authority for subsidiaries of state-chartered savings and loans.

State-chartered savings and loans will be at a competitive disadvantage if they are not granted similar authority to engage in the new financial activities through financial subsidiaries. National banks are permitted under the Act to control or hold an interest in financial subsidiaries to engage in activities that are financial in nature or incidental to a financial activity except, as a principal, for real estate development, real estate investment activities, certain insurance underwriting and merchant banking.

State-chartered savings and loans are permitted by statute to “undertake any activity, exercise any power or offer any financially related product or service in the state that any other provider of financial products or services may undertake, exercise or provide or that the division finds to be financially related.”

The proposed rule is consistent with Section 121 (d) of the Act which creates new Section 46 of the Federal Deposit Insurance Act. This new section permits insured state banks to control or hold an interest in a financial subsidiary subject to the safety and soundness firewalls established by that section of the Act. The proposed rule would be the implementing provision under state law which may be necessary for state-chartered savings and loans to exercise this new authority.



**Statutory authority for the rule:**

Section 215.135, Stats.

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

Estimated time to be spent by state employees — 40 hours. No other resources are necessary.

**Medical Examining Board****Subject:**

Med Code – Relating to the exception to the 7 year rule regarding the completion of the USMLE Examination (United States Medical Licensing Examination).

**Description of policy issues:***Objective of the rule:*

To allow for those applicants who are in an MD–PhD program who are not able to complete all three steps of the USMLE examination in the 7 year period.

*Policy analysis:*

This change would allow the Medical Examining Board to promulgate rules regarding an exception for applicants who have been in an MD–PhD program.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats.

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

50 hours.

**Natural Resources****(Fish, Game, etc., Chs. NR 1--)****Subject:**

NR Code – Relating to student fees for hunter, snowmobile and ATV education classes.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The DNR is proposing a set fee for Safety Education Courses of \$10 per student. The DNR's volunteer instructors around the state would then be charging a standard fee for programs. There are 4,500 volunteer instructors that this would impact.

This rule/Board action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

This proposal stems from the passing of the most recent Budget Bill which transfers authority from state statutes to administrative code to regulate student fees for Hunter Education, Snowmobile and ATV Education. The Department's fees have remained between \$2 and \$5 per student for these programs and there have been no increases to help offset the costs of running these programs. The increase in the per student fees will add to some of the program budgets enough funds to maintain proper support for the volunteer instructors, students, and aid in meeting program goals.

*Summary of the proposed rule:*

The Department is proposing to increase the per student fees from the Hunter, Snowmobile, and ATV courses to a standard of \$10. Instructors would be allowed to keep 50% (or up to \$5) of that fee to offset expenses. The remainder of the fee (at least \$5) is to be returned to the Department.

*How the proposed rule affects policy:*

This rule will create a standard fee of \$10 for all of the Department's safety education courses. It also requires instructors to return all portions of the fee not used for expenses in providing the courses.

*Who is affected by the rule:*

All Department volunteer instructors and all future students of the safety education courses.

*Environmental analysis:*

This is a type III action and does not require an environmental analysis.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization.

**Statutory authority:**

Sections 23.33 (5) (d), 29.591 (3), 30.74 (1) (b) and 350.055, Stats.

**Anticipated time commitment:**

The anticipated time commitment is 15 hours. Eight public hearings are proposed to be held sometime after May 1, 2000 at Milwaukee, Madison, Eau Claire, Green Bay, Spooner, LaCrosse, Rhinelander and Wisconsin Rapids.

**Natural Resources****(Fish, Game, etc., Chs. NR 1--)****Subject:**

Chs. NR 50 and 51 – Relating to grant rules for the new Knowles–Nelson Stewardship 2000 program and to using the emergency rule–making process so that grants may be awarded as soon to July 1 as possible.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

Rules need to be amended to reflect changes made by the legislature in the Stewardship program:

- 1) New grants programs to purchase development rights and to protect Great Lakes bluffs and the Baraboo Hills.
- 2) New terms: “nature–based outdoor recreation,” “wild lake,” “shoreline enhancement” and “bluff land” need to be defined.

Non–profit conservation groups and local units of government will be directly affected by the changes. Other conservation organizations are likely to be interested.

This rule/Board action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

The Stewardship program was recently revised by the legislature and the grant codes need to be amended to conform to those changes.

This rule/Board action represents an opportunity for pollution prevention and/or waste minimization.

**Statutory authority:**

Sections 227.11 and 227.24, Stats., and section 9136 (10g) of 1999 Wis. Act 9.

**Anticipated time commitment:**

The anticipated time commitment is 483 hours. Three public hearings are proposed to be held on June 13, 14 and 15, 2000 at Madison, Milwaukee and Rhinelander.

**Natural Resources****(Environmental Protection--General, Chs. NR 100--)****Subject:**

Ch. NR 168 – Relating to establishing the Brownfields Site Assessment grant program as directed by the 1999–2001 state budget.

**Description of policy issues:**

*Description of policy issues to be resolved, include groups likely to be impacted or interested in the issue:*

The major policy issues that need to be addressed as part of this rule include:

- 1) Set priorities for the grant criteria, because grant requests are likely to exceed available funding;

2) Determine whether limits are needed on any of the categories of eligible activities;

3) Determine the information needed on grant applications; and

4) Establish a description of acceptable in-kind contributions.

The groups most likely to be impacted or interested in this rule include: cities, villages, towns, counties, redevelopment authorities, community development authorities, or housing authorities. The groups most likely to be interested in this rule include: consultants, engineering and environmental remediation services, attorneys, and citizens.

This rule/Board action represents a change from past policy.

*Explain the facts that necessitate the proposed change:*

The budget bill, 1999 Wis. Act 9, created s. 292.75, Stats., and provided \$1.45 million from the appropriation under s. 20.370 (6) (et), Stats., for the biennium. The Department was directed to promulgate rules necessary to administer the program. The program will fund the following eligible activities: site investigation, demolition of structures, removal of abandoned containers, asbestos abatement, removal of underground hazardous substance storage tank systems, and removal of underground petroleum product storage tank systems.

This rule/Board action represents an opportunity for pollution prevention and/or waste minimization.

*Purpose:*

The purpose of this proposed rule-making is to establish a new grant program for local governmental units to assess and clean up brownfield properties that are known or suspected to be contaminated. The rule will be jointly developed by the Community Financial Assistance and Remediation and Redevelopment Bureaus, and will be ch. NR 168. The authority for developing this rule is set forth in the 1999-2001 Biennial Budget, 1999 Wis. Act 9, in s. 292.75, Stats.

*Background:*

Wisconsin has had two major legislative initiatives affecting brownfields properties, beginning in May 1994, with the passage of the Land Recycling Law. Additional initiatives were passed in the 1997-99 biennial budget, including direction from the Legislature to the Department to study seven issues related to the cleanup and reuse of brownfields, in cooperation with other state agencies and external parties.

The Brownfield Study Group was convened in April 1998, and worked on the issues for eight months.

The group's recommendations were published in the Brownfields Study Group Final Report, RR-6 15, in December 1998. The recommendations were given to the Legislature and used as the basis for several Brownfields Initiatives in the 1999-2001 state budget, including the creation of the brownfields site assessment grant program.

The 1999-2001 state budget directs the Department to administer a program to award brownfield site assessment grants. The program has an appropriation of \$1.45 million under s. 20.370 (6) (et), Stats., for the current biennium. The purpose of the program is to provide grants to local governmental units for conducting specific types of eligible activities relating to environmental investigation and cleanup. The eligible activities are described in s. 292.75 (3), Stats. Grant recipients are required to provide a cash or in-kind match of 20% of the grant award. The activities eligible under the grant program include: site investigation, demolition of structures, removal of abandoned containers, asbestos abatement, removal of underground hazardous substance storage tank systems, and removal of underground petroleum product storage tank systems.

*Proposal:*

The RR and CF programs are working cooperatively to create ch. NR 168 to set up the site assessment grant program. The Department has emergency rule authority in order to expedite program implementation and the grant awards.

The first step is the preparation of policy options needed to implement the program. Next, an external advisory committee will be convened for the purpose of providing direction and feedback on the various policy options and the grant application. The funding for the program will lapse at the end of the current biennium, so every effort will be made to implement the program in a timely manner.

The proposed schedule is optimistic, but necessary if grant awards are to be made at the beginning of the 2000-construction season. Although the DNR will make every effort to follow the schedule as proposed, the need to obtain feedback from internal and external parties and other competing priorities could result in delays to the schedule.

**Statutory authority:**

Section 292.75, Stats., and section 9136 (2) of 1999 Wis. Act 9.

**Anticipated time commitment:**

The anticipated time commitment is 1,142 hours. Three public hearings are proposed to be held in May 2000 at Milwaukee, Oshkosh and Eau Claire.

## ***Regulation and Licensing***

**Subject:**

RL Code – Relating to temporary registrations and to services that may be performed after disciplinary action has been ordered.

**Description of policy issues:**

*Objective of the rule:*

- To develop rules relating to the length of time that an auctioneer may hold a temporary registration granted under s. 480.08 (7), Stats.

- To develop rules that describe the auction-related activities and services that an auctioneer or auction company may perform after a disciplinary action has been ordered by the Auctioneer Board, calling for a suspension or revocation of an auctioneer's or auction company's registration certificate.

*Existing policies that are relevant to the rule:*

Section 480.08 (7), Stats., says that a temporary certificate shall be valid for a period designated by the Department, not to exceed one year, and may not be renewed. The current rules do not specify a shorter period of time, nor do they contain any other guidelines for the issuance of temporary permits. Therefore, the Department permits auctioneers to hold a temporary permit and practice under it for one year.

Neither the current statutes nor the current rules provide guidance to the activities that an auctioneer or auction company may or may not perform during a period of suspension or revocation of a registration certificate. The only guidance that is available is a reasonable interpretation of the statutes.

*Describe the new policies that the rule proposes to include and provide an analysis of policy alternatives:*

This rule-making proposes to significantly shorten the period for holding and practicing under a temporary registration to 30 days. The policy alternatives are to allow for the maximum length of time that is provided in the statutes or to shorten the time. The Auctioneer Board has recommended that the time be shortened because some companies abuse the temporary registration privilege and the consumer is not well protected.

This rule-making proposes to list the auction-related activities that a person may or may not perform while under a suspension or revocation order. The policy alternatives are to request legal counsel to interpret the existing statutes and give guidance in specific situations or for the Department to promulgate rules that more clearly state what is or is not permitted, that can more easily be understood by all, and that can more easily be enforced by the Board.

**Statutory authority:**

Sections 227.11 (2) and 440.42, Stats.

**Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:**

100 hours.

### ***Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board***

**Subject:**

SFC Code – Relating to providing definitions of “clinical social work concentration” and “supervised clinical field training.”

**Description of policy issues:**

*Objective of the rule:*

Codify existing interpretations.

*Policy analysis:*

Codify and publish the interpretations of “clinical social work concentration” and “supervised clinical field training” now used by the Social Worker Section in reviewing the qualifications of applicants for certification.

**Statutory authority:**

Sections 15.08 (5) (b), 227.11 (2) and 457.03 (1), Stats.

**Estimate of the amount of state employee time and any other resources that will be necessary to develop the rule:**

80 hours.

### ***Technical College System Board***

**Subject:**

TCS Code – Relating to grants to students.

**Description of policy issues:**

*Description of the objective of the rule:*

The rule will establish procedures to implement and administer the awarding of grants to qualifying students enrolling in an associate degree or vocational diploma program at a technical college. The rule will include specific provisions for repayment of grant funds by a student should that student become ineligible for the award during his or period of eligibility.

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

The 1999–2001 state budget, 1999 Wis. Act 9, created a new entitlement program in which certain high school graduates, who are first–year technical college students meeting the eligibility criteria outlined in the statutes, would qualify to receive a grant. The state budget provides \$6,600,000 GPR in 2000–01 in a new annual appropriation under the WTCS Board to pay grants of \$500 to each first–year student who enrolled full–time in a technical college within 3 years of graduating from a Wisconsin high school. To maintain eligibility, a student would have to be enrolled full–time in an associate degree program or a vocational diploma program and maintain a grade point average of at least 2.0. In the 2000–01 school year, only first–year students would be eligible for grants; however, beginning in 2001–02, students continuing their studies would be eligible to receive a second–year grant.

When implementing and administering this grant program, the Technical College System Board will consider a number of factors. These include the following:

- Defining a first–year student as any technical college student who has completed no more than 18 program credits at a technical college after high school graduation. Technical college credits earned before high school graduation would not count against this 18–credit cap. This provision would not penalize students in Youth Options and other advanced credit programs and would allow some previous WTCS credits to encourage the transition from part–time to full–time enrollment.

- Defining graduated from a Wisconsin high school to be consistent with the definition used by the state Department of Public Instruction, which includes students who have earned a high school equivalency diploma.

- Defining full–time enrollment to mean enrollment, and satisfactory completion of, a minimum of 12 program credits per semester. This definition is consistent with definitions used for both federal and state financial aid programs.

- A student must be enrolled in an occupational associate degree or vocational (technical) diploma program to be eligible to receive a grant. Other programs, such as college parallel, are not eligible programs under the law.

- Adopting a grant disbursement policy whereby students would be eligible to receive grant disbursements of \$250 per semester up to \$500 per school year. Actual disbursements are made at the beginning of a given semester and are applied to a student’s costs for tuition and fees.

- Adopting a refund policy for students who become ineligible for a grant such that failure to meet any of the applicable program requirements during a given semester would result in probation status for the subsequent semester, during which time a student would not be eligible for a grant.

- Allowing a student to apply for a deferment of grant eligibility for special circumstances including serving on active duty in the U.S. armed forces.

- Providing for an appeal process at the state and district levels for eligibility, deferment, and probation determination.

Section 38.305, Stats., created this new grant program and appropriated a sum certain in each of the fiscal years of the biennium. There are no alternatives to this new policy. The law mandates that the Technical College System Board award funds, in the form of grants, to qualifying technical college students based on the eligibility criteria.

**Statutory authority for the rule:**

Section 38.305, Stats., mandates that the Technical College System Board award grants to technical college students who satisfy the eligibility criteria.

Section 38.305 (4), Stats., mandates that the Technical College System Board promulgate administrative rules to implement and administer grants for students, which include establishing criteria for repayment by students who become ineligible for the grant.

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

Estimated time to be spent by state employees: 260 hours. No other resources are necessary.

### ***Transportation***

**Subject:**

Chs. Trans 325, 326 and 328 – Relating to motor carrier safety and hazardous material transportation safety.

**Description of policy issues:**

*Description of the objective of the rule:*

This rule–making will amend chs. Trans 325 and 326, relating to motor carrier safety and hazardous material transportation safety, to bring them into conformance with changes to the Federal Motor Carrier Safety Regulations and Hazardous Material regulations which will go into effect on April 1, 2000. Amendment of these rules will assure State Patrol inspectors and troopers are enforcing the most recent Safety regulations for Interstate Carriers and Hazardous Material (HM) regulations for both interstate and intrastate HM carriers. This rule–making will also repeal ch. Trans 328.

1. Ch. Trans 325 (Motor Carrier Safety Regulations) – interstate. Amend the rule to include all changes already in effect as of April 1, 2000. Changes have been made to the Federal Motor Carrier Safety regulations Title 49, Parts 390 through 397, regulating interstate operations. Amendment to this rule will bring state regulations in compliance with current interstate regulations.

2. Ch. Trans 326 (Motor Carrier Safety Requirements for Transportation of Hazardous Materials) for interstate and intrastate operations. Amend the rule to include all changes which have been made to Federal Motor Carrier Safety regulations 49 CFR Parts 107, 171, 172, 173, 177, 178, and 180 and are already in effect as of April 1, 2000. Amendment to this rule will bring state regulations, interstate and intrastate regulations into compliance with current federal regulations.
3. Ch. Trans 328 (Intrastate Hazardous Material Regulations). Repeal intrastate HM rule. Federal regulations changed in 1998 to include intrastate operations, thus there is no longer a need for a separate intrastate rule.

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

Ch. Trans 325

The Department annually updates ch. Trans 325 to keep current with the most recent changes and revisions to the Federal Motor Carrier Safety regulations. The revisions allow state inspectors and troopers to enforce the most current safety regulations already in effect for interstate motor carriers. The rule will continue to reference the use of the most recent North American Standard Out-of-Service criteria for placing vehicles and drivers out of service.

Ch. Trans 326

The Department annually updates ch. Trans 326 to keep current with the most recent changes and updates to the federal hazardous material regulations. The revisions will allow state inspectors to enforce the most current hazardous material (HM) regulations already in effect for interstate and intrastate carriers. The rule will continue to reference the use of the most recent North American Standard Out-of-Service criteria vehicles and drivers out of service.

Repeal ch. Trans 328

Federal Hazardous Material Regulations, 49 CFR, were amended in 1998 to include regulation of intrastate transportation of HM. There is no longer a need for this rule. Intrastate HM transportation will now be covered under ch. Trans 326.

**Statutory authority for the rule:**

For ch. Trans 325 – ss. 110.075 and ch. 194, Stats.

For ch. Trans 326 – ss. 110.07, 194.38, 194.43 and 346.45 (4), Stats.

**Estimates of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

It is estimated that state employees will spend 100 hours on the rule-making process, including research, committee meetings, drafting and conducting public hearings.

## **Transportation**

**Subject:**

Ch. Trans 327 – Relating to intrastate motor carrier safety regulations.

**Description of policy issues:**

*Description of the objective of the rule:*

This rule-making will amend ch. Trans 327, relating to intrastate motor carrier safety regulations to bring them into conformity with the most recent changes to the Federal Motor Carrier Safety Regulations which will go into effect on April 1, 2000.

Amendment of this rule will assure State Patrol inspectors and troopers are enforcing the most recent Federal Motor Carrier Safety regulations for intrastate carriers.

The update of this rule will keep the Department in compliance to qualify for continued Motor Carrier Safety Assistance Program (MCSAP) funding.

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

The Department annually updates ch. Trans 327 to keep current with the most recent changes to the Federal Motor Carrier Safety Regulations, 49 CFR parts 390, 391, 392, 393, 396, and 397 which contains exceptions and hours-of-service requirements currently found in ch. Trans 327.

The rule will continue to reference the use of the most recent North American Standard Out-of-Service criteria for placing vehicles and drivers out-of-service.

**Statutory authority for the rule:**

Sections 110.07, 110.075, 194.38 and 194.43, Stats.

**Estimates of the amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

It is estimated that state employees will spend 100 hours on the rule-making process, including research, committee meetings, drafting and conducting public hearings.

## **Workforce Development**

### **(Economic Support, Chs. DWD 11-59)**

**Subject:**

Chs. HSS 205, 206, 207, 225, and 244 – Relating to: AFDC monthly reporting, JOBS training program, Work Not Welfare demonstration project, fair hearings, and confidential records.

**Description of policy issues:**

*Objective of the rule:*

To repeal obsolete AFDC, food stamp, and medical assistance (MA) rules.

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

The primary focus of the rules were procedures and programs that have been replaced by the Wisconsin Works program, ss. 49.141 to 49.161, Stats. Administrative rules for the W-2 program are at ch. DWD 12. The current rules on fair hearing procedures are at ch. HA 3. Monthly reporting is no longer used in the food stamp or medical assistance (MA) programs.

**Statutory authority for the proposed rule:**

Ch. 49 and s. 227.11, Stats.

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

15 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.*

#### **Barbering and Cosmetology Examining Board**

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

On January 25, 2000, the Barbering and Cosmetology Examining Board submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

Statutory authority: ss. 15.08 (5) (b) and 227.11 (2), Stats.

The proposed rule-making order relates to theory hours conducted by the school outside of the classroom.

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

A public hearing is required and will be held on Monday, April 3, 2000.

##### **Contact Information**

Pamela Haack  
Administrative Rules Coordinator  
Telephone (608) 266-0495

#### **Employe Trust Funds**

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

On January 31, 2000, the Department of Employee Trust Funds submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule relates to participation in the Wisconsin Retirement System (WRS) variable trust fund.

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

A public hearing is required, and the public hearing is scheduled for Tuesday, February 29, 2000 at 9:00 a.m. in Room 2B at 801 West Badger Road, Madison, Wisconsin.

##### **Contact Information**

If you have any questions, please contact:

Shelly Schueller  
Telephone (608) 266-6611

#### **Employe Trust Funds**

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

On January 31, 2000, the Department of Employee Trust Funds submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

The proposed rule relates to the Department of Employee Trust Funds' interpretation of what Wisconsin Retirement System (WRS) creditable service is considered to be performed before January 1, 2000 vs. considered to be performed on or after that date.

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

A public hearing is required, and the public hearing is scheduled for Tuesday, February 29, 2000.

##### **Contact Information**

If you have any questions, please contact:

Linda Owen  
Telephone (608) 261-8164

#### **Health and Family Services**

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

On January 27, 2000, the Department of Health and Family Services submitted a proposed rule to the Legislative Council Rules Clearinghouse.

##### **Analysis**

Statutory authority:

Sections 48.62 (4), 48.64 (4), 48.67 and 48.675 (2), Stats.

##### **Reason for Rules, Intended Effects, Requirements**

This order updates the Department's rules for licensing foster homes for children. The rules were last updated in 1990. About 8200 children in Wisconsin live in foster homes. Licensing agencies are county social service and human service departments, licensed private child-placing agencies and, in Milwaukee County and for pre-adoptive homes, the Department. There are about 5200 homes in the state licensed to accept foster children. All homes to be licensed as foster homes and all licensed foster homes must comply with these rules.

Foster homes at one time were called family foster homes. They are now just called foster homes. They provide care for one to 4 children, except now, to accommodate siblings, a foster home can be licensed to provide care to as many as 6 children.

The major changes from the current rules are set out in the Analysis part of the rulemaking order.

These include:

- 1) Establishment of an Exceptions Panel to consider and grant a request of a license applicant or a licensee for an exception to a nonstatutory requirement of the rules for which the licensing agency lacks authority to grant the exception;
- 2) Addition of a paragraph that describes what personal characteristics foster parents must have;
- 3) New requirements related to bath and toilet facilities and sleeping arrangements; and
- 4) Addition of language relating to searches of the private belongings of foster children.

Many of the rule changes are clarifications requested by licensing agencies or licensees, or were judged as needed because of frequent questions posed by licensees.

Forms

HFS 56.02 (2) (b) 1. APPLICATION TO DHFS EXCEPTIONS PANEL...[CFS–847]

HFS 56.04 (1) (b) LICENSE APPLICATION FORM [Not available. Most licensing agencies have developed their own forms. Department form is outdated and not used.]

**Agency Procedure for Promulgation**

Public hearings under ss. 227.16, 227.17 and 227.18, Stats.; approval of rules in final draft form by DHFS Secretary; and legislative standing committee review under s. 227.19, Stats.

**Contact Information**

Mark Mitchell  
Division of Children and Family Services  
Telephone 266–2860

**Public Instruction****Rule Submittal Date**

On January 14, 2000, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule creates ch. PI 10, relating to supplemental aid for school districts with a large area.

**Agency Procedure for Promulgation**

A public hearing is required, and public hearings will be scheduled. The Division for Finance and Management is primarily responsible for promulgation of this rule.

**Contact Information**

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

David Carlson, Director  
School Financial Services  
Telephone (608) 266–6968

**Public Instruction****Rule Submittal Date**

On January 14, 2000, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule creates ch. PI 24, relating to state aid for achievement guarantee contracts and aid for debt service.

**Agency Procedure for Promulgation**

A public hearing is required, and 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:

Janice Zmrazek  
SAGE Program Coordinator  
Telephone (608) 266–2489

**Public Instruction****Rule Submittal Date**

On January 14, 2000, the Wisconsin Department of Public Instruction submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule amends ch. PI 32, relating to alcohol and other drug abuse (AODA) programs.

**Agency Procedure for Promulgation**

A public hearing is required, and public hearings will be scheduled. The Division for Learning Support: Equity and Advocacy is primarily responsible for promulgation of this rule.

**Contact Information**

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

Michael Thompson, Director  
Student Services, Prevention, and Wellness Team  
Telephone (608) 266–3584

**Regulation and Licensing****Rule Submittal Date**

On January 25, 2000, the Department of Regulation and Licensing submitted a proposed rule to the Legislative Council Rules Clearinghouse.

**Analysis**

Statutory authority: ss. 227.11 (2) and 440.62 (5) (b), Stats.

The proposed rule–making order relates to holding classes outside of the classroom.

**Agency Procedure for Promulgation**

A public hearing is required and will be held on Monday, April 3, 2000.

**Contact Information**

Pamela Haack  
Administrative Rules Coordinator  
Telephone (608) 266–0495

**Revenue****Rule Submittal Date**

Notice is hereby given, pursuant to s. 227.14 (4m), Stats., that on February 1, 2000, the Wisconsin Department of Revenue submitted a proposed rule to the Wisconsin Legislative Council Rules Clearinghouse.

**Analysis**

The proposed rule creates s. Tax 2.32, relating to defining “gross receipts” for the recycling surcharge.

**Agency Procedure for Promulgation**

A public hearing is not required. The proposed rule will be published under the 30–day notice procedure, pursuant to s. 227.16 (2) (e), Stats. The Office of the Secretary is primarily responsible for the promulgation of the proposed rule.

**Contact Information**

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

Mark Wipperfurth  
Income, Sales, and Excise Tax Division  
Telephone (608) 266–8253

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## NOTICE SECTION

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### Notice of Hearings

#### *Agriculture, Trade & Consumer Protection* [CR 99-168]

The State of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold public hearings on a proposed department rule related to numerous changes to DATCP's current animal health rules and livestock market operators, livestock dealer and livestock trucker rules under ch. ATCP 10 to 12, Wis. Adm. Code. The hearings will be held at the times and places shown below. The public is invited to attend the hearings and make comments on the proposed rule. You do not need to attend the public hearings to officially comment on the proposed rules. You can submit written comments to the department. Following the public hearing, the hearing record will remain open until **March 23, 2000** for written comments. Send comments to:

Dr. Bob Ehlenfeldt  
Dept. of Agriculture, Trade &  
Consumer Protection  
Division of Animal Health  
PO Box 8911  
Madison, WI 53708-8911

To request a copy of the proposed rules, call 608-224-4880 and leave your name and address or write to the above address.

An interpreter for the hearing impaired will be available on request for these hearings. Please make reservations for a hearing interpreter by **February 28, 2000**, either by writing to the above address or by calling 608-224-4880. TTY users call 608-224-5058.

### Hearing Information

Three hearings are scheduled; they are all handicapped accessible:

<p><b>Tuesday</b> <b>March 7, 2000</b> commencing at 5:30 p.m.</p>	<p><b>Department of Agriculture, Trade &amp; Consumer Protection Board Room 2811 Agriculture Drive Madison, WI</b></p>
<p><b>Wednesday</b> <b>March 8, 2000</b> commencing at 5:30 p.m.</p>	<p><b>Brown County Library 515 Pine Street Green Bay, WI</b></p>
<p><b>Thursday</b> <b>March 9, 2000</b> commencing at 5:30 p.m.</p>	<p><b>Department of Agriculture, Trade &amp; Consumer Protection 3610 Oakwood Hills Parkway Eau Claire, WI</b></p>

### **Analysis Prepared by the Department of Agriculture, Trade and Consumer Protection**

Statutory authority: ss. 93.06(7), 93.07(1) and (10), 95.19(3), 95.23(3), 95.27(8), 95.55(3), 95.68(8), 95.69(8), 95.71(8), 95.715(2)(b) and (d)

Statutes interpreted: ss. 95.21, 95.25, 95.26, 95.27, 95.31, 95.35, 95.42, 95.43, 95.45, 95.46, 95.48, 95.49, 95.68, 95.69, 95.71, 95.715

The Wisconsin department of agriculture, trade and consumer protection (DATCP) administers programs to protect the health of livestock and domestic animals in this state. This rule makes numerous changes to DATCP's current animal health rules under ch. ATCP 10 to 12, Wis. Adm. Code. Among other things, this rule:

- Clarifies current animal import permit requirements, and authorizes the state veterinarian to impose new import requirements in response to disease risks. If the new import requirements have general application, the department will also adopt the requirements by rule.
- Requires state certification of veterinarians who perform official disease eradication and control functions in this state under Wisconsin animal health programs. A federally accredited veterinarian is automatically certified, but DATCP may suspend or revoke the state certification for cause.
- Expands the current list of "reportable diseases" but simplifies reporting methods.
- Clarifies that DATCP's animal health rules apply to government agencies as well as private individuals and businesses.
- Extends, from 2 years to 5 years, the time period for which animal health records must be kept.
- Incorporates federal standards by reference under several state disease control programs, including brucellosis in cattle, cervids and swine, tuberculosis in cattle and cervids; and pseudorabies in swine. This rule incorporates the federal standards in place of current state standards.
- Authorizes DATCP to issue a temporary "animal hold order" pending investigation to determine whether animals are diseased or illegally imported.
- Requires exhibitors at fairs and exhibitions to give copies of required animal health papers to the show chairman or show veterinarian. The show sponsor must keep the records for at least 5 years.
- Modifies livestock market requirements, including license application requirements.
- Eliminates the requirement for livestock market operators, dealers and truckers to provide vehicle identification numbers or serial numbers when registering livestock vehicles with DATCP.
- Eliminates obsolete disease control programs for anaplasmosis and mastitis.
- Modifies current import and testing requirements related to swine pseudorabies.
- Modifies current import and EIA testing requirements for horses, and modifies current rules related to equine markets, shows and quarantine stations.
- Modifies current disease control programs related to cervids, and creates a brucellosis control program for cervids.
- Modifies current rules related to goats, sheep, llamas, ratites and mink.

#### General Provisions

##### **Import Restrictions**

Under current rules, persons importing animals to this state must comply with certain disease certification and testing requirements. Persons importing some types of animals must obtain an import permit from DATCP. The state veterinarian may issue a special

import permit waiving normal import requirements, if special circumstances warrant the permit.

This rule retains most pre-import disease certification and testing requirements and the state veterinarian's authority to issue a written permit waiving normal import requirements. DATCP must keep a record of every permit issued.

The state veterinarian may issue a verbal or written directive requiring a person to comply with additional import requirements necessary to prevent the spread of disease. Any person who receives notice of additional import requirements is prohibited from importing animals in violation of those requirements.

#### **Wisconsin Certified Veterinarians**

The United States department of agriculture (USDA) currently accredits private veterinarians to perform key functions under federal disease eradication and control programs. For example, accredited veterinarians issue interstate health certificates, assign official livestock identifications, administer official diagnostic tests, administer controlled vaccines and supervise the disposition of disease reactors. USDA may suspend or revoke the accreditation of a veterinarian who violates federal rules.

DATCP relies on federally accredited veterinarians to perform similar functions under state programs (such as the state's brucellosis, tuberculosis and pseudorabies control programs) for which federal counterpart programs exist. But Wisconsin has also established programs related to diseases (such as fish diseases and Johne's disease in cattle) for which there are no federal counterpart programs. If a federally accredited veterinarian violates state rules related to these programs (but violates no federal rules), there is no basis for USDA to suspend or revoke the veterinarian's federal accreditation.

Under this rule, a veterinarian must be a Wisconsin certified veterinarian to perform official disease eradication and control functions in this state. A federally accredited veterinarian who is licensed to practice in Wisconsin is automatically certified. A veterinarian loses this state certification if any of the following occurs:

- The state veterinary examining board suspends or revokes the veterinarian's license to practice in this state.
- USDA suspends or revokes the veterinarian's federal accreditation.
- DATCP suspends or revokes the veterinarian's state certification for cause. A licensed veterinarian who loses his or her state certification may continue to practice veterinary medicine, but may not perform functions for which certification is required.

#### **Animal Health Rules Apply to Government Agencies**

This rule clarifies that DATCP's animal health rules apply to government agencies as well as private individuals and businesses. For example, a government agency importing animals into Wisconsin must comply with the same import requirements that apply to private individuals and businesses.

#### **Reportable Diseases**

Under current rules, a veterinarian who diagnoses a "reportable disease" must report that disease to DATCP. This rule expands the current list of "reportable diseases" to include diseases listed by the world organization for animal health. This is necessary to give Wisconsin producers continued access to international markets.

#### **Testing Animals**

This rule clarifies that an owner or custodian of animals must, at the request of DATCP, present those animals to DATCP for disease testing. The owner or custodian must also restrain the animals to facilitate safe testing.

#### **Recordkeeping**

Under current rules, livestock markets, dealers and other persons must keep various records for 2 years. This rule extends the retention time to 5 years, to facilitate animal disease traceback and control.

#### **Import Markets**

Under current rules, animals imported to "Part 76" and "Part 78" livestock markets are exempt from certain import requirements. "Part 76" and "Part 78" markets are import markets regulated by USDA. The names originally derived from the federal code provisions (9 CFR 76 and 9 CFR 78) under which they were regulated. But USDA recently reorganized its code provisions, so the "Part 76" and "Part 78" names are no longer appropriate. This rule renames the markets as "federally approved livestock import markets," but does not change the substance of the current rules.

#### **Reporting Diagnostic Test Results**

Under current rules, a veterinarian reporting test results to DATCP must use a form provided by DATCP. Under this rule, a veterinarian is no longer required to use a DATCP form. Among other things, this will permit veterinarians to file test reports which were created electronically.

#### **Certificates of Veterinary Inspection**

Under current rules, an "interstate health certificate" or a "certificate of veterinary inspection" must accompany many animals. This rule eliminates references to "interstate health certificates," which are no longer in widespread use, and refers only to "certificates of veterinary inspection."

#### **Animal Hold Orders**

This rule authorizes DATCP to issue a temporary hold order (in lieu of a quarantine order) whenever DATCP has reason to believe that animals may have been illegally imported, or may have been exposed to an infectious, contagious or communicable disease. A temporary animal hold order may prohibit the movement of animals for up to 90 days while DATCP investigates the suspected illegal import or disease exposure.

The state veterinarian may, for good cause, extend the animal hold order for up to 90 days. If investigation confirms a suspected disease problem or illegal import, DATCP may issue a quarantine order or take other appropriate action. A person adversely affected by a temporary animal hold order may request a hearing before DATCP to review the order.

#### **Disease Indemnity Payments; Cleanup Deadlines**

Under current law, DATCP may condemn animals to prevent the spread of disease. Owners of condemned animals may be eligible for indemnity payments. To qualify for indemnities under current rules, an owner must clean and disinfect the diseased premises within 15 days after the condemned animal is shipped to slaughter. DATCP may extend the cleanup deadline for another 15 days, but that may not provide adequate time in the winter (when cleaning and disinfecting may not be effective). This rule allows DATCP to extend the cleanup time for a period of time specified by DATCP.

#### **Imported Animals Consigned to Livestock Markets; Origin Disclosed**

This rule requires an animal owner to disclose an animal's state of origin when the owner consigns that animal to a Wisconsin livestock market.

#### **Assault on Department Employee**

This rule prohibits a person from physically assaulting a DATCP employee when the employee is performing his or her official duties.

#### **Fairs and Exhibitions; Animal Health Records**

Under current rules, persons exhibiting certain animals at a fair or exhibition must have certain health papers for those animals (e.g., health certificates or test results). This rule requires the exhibitor to provide copies of those health papers to the show chairman or show veterinarian. The show organizer must keep the records for at least 5 years. The exhibitor and the show organizer must make records available to DATCP for inspection and copying upon request.

#### **Livestock Market Operators, Dealers and Truckers**

##### **Livestock Market Operator License**

Under current law, a livestock market operator must be licensed and pay annual license fees. A livestock market (other than an equine market) that conducted sales on fewer than 5 days during the preceding year must pay an annual fee of \$115. Other market operators must pay higher fees. Under this rule, a market operator who claims to have conducted sales on fewer than 5 days in the



preceding year must identify, in the license application, the dates on which the operator conducted those sales.

Under current rules, a person applying to be licensed as a livestock dealer or market operator must prove compliance with applicable federal security and bonding requirements. This rule does not exempt license applicants from federal requirements, but does eliminate the requirement to prove compliance with those requirements.

#### **Livestock Vehicles; Registration**

Under current law, a livestock market operator, livestock dealer or livestock trucker must register livestock vehicles with DATCP. Under current rules, the operator must provide the vehicle identification number and serial number of each registered vehicle.

Under this rule, the operator is no longer required to provide the vehicle identification number or serial number. Under this rule, the operator may simply identify the number of vehicles operated and pay the required registration fee for those vehicles. DATCP will provide two registration stickers for each vehicle. The operator must attach one sticker to each side of the registered vehicle.

#### **Equine Markets**

This rule clarifies (per current law) that an equine market is a livestock market and must comply with rules relating to livestock markets. It also clarifies that a livestock market receiving, selling or delivering any equine animal must keep a copy of any required health certificate and equine infectious anemia (EIA) test result. The market operator must keep the record for at least 5 years.

#### **Bovine Animals; Disease Control**

##### **Brucellosis Control Program; Federal Standards**

Current rules spell out standards for DATCP's brucellosis control program. Some of the current standards are patterned after federal standards ("uniform methods and rules") adopted by USDA. This rule repeals those current state standards, and adopts current federal standards by reference. This will ensure that state standards are fully consistent with federal standards, and will make it easier for DATCP to adopt future changes in federal standards.

##### **Brucellosis Vaccination**

Under current rules, a veterinarian who vaccinates an animal for brucellosis must report that vaccination to DATCP. This rule extends the reporting deadline from 15 days after the vaccination date to 30 days after the vaccination date.

##### **Tuberculosis Control Program; Federal Standards**

Current rules spell out standards for DATCP's tuberculosis control program. Some of the current standards are patterned after federal standards ("uniform methods and rules") adopted by USDA. This rule repeals those current state standards, and adopts current federal standards by reference. This will ensure that state standards are fully consistent with the federal standards, and will make it easier for DATCP to adopt future changes in federal standards.

##### **Anaplasmosis Control Program**

This rule repeals current rules relating to anaplasmosis control and anaplasmosis-free herd certification, because the rules are no longer needed.

##### **Mastitis Control Program**

This rule repeals obsolete rules related to mastitis control. DATCP's food safety rules (which remain in effect) and modern dairy industry practices are more effective in addressing mastitis in dairy cattle.

##### **Veal Lots**

Under current rules, veal calves imported to an "approved veal lot" are exempt from certain import requirements. DATCP may certify a veal lot as an "approved veal lot" if the veal lot complies with standards specified in the current rules. Certification is voluntary and, to date, no veal lot operators have applied. This rule therefore repeals the "approved veal lot" rules.

#### **Swine Disease Control**

##### **Pseudorabies Control Program; Federal Standards**

Current rules spell out standards for DATCP's pseudorabies control program. Some of the current standards are patterned after federal standards adopted by USDA. This rule repeals those current state standards, and adopts current federal standards by reference. This will ensure that state standards are fully consistent with federal standards, and will make it easier for DATCP to adopt future changes in federal standards.

##### **Pseudorabies: Swine Imports**

Under current rules, swine imported to this state must meet certain health certification and testing requirements. Under current rules, imported swine must be isolated on the receiving premises until they test negative for pseudorabies (there are some exceptions). This rule maintains current import requirements, and adds a further restriction for swine imported from pseudorabies stage I or II states.

Under this rule, swine imported from a pseudorabies stage I or II state may not leave the premises where they are received unless they are shipped direct to slaughter. Swine received at a federally approved livestock import market may be shipped to a farm for feeding, but may then be shipped only to slaughter. Swine that commingle with the imported swine are subject to the same restrictions unless all the imported swine are removed and a statistically significant number of the remaining swine test negative for pseudorabies.

##### **Intrastate Movement of Swine; Pseudorabies Test**

Under current rules, no person may move any of the following swine within this state unless the swine test negative on a pseudorabies test conducted within the preceding 30 days:

- A sow or boar that is more than 5 months old or weighs more than 175 pounds.
- Any swine moved to a swine growth performance test station.
- Any swine removed from a swine growth performance test station, unless DATCP gives prior written authorization.
- Any swine that weighs more than 100 pounds if DATCP has notified the owner of the swine's herd of origin that the herd is located in a high pseudorabies incidence area.

The following swine are currently exempt from the pre-movement testing requirement:

- An animal that originates from a qualified pseudorabies negative herd or a qualified pseudorabies negative grow-out herd.
- An animal moved directly to a licensed slaughter facility for immediate slaughter.
- An animal moved directly to a livestock market or livestock dealer premises if the animal is tested before it leaves the livestock market or dealer premises.
- An animal moved between 2 premises owned or operated by the owner of the animal.

This rule modifies current rules related to pre-movement testing of swine for pseudorabies. Under this rule, all swine must be tested for pseudorabies before they are moved within this state unless one of the following applies:

- Wisconsin is classified, by the national rabies control board, as a pseudorabies stage IV or V state.
- The swine originate from a qualified pseudorabies negative herd or a qualified pseudorabies negative grow-out herd.
- The swine are shipped directly to slaughter.

##### **Swine Brucellosis Control Program; Federal Standards**

Current rules spell out standards for the state swine brucellosis control program. Some of the current standards are patterned after federal standards ("uniform methods and rules") adopted by USDA. This rule repeals current state standards, and adopts current federal standards by reference. This will ensure that state standards are fully consistent with federal standards, and will make it easier for DATCP to adopt future changes in federal standards.

##### **Feeder Swine**

Current rules regulate "feeder swine" in various ways. Under current rules:

- No person may import "feeder swine" into this state unless the feeder swine are imported to a slaughter plant, to a federally

approved import market ("Part 76 market"), or to a farm for finish feeding prior to slaughter. Feeder swine imported to any of these destinations are exempt from pre-import brucellosis testing.

- "Feeder swine" imported to a farm must be kept separate from breeder swine on that farm, and may not be removed from the farm except to slaughter.

- "Feeder swine are exempt from pre-import pseudorabies testing required of other swine if they originate from a "feeder swine pseudorabies monitored herd." Feeder swine, like other swine, are exempt from pre-import pseudorabies testing if they are imported directly to a slaughter plant, or to a federally approved import market ("Part 76 market").

- DATCP may certify a herd of "feeder swine" in this state as a "feeder swine pseudorabies monitored herd" if the herd tests negative for pseudorabies every year.

This rule changes the current definition of "feeder swine." Under the current rules, "feeder swine" mean any swine, except boars, that weigh less than 175 pounds and are kept for the sole purpose of feeding for slaughter. Under this rule, "feeder swine" mean any swine weighing 80 pounds or less that are kept for the sole purpose of feeding for slaughter.

Current rules require "official individual identification" of swine for various purposes. An animal's "official individual identification" uniquely identifies that particular animal. This rule creates a different, and less specific, form of "official individual identification" for "feeder swine." Under this rule, the "official individual identification" of feeder swine may simply identify the premises where the feeder swine originated.

### **Equine Animals**

#### **Horse Imports; Certificate of Veterinary Inspection**

Under current rules, a horse imported to this state must be accompanied by a certificate of veterinary inspection. There are some exceptions. This rule affects current exceptions as follows:

- Under current rules, a certificate of veterinary inspection is not required for animals imported directly to slaughter. This rule continues this current exception.

- Under current rules, a horse may be imported to an equine market without a certificate of veterinary inspection if the importer and the equine market operator agree in writing that the animal will be sold from the equine market only for slaughter. This rule eliminates the requirement of a written agreement. Under this rule, an equine animal may be imported to a livestock market without a certificate of veterinary inspection if the horse is then shipped to slaughter, or if a veterinarian completes that certificate before the horse leaves the livestock market.

- Under current rules, an equine animal may be imported to a veterinary facility for treatment without a certificate of veterinary inspection, if the animal returns to the state of origin immediately after treatment. This rule retains this current exemption and creates a parallel exemption for Wisconsin animals returning to its place of origin immediately following treatment at an out-of-state veterinary facility.

- This rule creates a new exception for a horse imported for a trail ride, horse show or exhibition. A horse may be imported for that purpose without a certificate of veterinary inspection if all the following apply:

- \* Ownership of the horse does not change while the horse is in this state.

- \* The horse does not stay in this state for more than 7 days.

- \* The horse meets current equine infectious anemia (EIA) test requirements.

- \* The horse originates from a state that allows imports of Wisconsin horses, under similar conditions, to attend trail rides, horse shows and exhibitions.

#### **Horse Imports; EIA Test**

Under current rules, a horse imported to this state must first test negative for EIA. There are some exceptions. This rule affects current exceptions as follows:

- Under current rules, a pre-import EIA test is not required for animals imported directly to slaughter. This rule continues this current exception.

- Under current rules, a horse may be imported to an equine market without a pre-import EIA test if the animal is tested within 48 hours after it arrives at the market. The animal may not leave the market until the test results are known. Under this rule, an untested animal may be imported to a livestock market without a pre-import EIA test if one of the following applies:

- \* The animal is shipped directly to slaughter within 10 days after it arrives at the livestock market and before it is commingled with any animals not sent to slaughter.

- \* The livestock market operator has the animal tested for EIA within 10 days after it arrives at the market, and obtains the test results before the animal leaves the livestock market and before it is commingled with any other equine animal at the livestock market.

- Under current rules, an equine animal may be imported to a veterinary facility for treatment without prior EIA testing if the animal returns to the state of origin immediately after treatment. This rule retains this current exemption and creates a parallel exemption for Wisconsin animals returning to Wisconsin immediately following treatment at an out-of-state veterinary facility.

- Under this rule, DATCP may issue a written permit authorizing a person to import a horse before obtaining the results of a pre-import EIA test if all the following apply:

- \* The test sample is collected before the horse is imported.

- \* The horse is isolated at the receiving premises until the test results are known.

#### **Horses Infected With EIA**

This rule prohibits any person from importing an animal that has tested positive for EIA. If a person imports an animal under a DATCP written permit before obtaining the results of an EIA test and the owner receives positive results are received the animal enters this state, the owner must do one of the following:

- Euthanize the animal.

- Ship the animal to slaughter with DATCP approval.

- Return the animal to its state of origin with DATCP approval.

#### **Quarantining Horses Exposed to EIA**

Under current rules, DATCP must quarantine every horse that has been exposed to a horse that tests positive for EIA. This rule changes the quarantine requirement. Under this rule, DATCP must quarantine all horses kept at the premises where the EIA positive horse is normally housed. This rule does not require DATCP to identify and quarantine every horse that may have been exposed to the EIA positive animal.

#### **Horse Shows, Fairs and Exhibitions**

If DATCP finds that a horse infected with EIA participated in a horse show, fair or exhibition, DATCP will notify the sponsor of the horse show or exhibition. Under this rule, the sponsor must notify other participants that their animals may have been exposed to EIA.

Under current rules, no person may exhibit a horse at a fair or livestock exhibition unless the horse first tests negative for EIA. The sponsor of a horse show, fair or exhibition must record the name and address of every person who owns a horse participating in the event. The sponsor must keep the records for at least 2 years. This rule changes the current recordkeeping requirements. Under this rule, the sponsor must do one of the following:

- Keep, for at least 5 years, the name and address of the horse owner, the horse's name and identification, and the accession or laboratory number of the EIA test.

- Keep, for at least 5 years, a copy of the horse's EIA test report.

#### **Equine Markets**

Under s. 95.68(1)(b), Stats., an "equine market" is defined as a livestock market that deals exclusively with equine animals (horses). This rule clarifies (per current law) that equine markets are livestock markets and must comply with applicable livestock

market rules. It also clarifies that a livestock market operator receiving horses must comply with applicable equine market requirements

### **Equine Quarantine Stations**

Under current rules, a person applying for a permit to operate an approved equine quarantine station must disclose the location of the equine quarantine station, including county, township and section. Under this rule, the applicant must also disclose the fire number assigned to the proposed equine quarantine station. The quarantine station veterinarian must be a Wisconsin certified veterinarian, and the quarantine station must keep records for 5 years (rather than 2 years under current rules).

### **Cervids**

#### **Captive Cervids; Herd Owner Report**

A “cervid” means a member of the family of animals that includes deer, elk, moose, caribou, reindeer and the subfamily of musk deer. Under current rules, a person keeping a herd of cervids in this state must report all the following to DATCP:

- The location of the herd.
- The number and types of animals in the herd.
- The name and address of the herd owner.
- The name and address of the local herd custodian if other than the herd owner.

This rule clarifies that the current reporting requirement applies only to captive deer or elk. It thereby exempts the department of natural resources from the current reporting requirement.

#### **Farm–Raised Deer; Herd Registration**

Under s. 95.55, Stats., and current rules, a person keeping farm–raised deer in this state must obtain a registration certificate from DATCP. DATCP may deny, suspend or revoke a registration certificate for cause, pursuant to s. 93.06(7), Stats. This rule clarifies that DATCP may deny, suspend or revoke a registration certificate if a person files an incomplete or fraudulent application, or misrepresents any information on the application.

This rule creates a registration fee surcharge of \$100 if DATCP determines that the applicant kept farm–raised deer without a registration certificate within 365 days prior to applying for a registration certificate.

#### **Tuberculosis in Cervids**

Current rules spell out standards for DATCP’s program for controlling tuberculosis in cervids. Some of the current standards are patterned after federal standards (“uniform methods and rules”) adopted by USDA. This rule repeals those current state standards, and adopts current federal standards by reference. This will ensure that state standards are fully consistent with federal standards, and will make it easier for DATCP to adopt future changes in federal standards.

This rule modifies the federal standards, for Wisconsin, in one important respect. Whereas the federal standards permit the use of the blood tuberculosis test (BTB) in cervids, this rule prohibits use of the BTB test for any purpose in Wisconsin. In Wisconsin, the BTB test has consistently failed to identify, as TB suspects or reactors, animals that are culture positive for tuberculosis.

#### **Tuberculosis Reactors**

Under current rules, a cervid classified as a tuberculosis reactor must be identified as such within 24 hours, and must be shipped to slaughter within 15 days. This rule keeps the 15 day slaughter deadline but extends the identification deadline to 15 days.

#### **Intrastate Movement; Certificate of Veterinary Inspection**

Under current rules, a certificate of veterinary inspection must normally accompany a cervid moved within this state. There are several exemptions, including an exemption for cervids originating from an accredited tuberculosis–free herd, a tuberculosis qualified herd or a tuberculosis monitored herd. This rule eliminates this current exemption.

#### **Cervids; Brucellosis Control Program**

This rule creates a brucellosis control program for cervids. Under this rule:

- The program must comply with current federal standards (“uniform methods and rules”) adopted by USDA.
- The person who collects a brucellosis test sample must be either a certified veterinarian or an authorized employee of DATCP or USDA.
- A veterinarian who conducts a brucellosis test must report the test results within 10 days. If the cervid tests positive for brucellosis, the veterinarian must report immediately and confirm the report in writing within 10 days.
- A veterinarian who performs a brucellosis test on a cervid must apply an official individual identification to that cervid.
- Within 15 days after a cervid is classified as a reactor, the cervid must be shipped to slaughter. Within 15 days after the cervid is shipped to slaughter, the owner must clean and disinfect the premises where the cervid was kept. The department may extend the cleaning and disinfecting deadline, if extension is appropriate. DATCP may not pay indemnities to an owner who fails to meet the deadlines.
- DATCP may certify a herd of cervids as a brucellosis–free herd based on federal standards.

### **Other Animals**

#### **Goats**

Current rules spell out standards for controlling tuberculosis in goats. Some of the current standards are patterned after federal standards (“uniform methods and rules”) adopted by USDA. This rule repeals those current state standards, and instead adopts the current federal standards by reference. This will ensure that state standards are fully consistent with federal standards, and will make it easier for DATCP to adopt future changes in federal standards.

#### **Sheep**

This rule prohibits the sale or movement of sheep infected with or exposed to scrapie.

#### **Exotic Ruminants or South American Camelids**

Under current rules, a person importing an exotic ruminant (e.g., gnu, antelope, mouflon sheep, wild goats) or South American camelid (e.g., a llama) must hold an import permit from DATCP. The exotic ruminant or South American camelid must test negative for tuberculosis and brucellosis prior to import and must be accompanied by a certificate of veterinary inspection. This rule makes the following changes:

- It retains the requirement that the importer obtain an import permit for exotic ruminants, but it eliminates the permit requirement for South American camelids. It simplifies the procedure for obtaining a permit, and makes it consistent with other import permits.
- It retains the requirement for a negative tuberculosis and brucellosis test for exotic ruminants but eliminates the test requirements for South American camelids. It requires the importer to contact the department to identify species appropriate tests to be used for the exotic ruminants.

- It retains the requirement that the animal be accompanied by a certificate of veterinary inspection for both exotic ruminants and South American camelids.

#### **Ratites**

Under current rules, a person importing a ratite (e.g., an ostrich or emu) must obtain an import permit from DATCP. The ratite must test negative for avian influenza, and a veterinarian must certify that the ratite originates from a flock that has shown no signs of avian influenza for at least 6 months. This rule makes the following changes:

- It simplifies the procedure for obtaining a permit, and makes it consistent with other import permits.
- It eliminates the avian influenza test requirement.
- It changes the health certification requirement. Under this rule, an imported ratite must be accompanied by a standard certificate of

veterinary inspection. A certificate is not required if the ratite is imported directly from a federal quarantine facility.

#### **Mink**

This rule eliminates the current aleutian disease-free herd certification program for mink.

#### **Circus, Rodeo, Racing or Menagerie Animals**

Under current rules, a person importing circus, rodeo, racing or menagerie animals must hold an import permit from DATCP. This rule simplifies the procedure for obtaining permits, and makes it consistent with the procedure for other permits.

Under current rules, a person importing circus, rodeo or menagerie animals must notify DATCP of the dates and locations at which the animals will be exhibited in this state. This rule eliminates this requirement.

#### Test Methods

Current rules identify specific test methods for a number of required animal health tests. This rule eliminates specific descriptions of test methods identified in federal rules, and instead incorporates the federal rules by reference. This will ensure that state test methods are fully consistent with federal methods, and will make it easier for DATCP to adopt future changes in federal standards.

This rule authorizes DATCP to approve additional test methods that are not specifically identified in this rule. This will make it easier for state disease control programs to keep pace with rapidly changing disease testing technology.

#### Technical Changes

This rule makes many nonsubstantive drafting and organizational changes to current rules.

The department is seeking authority from the department of justice and the revisor of the statutes to incorporate uniform methods and rules by reference.

### **Fiscal Estimate**

This rule makes major changes to DATCP's current animal health rules under ch. ATCP 10 to 12, Wis. Adm. Code. This rule: Requires persons importing animals to this state to obtain an import permit from DATCP (there are some exceptions). Requires state certification of veterinarians who perform official disease eradication and control functions in this state under Wisconsin animal health programs. Expands the current list of "reportable diseases" but simplifies reporting methods. Clarifies that DATCP's animal health rules apply to government agencies as well as private individuals and businesses. Extends, from 2 years to 5 years, the time period for which animal health records must be kept. Incorporates federal standards by reference under several state disease control programs. Authorizes DATCP to issue a temporary "animal hold order" pending investigation. Requires exhibitors at fairs and exhibitions to give copies of required animal health papers to the show chairman or show veterinarians. Modifies livestock market requirements. Eliminates a livestock trucker license exemption for truckers who make fewer than 6 hauls a year for others. Eliminates the requirement for livestock market operators, dealers and truckers to provide vehicle identification numbers or serial numbers when registering livestock vehicles with DATCP. Eliminates obsolete disease control programs for anaplasmosis and mastitis. Modifies current import and testing requirements related to swine and horses. Modifies current rules related to equine markets, shows and quarantine stations. Modifies current disease control programs related to cervids, and creates a brucellosis control program for cervids. Modifies current rules related to goats, sheep, llamas, ratites and mink.

### **Initial Regulatory Flexibility Analysis**

Rule Related to Animal Diseases, Animal Movement and Livestock Markets, Dealers and Truckers

#### Overview:

This rule updates and expands current rules relating to animal disease, animal movement and livestock markets, dealers and truckers. It brings state requirements for disease control into conformity with federal requirements as delineated in the uniform methods and rules, with some exceptions. For instance, the uniform methods and rules permit use of the blood tuberculosis test (BTB) for cervids (deer, moose, elk etc.). This rule prohibits use of the BTB because the test has consistently to identify animals as suspects or reactors when the animals were confirmed infected by culture positive results.

This rule will affect small businesses in Wisconsin. Small businesses which will be affected include farmers/producers; veterinarians; livestock market operators; livestock dealers; livestock truckers; and sponsors of horse shows, exhibitions or fairs.

#### Recordkeeping:

Current rules require businesses to keep records relating to disease control, animal movement and animal identification for a period of two years. This proposed rule increases the retention period to 5 years. While this increased retention period will cause some additional costs for involved businesses, the additional cost is justified to permit the department to have access to these records to assure adequate traceback of diseased animals. Such traceback is necessary to control the spread of infectious or contagious disease.

#### Restraining animals for testing:

This rule requires the owner or custodian of animals to present and restrain the animals to allow department employees to safely test the animals for disease control purposes. This requirement may add some costs for some animal owners. If the owner does not have adequate animal handling facilities, the owner will have to do one of the following:

- Build adequate animal handling facilities.
- Have the animal tranquilized.
- Provide enough people to adequately restrain the animal.

This rule is consistent with s. 95.23(3) Stats. It clarifies that the owner or custodian is responsible for presenting the animal in a way that promotes safety to the animal and to the department employee during testing. The need to assure safety outweighs the costs the owner or custodian will have to expend.

This rule creates a state certification program for veterinarians who perform official disease control and eradication duties in the state. Initially this program costs veterinarians nothing, because any veterinarian who is licensed to practice in Wisconsin and is accredited by the federal government to perform duties related to the federal disease control and eradication programs will be automatically certified in Wisconsin. The only time a veterinarian will incur costs related to this program is if the department determines there is cause to suspend or revoke the state certification. If that happens, the veterinarian will incur either the cost of lost business while he/she is not certified and not able to perform these functions, or the cost of challenging the department determination in an administrative hearing conducted under ch. 227, Stats.

#### Reportable diseases:

This rule significantly increases the number of diseases which a veterinarian must report to the department when the veterinarian diagnoses the disease. There will be a slight increase in costs associated with this reporting. It is not anticipated that it will be significant.

Many of the diseases added to the list of reportable diseases are not found in the United States, so many of these diseases will add no additional costs. There are other diseases which may exist in the United States and therefore may require additional reporting. To offset the costs of reporting additional diseases, this rule simplifies the manner in which reporting occurs, thus reducing the actual impact of the changes.

The newly reportable diseases have been identified by the world organization for animal health. If Wisconsin does not require reporting of all the diseases identified by that body, international export markets will be closed to Wisconsin animals. The threat of closing international export markets to Wisconsin animals

significantly outweighs the minimal costs of reporting if the disease occurs in the state.

#### Equine Infectious Anemia:

This rule requires the department to inform sponsors of horse shows, fairs, competitions etc. when the department determines that an equine animal that is infected with equine infectious anemia attended sponsored events. The rule requires the sponsor to notify all participants at the event that their animals may have been exposed to equine infectious anemia while at the event. Once the animal owner or custodian is notified of possible exposure, the owner or custodian can determine what action is appropriate to manage the situation.

This requirement will cause extra recordkeeping for the show sponsors, but will result in participants receiving information which will allow them to make informed decisions about the animals in their care.

#### Licensing of livestock markets, dealers and truckers:

This rule simplifies applications for livestock markets, dealers and truckers. While the rule does not exempt livestock markets, dealers and truckers from complying with federal bonding or insurance requirements, it eliminates the requirement that the applicant prove to the department that he/she has complied with federal requirements. It also eliminates the requirement that a person registering a livestock vehicle report the vehicle identification and serial number for any vehicle being registered.

#### Overall impact:

The overall impact on small businesses is negligible. In some instances requirements have been reduced. In other instances requirements have been increased. It is not anticipated that any of the changes will have a large impact on small businesses.

Notice of the proposed rule has been delivered to the department of commerce and small business ombudsman, as required by s. 227.114(5), Stats.

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

Division of Animal Health  
Wisconsin Department of Agriculture,  
Trade and Consumer Protection  
P O Box 8911  
Madison, WI 53708-8911

## Notice of Hearing

### *Crime Victims' Rights Board*

[CR 99-153]

Notice is hereby given that the Crime Victims' Rights Board will hold a public hearing at the time and place indicated below to consider the creation of rules, pursuant to s. 950.09 (5), Stats., and interpreting ss. 950.09 and 950.095, Stats., relating to the review of complaints alleging violations of the rights of crime victims.

### Hearing Information

Date & Time	Location
February 25, 2000 Friday 1:00 p.m.	Room G55-59 Waukesha Co. Adm. Bldg. 1320 Pewaukee Rd. WAUKESHA, WI

### Analysis Prepared by the Crime Victims' Rights Board

Statutory authority: s. 950.09 (5)

Statutes interpreted: ss. 950.09 and 950.095

Under the proposed rule, a party that has been involved in efforts by the Wisconsin Department of Justice ("Department") to resolve

a complaint alleging violations of the rights of a crime victim may, once the Department has completed its efforts on the complaint, seek review of the complaint before the Crime Victims' Rights Board ("Board"). The Board may implement various remedies if it concludes that a violation of the rights of a crime victim has occurred. The Board also has authority to issue reports and recommendations concerning the securing and provision of crime victims' rights and services.

If the complaint is brought by a victim, or with a victim's signed consent, the Board may consider one or more of the remedies provided by s. 950.09 (2), Stats. In reviewing such complaints, the Board must make a probable cause determination before beginning any investigation or pursuing any of the authorized remedies. If the Board finds probable cause, it may conduct an investigation on the complaint. A hearing may be held at the request of either party or the Board. The Board, its designee, or a hearing examiner may conduct the hearing. Following the hearing, the Board will issue a written decision including findings of fact and conclusions of law. A party that is adversely affected by the Board's decision may request rehearing and may also seek judicial review of the Board's decision under the provisions of ch. 227, Stats.

If a complaint is not submitted by a victim or with a victim's signed consent, the Board may investigate the complaint and may issue a report or recommendation based upon the complaint under s. 950.09 (3), Stats.

### Text of Rule

**SECTION 1.** Chapter CVRB 1 is created to read:

**CVRB 1.01 Purpose.** The purpose of this chapter is to establish procedures for the review of complaints made to the crime victims' rights board. This chapter interprets the provisions of ss. 950.09 and 950.095, Stats., and also interprets the provisions of ch. 227, Stats., concerning the conduct of proceedings under this chapter.

**CVRB 1.02 Definitions.** In this chapter:

- (1) "Board" means the crime victims' rights board.
- (2) "Chairperson" means the chairperson of the board.
- (3) "Complainant" means the individual filing a complaint with the board.
- (4) "Complaint" means a written, sworn complaint made to the board regarding a violation of the rights of a crime victim.
- (5) "Department" means the department of justice.
- (6) "Involved party" means an individual who participated in the mediation process as provided in s. 950.08 (3), Stats.
- (7) "Mediator" means an employe of the department who has sought to mediate or has actually mediated a complaint made to the department as provided in s. 950.08 (3), Stats.
- (8) "Party" means the complainant, the respondent, or both.
- (9) "Probable cause" means a reasonable basis for belief, supported by facts, circumstances, and reasonable inferences strong enough to warrant a prudent person to believe that a violation probably has been or is being committed as alleged in the complaint.
- (10) "Respondent" means the individual identified in the complaint as the subject of the complaint.
- (11) "Victim" has the meaning given in s. 950.02 (4), Stats.

**CVRB 1.03 Delegation of responsibilities.** The board may delegate its responsibilities in ss. CVRB 1.05 to 1.07 to an appropriate designee.

**CVRB 1.04 Filing.** (1) All written statements of a party's position submitted to the board, including the complaint and the answer, shall be signed by the person preparing the statement. A party shall verify that the contents of each filing submitted by that party or on that party's behalf are true and correct to the best of the party's knowledge and shall sign the filing.

(2) All complaints shall be prepared on a complaint form obtained from the mediator. The completed complaint shall be returned to the board at the address provided on the form.

(3) A complaint may be filed by any involved party. The board may not take any action provided by s. 950.09 (2), Stats., other than seeking equitable relief as provided by s. 950.09 (2) (c), Stats.,

unless the complaint is filed by a victim or a victim has signed the complaint indicating that he or she consents to the filing of the complaint by the involved party.

(4) The board may consider issuing a report or recommendation as provided by s. 950.09 (3), Stats., in response to a complaint filed by an involved party without endorsement by a victim. The board may consider a complaint filed under this subsection, and may issue a report or recommendation as provided by s. 950.09 (3), Stats., without making a probable cause determination.

(5) The board may consider complaints alleging violations of victims' rights that occurred on or after December 1, 1998. The board may not consider alleged conduct that occurred more than three years from the date the complainant knew or should have known of a violation of the rights of a victim. The board may consider issuing reports or recommendations as provided by s. 950.09 (3), Stats., relating to conduct that occurred prior to December 1, 1998 or more than three years before a complaint was filed with the board or the board was otherwise notified of the conduct.

**CVRB 1.05 Probable cause determination.** (1) Upon receipt of the complaint, the board shall contact the mediator and request verification that the substance of the complaint has been presented to the department and that the department has completed its action as required by ss. 950.08 (3) and 950.09 (2), Stats.

(2) If the substance of the complaint has not been presented to the department, the board shall advise the complainant of the complainant's obligation to present the substance of the complaint to the department before filing a complaint with the board.

(3) If the department has not completed its action as provided in s. 950.08 (3), Stats., the board shall return the complaint form to the complainant and shall advise the complainant that the board cannot review the complaint until the department has completed its action.

(4) If the department has completed its action as provided in s. 950.08 (3), Stats., the mediator shall provide the board with information on the mediation process and its outcome. This information may take the form of a memorandum, other written documentation, or both.

(5) The board shall provide a copy of the complaint, with a cover letter, to the respondent and invite the respondent to submit an answer to the complaint. The board shall provide a copy of this letter to the complainant. If the respondent submits an answer, the board shall provide a copy of the answer to the complainant.

(6) The board shall determine probable cause at its next regularly scheduled meeting or at a meeting called by the chairperson. Upon a vote of the board, the board may deliberate and vote on the probable cause determination in closed session pursuant to s. 19.85 (1) (f), Stats.

(7) In making the probable cause determination, the board may consider all relevant information, including all of the following:

(a) The complaint.

(b) The answer.

(c) The information provided by the mediator pursuant to sub. (4).

(8) The board shall notify the parties and the mediator of its probable cause determination. If the board finds probable cause, the board shall advise the parties of their right to request a hearing under s. CVRB 1.07 on the complaint. A finding of no probable cause is a final decision of the board. If the board finds no probable cause, the board shall provide notice to the parties of the right to seek judicial review pursuant to ch. 227, Stats.

**CVRB 1.06 Investigations.** (1) The board may conduct an investigation of any complaint which meets the probable cause standards under this chapter. The board may request responses to written questions, participation in a personal or telephonic interview with the board, and written documentation. The board may consider a party's refusal to cooperate with the board's investigation in making its determination on the complaint.

(2) The board may request a party to sign a statement authorizing the limited release of specified records to the board. A party who is

asked to sign a release may request a protective order from the board limiting the disclosure of any such records outside the board's process.

(3) Following its investigation and prior to the hearing under s. CVRB 1.07, the board shall provide copies to the parties of any documentation obtained during its investigation.

**CVRB 1.07 Hearings.** (1) A hearing may be requested by any party or by the board. A party may appear in person or by telephone at the hearing, or may submit a written statement of position on the complaint in place of a personal appearance.

(2) A party who chooses not to appear at the hearing shall notify the board not later than two weeks prior to the hearing of this intent. A party who chooses to submit a written statement shall submit that statement to the board not later than one week prior to the scheduled hearing date.

(3) One month prior to the hearing, or at another date determined by the board, the parties may provide the board with all of the following:

(a) A list of witnesses whom the party wishes to have the board subpoena for the hearing. Subpoenas may also be issued in accordance with s. 227.45 (6m), Stats.

(b) A list of questions for the board to ask another party or witness at the hearing.

(4) The board, or its designee, or a hearing examiner proceeding under ch. 227, Stats., may preside over the hearing.

(5) The parties appearing at the hearing shall be afforded reasonable opportunity to be represented by counsel, to call witnesses, and to present evidence. Questioning of a party by another party is not favored and may be limited by the board consistent with s. 227.45 (6), Stats.

(6) The board may set reasonable time limits for testimony and may limit the number of witnesses called by a party. No party may require the mediator to testify as a witness at the hearing.

(7) Proof of a violation of the rights of a crime victim shall be made by clear and convincing evidence. "Clear and convincing evidence" means evidence which satisfies and convinces the board, because of its greater weight, that a violation occurred.

(8) A stenographic, electronic or other record shall be made of all hearings in which the testimony of witnesses is offered as evidence. Testimony will not be transcribed unless a party requests a transcript and pays any costs required to prepare the transcript. The board shall prepare a transcript, at its own expense, in the event a party seeks judicial review of the board's decision.

(9) The board may vote to hold the hearing in closed session pursuant to s. 19.85 (1) (f), Stats. Parties and their counsel or another advocate, including a family member, shall be permitted to be present during the entire hearing.

(10) Witnesses subpoenaed at the request of a party or the board shall be entitled to compensation from the board for attendance and travel as provided in ch. 885, Stats.

**CVRB 1.08 Decisions.** (1) At the close of the hearing, the board shall meet for purposes of deliberating on the complaint. Upon a vote of the board, the board may deliberate in closed session as provided by s. 19.85 (1) (a), Stats.

(2) Within 30 days of the close of the hearing, or by another date established by the board if no hearing is held, the board's legal counsel shall prepare a written proposed decision for the board, including findings of fact, conclusions of law, and a recommended remedy, and shall provide the proposed decision to the board.

(3) The board shall consider the proposed decision at its next regularly scheduled meeting or at a meeting called by the chairperson. The board may amend any portion of the recommended decision prior to approving the final decision. Upon a vote of the board, the board may conduct its discussion of the final decision in closed session as provided by s. 19.85 (1) (a), Stats.

(4) The board shall provide the final decision to the parties along with a notice of the right to request rehearing or seek judicial review under ch. 227, Stats.

(5) If no hearing has been held, the board shall make its final decision under the process provided in subs. (2) and (3).

**CVRB 1.09 Rehearing.** (1) A party aggrieved by the final decision may file a written request for rehearing with the board within 20 days after the date of the final decision.

(2) The request for rehearing shall include a detailed statement of the grounds for the request, including the material error of fact or law, or newly discovered evidence, that in the party's view warrants a rehearing. If the request is based on newly discovered evidence, the party shall state why the evidence could not have been previously discovered through reasonably diligent effort.

(3) The board may grant a rehearing on the basis of one or more of the following:

- (a) A material error of law.
- (b) A material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the original decision which could not have been previously discovered through reasonably diligent efforts by the parties.

(4) The board shall determine whether to grant the request for rehearing at its next regularly scheduled meeting or at a meeting called by the chairperson. If the board grants rehearing, it shall follow the procedures in s. CVRB 1.07 in conducting the rehearing.

**CVRB 1.10 Judicial review.** Judicial review of the board's final decision is governed by ss. 227.52 to 227.59, Stats.

**CVRB 1.11 Miscellaneous provisions.** (1) RELIEF FROM DEADLINES. The board may grant a party's request for reasonable extension of the deadlines set forth in this chapter.

(2) REPRESENTATION. A party may be represented throughout proceedings under this chapter, including at hearing, by counsel or by another advocate.

### **Reference to Applicable Forms**

Section CVRB 1.04 (2) refers to the complaint form that must be completed in order to file a complaint with the Board. That complaint form must be obtained from the Department of Justice after the Department has completed its action on the complaint as provided in ss. 950.08 (3) and 950.09 (2), Stats. To obtain a sample complaint form, contact:

Office of Crime Victim Services  
Victim Resource Center  
P. O. Box 7951  
Madison, WI 53707-7951

Telephone (800) 446-6564

### **Written Comments in Lieu of Testimony**

Written statements in lieu of testimony at the public hearing should be sent to Ms. Timberlake at the address below no later than **Friday, March 3, 2000**. The Board will also accept written statements in lieu of testimony on the day of the hearing.

### **Initial Regulatory Flexibility Analysis**

The proposed rule does not affect small business.

### **Contact Information**

Karen E. Timberlake, Assistant Atty. General  
Wis. Dept. of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

Telephone (608) 267-1300

### **Fiscal Estimate**

#### Assumptions Used in Arriving at Fiscal Estimate:

The Crime Victims Rights Board is a five-member board charged to hear and decide complaints concerning possible violations of rights of crime victims. The Board is attached to the Department of

Justice (DOJ) for administrative purposes. The Board will require 20 hours per week of staff assistance, as well as approximately 5 hours per week of legal counsel assistance, excluding special counsel for forfeiture actions. In addition to salary and fringe benefit costs, a majority of the Board's expenses will be related to travel and lodging for Board meetings. The estimate assumes an average of 500 miles of round trip travel, reimbursed at \$.29 per mile, for each Board member and staff for each of 6 meetings, in addition to meals and lodging.

Remedies available to the Board if it finds a violation include initiating legal action against the respondent to seek a forfeiture. Forfeiture actions have fiscal implications for the Board and the respondent, as both entities will need legal counsel. The estimate assumes that forfeiture actions will cost DOJ \$9000 in special counsel fees, and will cost the respondent, whether a state entity or municipality, another \$9000 in fees for special defense counsel.

It is impossible to predict with certainty at this time how many complaints the Board will receive each year and how many hearings the Board will hold. The estimate assumes that the Board will meet 6 times per year, that 8 complaints will lead to hearings, and that 2 cases will lead to forfeiture actions requiring special counsel for the Board and for the respondent in the forfeiture action.

## **Notice of Hearing**

### *Employe Trust Funds*

*[CR 00-22]*

The Wisconsin Department of Employee Trust Funds will hold a public hearing to review the proposed rule, which creates ss.ETF 10.01 (1k) and 20.19, Wis. Adm. Code, relating to the Department's interpretation of what Wisconsin Retirement System creditable service is considered to be performed before January 1, 2000 vs. considered to be performed on or after that date under 1999 Wis. Act 11. The public hearing will be held on **Tuesday, February 29, 2000 at 1:00 p.m. at the Department of Employee Trust Funds, Room 2B, 801 West Badger Road, Madison, Wisconsin.**

The public record on the proposed rule will be held open until 4:30 p.m. on Wednesday, March 1, 2000 to permit the submission of written comments from persons unable to attend the public hearing in person, or who wish to supplement testimony offered at the hearing. Any such written comments should be addressed to Linda Owen, Department of Employee Trust Funds, 801 West Badger Road, P.O. Box 7931, Madison, Wisconsin 53707-7931.

### **Analysis Prepared by the Wisconsin Department of Employee Trust Funds**

Authority for Rule: s. 40.03 (2) (i)

Section 19 of 1999 Wis. Act 11 provides higher percentage rates to be used to calculate the Wisconsin Retirement System benefits paid from the accounts of participants who are participating employees on the effective date of this provision, but only for creditable service that is considered to be performed before January 1, 2000. 1999 Wis. Act 11 provides some clarification of what creditable service shall be considered to be performed before January 1, 2000, but further clarification is required to administer this legislation.

1999 Wis. Act 11 provides that service forfeited through a separation benefit prior to January 1, 2000 shall be considered to be performed before that date; the rule would further clarify that service forfeited on or after January 1, 2000 and later purchased is considered to be performed on or after that January 1, 2000. The rule also clarifies that all other purchased service that was actually performed before January 1, 2000 shall be considered to be performed before that date.

1999 Wis. Act 11 provides that the years of creditable military service for which a participant is eligible based on the creditable service performed before January 1, 2000 shall be considered to be performed before that date. The proposed rule would further clarify that the years of military service that are considered to be performed before January 1, 2000 are the years for which the participant would be eligible if the participant would not accrue any additional service after January 1, 2000, except that if after January 1, 2000 the

participant purchases creditable service that is considered to be performed before January 1, 2000, those years of "pre-2000" service are treated as "pre-2000" years of service and may increase the years of creditable military service that are considered to be performed before January 1, 2000. The proposed rule would also clarify that assumed creditable service used to calculate a Wisconsin Retirement System disability benefit that is calculated through December 31, 1999 is considered to be performed before January 1, 2000.

The rule would also clarify that the percentage of the participant's account awarded to an alternate payee in a qualified domestic relations order shall apply equally to the participant's years of creditable service that is considered to be performed before January 1, 2000 and the years of service considered to be performed on or after January 1, 2000 that date that is credited or creditable to the participant's account as of the decree date. The creditable military service credited to the alternate payee's account is that is considered to be performed either before January 1, 2000 or performed on or after that date is based on the creditable military service for which the participant would be eligible based solely on the participant's years of service that are credited or creditable to the participant's account as of the decree date.

Finally, the rule specifies the treatment of creditable service for the purpose of determining the applicable percentage rate used to calculate Wisconsin Retirement System benefits after a participant's account is reestablished after a disability or retirement annuity is terminated.

### **Fiscal Estimate**

The rule has no fiscal impact on county, city, village, town, school district, technical college district and sewerage district fiscal liabilities and revenues. This rule itself has no anticipated state fiscal effect during the current biennium and no future effect on state funds, which do not include the Public Employee Trust Funds. The costs of implementing an April 1, 2000 distribution to annuitants of funds transferred into the annuity reserve by the special TAA transfer mandated in this legislation was incorporated into the fiscal effect prepared for 1999 Assembly Bill 495. However, if the payment of the special dividend resulting from the extraordinary transfer from the TAA was to be delayed after April 1, 2000 – for example because of an injunction or court action, then previously unanticipated costs in distributing these funds will arise. If the distribution survives review by the courts, then additional payments would be owed to annuitants, some of whom may have died in the interim. DETF anticipates at least some administrative costs in locating, notifying and processing claims by estates or heirs of deceased annuitants, similar to the costs incurred in making the distribution required by the Supreme Court in *WRTA v. Employe Trust Funds Board*, 207 Wis. 2d 1, 558 N.W.2d 83 (1997). The exact amount of these costs will depend, in large part, on how long the litigation over this legislation remains before the courts and the mortality experience among the affected annuitants during the period.

### **Initial Regulatory Flexibility Analysis**

The Department anticipates that the provisions of this proposed rule will have no direct adverse effect on small businesses.

### **Copies of Rule and Contact Persons**

Copies of this rule are available without cost by making a request to the Department of Employee Trust Funds, Office of the Secretary, P.O. Box 7931, Madison, Wisconsin 53707, telephone (608) 266-1071. For questions about this rule making, please call Linda Owen, Policy Analyst for the Division of Retirement Services, at (608) 266-8164.

## **Notice of Hearing**

### ***Employe Trust Funds***

**[CR 00-21]**

The Wisconsin Department of Employee Trust Funds will hold a public hearing to review the proposed rule, which renumbers s. ETF

10.35 and repeals and recreates s. ETF 10.31, Wis. Adm. Code, relating participation in the variable trust fund in accordance with the provisions of s. 227.16 (1), Stats. The public hearing will be held on **Tuesday, February 29, 2000 at 9:00 a.m. at the Department of Employee Trust Funds, Room 2B, 801 West Badger Road, Madison, Wisconsin.**

The public record on the emergency rule will be held open until **4:30 p.m. on Wednesday, March 1, 2000** to permit the submission of written comments from persons unable to attend the public hearing in person, or who wish to supplement testimony offered at the hearing. Any such written comments should be addressed to Shelly Schueller, Department of Employee Trust Funds, 801 West Badger Road, P.O. Box 7931, Madison, Wisconsin 53707-7931.

### **Analysis Prepared by the Wisconsin Department of Employee Trust Funds**

Authority for Rule: s. 40.03 (2) (i)

Section 40.04 (7) (a), Stats., closed the Variable Trust Fund to new enrollments effective April 29, 1980. Participants who elected to join the Variable Trust prior to that date remain in the program unless they elect to cancel their participation. Once a participant has cancelled participation in the Variable Trust Fund, until 1999 WA 11 is enacted there is no opportunity to re-elect variable participation.

Section 14 of 1999 Wis. Act 11 amended s. 40.04 (7) (a), Stats., to permit all participating employees on or after 1/1/2001 to elect to have 50% of their future and additional contributions deposited in the Variable Trust Fund. 1999 WA 11 also permits former Variable Trust Fund participants who have cancelled their original variable participation to re-enroll. The new election would apply only to future employee, employer and additional contributions; participants would not be eligible to transfer contributions balances into the Variable Trust Fund.

Conditional upon 1999 WA 11 withstanding review by the courts, s. ETF 10.31 must be revised to clarify when and how a participant may elect to participate in the Variable Trust and to cancel variable participation, the effective date of such an election, and the irrevocability of an election once received by the Department. Under the proposed rule revision, an election to participate in the Variable Trust Fund would be effective on January 1 of the year after the year in which the Department receives such an election, and would first apply to contributions for the year in which the election is effective. Any participating employee who participates in the Variable Trust Fund (including participants who are already Variable Trust Fund participants based on an election prior to April 29, 1980) would have one opportunity to cancel their Variable Trust Fund participation, and once they elect to cancel their participation, there would be no opportunity to re-enroll unless the participant closes his or her WRS account by withdrawing his or her account balance and is no longer a participant, then returns to work for a WRS participating employer and again becomes a participating employee.

### **Initial Fiscal Estimate**

The rule has no fiscal impact on county, city, village, town, school district, technical college district and sewerage district fiscal liabilities and revenues. This rule itself has no anticipated state fiscal effect during the current biennium and no future effect on state funds, which do not include the Public Employee Trust Funds.

### **Initial Regulatory Flexibility Analysis**

The Department anticipates that the provisions of this rule will have no direct adverse effect on small businesses.

### **Copies of Rule and Contact Persons**

Copies of this rule are available without cost by making a request to the Department of Employee Trust Funds, Office of the Secretary, P.O. Box 7931, Madison, Wisconsin 53707, telephone (608) 266-1071. For questions about this rule making, please call Shelly Schueller, Policy Analyst for the Division of Retirement Services, at (608) 266-6611.



## Notice of Hearings

### Public Instruction

[CR 99-169]

Notice is hereby given that pursuant to ss. 115.366 (2) and 227.11 (2) (a), Stats., and interpreting s. 115.366, Stats., the department of public instruction will hold public hearings as follows to consider emergency and proposed permanent rules, relating to alternative education grants. Emergency rules were promulgated by the department effective January 28, 2000. The hearings will be held as follows:

### Hearing Information

March 9, 2000  
Thursday  
5:30 – 7:00 p.m.

Fennimore  
CESA 3  
1300 Industrial Drive  
Conference Room

March 14, 2000  
Tuesday  
5:30 – 7:00 p.m.

Gillett  
CESA 8  
223 West Park Street  
Birch Room

March 15, 2000  
Wednesday  
5:30 – 7:00 p.m.

Chippewa Falls  
CESA 10  
725 West Park Avenue  
Room 1

The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Larry Allen, Director, Education Options, at (608) 267-2402, or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

### Copies of Rule and Contact Person

A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to [lori.slauson@dpi.state.wi.us](mailto:lori.slauson@dpi.state.wi.us) or by writing to:

Lori Slauson  
Administrative Rules &  
Federal Grants Coordinator  
Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **March 20, 2000**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

### Analysis by the Department of Public Instruction

1999 Wis. Act 9 created an alternative education grant program under s. 115.366, Stats.. The Act also requires the department to promulgate rules to administer the program and to define alternative education programs to be funded.

In compliance with the Act, the proposed rules establish criteria and procedures for awarding alternative education program grants. The definition of an alternative education program reflects the statutory definition of alternative education programs under s. 115.28 (7) (e), Stats.

The Act appropriated \$5,000,000 for the 2000-2001 school year. The department will annually submit to school districts application materials specifying funding limits and eligibility criteria. For the upcoming school year, the department will send grant application

materials to school districts in January. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000.

Grants will be awarded for a 5 year period (100% for the first 3 years, 60% for the 4<sup>th</sup> year, 40% for the 5<sup>th</sup> year). Grant recipients: 1) may not use these funds to supplant alternative education program funding received from other local, state or federal sources, and 2) shall agree to participate in any state level evaluations of the program as required by the state superintendent.

### Fiscal Estimate

Under s. 20.255 (2) (cf), Stats., 1999 Wisconsin Act 9 appropriated \$5,000,000 for the department to award grants to school districts and consortia of schools districts for alternative education programs, as defined by the department by rule. As required by the Act, the rule defines alternative education program and establishes criteria and procedures for awarding alternative education program grants. The rules will have no fiscal effect on local governments or small businesses.

Since the Act did not allocate staff resources to administer the program, the department is reallocating limited state and federal funds for this purpose.

### Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114(1)(a), Stats.

## Notice of Hearing

### Public Instruction

[CR 00-3]

Notice is hereby given that pursuant to ss. 43.24 (1) (b) and 227.11 (2) (a), Stats., and interpreting s. 43.24 (1), Stats., the department of public instruction will hold a public hearing as follows to consider emergency and proposed permanent rules, relating to public library system aid payment adjustments. Emergency rules will be promulgated by the department in March 2000. The hearing will be held as follows:

### Hearing Information

April 4, 2000  
Tuesday  
1:00 – 3:00 p.m.

Madison  
GEF 3 Building  
125 South Webster St.  
Room 041

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Larry Nix, Director, Public Library Development, at (608) 266-7270 or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

### Copies of Rule and Contact Person

A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to [lori.slauson@dpi.state.wi.us](mailto:lori.slauson@dpi.state.wi.us) or by writing to:

Lori Slauson  
Administrative Rules &  
Federal Grants Coordinator  
Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **April 7, 2000**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

## **Analysis by the Department of Public Instruction**

The proposed rule adjusts public library aid payments to be consistent with system services areas after territorial changes occur. If the territory of a public library system is altered before the new distribution formula created under s. 43.24 (1) (c), Stats., becomes effective, the department shall adjust the aid paid based on the previous funding formula established under s. 43.24 (1), Stats.

The amount of the transfer will be the 1999 share of state aid generated by the territory causing the change applied to the current appropriation. The territorial share will be determined by summing the territory's payment factors (square miles, population, and expenditure) as calculated for the 1999 system aids payment and dividing by \$13,249,800, the total amount paid in 1999.

## **Fiscal Estimate**

In accordance with s. 43.24 (1) (b), Stats., the proposed rules adjust public library aid payments to be consistent with system services areas after territorial changes occur.

The formula used to make aid payment adjustments will change but the total funds distributed statewide will remain the same. Therefore, the proposed rules will have no fiscal effect.

## **Initial Regulatory Flexibility Analysis**

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114(1)(a), Stats.

## **Notice of Hearings**

### **Public Instruction**

[CR 00-12]

Notice is hereby given that pursuant to ss. 115.36 (3) (a) 5., 115.361 (1) and 227.11 (2) (a), Stats., and interpreting s. 115.36 and 115.361, Stats., the department of public instruction will hold public hearings as follows to consider emergency and proposed permanent rules, relating to alcohol and other drug abuse programs. Emergency rules will be promulgated by the department in March 2000. The hearings will be held as follows:

## **Hearing Information**

March 6, 2000  
Monday  
3:30 – 5:00 p.m.

Oconomowoc  
Olympia Resort & Spa  
1350 Royale Mile Rd.  
Illinois Room

March 8, 2000  
Wednesday  
3:30 – 5:00 p.m.

Rice Lake  
Wisconsin Indianhead  
Technical College  
1900 College Dr.  
Conference Center

The hearing sites are fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call Michael Thompson, Director, Student Services, Prevention, and Wellness Team, at (608) 266-3584, or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

## **Copies of Rule and Contact Person**

A copy of the proposed rule and the fiscal estimate may be obtained by sending an email request to [lori.slauson@dpi.state.wi.us](mailto:lori.slauson@dpi.state.wi.us) or by writing to:

Lori Slauson,  
Administrative Rules &  
Federal Grants Coordinator  
Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **March 17, 2000**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

## **Analysis by the Department of Public Instruction**

1999 Wis. Act 9 provides a single, comprehensive alcohol and other drug abuse (AODA) program to replace several existing categorical AODA grant programs. The rules will still allow the use of funds for the individual categorical programs that existed before the law was changed. Such categorical programs include drug abuse resistance education programs, families and schools together programs, and after school and summer school programs. Although the law eliminated these categorical programs to create a comprehensive AODA program, it was not meant to preclude these individual programs from continuing to receive funds.

To correspond to the statutory changes made under the Act, the proposed rules establish criteria and procedures for awarding grants to fund comprehensive K-12 AODA programs and student mini grants. Student mini grants are funded under the AODA program appropriation but do not have to go through the same application and review procedures as the comprehensive programs and, therefore, are included in the rule.

As with the current rules, the proposed rules:

- Maintain an advisory council to advise the state superintendent in reviewing grant applications submitted under comprehensive AODA programs (This provision does not apply to student mini grants).
- Require applicants to provide for a 20% matching fund. Private and in-kind contributions may be used to meet this requirement (This provision does not apply to student mini grants).
- Prohibit the supplanting of funds which are otherwise available for the program.

The department will annually submit to school districts application materials specifying funding limits and eligibility criteria. For the upcoming school year, the department will send grant application materials to school districts in March. Grant applications must be returned to the department in the spring of 2000 and grants will be awarded prior to July 1, 2000.

## **Fiscal Estimate**

To award grants under the AODA program, 1999 Wisconsin Act 9 appropriated:

- \$4,520,000 GPR under s. 20.255 (2) (dm) and \$1,427,100 PR-S under s. 20.255 (2) (kd), Stats., in the 1999-2000 school year; and
- \$4,520,000 GPR under s. 20.255 (2) (dm) and \$1,498,600 PR-S under s. 20.255 (2) (kd), Stats., in the 2000-2001 school year.

The rule establishes criteria and procedures for awarding AODA program grants. The rule, while affecting the grant award and administration processes, would have no net effect on state or local revenues or costs.

## **Initial Regulatory Flexibility Analysis**

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114(1)(a), Stats.

## Notice of Hearing

### Public Instruction

[CR 00-14]

Notice is hereby given that pursuant to ss. 118.43 (6m) and 227.11 (2) (a), Stats., and interpreting s. 118.43, Stats., the department of public instruction will hold a public hearing as follows to consider emergency and proposed permanent rules, relating to state aid for achievement guarantee contracts and aid for debt service. Emergency rules were promulgated by the department effective January 28, 2000. The hearing will be held as follows:

### Hearing Information

March 15, 2000  
3:00 – 4:00 p.m.  
Wednesday

Madison  
GEF 3 Building  
125 South Webster St.  
Room 041

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call David Carlson, Director, School Financial Services, at (608) 266-6968, or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

### Copies of Rule and Contact Person

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

Lori Slauson, Administrative Rules &  
Federal Grants Coordinator  
Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **March 20, 2000**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

### Analysis by the Department of Public Instruction

1999 Wis. Act 9 requires the department to promulgate rules relating to 1) state aid for achievement guarantee contracts and 2) aid for debt service.

#### State Aid for Achievement Guarantee Contracts:

Beginning in the 2000-01 school year, the school board of an eligible school district may enter into a 5-year achievement guarantee contract with the department on behalf of one or more schools excluding those that already have such contracts, that are participating in the preschool through grade 5 program under s. 115.45, Stats., or that are in districts that were eligible to participate in 1996-97 and 1998-99 but did not. In the 2000-01 school year, the department is required to calculate and pay aid to schools participating in the program under s. 118.43 (3) (a) and (am), Stats., before making payments to schools that have contracts under s. 118.43 (3) (ar), Stats. The aid amount must equal \$2,000 multiplied by the number of low-income pupils enrolled in the grades eligible for funding in each school. In making payments to districts on behalf of schools with contracts under s. 118.43 (3) (ar), Stats., the department is required to give priority to schools that have the highest percentage of low-income enrollment. The department is

also required to ensure that it fully distributes the amount of aid appropriated. The rules set forth criteria and procedures for accepting and approving contracts, collecting data and paying aid.

#### Partial Debt Service Reimbursement:

Beginning in the 2000-01 school year, a school district is eligible to receive an amount equal to 20% of the annual debt service cost on bonds issued to fulfill a SAGE contract. The rules establish criteria and procedures for SAGE school districts to receive partial debt service reimbursement.

### Fiscal Estimate

#### State Aid for Achievement Guarantee Contracts:

Under s. 20.255 (2) (cu) and (cv), Stats., 1999 Wisconsin Act 9 appropriated \$18,484,000 in 1999-2000 and \$58,754,600 in 2000-2001 for the department to pay aid to schools participating in the SAGE program. As required by the Act, the rule establishes criteria and procedures for paying state aid for achievement guarantee contracts. The department will pay an amount equal to \$2,000 per low-income pupil enrolled in the participating schools. In making these payments for schools covered by contracts under s. 118.43 (3) (ar), Stats., the department shall give priority to schools that have the highest percentage of low-income pupil enrollment and shall ensure that it fully distributes the amount appropriated.

Since the Act did not allocate staff resources to administer the program, the department is reallocating limited state and federal funds for this purpose. The rules will have no fiscal effect on local governments or small businesses.

#### Partial Debt Service Reimbursement:

Under s. 20.255 (2) (cs), Stats., 1999 Wisconsin Act 9 appropriated \$3,000,000 in 2000-01 for the department to pay to SAGE school districts an amount equal to 20% of the annual debt service cost on bonds issued to fulfill a SAGE contract. As required by the Act, the rule establishes criteria and procedures for SAGE school districts to receive partial debt service reimbursement.

It is assumed that there will be additional costs to the department to administer this program. It is expected that these costs will be absorbed by the agency. The rules will have no fiscal effect on local governments or small businesses.

### Initial Regulatory Flexibility Analysis

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114(1)(a), Stats.

## Notice of Hearing

### Public Instruction

[CR 00-13]

Notice is hereby given that pursuant to ss. 115.435 (3) and 227.11 (2) (a), Stats., and interpreting s. 115.435, Stats., the department of public instruction will hold a public hearing as follows to consider emergency and proposed permanent rules, relating to supplemental aid for school districts with a large area. Emergency rules were promulgated by the department effective January 28, 2000. The hearing will be held as follows:

### Hearing Information

March 15, 2000  
Wednesday  
2:00 – 3:00 p.m.

Madison  
GEF 3 Building  
125 South Webster St.  
Room 041

The hearing site is fully accessible to people with disabilities. If you require reasonable accommodation to access any meeting, please call David Carlson, Director, School Financial Services, at (608) 266-6968, or leave a message with the Teletypewriter (TTY) at (608) 267-2427 at least 10 days prior to the hearing date. Reasonable accommodation includes materials prepared in an alternative format, as provided under the Americans with Disabilities Act.

### **Copies of Rule and Contact Person**

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

Lori Slauson, Administrative Rules &  
Federal Grants Coordinator  
Department of Public Instruction  
125 South Webster Street  
P.O. Box 7841  
Madison, WI 53707

Written comments on the proposed rules received by Ms. Slauson at the above address no later than **March 20, 2000**, will be given the same consideration as testimony presented at the hearing. Comments submitted via email will not be accepted as formal testimony.

### **Analysis by the Department of Public Instruction**

1999 Wisconsin Act 9 created a grant to supplement aid under s. 121.08, Stats., to school districts that meet the following requirements:

1. The school district had an enrollment in the previous school year of fewer than 500 pupils.
2. The school district is at least 200 square miles in area.
3. At least 65% of the real property in the school district is exempt from taxation under s. 70.11, Stats., owned by or held in trust for a federally recognized American Indian tribe or owned by the federal government.

The department shall award \$350 for each pupil enrolled in an eligible school district that can verify through the clerks of municipalities in which the school district is located that it meets the criteria under 2 and 3. The department shall verify that the school district is eligible under 1. If the appropriation under s. 20.255 (2) (ad), Stats., is insufficient to pay the full amount, the funds shall be prorated among the entitled school districts.

The Act appropriated \$125,000 beginning in the 1999–2000 school year. Since the timelines are too stringent to implement this grant program by the statutory October 15, 1999 date, the department is requiring applications to be submitted by April 3, 2000 and annually thereafter by October 15.

### **Fiscal Estimate**

Under s. 20.255 (2) (ad), Stats., 1999 Wisconsin Act 9 appropriated \$125,000 in the 1999–2000 and 2000–2001 school year for the department to award supplemental aid to school districts meeting specific criteria. As required by the Act, the rule establishes criteria and procedures for awarding supplemental aid to eligible school districts. The department shall award \$350 for each pupil enrolled in the district. If the funds appropriated for the program are insufficient, the funds shall be prorated among the entitled school districts. The rules will have no fiscal effect on local governments or small businesses.

It is assumed that there will be additional costs to the department to administer this program. It is expected that these costs will be absorbed by the agency.

### **Initial Regulatory Flexibility Analysis**

The proposed rules are not anticipated to have a fiscal effect on small businesses as defined under s. 227.114(1)(a), Stats.

## **Notice of Hearing**

### **Workforce Development (Prevailing Wage Rates, Chs. DWD 290–294) [CR 00–24]**

Notice is hereby given that pursuant to ss. 66.293 (5) and 103.49 (3g), Stats., the Department of Workforce Development proposes to hold a public hearing to consider the amendment of 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.

### **Hearing Information**

<u>Date &amp; Time</u>	<u>Location</u>
February 28, 2000 Monday 1:30 p.m.	Room 400X GEF #1 Bldg. 201 East Washington Ave. MADISON, WI

Interested persons are invited to appear at the hearings and will be afforded the opportunity to make an oral presentation of their positions. Persons making oral presentations are requested to submit their facts, views, and suggested rewording in writing.

An accessible entrance to the building is available via a ramp from the corner of Washington Avenue and Webster Street to the Webster Street door. If you have special needs or circumstances that may make communication or accessibility difficult at the hearing, please call (608) 267–9403 at least 10 days prior to the hearing date. Accommodations such as ASL interpreters, English translators, or materials in audiotape format will be made available on request to the fullest extent possible.

### **Analysis Prepared by the Dept. of Workforce Development**

Statutory authority for rule: ss. 66.293 (5) and 103.49 (3g)

Statutes interpreted: ss. 66.293 (5) and 103.49 (3g)

The Wisconsin Department of Workforce Development proposes an order to amend 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.

The state prevailing wage 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 the current 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 only one trade) whose estimated cost is below \$33,000, and it does not apply to any “multi–trade public works project” whose estimated cost is below \$164,000.

Under ss. 66.293 (5) and 103.49 (3g), Stats., and s. DWD 290.15, the Department is required to adjust the dollar amounts of the thresholds each year in proportion to any change in construction costs since the thresholds were last determined. The proposed rule changes the thresholds 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.

### **Text of Rule**

**SECTION 1.** DWD 290.155 is amended to read:

**DWD 290.155 Minimum estimated project costs.** This chapter does not apply to any single–trade public works project for which the estimated cost of completion is below ~~\$33,000~~ \$34,000, and any multi–trade public works project for which the estimated cost of completion is below ~~\$164,000~~ \$168,000.

**Initial Regulatory Flexibility Analysis**

The proposed rule does not affect small business.

**Fiscal Estimate**

Under the proposed rule, a state or local government with a public works project that costs more than \$33,000 but less than \$34,000 for a single-trade project or more than \$164,000 but less than \$168,000 for a multi-trade project will not be covered by the prevailing wage requirement.

**Contact Information**

For substantive questions concerning the proposed rule, call:

Patricia Hewitt  
Construction Wage Standards Section Chief  
Telephone (608) 266-6469

**Written Comments**

Written comments on the proposed rules received at the following address no later than **Friday, March 3, 2000**, will be given the same consideration as testimony presented at the hearing.

Elaine Pridgen  
Office of Legal Counsel  
Dept. of Workforce Development  
P.O. Box 7946  
Madison, WI 53707-7946

Telephone (608) 267-9403

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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.*

**Controlled Substances Board (CR 99-125):**

S. CSB 2.25 – Relating to the scheduling of certain drugs under ch. 961, Stats., the Uniform Controlled Substances Act.

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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.*

**Health and Family Services (CR 99-56):**

An order affecting ch. HFS 145, relating to control of communicable diseases.

Effective 04-01-00.

**Medical Examining Board (CR 99-128):**

An order affecting ss. Med 1.06, 1.08, 2.02 and 2.04 , relating to computer-based examinations.

Effective 04-01-00.

**Natural Resources (CR 98-161):**

An order affecting ch. NR 5, relating to boating enforcement and education.

Effective 04-01-00.

**Natural Resources (CR 99-45):**

An order affecting ss. NR 439.06, 439.07 and 484.04, relating to volatile organic compound (VOC) capture efficiency test methods.

Effective 04-01-00.

**Natural Resources (CR 99-67):**

An order affecting chs. NR 460 and 466 and s. NR 484.04, relating to national emission standards for hazardous air pollutants for the printing and publishing industry.

Effective 04-01-00.

**Natural Resources (CR 99-96):**

An order affecting s. NR 20.12, relating to the marking and tagging of set or bank poles in inland waters.

Effective 03-01-00.

**Natural Resources (CR 99-108):**

An order amending ss. NR 140.10 and 140.28, relating to groundwater quality standards.

Effective 04-01-00.

**Social Workers, Marriage and Family Therapists and Professional Counselors Examining Board (CR 99-2):**

An order affecting s. SFC 3.13, relating to criteria for approval of "another human service program approved by the section" for eligibility for a social worker training certificate and supervision of training certificate holders.

Effective 03-01-00.

**Veterinary Examining Board (CR 99-127):**

An order affecting ss. VE 2.01 and 3.03 , relating to computerized examinations.

Effective 04-01-00.

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