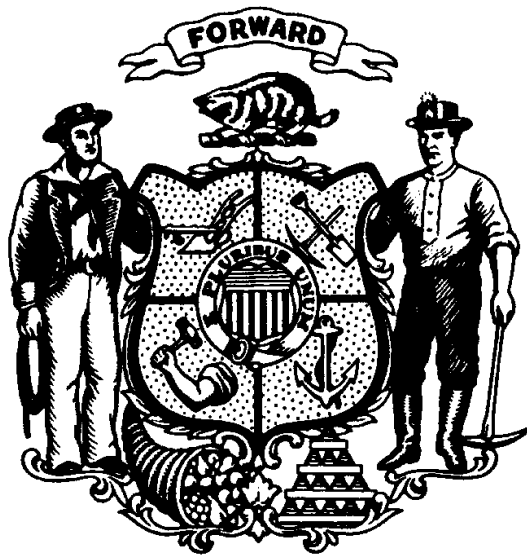


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EMERGENCY RULES NOW IN EFFECT

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

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

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

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

EMERGENCY RULES NOW IN EFFECT (4)

Agriculture, Trade & Consumer Protection

1. Rules adopted revising s. **ATCP 11.20** and creating ss. **ATCP 11.01(11m)** and **11.73**, relating to swine import and required tests.

Finding of Emergency

The state of Wisconsin department of agriculture, trade and consumer protection (department) finds that an emergency exists and that an emergency rule is necessary to protect public health, safety and welfare. The facts constituting the emergency are as follows:

- Pseudorabies is a highly contagious disease of swine and other livestock. Wisconsin initiated its pseudorabies program in 1976. Since that time, the department has worked diligently, pork producers have sacrificed significantly and the state has paid substantial costs to eradicate the disease. In 1997, the National Pseudorabies Control Board recognized Wisconsin as a pseudorabies stage IV state. If there are no incidents of pseudorabies in the state before October, 2000, the state will be classified as a pseudorabies stage V state (free of the disease) at that time. Classification as a pseudorabies stage IV or V state creates significant benefits in the swine export market.

- There has been a significant increase in pseudorabies cases reported in several pseudorabies stage II and III states. In the past, Wisconsin pork producers have imported many swine from the pseudorabies stage II and III states which are now experiencing an increase in pseudorabies.

- If pseudorabies spreads to Wisconsin, the Wisconsin pork industry will be hampered in its ability to produce and export swine and pork products.

- The increased prevalence of pseudorabies in states from which Wisconsin import shipments originate creates a substantial threat to the pork industry in Wisconsin. The department finds that an emergency rule is needed to minimize the threat of pseudorabies.

Publication Date: May 25, 2000
Effective Date: May 25, 2000
Expiration Date: October 22, 2000
Hearing Date: June 29, 2000

2. Rule adopted amending s. **ATCP 74.08(1)**, relating to fees required of agent cities and counties that license and inspect retail food establishments.

Finding of Emergency

The Department of Agriculture, Trade and Consumer Protection (“department”) finds that an emergency rule is necessary to promote

the public welfare, and prevent unnecessary economic hardship on cities and counties that license and inspect retail food establishments for the department. The facts constituting the emergency are as follows:

- (1) The department licenses and inspects retail food establishments under s. 97.30, Stats. Under s. 97.41, Stats., the department may enter into an agreement with a city or county, under which the city or county licenses and inspects retail food establishments for the department. The department monitors and assists the agent city or county. From the license fees that it collects, an agent city or county must pay the department an annual fee to cover the department’s costs. The department sets the fee by rule.

- (2) By rule, the department establishes license fees for retail food establishments that it licenses directly. An agent city or county may charge a license fee that differs from the state license fee established by the department.

- (3) Under current rules, an agent city or county must pay the department an annual fee, for each retail food establishment, that is equal to 20% of the license fee that the department would charge if it licensed the establishment directly.

- (4) Effective February 1, 1998; the department increased license fees for retail food establishments that it licenses. The fee increase was caused, in part, by a legislative budget change that required the department to recover 60% (rather than 50%) of its program costs from license fees. The fee change approximately doubled the department’s license fees, increasing the maximum retail food license fee from \$210 to \$450 and the minimum fee from \$42 to \$90.

- (5) The department’s 1998 license fee increase incidentally increased the annual fees that agent cities were required to pay to the department, beginning with the license year ending June 30, 1999. As a result of the department’s license fee increase, agent cities and counties were required to pay the department 20% of the increased license fee amounts. This change effectively doubled city and county fee payments to the department and imposed a serious financial burden on those city and county governments. The increased fee payments also exceeded the amounts needed to cover the department’s costs under agent city and agent county agreements.

- (6) In order to reduce the financial burden on local governments and eliminate the department’s surplus receipts, it is necessary to reduce the agent city and county percentage fee payment from 20% to 10% beginning with the license year that ends June 30, 2000. The public welfare necessitates that the department make this rule change by June 30, 2000. However, it is not possible to make this rule change by June 30 using normal rulemaking procedures. The department is, therefore, adopting this rule change by emergency rule, pending adoption by normal rulemaking procedures.

Publication Date: June 30, 2000
Effective Date: July 1, 2000
Expiration Date: November 29, 2000

3. Rules adopted creating ss. **ATCP 10.21(1m)** and **10.63(1m)** relating to an implied warranty that cattle and goats are free of paratuberculosis (also known as Johne’s disease).

Finding of Emergency

- (1) Paratuberculosis, also known as Johne’s disease, is an infectious and communicable disease of cattle and goats. The disease is slow to develop, and an infected animal may go for years without showing symptoms. An infected animal, which is free of symptoms at the time of sale, may spread the disease to a buyer’s herd. The disease has a serious impact on milk production, and is ultimately fatal to infected animals.

(2) 1989 Wis. Act 277 established a Johne’s disease “implied warranty” in the sale of cattle and goats. Under the “implied warranty” law, s. 95.195, Stats., a seller implicitly warrants to a buyer that cattle and goats are free of Johne’s disease *unless* the seller complies with certain testing and disclosure requirements. If cattle or goats are infected with Johne’s disease at the time of sale, and the seller has *not* complied with applicable testing and disclosure requirements, the buyer may sue the seller for damages under the “implied warranty.”

(3) The “implied warranty” law protects buyers of cattle and goats, and gives sellers an incentive to test their animals for Johne’s disease. A seller may avoid the “implied warranty” by testing and disclosing. Testing is important for the ultimate control of this serious disease.

(4) 1999 Wis. Act 160 changed the “implied warranty” law, effective July 1, 2000. It changed prior testing and disclosure requirements to make the law more effective and workable. It also authorized the department of agriculture, trade and consumer protection (“DATCP”) to cover *other* diseases and animal species by rule. DATCP must implement the new law by rule. The “implied warranty” no longer applies to *any* animals or diseases (including Johne’s disease) unless DATCP identifies those animals and diseases by rule.

(5) DATCP, the livestock industry and the Legislature intended that the new law would apply, at a minimum, to Johne’s disease in cattle and goats. The Legislature, in a related action, appropriated \$100,000 in grant funds to help herd owners pay for Johne’s disease testing in FY 2000–2001. DATCP has also adopted new Johne’s disease rules for cattle and goats, in anticipation of the July 1, 2000 effective date of the new law. The new rules, contained in ss. 10.21 and 10.63, Wis. Adm. Code, clearly indicate DATCP’s understanding and intent that the new law would apply to Johne’s disease in cattle and goats. However, the new rules are technically flawed, in that they fail to state *explicitly* that the new law applies to Johne’s disease in cattle and goats. This emergency rule remedies that technical flaw on a temporary basis, pending the adoption of “permanent” remedial rules.

(6) This emergency rule is needed to resolve any possible challenge or uncertainty related to the coverage of the new “implied warranty” law. This emergency rule clarifies that the “implied warranty” law applies to Johne’s disease in cattle and goats. This emergency rule is needed to protect the public peace, health, safety and welfare. This emergency rule will help to control a serious disease of cattle and goats, will protect buyers of cattle and goats, will promote certainty in commercial transactions, and will prevent unnecessary litigation related to the applicability of the “implied warranty” law.

Publication Date: June 30, 2000
Effective Date: July 1, 2000
Expiration Date: November 29, 2000
Hearing Date: July 27, 2000

4. Rule adopted repealing s. ATCP 134.06 (3) (c) note and creating s. ATCP 134.06 (3) (d), relating to residential rental practices.

Exemption From Finding of Emergency

On June 21, 2000, the Legislature’s Joint Committee for Review of Administrative Rules (JCRAR) found that the “note” to s. ATCP 134.06 (3) (c) is actually a rule and directed DATCP to adopt the “note” as an emergency rule. According to s. 227.26 (2) (b), Stats., DATCP must promulgate the emergency rule under s. 227.24 (1) (a), Stats., within 30 days after the JCRAR directs DATCP to do so. Because the JCRAR has directed DATCP to adopt this emergency rule, DATCP is not required to make any other finding of emergency.

Analysis prepared by the Department of Agriculture, Trade and Consumer Protection

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers state landlord–tenant rules contained in ch. ATCP 134, Wis. Adm. Code. These rules affect over 1.5 million Wisconsin residents.

This emergency rule modifies current residential rental practices rules related to security deposit withholding. Under current rules, a landlord may not withhold a security deposit for normal wear and tear, or for other damages or losses for which the tenant cannot reasonably be held responsible. A “note” to s. ATCP 134.06 (3) (c) also states that a landlord may not withhold from a tenant’s security deposit for routine painting or carpet cleaning, where there is no unusual damage caused by tenant neglect.

Publication Date: July 20, 2000
Effective Date: July 20, 2000
Expiration Date: December 18, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Commerce

(PECFA – Chs. Comm 46–47)

1. 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 (See section 9110 (3yu) 1999 Wis. Act. 9)

Analysis prepared by the Department of Commerce

Statutory authority: ss. 227.11 (2)(a) and 227.24 and s. 9110 (3yu)(b) of 1999 Wis. Act 9.

Statutes interpreted: ss. 101.143, 101.144, 292.11, and 292.31 and ch. 160

The proposed ch. Comm 46 is identical to ch. NR 746 that is being promulgated by the Department of Natural Resources.

Chapter Comm 46 provides that the Department of Natural Resources has authority for “high–risk sites” and that the Department of Commerce has authority for “low and medium risk sites.” The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a “high–risk site” or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter Comm 46 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum–contaminated site.
4. Tracking the achievement of remediation progress and success.

5. Reporting of program activities.

Publication Date: May 17, 2000
Effective Date: May 18, 2000
Expiration Date: September 1, 2000
Hearing Dates: June 15, July 10 & 12, 2000

2. Rules adopted amending s. **Comm 47.53**, relating to appeals of decisions issued under the Petroleum Environmental Cleanup Act (PECFA) program.

Finding of Emergency

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

The department is receiving funds from a bonding initiative to enable it to issue approximately 3,500 decisions on applications for PECFA funding which had been awaiting the availability of funding. Because these decisions will be issued over a very short time frame, parties receiving decisions and law firms representing them, will be required to review and analyze a large volume of decisions to determine whether they wish to appeal specific departmental decisions. Given the large number of decisions and the normal rate of appeals, it is reasonable to expect that the public will be required to prepare and file a large volume of appeals within a short time period. Attorneys, lenders and consultants representing multiple claimants have expressed concern about the workload associated with having to review decisions and draft appeals on the higher volume of decisions issued by the department within the current 30 day window. The emergency rule temporarily expands the filing period from 30 days to 90 days to provide additional time to evaluate decisions and determine whether an appeal should be filed. The rule covers the time period when the highest volume of decisions are to be issued.

Publication Date: February 15, 2000
Effective Date: February 15, 2000
Expiration Date: July 14, 2000
Hearing Date: March, 27, 2000
Extension Through: September 11, 2000

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 Employee Trust Funds, Employee 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 employees 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 employees, by enhancing employee morale, by providing for the orderly and humane departure from service of employees 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 Employee Trust Funds estimates that up to 7,000 public employees 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. Act 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 Employee Trust Funds, Employee 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
Extension Through: September 25, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Health & Family Services

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

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

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:

Since October 1, 1998, the Department has been implementing ss. 48.685 and 50.065, Stats., effective on that date, that require use of uniform procedures to check the backgrounds of persons who apply to the Department for regulatory approval, 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 direct the regulatory agencies and regulated entities to bar persons, temporarily or permanently, depending on the conviction or finding, who have in their backgrounds a specified conviction or finding 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 from otherwise having contact with the clients of a service provider.

To implement the new Caregiver Law, the Department on October 1, 1998, published administrative rules, ch. HFS 12, Wis. Adm. Code, by emergency order. 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. On September 12, 1999, the Department issued another emergency order again modifying ch. HFS 12, but only the Crimes List and not the text of the chapter. The number of specified crimes was reduced to 79, with 6 of them, all taken from ss. 48.685 and 50.065, Stats., being crimes that permanently barred persons for all programs. The change to the ch. HFS 12 Crimes List was made at that time because the 1999–2001 Budget Bill, subsequently passed by the Legislature as 1999 Wisconsin Act 9, was expected to provide for a more modest list of crimes than the one that was appended to ch. HFS 12. The more modest crimes list published by an emergency rulemaking order on September 12, 1999 reflected the Legislature's intent that some persons who under the previous rules would lose their jobs effective October 1, 1999, were able to keep their jobs.

The 1999–2001 Biennial Budget Act, 1999 Wisconsin Act 9, made several changes to ss. 48.685 and 50.065, Stats., the Caregiver Law. These changes were effective on October 29, 1999. The Department's current rules, effective July 1, 1999, as amended on September 16, 1999, have been in large part made obsolete by those statutory changes. Consequently, the Department through this order is repealing and recreating ch. HFS 12 to bring its rules for operation of the Caregiver Law into conformity with the revised statutes. This is being done as quickly as possible by emergency order to remove public confusion resulting from administrative rules, which have been widely relied upon by the public for understanding the operation of the Caregiver Law, that are now in conflict with current statutes.

The revised rules minimize repetition of ss. 48.685 and 50.065, Stats., and are designed to supplement those statutes by providing guidance on:

- Sanctions associated with the acts committed under the Caregiver Law;
- Determining whether an offense is substantially related to client care;
- Reporting responsibilities; and
- The conduct of rehabilitation review.

Publication Date: February 12, 2000

Effective Date: February 13, 2000

Expiration Date: July 12, 2000

Hearing Date: April 13, 2000

Extension Through: August 31, 2000

2. Rules adopted creating **ch. HFS 10**, relating to family care.

Exemption From Finding of Emergency

The Legislature in s. 9123 (1) of 1999 Wis. Act 9 directed the Department to promulgate rules required under ss. 46.286 (4) to (7), 46.288 (1) to (3) and 50.02 (2) (d), Stats., as created by 1999 Wis. Act 9, but exempted the Department from the requirement under s. 227.24 (1) and (3), Stats., to make a finding of emergency.

Analysis Prepared by the Department of Health and Family Services

Legislation establishing a flexible Family Care benefit to help arrange or finance long–term care services to older people and adults with physical or developmental disabilities was enacted as part of 1999 Wis. Act 9. The benefit is an entitlement for those who meet established criteria. It may be accessed only through enrollment in Care Management Organizations (CMOs) that meet requirements specified in the legislation.

The Act also authorizes the Department of Health and Family Services to contract with Aging and Disability Resource Centers to provide broad information and assistance services, long–term care counseling, determinations of functional and financial eligibility for the Family Care benefit, assistance in enrolling in a Care Management Organization if the person chooses to do so, and eligibility determination for certain other benefits, including Medicaid, and other services.

Until July 1, 2001, the Department of Health and Family Services is authorized to contract with CMOs and Resource Centers in pilot counties to serve up to 29% of the state's eligible population. Further expansion is possible only with the explicit authorization of the Governor and the Legislature.

When Aging and Disability Resource Centers become available in a county, the legislation requires nursing homes, community–based residential facilities, adult family homes and residential care apartment complexes to provide certain information to prospective residents and to refer them to the Resource Center. Penalties are provided for non–compliance.

These proposed rules interpret this new legislation, the main body of which is in newly enacted ss. 46.2805 to 46.2895, Stats. The Department of Health and Family Services is specifically directed to promulgate rules by ss. 46.286 (4) to (7), 46.288 (1) to (3), 50.02 (2) (d) and 50.36 (2) (c), Stats. Non–statutory provisions in section 9123 of 1999 Wis. Act 9 require that the rules are to be promulgated using emergency rulemaking procedures and exempts the Department from the requirements under s. 227.24 (1) (a), (2) (b) and (3) of the Stats., to make a finding of emergency. These are the rules required under the provisions cited above, together with related rules intended to clarify and implement other provisions of the Family Care legislation that are within the scope of the Department's authority. The rules address the following:

- Contracting procedures and performance standards for Aging and Disability Resource Centers.
- Application procedures and eligibility and entitlement criteria for the Family Care benefit.
- Description of the Family Care benefit that provides a wide range of long–term care services.
- Certification and contracting procedures for Care Management Organizations.
- Certification and performance standards and operational requirements for CMOs.
- Protection of client rights, including notification and due process requirements, complaint, grievance, Department review, and fair hearing processes.
- Recovery of incorrectly and correctly paid benefits.
- Requirements of hospitals, long–term care facilities and Resource Centers related to referral and counseling about long–term care options.

Publication Date: February 1, 2000

Effective Date: February 1, 2000

Expiration Date: June 30, 2000

Hearing Dates: April 25, & 27, May 2, 4 & 8, 2000

Extension Through: August 28, 2000

EMERGENCY RULES NOW IN EFFECT**Health & Family Services****(Medical Assistance, Chs. HFS 101–108)**

Rules adopted revising **chs. HFS 102, 103 and 108**, relating to the medicaid purchase plan.

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 the manner in which a new program called the Medicaid Purchase Plan, established under s. 49.472, Stats., as created by 1999 Wis. Act 9, will operate. Under the Medicaid Purchase Plan, working adults with disabilities whose family net income is less than 250% of the poverty line are eligible to purchase Medical Assistance, the name given to Medicaid in Wisconsin, on a sliding–fee scale. The order incorporates the rules for operation of the Medicaid Purchase Plan into chs. HFS 101 to 103 and 108, four of the Department’s chapters of rules for operation of the Medical Assistance program.

The Medicaid Purchase Plan is projected to provide health care coverage to 1,200 Wisconsin residents with disabilities by the end of Fiscal Year 2001.

Health care coverage under the Medicaid Purchase Plan is identical to the comprehensive package of services provided by Medical Assistance. Individuals enrolled in the Medicaid Purchase Plan would also be eligible for Wisconsin’s home and community–based waivers under s. 46.27, Stats., provided they meet the functional criteria for these waivers.

Department rules for the operation of the Medicaid Purchase Plan must be in effect before the Medicaid Purchase Plan may begin. The program statute, s. 49.472, Stats., as created by Act 9, effective October 27, 1999, states that the Department is to implement the Medical Assistance eligibility expansion under this section not later than January 1, 2000, or 3 months after full federal approval, whichever is later. Full federal approval was received on January 7, 2000. The Department is publishing the rules by emergency order with an effective date of March 15, 2000 to meet the expected program implementation date and the legislative intent in order to provide health care coverage as quickly as possible to working people with disabilities.

The rules created and amended by this order modify the current Medical Assistance rules to accommodate the Medicaid Purchase Plan and in the process provide more specificity than s. 49.472, Stats., as created by Act 9, regarding the non–financial and financial conditions of eligibility for individuals under the Medicaid Purchase Plan; define whose income is used when determining eligibility and the monthly premium amount; explain statutory conditions for continuing eligibility; explain how the monthly premium amount is calculated; describe the processes associated with the independence account; and set forth how the Department, in addition to providing Medical Assistance coverage, is to purchase group health coverage offered by the employer of an eligible individual or an ineligible family member of an eligible member for the Medicaid Purchase Plan if the Department determines that purchasing that coverage would not cost more than providing Medical Assistance coverage.

Publication Date: March 15, 2000
Effective Date: March 15, 2000
Expiration Date: August 12, 2000
Hearing Dates: June 15, 16, 19 & 20, 2000
Extension Through: October 10, 2000

EMERGENCY RULES NOW IN EFFECT**Health & Family Services****(Health, Chs. HFS 110–)**

Rules adopted revising **ch. HFS 119**, relating to the Health Insurance Risk–Sharing Plan (HIRSP).

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. Department staff consulted with the Health Insurance Risk–Sharing Plan (HIRSP) Board of Governors on April 26, 2000 on the rules, as required by s. 149.20, Stats.

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. HIRSP offers different types of medical care coverage plans for residents.

One type of medical coverage provided by HIRSP is the Major Medical Plan. This type of coverage is called Plan 1. Eighty–four percent of the 8,427 HIRSP policies in effect in March 2000, were of the Plan 1 type. Plan 1 has Option A (\$1,000 deductible) or Option B (\$2,500 deductible). The rate increases for Plan 1 contained in this rulemaking order increase an average of 12.4%. Rate increases for specific policyholders range from 3.5% to 15.0%, depending on a policyholder’s age, gender, household income, deductible and zone of residence within Wisconsin. This increase reflects industry–wide premium increases and takes into account the increase in costs associated with Plan 1 claims. According to state law, HIRSP premiums cannot be less than 150% of the amount an individual would be charged for a comparable policy in the private market. The average 12.4% rate increase for Plan 1 is the minimum increase necessary to maintain premiums at the lowest level permitted by law.

A second type of medical coverage provided by HIRSP is supplemental coverage for persons eligible for Medicare. This type of coverage is called Plan 2. Plan 2 has a \$500 deductible. Sixteen percent of the 8,427 HIRSP policies in effect in March 2000, were of the Plan 2 type. The rate increases for Plan 2 contained in this rulemaking order increase an average of 18.2%. Rate increases for specific policyholders range from 7.5% to 21%, depending on a policyholder’s age, gender, household income and zone of residence within Wisconsin. These rate increases reflect industry–wide cost increases and adjust premiums to a level that more accurately reflects actual claim costs for Plan 2 policyholders.

The Department through this rulemaking order is amending ch. HFS 119 in order to update HIRSP premium rates in accordance with the authority and requirements set out in s. 149.143 (3) (a), Stats. The Department is required to set premium rates by rule. HIRSP premium rates must be calculated in accordance with generally accepted actuarial principles. Policyholders are to pay 60% of the costs of HIRSP.

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 1999. The Board of Governors approved a 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, 2000. The total annual

contribution to the HIRSP budget provided by an adjustment to the provider payment rates is \$10,119,482. The total annual contribution to the HIRSP budget provided by an assessment on insurers is \$9,898,358. On April 26, 2000, the HIRSP Board of Governors approved the calendar year 1999 reconciliation process and the HIRSP budget for the plan year July 1, 2000 through June 30, 2001.

Publication Date: June 30, 2000
Effective Date: July 1, 2000
Expiration Date: November 29, 2000

EMERGENCY RULES NOW IN EFFECT

Insurance

Rules were adopted revising **ch. Ins 17**, relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2000.

Finding of Emergency

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

Actuarial and accounting data necessary to establish PCF fees is first available in January of each year. It is not possible to complete the permanent fee rule process in time for the patients compensation fund (fund) to bill health care providers in a timely manner for fees applicable to the fiscal year beginning July 1, 2000.

The commissioner expects that the permanent rule corresponding to this emergency rule, clearinghouse No. 00–061, will be filed with the secretary of state in time to take effect September 1, 2000. Because the fund fee provisions of this rule first apply on July 1, 2000, it is necessary to promulgate the rule on an emergency basis. A hearing on the permanent rule, pursuant to published notice thereof, was held on May 5, 2000.

Publication Date: May 22, 2000
Effective Date: July 1, 2000
Expiration Date: November 28, 2000
Hearing Date: August 29, 2000

EMERGENCY RULES NOW IN EFFECT

Natural Resources

(Fish, Game, etc., Chs. NR 1–)

Rules adopted revising **ch. NR 10**, relating to deer hunting in certain deer management units.

Finding of Emergency

The emergency rule procedure, pursuant to s. 227.24, Stats., is necessary and justified in establishing rules to protect the public welfare. This emergency rule is needed to control deer populations that are significantly over goal levels in order to prevent substantial deer damage to agricultural lands and forest resources, and to minimize deer nuisance problems, thereby protecting the public peace, health, safety and welfare. Normal rule-making procedures will not allow the establishment of these changes by August 1. Failure to modify the rules will result in excessively high deer populations well above established goal levels, causing substantial

deer damage to agricultural lands and forest resources, and potential for disease.

Publication Date: May 15, 2000
Effective Date: August 4, 2000
Expiration Date: January 1, 2001

EMERGENCY RULES NOW IN EFFECT

Natural Resources

(Environmental Protection – General, Chs. NR 100–)

Rules adopted creating **ch. NR 168**, relating to the brownfield site assessment grant program administration.

Finding of Emergency

This rule implements the brownfield site assessment grant program. Created in the 1999–2000 biennial state budget bill (1999 Wisconsin Act 9), the brownfield site assessment grant program provides grants to eligible local governments to cover the costs of brownfield site assessment activities such as: investigating environmental contamination of an eligible site or facility; demolishing structures located on an eligible site; removing certain abandoned containers; abating asbestos as part of demolition activities; removing underground hazardous substance storage tank systems; and removing underground petroleum product storage tank systems. Eligible local governments include cities, villages, towns, counties, redevelopment authorities, community development authorities, and housing authorities. The legislature appropriated \$1.45 million for the 99–01 biennium for these grants. Local governments are required to contribute matching funds as cash or in-kind, or both, equal to 20% of the grant. This rule limits the amount of funds that may be awarded for eligible activities. The rule specifies that 70% of available funds are to be allocated to “small” grants (i.e. a grant award between \$2,000 and \$30,000); and 30% of available funds are to be allocated to “large” grants (i.e. a grant award of more than \$30,000 but not more than \$100,000). Act 9 required that the department promulgate these rules as necessary to administer the program, and directed the department to promulgate them as emergency rules.

Publication Date: July 10, 2000
Effective Date: July 10, 2000
Expiration Date: December 8, 2000

EMERGENCY RULES NOW IN EFFECT

Natural Resources

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

Rules adopted revising **chs. NR 700, 716, 720, 722, 726 and creating ch. NR 746**, relating to site contaminated with petroleum products discharged from petroleum storage tanks.

Exemption From Finding of Emergency (See section 9110 (3yu) 1999 Wis. Act 9)

The proposed ch. NR 746 is identical to ch. Comm 46 that is being promulgated by the Department of Commerce.

Chapter NR 746 provides that the Department of Natural Resources has authority for “high-risk sites” and that the Department of Commerce has authority for “low and medium risk

sites.” The rule requires the Department of Natural Resources to transfer authority for sites with petroleum contamination from petroleum storage tanks to the Department of Commerce once the site is classified, unless the site is classified as a “high–risk site” or the site is contaminated by one or more hazardous substances other than petroleum products discharged from a petroleum storage tank. The rule also establishes procedures for transferring sites from one agency to the other whenever new information relevant to the site classification becomes available.

Chapter NR 746 also provides jointly developed requirements for:

1. Selecting remedial bids and the setting of remediation targets for sites that are competitively bid or bundled with another site or sites.
2. Determining when sites may close.
3. Determining when remediation by natural attenuation may be approved as the final remedial action for a petroleum–contaminated site.
4. Tracking the achievement of remediation progress and success.
5. Reporting of program activities.

The amendments and new provisions that are proposed to be added to chs. NR 700, 716, 720, 722 and 726, as part of this rule package, consist of cross–references to ch. NR 746 that are proposed to be inserted in chs. NR 700, 716 and 726, and exemptions from the requirements in chs. NR 720 and 722 that would conflict with the requirements in ch. NR 746: that is, an exemption from the soil cleanup standards in ch. NR 720 and the remedial action option evaluation requirements in ch. NR 722 for those sites contaminated with petroleum products discharged from petroleum storage tanks that satisfy the risk criteria in s. NR 746.06 and are eligible for closure under s. NR 746.07.

Publication Date: May 17, 2000
Effective Date: May 18, 2000
Expiration Date: September 1, 2000
Hearing Dates: June 15, July 10 & 12, 2000

EMERGENCY RULES NOW IN EFFECT

Public Service Commission

Rules adopted amending s. PSC 116.03(4) and creating s. PSC 116.04(6), relating to the definition of fuel and permissible fuel costs.

Finding of Emergency

In order to preserve the health, safety, and welfare of Wisconsin residential, commercial and industrial ratepayers it is necessary to amend ch. PSC 116 Wis. Adm. Code. Amending the definition of “fuel” in s. PSC 116.03(4) and creating s. PSC 116.04(6) would allow investor–owned utilities the ability to incorporate the cost of voluntary curtailment into the cost of fuel to increase the reliability of electric service in Wisconsin for the summer of 2000 and beyond.

This change would assist in implementing the requirement of 1999 Wis. Act 9, s. 196.192(2)(a), Stats.

Publication Date: June 5, 2000
Effective Date: June 5, 2000
Expiration Date: November 2, 2000

EMERGENCY RULES NOW IN EFFECT

Revenue

Rules were adopted revising ch. WGC 61, relating to the implementation and maintenance of the retailer performance program of the Wisconsin lottery.

Finding of Emergency

The 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 the facts constituting the emergency is:

Sections 565.02 (4)(g) and 565.10 (14)(b)3m., Stats., as created by 1999 Wis. Act 9, provide for the implementation of a retailer performance program, effective January 1, 2000. The program may be implemented only by the promulgation of rules.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. The retailer performance program is being implemented retroactively to January 1, 2000, pursuant to Section 9443 (1) of 1999 Wis. Act 9.

Publication Date: March 3, 2000
Effective Date: March 3, 2000
Expiration Date: July 31, 2000
Hearing Date: May 31, 2000
Extension Through: September 28, 2000

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
Hearing Date: May 1, 2000
Partial Extension Through: August 28, 2000

EMERGENCY RULES NOW IN EFFECT (2)

Transportation

1. 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: July 1, 2000
Hearing Date: February 14, 2000
Extension Through: August 29, 2000

2. Rule adopted creating **s. Trans 4.09 (4)**, relating to cost–efficiency standards for systems participating in the Urban Mass Transit Operating Assistance program.

Finding of Emergency

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

1999 Wis. Act 9 specifies that the Department may not enter into a contract for the payment of state aids until cost–efficiency standards have been incorporated into an administrative rule, which is “in effect” for calendar year 2000 contracts, and unless the contract requires the transit system to comply with those rules as a condition of receiving state aid. The Department is promulgating this emergency rule making so that state aid contracts can be executed prior to the scheduled first quarter payment date (March 31) in calendar year 2000 to ensure that payments are not delayed causing undue hardship to Wisconsin municipalities.

Publication Date: March 23, 2000
Effective Date: March 23, 2000
Expiration Date: August 20, 2000
Hearing Date: April 12, 2000

EMERGENCY RULES NOW IN EFFECT

Workforce Development

(Economic Support, Chs. DWD 11–59)

Rules adopted creating **s. DWD 12.28**, relating to Wisconsin works disregard of year 2000 census income.

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 establish additional eligibility criteria and specify how eligibility criteria are to be administered for the Wisconsin Works (W–2) program. The department is promulgating a rule to exclude income earned from temporary employment with the U.S. Census Bureau in determining W–2 and child care eligibility and child care copayments. The rule will contribute to the welfare of the people of Wisconsin by broadening the pool of available workers to help ensure an accurate Census count, particularly in low–income neighborhoods. The rule must be effective immediately because temporary Census employment is expected to begin April 2000 and last two to six months. DWD will not be seeking a permanent rule on this issue.

Publication Date: April 9, 2000
Effective Date: April 9, 2000
Expiration Date: September 6, 2000
Hearing Date: May 15, 2000

STATEMENTS OF SCOPE OF PROPOSED RULES

Athletic Trainers Affiliated Credentialing Board

Subject:

New Code – Relating to requirements and standards for licensure and practice of licensed athletic trainers.

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

The objective of the rule is to specify:

- The educational, examination, experience and insurance requirements for licensure;
- Minimum requirements for a protocol for the treatment of an athletic injury;
- Approved continuing education; and
- Rules of professional conduct.

Policy analysis:

Implement the provisions of 1999 Wis. Act 9, which created the Athletic Trainers Affiliated Credentialing Board.

Statutory authority:

Sections 15.085 (5) (b) and 227.11 (2), Stats., and ss. 448.953, 448.9525, 448.954, 448.9545, 448.956 and 448.957, Stats., as created by 1999 Wis. Act 9.

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

200 hours.

Insurance, Commissioner of

Subject:

S. Ins 4.01 (2) (e) – Relating to valued property law claims adjudication.

Description of policy issues:*A statement of the objective of the proposed rule:*

These changes will reconcile the rule with the recent Supreme Court decision, Seider vs OCI (case # 98–1223), which voided a paragraph. Other changes to rule may also be considered.

A 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 Supreme Court voided a paragraph so it must be removed.

A statement of the statutory authority for the rule:

Sections 601.41 (5) and 628.34 (12), Stats.

An estimate of the amount of time state employees will spend to develop the rule and a description of other resources necessary to develop the rule:

60 hours.

Insurance, Commissioner of

Subject:

S. Ins 9.50 – Relating to point–of–service requirements in accordance with s. 609.10, Stats.

Description of policy issues:*A statement of the objective of the proposed rule:*

Creation of s. Ins 9.50 is necessary in order to comply with, and implement, 1999 Wis. Act 9 and its requirement that point–of–service plans be offered in accordance with s. 609.10, Stats.

A 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 purpose of the proposed rule is to provide definitions, guidelines and enforcement pertaining to the new requirement of s. 609.10, Stats.

A statement of the statutory authority for the rule:

Sections 601.41 (3), 609.10 (6), and 628.34 (12), Stats.

An estimate of the amount of time state employees will spend to develop the rule and a description of other resources necessary to develop the rule:

60 hours.

Natural Resources

(Environmental Protection—Water Supply, Chs. NR 800—)

Subject:

Ch. NR 809 – Relating to safe drinking water.

Description of policy issues:

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

The DNR needs to begin work to add two new federal regulations to the State Safe Drinking Water Code. The regulations are:

1. Lead and Copper Rule minor revisions.
2. Public Notice rule revisions.

Amendment:

The DNR also needs to revise current definitions in ch. NR 809 to include acronyms where applicable. These revisions will have NO effect on meanings, but will serve to clarify later sections of the rule where acronyms are used.

This rule/Board action does not represent a change from past policy.

Explain the facts that necessitate the proposed change:

USEPA has issued revisions to existing Lead and Copper regulations and Public Notice regulations. The Department must adopt these revisions to maintain primacy for implementation of the Safe Drinking Water regulations in Wisconsin.

The Legislative Council Staff requires acronyms to be included in definitions of terms in rules.

This rule/Board action does not represent an opportunity for pollution prevention and/or waste minimization. It is an adoption of federal requirements that do not include or allow for pollution prevention.

Statutory authority:

40 CFR Parts 141, 142 and 143. State authority resides in sections 227.11 and 281.17 (8), Stats.

Anticipated time commitment:

The anticipated time commitment is 346 hours. Five public hearings are proposed to be held in February 2001 or later. There will be one hearing in each DNR region.

Regulation and Licensing

Subject:

Chs. RL 90, 91 and 92 – Relating to revision of rules to conform to current statute and rule requirements for registration and practice as a registered massage therapist or bodyworker.

Description of policy issues:

Objective of the rule:

The objective of the rule is to specify the current educational and examination requirements.

Policy analysis:

To implement the provisions of 1999 Wis. Act 98. The proposed revisions to chs. RL 90, 91 and 92 are necessary to implement legislation amending s. 440.982 (1) (b), Stats. The proposed amended rules in part modify the meaning and effect of an approved course of instruction to reflect the ability of the Department to approve courses of instruction meeting the minimum requirements set forth in s. RL 92.01 (5). Additional proposed amendments remove references to time deadlines that no longer apply to requirements for registration, and renumber those remaining sections where affected. One proposed amendment corrects a typographical error.

Statutory authority:

Section 227.11 (2), Stats., and s. 440.982 (1) (b), Stats., as amended by 1999 Wis. Act 98.

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

100 hours.

Revenue

Subject:

Ch. WGC 63 – Relating to the Wisconsin Lottery and to the contracting of not–for–profit retailers who sell break–open pull–tab lottery products.

Description of policy issues:

Objectives of the rule:

The objective of this proposed rule is to update the permanent rule authority of the Wisconsin Lottery where not–for–profit retailers are concerned. Current administrative rules are over 9 years old, and contain limitations that are no longer consistent with the feedback expressed by some not–for–profit retailers. The feedback focused on business relationship and customer service they desire from the Lottery.

As indicated in the Prize Payout Report submitted to the Joint Finance Committee in March 2000, the Lottery is reviewing its overall business relationship with not–for–profit retailers. This review covers both the prize payout level offered for pull–tab tickets as well as the administrative and contractual activities that the Lottery performs. The proposed changes are similar in nature to those performed by Regulation & Licensing in November 1990, related to bingo and raffle gaming. In that year, the business relationship with not–for–profits was improved by the updating of administrative rules and contract language for bingo and raffle gaming. The Lottery is proposing changes that are similar to those implemented by Regulation & Licensing.

Policy analysis:

Existing policies are as set forth in the rules. The major aspect of this proposal is a change in the basis of the contractual relationship between the Lottery and not–for–profit retailers. Currently contracts are based on a limited number of events as granted by the Lottery administrator, consistent with administrative rules. This proposal changes the basis of the relationship to that of

contracts awarded based on a pre–approved list of event locations as granted by the administrator, consistent with proposed rules changes. Additional proposed changes include a definition necessary to enforce this new contractual language. These changes are necessary to allow for a significant reduction in paper processing by the Lottery, to allow not–for–profit retailers to develop improved activity planning, and to deter retailers from finding creative ways of circumventing the current administrative code regarding the number of events per year that a single retailer can conduct.

Additionally, this scope proposes language that allows retailers to return unused pull–tab tickets under circumstances to be specified in administrative rule. Currently, the Lottery has little customer service ability to accept returns of sellable pull–tab tickets. The new return policy would allow returns only for defective tickets, incorrectly filled orders, or accidental over–ordering. In the case of incorrectly filled orders or over–ordering the original shipping package must be intact so that ticket security has not been compromised. In the case of defective tickets, standard Lottery security and validation procedures for other Lottery products will be applied to pull–tab ticket returns.

If the rules are not changed, they will be inconsistent with the feedback the Lottery has received from not–for–profit organizations concerning needed improvements in Lottery customer service and contract relations. Additionally, the increased sales expected from future prize payout increases as reported to the JFC will likely be lessened if these proposed changes are not completed.

Statutory authority:

Sections 565.10 and 565.12, Stats.

Estimate of staff time required:

The Department estimates it will take approximately 80 hours to develop this rule order.

Transportation

Subject:

Ch. Trans 4 – Relating to establishing cost–efficiency standards for all transit systems participating in the state aid program.

Description of policy issues:

Description of the objective of the rule:

Chapter Trans 4 establishes the Department’s administrative interpretation of s. 85.20, Stats., and prescribes the administrative policies and procedures for implementing the State Urban Mass Transit Operating Assistance Program. The purpose of this rule making is to establish cost–efficiency standards for all transit systems participating in the state aid program, as required by 1999 Wis. Act 9.

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:

Under current policy, there are several cost–efficiency measures which have been created to assess transit system performance. These were formulated as an outgrowth of the Transit Advisory Council in 1997. 1999 Wis. Act 9 prohibits the Department from entering into contracts to distribute state aid until cost–efficiency standards have been incorporated into an administrative rule.

Statutory authority for the rule:

Sections 85.16 (1), 85.20 and 227.11 (2), Stats.

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

200 person hours.

SUBMITTAL OF RULES TO LEGISLATIVE COUNCIL CLEARINGHOUSE

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

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

Employe Trust Funds

Rule Submittal Date

Notice is hereby given that on July 19, 2000 the Department of Employe Trust Funds submitted to the Wisconsin Legislative Council Rules Clearinghouse a proposed order affecting s. ETF 10.10.

Analysis

The subject matter of the proposed rule relates to election procedures for the Employe Trust Funds Board.

Agency Procedure for Promulgation

A public hearing will not be scheduled pursuant to s. 227.16 (2) (b), Stats.

Contact Information

If you have any questions, you may contact:

Pam Henning
Director of Legislation and Planning
Dept. of Employe Trust Funds
Telephone: (608) 267–2929
Email: pam.henning@etf.state.wi.us

NOTICE SECTION

Notice of Hearing

Financial Institutions--Securities

Notice is hereby given that pursuant to ss. 551.63 (1), (2) and (3), 551.23 (8) (f) and (g) and (18), 551.26 (1), 551.32 (7), 551.33 (1), (2) and (6), and 551.53 (1) (b), Stats., the Division of Securities of the Department of Financial Institutions will hold a public hearing at the time and place indicated below to consider the adoption, amendment and repeal of rules in connection with its annual review of the administrative rules of the Division of Securities relating to the operation of ch. 551, Stats., the Wisconsin Uniform Securities Law.

Hearing Information

The public hearing will be held:

<u>Date & Time</u>	<u>Location</u>
September 25, 2000 Monday Beginning at 10:30 a.m.	Conference Room 4th Floor 345 West Washington Ave. MADISON, WI

Written Comments

Written comments in lieu of public hearing testimony may be submitted which must be received no later than the hearing date and should be addressed to the Administrator of the Division of Securities, 345 West Washington Avenue, P.O. Box 1768, Madison WI 53701.

Analysis Prepared by the Division of Securities

Statutory authority: ss. 551.63 (1), (2) and (3), 551.23 (8) (f) and (g) and (18), 551.26 (1), 551.32 (7), 551.33 (1), (2) and (6), and 551.53 (1) (b)

Statutes interpreted: ss. 551.23 (1), (8) (f) and (g) and (18), 551.32 (7), 551.33 (1), (2) and (6), and 551.53 (1) (b)

The rule-making procedures under ch. 227, Stats., are being implemented for the purpose of effectuating the Division's annual review of the Rules of the Division of Securities. The Division's annual rule revision process is conducted for the following purposes:

1) Developing new securities registration exemptions and making modifications to several existing securities registration exemptions to reflect new legal or interpretive issues under the federal and state securities laws; and

2) Adopting new rules, or amending existing rules, relating to the securities broker-dealer, agent, investment adviser, and investment adviser representative licensing procedures, record-keeping requirements and rules of conduct provisions, to effectively regulate new securities licensing developments that have occurred in the securities industry and marketplace that require regulatory treatment.

Proposed revisions are being made in a total of over 15 different sections. A summary of the subject matter and nature of the more significant rule revisions follows:

1) Revising the "isolated nonissuer transaction" exempt transaction rule in s. DFI–Sec 2.02 (1) (intro.) to clarify that only the specific examples set forth in sub. (1) (a) and (b) qualify for purposes of the rule;

2) Renumbering certain of the rules under the so-called "institutional investor" exemption in s. 551.23 (8), Stats., to clarify

that the rules in s. DFI–Sec 2.02 (8) (a) to (f) relate solely to the statute exemptions in s. 552.23 (8) (a) to (f), Stats., and that the specific "individual accredited investor" exemption rule s. DFI–Sec 2.02 (4) (g) relates solely to its corresponding statute registration exemption in s. 551.23 (8) (g), Stats.

3) Adding to the combined 10 offeree/existing securityholder registration exemption in s. DFI–Sec 2.02 (9) (c) equivalent language to that contained in the component exemption in s. 551.23 (11), Stats., to provide that offers to institutional investors listed in s. 551.23 (8), Stats., are not counted for purposes of the rule;

4) Adding to the advertising filing exclusion in s. DFI–Sec 7.02 (1) (b) materials used in connection with use of the registration exemption in s. DFI–Sec 2.02 (9) (m) for an employee benefit plan that qualifies for (automatic) use of the federal securities exemption under Rule 701 of the Securities Act of 1933;

5) Amending the broker-dealer and investment adviser record-keeping rules in ss. DFI–Sec 4.03 and 5.03 (which relate to retention by licensees of a separate file of customer complaints), to also require retention of investigative inquiries directed to the licensee by any securities regulatory authority or any law enforcement authority regarding the licensee's securities business;

6) Moving the existing investment adviser record-keeping rule in s. DFI–Sec 5.03 (1) (o) [requiring creation and retention of records relating to customers' financial condition and investment objectives] to be under sub. (3) to thereby make the requirement applicable only for those advisers who provide regular and ongoing supervision and management of customer accounts, and/or have discretionary authority;

7) Creating both a new investment adviser record-keeping rule, as well as a rule of conduct provision, relating to a licensee's compliance with the federal "brochure rule" [which is incorporated by reference in s. DFI–Sec 5.05 (8)] to do the following:

(i) Provide that advisers need to maintain a record of the initial, as well as the required annual, provision of the brochure to customers; and to

(ii) Specify the time frames within which the brochure must be provided to customers.

Each section that adopts, amends or repeals a rule is followed by a separate analysis which discusses the nature of the revision as well as the reason for it.

Copies of Rule

A copy of the entirety of the proposed rule revisions to be considered may be obtained upon request to the Division of Securities, Department of Financial Institutions, 345 West Washington Avenue, 4th Floor, P.O. Box 1768, Madison, WI 53701.

Fiscal Estimate

A summary of the fiscal effects of the proposed rule revisions is as follows:

- (i) No one-time revenue fluctuations;
- (ii) No annual fiscal effects;
- (iii) No long-range fiscal implications;
- (iv) No fiscal effect on local units of government.

Initial Regulatory Flexibility Analysis

1. Types of small businesses that could be affected by certain of the rule revisions are:

(i) Any small business looking to raise capital in a securities offering pursuant to Regulation A under the federal Securities Act of 1933 will be able to use the amended prospectus/disclosure document rule in s. DFI–Sec 3.03 (3) allowing use of the revised Form U–7 disclosure document.

(ii) Broker–dealer and investment adviser licensees under the Wisconsin Uniform Securities Law with fewer than 25 full–time employees who meet the other criteria of s. 227.114 (1) (a), Stats.

The proposed revisions to the securities broker–dealer and investment adviser recordkeeping and rule of conduct provisions are applicable equally to all broker–dealers and investment advisers because the requirements involved are for the protection and benefit of Wisconsin customers of those firms. All Wisconsin customers of securities broker–dealers and investment advisers are entitled to the public investor protection benefits of the licensing recordkeeping and rule of conduct requirements, irrespective of the size of the firm providing the securities services. Under the rule revision procedure of the Division of Securities, a copy of the proposed rule revisions is mailed to each broker–dealer licensed in Wisconsin, as well as to each investment adviser licensed or notice–filed in Wisconsin, notifying them of the proposed revisions and soliciting written comments or attendance at the public hearing regarding the proposed rules.

2. Reporting, bookkeeping and other procedures required for compliance with the rules:

(i) Securities broker–dealer and investment adviser licensee

recordkeeping rule provisions are added to require retention by such licensees of investigative inquiries directed to the licensee by any securities regulatory authority regarding the licensee’s securities business.

(ii) A new investment adviser recordkeeping rule is created relating to a licensee’s compliance with the federal “brochure rule” to provide that advisers need to maintain a record of the initial, as well as the required annual, provision of the brochure to customers.

Contact Information

A copy of the full text of the proposed rule revisions and fiscal estimate may be obtained from:

Randall E. Schumann
Telephone (608) 266–3414
Legal Counsel for the Division of Securities
Dept. of Financial Institutions
345 West Washington Ave., 4th Floor
P. O. Box 1768
Madison, WI 53701

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

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

Agriculture, Trade and Consumer Protection**(CR 00–58):**

Ch. ATCP 35 – Relating to the agricultural chemical cleanup program.

Employe Trust Funds (CR 00–11):

S. ETF 20.25 (1) – Relating to distribution to annuitants of the total amount distributed from the transaction amortization account to the annuity reserve under the nonstatutory provisions of 1999 Wis. Act 11.

Natural Resources (CR 00–2):

Ch. NR 809 – Relating to safe drinking water.

Natural Resources (CR 00–30):

Ch. NR 195 – Relating to establishing river protection grants.

Natural Resources (CR 00–74):

Ch. NR 46 – Relating to the administration of the forest crop law and the managed forest law.

Nursing, Board of (CR 00–51):

S. N 5.08 (2) – Relating to renewal after 5 years.

Pharmacy Examining Board (CR 99–166):

S. Phar 7.09 – Relating to the automated dispensing of prescription drugs.

Revenue (CR 00–78):

SS. WGC 61.02, 61.04, 61.08 and 61.085 – Relating to the implementation and maintenance of the retailer performance program of the Wisconsin Lottery.

ADMINISTRATIVE RULES FILED WITH THE REVISOR OF STATUTES BUREAU

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

Arts Board (CR 00–63):

An order amending s. AB 2.09 (5), relating to the distribution of arts challenge initiative incentive grant funds.
Effective 9–01–00.

Dentistry Examining Board (CR 99–99):

An order creating s. DE 3.04, relating to the oral systemic premedications and subgingival sustained release chemotherapeutic agents that may be administered by a licensed dental hygienist.
Effective 10–01–00.

Ethics Board (CR 00–71):

An order creating s. Eth 1.03, relating to reporting the topic of a lobbying communication.
Effective 10–01–00.

Health and Family Services (CR 00–52):

An order repealing and recreating ch. HFS 12, relating to uniform procedures for caregiver background checks.
Effective 09–01–00.

Insurance, Commissioner of (CR 00–61):

An order affecting ss. Ins 17.01 (3) and 17.28 (6) and (6a), relating to annual patients compensation fund and mediation fund fees for the fiscal year beginning July 1, 2000.
Effective 09–01–00.

Natural Resources (CR 00–31):

An order affecting ch. NR 10 and ss. NR 11.02, 11.05, 15.022 and 16.02, relating to hunting, trapping and captive wildlife.
Part effective 11–18–00.
Part effective 05–01–01.

Natural Resources (CR 00–33):

An order affecting ch. NR 20 and ss. NR 22.04, 26.10 and 26.31, relating to sport fishing regulations on inland, outlying and boundary waters and fish refuges on inland waters.
Part effective 03–01–01.
Part effective 04–01–01.

Technical College System Board (CR 00–44):

An order creating ch. TCS 16, relating to grants for students.
Effective 09–01–00.

Transportation (CR 00–77):

An order amending s. Trans 276.07 (4), relating to allowing the operation of “double bottoms” and certain other vehicles on certain specified highways.
Effective 10–01–00.

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