

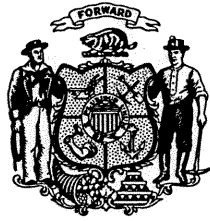
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
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(608) 266-1946

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-069

AN ORDER to repeal WGC 3.01 (1), (2), (3) and (4) and 3.05 (1) (a) 1. and (c), (2) (a), (b) and (c) and (3) (a), (b) and (c); to renumber and amend WGC 3.05 (1) (a) 2. and 3. and (b); to amend WGC 3.01, 3.02, 3.03 (1) (b) and (c), (2), (3) and (4), 3.04 (1) (a) and (b), (2) (b) and (3) (b), 3.05 (intro.) and (1) (a) and 3.06 (1) (a) and (b) and (2), relating to contested case hearings arising out of the regulatory activities of the division of gaming.

Submitted by **DEPARTMENT OF ADMINISTRATION**

03-29-99 RECEIVED BY LEGISLATIVE COUNCIL.

04-26-99 REPORT SENT TO AGENCY.

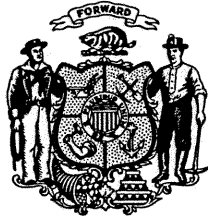
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CLEARINGHOUSE RULE 99-069

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. In SECTION 1, "s. 14.035, Stats." is the correct format for referring to the statutes. [See s. 1.07 (2), Manual.]

b. SECTION 4 should state that "WGC 3.03 (1) (b) and (c) and (2) to (4) are amended to read." Also, "WGC 3.03 (1)" should be inserted on the first line, preceding "(b)."

c. In SECTION 5, in the treatment clause, the comma should be deleted following "(a)" and "and" should be inserted.

d. In SECTION 6, "(title)" should follow "WGC 3.05" both in the first line and in the text of the rule. Also, the first period in the amended title should be deleted.

e. In SECTION 6, the title to WGC 3.05 (1) need not be shown since it is not being amended. [See s. 1.05 (3) (c), Manual.]

f. In SECTION 8, since WGC 3.05 (1) (a) 2. and 3. are renumbered, in the text of the amended rule, only the new numbers need to be shown. They should be shown without being underscored. Also, "WGC 3.05 (1) (a)" should precede the first line of the text.

g. In SECTION 9, since WGC 3.05 (1) (b) has been renumbered, the first line should not contain "(b)" and "(2)" should not be underscored.

· h. In SECTION 11, "WGC 3.06 Decisions." should be deleted since the title is not being amended. "WGC 3.06" should precede "(1) PROPOSED DECISIONS."

**PROPOSED ORDER OF THE DEPARTMENT OF ADMINISTRATION
AMENDING RULES**

The Department of Administration, Division of Gaming, proposes an order to **repeal** WGC 3.01(1), (2), (3) and (4), WGC 3.05(1)(a) 1., WGC 3.05(1)(c), (2)(a), (b), (c), and (3)(a), (b) and (c); to **renumber and amend** WGC 3.05(1)(a) 2. and 3., and WGC 3.05(1)(b); to **amend** WGC 3.01, 3.02, 3.03(1)(b) and (c), WGC 3.03(2), (3) and (4), WGC 3.04(1)(a), (b), (2)(b), and (3)(b), WGC 3.05(intro.), (1)(a) and WGC 3.06(1)(a), (b) and (2), relating to contested case hearings arising out of the regulatory activities of the Division of Gaming.

ANALYSIS PREPARED BY THE DEPARTMENT OF ADMINISTRATION, DIVISION OF GAMING:

Statutory authority: ss. 562.02(1), 563.04(2), 563.05(4), 227.46(3), 227.47(1), Stats.

Statutes interpreted: ss. 562.02(2)(f), 562.04(1)(b)6., 562.05(8)(a), 563.04(2), 563.05(4), 563.17, 563.95, 227.42(1), 227.43-46, Stats.

Comp & Dist. **NOTE:** The Department is requesting the Revisor of Statutes to make corrections to WGC Chapters under to s. 13.93(2m)(b)6, Stats. As a result of the statutory changes in 1997 Wisconsin Act 27, (repealing Chapter 561, Gaming Board, and creating s. 15.103(1m), Division of Gaming in the Department of Administration) we are requesting the Revisor to replace obsolete references to "Commission," "Director," and "Chairperson" with the following: "Department of Administration (Department)," "Division of Gaming (Division)," or "Administrator of the Division of Gaming (Administrator)." *procedures for review of Apps hearing* *appeal - adversely affected* *Susp. of license* *conduct hearing*

SECTION 1. WGC 3.01 is amended to reflect that the Division is responsible for hearings arising under ch. 563 (charitable gaming) Stats., and Indian gaming compacts, rather than just ch. 562 (pari-mutuel racing) Stats.

SECTION 2. WGC 3.01(1) through (4) are repealed to reflect that the hearings conducted are no longer limited to those arising under ch. 562 (pari-mutuel wagering) Stats.

SECTION 3. WGC 3.02 is amended to reflect the Division has taken over the responsibilities of the former Wisconsin Gaming Commission.

to SECTION 4. WGC 3.03(1)(b) is amended to require a person requesting a hearing include an address for service of documents relative to the hearing. WGC 3.03(1)(c) is amended to reflect that requests for hearing are not limited to appeals of steward's inquiries. WGC 3.03(2) is amended to reflect the statutory time frame for filing an appeal of a stewards ruling, as set out in 562.04(1)(b)6., Stats, is 7 days, and the administrator of the division now decides whether to grant a request for stay of a stewards ruling. WGC 3.03(3) increases to 30 days, from 15, the time in which an aggrieved person may request a hearing, and changes a reference from Commission to Department. WGC 3.03(4) changes a reference from Commission to Division, and adds the new address of the Division.

SECTION 5. WGC 3.04(1)(a) is amended to change references from Commission to Division. WGC 3.04(1)(b), (2)(b), and (3)(b) are amended to change references from Commission to Department.

SECTION 6. WGC 3.05(intro) is amended to delete references to Commission, and specifies that in cases of conflicts with the rules and ch. 227 Stats., ch. 227 controls. WGC 3.05(1)(a) is amended to add a reference to s. 227.43 as authorization for appointment of a hearing officer.

SECTION 7. WGC 3.05(1)(a)1. Is repealed because this authority is already provided in s. 227.45(1) Stats.

SECTION 8. WGC 3.05(1)(a)2. and 3. are renumbered to reflect the repeal of WGC 3.05(1)(a)1.

SECTION 9. WGC 3.05(1)(b) is renumbered and amended to reflect the repeal of WGC 3.05(2) and (3), and change a reference to Commission to Department.

SECTION 10. WGC 3.05(1)(c) is repealed to eliminate the policy reflected by this language. WGC 3.05(2) and (3) are repealed to maintain consistency with the provisions of s. 227.45(7) Stats., which allows discovery consistent with that in Wisconsin civil judicial proceedings.

SECTION 11. WGC 3.06(1)(a), (b) and (2) are amended to change references from Commission to Department.

Reference to Applicable Forms: No existing forms will be affected.

Fiscal Estimate: There will be no fiscal impact.

Initial Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Agency Contact Person:

Mike McClure
Division of Gaming
2005 West Beltline Highway, #201
P.O. Box 8979
Madison, WI 53708-8979

TEXT OF RULES

SECTION 1. WGC 3.01(intro.) is amended to read.

WGC 3.01 Purpose. These rules ^{apply} shall ~~apply~~ to all hearings ^{under} conducted by the ~~commission pursuant to ch. 562, Stats.;~~ by the department pursuant to ch. 227, 562, or 563, Stats., or Indian gaming compacts entered into pursuant to 14.035 Stats.

SECTION 2. WGC 3.01(1), (2), (3) and (4) are repealed.

SECTION 3. WGC 3.02 is amended to read.

WGC 3.02 Computation of time. The computation of time in computing any period of time prescribed in this chapter, including acts of default, shall be governed by s. 990.001 (4), Stats. Papers received by the ~~commission~~ division for filing after ~~5:00~~ 4:30 p.m. shall be considered as filed the following day.

SECTION 4. WGC 3.03(1)(b), ^{and (c)} (c), ^{(2) to (4)} 3.03(2), (3), and (4) are amended to read:

(b) Shall contain an address and telephone number where the person requesting the hearing may be notified of the time and place of the hearings receive service of documents relative to the hearing; and

(c) Shall set forth the reasons ~~why the decision of the stewards should be reversed or modified, or why the relief requested should be granted.~~ which support the request for hearing. The documents should take the form of a pleading in a civil case, where practicable.

(2) Requests for hearing from orders of the stewards suspending an occupation licensee, recommending denial or revocation of an occupation licensee, imposing a forfeiture on an occupation license or from orders of the stewards excluding an occupation licensee shall be instituted by filing a written request for a hearing no later than 45 7 days after notice of the suspension, forfeiture or exclusion has been communicated to the licensee. A request for hearing shall not stay enforcement of the decision of the stewards. If the party requesting the appeal desires that the ~~director~~ administrator stay the decision of the stewards, the party shall specify in the request for hearing stay the reasons supporting the issuance of the stay. The ~~director~~ administrator shall decide whether to grant the stay within 48 hours of receipt of the request.

(3) All other requests for hearing shall be instituted by filing a written request for hearing no later than 15 30 days after receipt of notice of the action of the ~~commission~~ or stewards department which gives rise to the right to a hearing.

(4) Requests for hearing may be filed in person or by certified mail to the ~~commission's~~ division's administrative office at ~~150 E. Gilman, P.O. Box 7975, Madison, WI 53707-7975~~ 2001 W. Beltline Hwy., Suite 201, P.O. Box 8979, Madison, WI, 53708-8979. Requests submitted by certified mail shall be deemed timely if they are postmarked within the applicable time frame for filing an appeal.

SECTION 5. WGC 3.04(1)(a)^{and}(b), (2)(b), and (3)(b) are amended to read.

WGC 3.04 Determination of parties and appearances. (1) PARTIES. (a) The ~~commission~~ division, any person requesting a hearing pursuant to s. WGC 3.03, and any person against whom a proceeding is initiated by the ~~commission~~ division shall be considered parties to the hearing for purposes of s. 227.53, Stats.

(b) Any other person may petition the ~~commission~~ department to be admitted as a party to the hearing. The ~~commission~~ department shall grant such a motion upon a determination that the movant has substantial interests to which the order of the ~~commission~~ department in the contested case will apply and affect.

(2)(b) Except as provided in pars. (c) and (d) no one may appear before the ~~commission~~ department in a representative capacity except those licensed to practice law in Wisconsin or any other state.

(3)(b) No documents or exhibits shall be accepted or considered by the hearing officer or ~~commission~~ department unless they are admitted into evidence and served on all parties.

SECTION 6. WGC 3.05(intro.) and (1)(a) are amended to read.

WGC 3.05 Conduct of hearings^(C.T.C) of the ~~commission~~. ~~Commission~~ Hearings shall be conducted in conformance with this chapter and, as to all aspects not specified in this chapter, or in conflict with ch. 227 Stats., in conformance with ch. 227, Stats.;

(1) SELECTION OF HEARING OFFICER. (a) *Powers and duties.* Hearing officer shall be appointed pursuant to s ss. 227.43 or 227.46 (1), Stats. The hearing officer shall have all the powers and duties enumerated in ch. 227, Stats. In addition, a hearing officer appointed pursuant to this section may:

SECTION 7. WGC 3.05(1)(a)1. is repealed.

SECTION 8. WGC 3.05(1)(a) 2. and 3. are renumbered WGC 3.05(1)(a) 1. and 2. and amended to read.

(2) 1. Upon objection to the admissibility of evidence, receive the disputed evidence subject to a subsequent ruling by the ~~commission~~ department;

(3) 2. Exclude evidence upon the hearing officer's motion or motion of either party, but a party offering evidence that is ruled inadmissible shall be permitted to make a brief offer of proof with such ruling being subject to subsequent ratification by the ~~commission~~ department. Unless expressly overruled, such decision by the hearing officer shall be deemed ratified.

SECTION 9. WGC 3.05(1)(b) is renumbered WGC 3.05(2) and amended to read.

(b) (2) ~~Official notice~~ OFFICIAL NOTICE. The ~~commission~~ department and hearing officer may take official notice of:

SECTION 10. WGC 3.05(1)(c), (2)(a), (b), (c), and (3)(a), (b), (c) are repealed.

SECTION 11. WGC 3.06(1)(a), (b) and (2) are amended to read.

WGC 3.06 Decisions. (1) PROPOSED DECISIONS. (a) In all cases in which a proposed decision is required by s. 227.46(2), Stats., the hearing officer shall within 7 working days of the close of the presentation of evidence and arguments by the parties, prepare and submit to the ~~commission~~ department a proposed decision meeting the requirements of s. 227.46(2), Stats. Within 24 hours of receipt of the decision, the ~~commission~~ department shall serve on all parties a copy of the proposed decision. Each party adversely affected by the proposed decision shall, within 7 working days of receipt of the proposed decision, file any objections to the proposed decision in writing.

(b) In all other cases, unless otherwise directed by the ~~chairperson~~ administrator pursuant to written order upon appointment of a hearing officer, the ~~commission~~ department shall base its decision on the record certified to it by the hearing officer without a proposed decision as set forth in s. 227.46(3)(b), Stats., subject to any rulings on motions or objections.

(2) FINAL DECISION. The ~~commission~~ department shall review the record in its entirety before rendering a decision.

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Dated: 3-29-99


Mark D. Bugher, Secretary
Department of Administration



TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY

July 22, 1999

JUL 27 REC'D

Honorable Fred Risser, President
Wisconsin Senate
220 South, State Capitol
Madison, WI 53702

Dear Senator Risser:

RE: Clearinghouse Rule No. 99-69

Enclosed in final draft form is Chapter WGC 3, Wis. Adm Code, regarding Appeals, Hearings and Enforcement Proceeding. A fiscal estimate is also attached.

The proposed amendments reflect that the Division of Gaming has taken over the responsibilities of the former Wisconsin Gaming Commission as provided in 1997 Wisconsin Act 27. The proposed rule provides the procedures for contested case hearings arising from the regulatory oversight functions of the Division of Gaming, specifically regulation of pari-mutuel wagering in ch. 562, Stats., regulation of charitable gaming in ch. 563, Stats., and certification of Tribal gaming vendors as provided in the Tribal-State gaming compacts.

Also enclosed is a copy of the Legislative Council staff clearinghouse report. All comments of the clearinghouse have been addressed and incorporated in the rule. A public hearing was not required pursuant to s. 227.16(2)(e), Stats.

We request submittal of the rule to the appropriate standing committees for review.

Sincerely,


Mark D. Bugher
Secretary

cc: Revisor of Statutes

~~Joint Committee for Review of Administrative Rules~~ - Senator Judy Robson, co-chair

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin



Office of the Secretary
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1741
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TTY (608) 267-9629

TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY

July 22, 1999

Honorable Scott Jensen, Speaker
Wisconsin Assembly
211 West, State Capitol
Madison, WI 53702

Dear Representative Jensen:

RE: Clearinghouse Rule No. 99-69

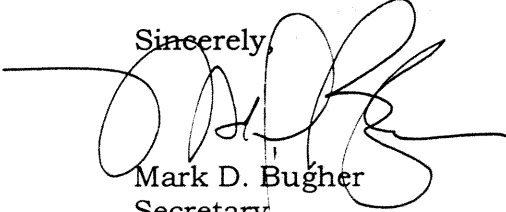
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Also enclosed is a copy of the Legislative Council staff clearinghouse report. All comments of the clearinghouse have been addressed and incorporated in the rule. A public hearing was not required pursuant to s. 227.16(2)(e), Stats.

We request submittal of the rule to the appropriate standing committees for review.

Sincerely,



Mark D. Bugher
Secretary

cc: Revisor of Statutes
Joint Committee for Review of Administrative Rules

PROPOSED ORDER OF THE DEPARTMENT OF ADMINISTRATION

The Department of Administration, Division of Gaming, proposes an order to **repeal** WGC 3.01(1), (2), (3) and (4) and 3.05(1)(a) 1. and (c), (2)(a), (b) and (c) and (3)(a), (b) and (c); to **renumber and amend** WGC 3.05(1)(a) 2. and 3., and (b); **to amend** WGC 3.01, 3.02, 3.03(1)(b) and (c), (2), (3) and (4), 3.04(1)(a) and (b), (2)(b) and (3)(b), 3.05(intro.) and (1)(a) and 3.06(1)(a) and (b) and (2), relating to contested case hearings arising out of the regulatory activities of the Division of Gaming.

Statutory authority: ss. 562.02(1) , 563.04(2), 563.05(4), 227.46(3), 227.47(1), Stats.

Statutes interpreted: ss. 562.02(2)(f), 562.04(1)(b)6., 562.05(8)(a), 563.04(2), 563.05(4), 563.17, 563.95, 227.42(1), 227.43-46, Stats.

Analysis prepared by the Department of Administration:

NOTE: The Department is requesting the Revisor of Statutes to make corrections to WGC Chapters under to s. 13.93(2m)(b)6, Stats. As a result of the statutory changes in 1997 Wisconsin Act 27, (repealing Chapter 561, Gaming Board, and creating s. 15.103(1m), Division of Gaming in the Department of Administration) we are requesting the Revisor to replace obsolete references to "Commission," "Director," and "Chairperson" with the following: "Department of Administration (Department)," "Division of Gaming (Division)," or "Administrator of the Division of Gaming (Administrator)."

SECTION 1. WGC 3.01 is amended to reflect that the Division is responsible for hearings arising under ch. 563 (charitable gaming) Stats., and Indian gaming compacts, rather than just ch. 562 (pari-mutuel racing) Stats.

SECTION 2. WGC 3.01(1) through (4) are repealed to reflect that the hearings conducted are no longer limited to those arising under ch. 562 (pari-mutuel wagering) Stats.

SECTION 3. WGC 3.02 is amended to reflect the Division has taken over the responsibilities of the former Wisconsin Gaming Commission.

SECTION 4. WGC 3.03(1)(b) is amended to require a person requesting a hearing include an address for service of documents relative to the hearing. WGC 3.03(1)(c) is amended to reflect that requests for hearing are not limited to appeals of steward's inquiries. WGC 3.03(2) is amended to reflect the statutory time frame for filing an appeal of a steward's ruling, as set out in 562.04(1)(b)6., Stats, is 7 days, and the administrator of the division now decides whether to grant a request for stay of a steward's ruling. WGC 3.03(3) increases to 30 days, from 15, the time in which an aggrieved person may request a hearing, and changes a reference from Commission to Department. WGC 3.03(4) changes a reference from Commission to Division, and adds the new address of the Division.

SECTION 5. WGC 3.04(1)(a) is amended to change references from Commission to Division. WGC 3.04(1)(b), (2)(b), and (3)(b) are amended to change references from Commission to Department.

SECTION 6. WGC 3.05 (title) and (intro) are amended to delete references to Commission, and specifies that in cases of conflicts with the rules and ch. 227 Stats., ch. 227 controls. WGC 3.05(1)(a) is amended to add a reference to s. 227.43 as authorization for appointment of a hearing officer.

SECTION 7. WGC 3.05(1)(a)1. Is repealed because this authority is already provided in s. 227.45(1) Stats.

SECTION 8. WGC 3.05(1)(a)2. and 3. are renumbered to reflect the repeal of WGC 3.05(1)(a)1.

SECTION 9. WGC 3.05(1)(b) is renumbered and amended to reflect the repeal of WGC 3.05(2) and (3), and change a reference to Commission to Department.

SECTION 10. WGC 3.05(1)(c) is repealed to eliminate the policy reflected by this language. WGC 3.05(2) and (3) are repealed to maintain consistency with the provisions of s. 227.45(7) Stats., which allows discovery consistent with that in Wisconsin civil judicial proceedings.

SECTION 11. WGC 3.06(1)(a), (b) and (2) are amended to change references from Commission to Department.

Final Regulatory Flexibility Analysis:

Pursuant to s. 227.114, Stats., the rule herein is not expected to negatively impact on small businesses.

Agency Contact Person:

Donna Sorenson
Department of Administration
101 East Wilson Street, 10th Floor
P.O. Box 7864
Madison, WI 53707-7864

TEXT OF RULES

SECTION 1. WGC 3.01(intro.) is amended to read.

WGC 3.01 Purpose. These rules shall apply to all hearings conducted by ~~the commission pursuant to ch. 562, Stats.:~~ by the department pursuant to ch. 227, 562, or 563, Stats., or Indian gaming compacts entered into pursuant to s. 14.035 Stats.

SECTION 2. WGC 3.01(1), (2), (3) and (4) are repealed.

SECTION 3. WGC 3.02 is amended to read.

WGC 3.02 Computation of time. The computation of time in computing any period of time prescribed in this chapter, including acts of default, shall be governed by s. 990.001 (4), Stats. Papers received by the ~~commission~~ division for filing after ~~5:00~~ 4:30 p.m. shall be considered as filed the following day.

SECTION 4. WGC 3.03(1)(b) and (c), and (2) to (4) are amended to read:

WGC 3.03(1)(b) Shall contain an address and telephone number where the person requesting the hearing may ~~be notified of the time and place of the hearings~~ receive service of documents relative to the hearing; and

(c) Shall set forth the reasons ~~why the decision of the stewards should be reversed or modified, or why the relief requested should be granted.~~ which support the request for hearing. The documents should take the form of a pleading in a civil case, where practicable.

(2) Requests for hearing from orders of the stewards suspending an occupation licensee, recommending denial or revocation of an occupation licensee, imposing a forfeiture on an occupation license or from orders of the stewards excluding an occupation licensee shall be instituted by filing a written request for a hearing no later than ~~45~~ 7 days after notice of the suspension, forfeiture or exclusion has been communicated to the licensee. A request for hearing shall not stay enforcement of the decision of the stewards. If the party requesting the appeal desires that the ~~director~~ administrator stay the decision of the stewards, the party shall specify in the request for hearing stay the reasons supporting the issuance of the stay. The ~~director~~ administrator shall decide whether to grant the stay within 48 hours of receipt of the request.

(3) All other requests for hearing shall be instituted by filing a written request for hearing no later than ~~15~~ 30 days after receipt of notice of the action of the ~~commission~~ or stewards department which gives rise to the right to a hearing.

(4) Requests for hearing may be filed in person or by certified mail to the ~~commission's~~ division's administrative office at ~~150 E. Gilman, P.O. Box 7975, Madison, WI 53707-7975~~ 2001 W. Beltline Hwy., Suite 201, P.O. Box 8979, Madison,

WI, 53708-8979. Requests submitted by certified mail shall be deemed timely if they are postmarked within the applicable time frame for filing an appeal.

SECTION 5. WGC 3.04(1)(a) and (b), (2)(b), and (3)(b) are amended to read.

WGC 3.04 Determination of parties and appearances. (1) PARTIES. (a) The ~~commission division~~, any person requesting a hearing pursuant to s. WGC 3.03, and any person against whom a proceeding is initiated by the ~~commission division~~ shall be considered parties to the hearing for purposes of s. 227.53, Stats.

(b) Any other person may petition the ~~commission department~~ to be admitted as a party to the hearing. The ~~commission department~~ shall grant such a motion upon a determination that the movant has substantial interests to which the order of the ~~commission department~~ in the contested case will apply and affect.

(2)(b) Except as provided in pars. (c) and (d) no one may appear before the ~~commission department~~ in a representative capacity except those licensed to practice law in Wisconsin or any other state.

(3)(b) No documents or exhibits shall be accepted or considered by the hearing officer or ~~commission department~~ unless they are admitted into evidence and served on all parties.

SECTION 6. WGC 3.05(title)(intro.) and (1)(a) are amended to read.

WGC 3.05 (title) Conduct of hearings of the commission. ~~Commission hearings~~ Hearings shall be conducted in conformance with this chapter and, as to all aspects not specified in this chapter, or in conflict with ch. 227 Stats., in conformance with ch. 227, Stats.;

(1) (a) *Powers and duties.* Hearing officer shall be appointed pursuant to ~~§ ss.~~ ss. 227.43 or 227.46 (1), Stats. The hearing officer shall have all the powers and duties enumerated in ch. 227, Stats. In addition, a hearing officer appointed pursuant to this section may:

SECTION 7. WGC 3.05(1)(a)1. is repealed.

SECTION 8. WGC 3.05(1)(a) 2. and 3. are renumbered WGC 3.05(1)(a) 1. and 2. and amended to read.

WGC 3.05(1)(a) 1. Upon objection to the admissibility of evidence, receive the disputed evidence subject to a subsequent ruling by the ~~commission department~~;

2. Exclude evidence upon the hearing officer's motion or motion of either party, but a party offering evidence that is ruled inadmissible shall be permitted to make a brief offer of proof with such ruling being subject to subsequent ratification by the ~~commission~~ department. Unless expressly overruled, such decision by the hearing officer shall be deemed ratified.

SECTION 9. WGC 3.05(1)(b) is renumbered WGC 3.05(2) and amended to read.

(2) ~~Official notice~~ OFFICIAL NOTICE. The ~~commission~~ department and hearing officer may take official notice of:

SECTION 10. WGC 3.05(1)(c), (2)(a), (b), (c), and (3)(a), (b), (c) are repealed.

SECTION 11. WGC 3.06(1)(a), (b) and (2) are amended to read.

WGC 3.06(1) PROPOSED DECISIONS. (a) In all cases in which a proposed decision is required by s. 227.46(2), Stats., the hearing officer shall within 7 working days of the close of the presentation of evidence and arguments by the parties, prepare and submit to the ~~commission~~ department a proposed decision meeting the requirements of s. 227.46(2), Stats. Within 24 hours of receipt of the decision, the ~~commission~~ department shall serve on all parties a copy of the proposed decision. Each party adversely affected by the proposed decision shall, within 7 working days of receipt of the proposed decision, file any objections to the proposed decision in writing.

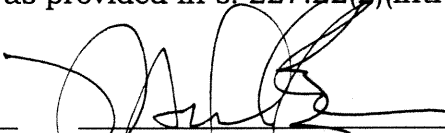
(b) In all other cases, unless otherwise directed by the ~~chairperson~~ administrator pursuant to written order upon appointment of a hearing officer, the ~~commission~~ department shall base its decision on the record certified to it by the hearing officer without a proposed decision as set forth in s. 227.46(3)(b), Stats., subject to any rulings on motions or objections.

(2) FINAL DECISION. The ~~commission~~ department shall review the record in its entirety before rendering a decision.

This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

Dated: _____

July 23, 1999



Mark D. Bugher, Secretary
Department of Administration

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule
 WGC 3.01 through WGC 3.06
 Amendment No. if Applicable

FISCAL ESTIMATE
 DOA-2048 (R10/92)

Subject

Appeals, Hearings and Enforcement Proceedings, Division of Gaming

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be possible to absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

1. Increase Costs

Permissive Mandatory

Decrease Costs

Permissive Mandatory

3. Increase Revenues

Permissive Mandatory

4. Decrease Revenues

Permissive Mandatory

5. Types of Local Governmental Units affected:

- Towns Villages Cities
- Counties Others _____
- School Districts VTAE Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

s.

Assumptions Used in Arriving at Fiscal Estimate

The Division of Gaming proposes several changes to the administrative rules under WGC 3 regarding Appeals, Hearings and Enforcement Proceedings. Most of the proposed changes are needed as a result of the Division of Gaming's transfer to the Department of Administration as legislated in the 97-99 biennial budget, 1997 Act 27. Previous references to the Gaming Commission will be changed to either the Division of Gaming or the Department of Administration. Also, references to the director will be changed to the administrator.

Other changes include (1) increasing the timeperiod for filing a request for hearing from 15 days to 30 days, and (2) extending the rules to cover hearings conducted pursuant to ch. 227, ch. 562, or the Indian gaming compacts.

The proposed changes to the administrative rules have no fiscal impact on either the State or any local units of government.

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)

DOA/Tara Brunner 266-0016

Authorized Signature/Telephone No.

Charles E. McDowell
 Charles E. McDowell 7-3836

Date

March 25, 1999