

Chapter NR 2

PROCEDURE AND PRACTICE

NR 2.01	Application of rules (p. 35)	NR 2.12	Informal conferences (p. 39)
NR 2.02	Definitions (p. 35)	NR 2.13	Conduct of hearings (p. 39)
NR 2.03	Service on the department (p. 35)	NR 2.14	Rules of evidence in contested cases (p. 40)
NR 2.04	Service of pleadings (p. 35)	NR 2.15	Close of hearing (p. 40)
NR 2.05	Forms of petitions (p. 36)	NR 2.155	Decisions in contested cases (p. 41)
NR 2.06	Notice of hearing (p. 37)	NR 2.16	Reopening hearings (p. 41)
NR 2.065	Contested case designation (p. 38)	NR 2.17	Transcripts (p. 41)
NR 2.07	Place of hearings (p. 38)	NR 2.18	Briefs (p. 41)
NR 2.08	Persons entitled to participate in hearings (p. 38)	NR 2.19	Confidential status (p. 42)
NR 2.09	Changes in time or place of hearings; adjournments; failures to appear (p. 38)	NR 2.195	Public records and information (p. 44)
NR 2.10	Witnesses and subpoenas (p. 39)	NR 2.20	Review of contested court decision (p. 46)
NR 2.11	Preservation of testimony and discovery of evidence (p. 39)		

Note: Chapter WCD 2 as it existed on March 31, 1973 was repealed, and a new chapter NR 2 was created, Register, March, 1973, No. 207, effective April 1, 1973.

NR 2.01 Application of rules. These rules shall apply in all proceedings and hearings before the department of natural resources except as specifically provided otherwise.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.02 Definitions. (1) **DEPARTMENT.** Department means the department of natural resources.

(2) **SECRETARY.** Secretary means the secretary of the department of natural resources.

(3) **CONTESTED CASE.** Contested case means a proceeding before the department in which after hearing required by law, the legal rights, duties or privileges of any party thereto are to be determined or directly affected by a decision or order therein and in which the assertion of any such right, duty or privilege is denied or controverted by another party thereto.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.03 Service on the department. All petitions for hearings, petitions for rules, petitions for declaratory rulings, answers and complaints required by any statute or rule shall be served on the secretary, either by delivery to the office of the secretary, or by mailing to the secretary by certified mail, at the following address: P. O. Box 7921, Madison, Wisconsin 53707.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73; am. Register, March, 1978, No. 267, eff. 4-1-78.

NR 2.04 Service of pleadings. After a matter has been set for hearing, all further pleadings shall be served by delivery to the Bureau of

Register, September, 1980, No. 297

NR 2

Legal Services, Department of Natural Resources or by mail addressed at P. O. Box 7921, Madison, Wisconsin 53707.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73; am. Register, March, 1978, No. 287, eff. 4-1-78.

NR 2.05 Forms of petitions. Petitions shall conform with the applicable statute as to form, content, number of signatories and verifications. Appropriate forms of petitions in various proceedings shall be as follows:

(1) REVIEW OF SPECIAL ORDERS ISSUED PURSUANT TO SS. 144.025 (2) (d) 1, 144.025 (2) (r) AND 144.35, Stats.

To the Department of Natural Resources:
The undersigned hereby petitions for a review of the department order dated -----, 19 ----, whereby it was ordered ----- . The grounds for this petition are ----- . The modification or change desired is -----
Date -----
Signature -----
Verification -----

(2) ADOPTION, REPEAL OR AMENDMENT OF RULES OR GENERAL ORDERS OF THE DEPARTMENT (s. 227.015, Stats.)

(a) For adoption of general order or rule:
To the Department of Natural Resources:
The undersigned hereby petitions for the adoption of a rule relating to:-----
The grounds for this petition are-----
The petitioners' interest in the request is -----
The authority of the department to act is -----
Date -----
Signatures (5 needed unless petitioner is a municipality or corporation) -----
Verification -----

(b) For amendment of a general order or rule:
To the Department of Natural Resources:
The undersigned hereby petitions for the amendment of rule number ----- which provides as follows:-----
The grounds for this petition are-----
The modification or change desired is-----
The petitioners' interest in the request is -----
Date -----
Signatures (5 needed if the petitioner is not a municipality or a corporation) -----
Verification -----

(3) DECLARATORY RULINGS (s. 227.06, Stats.)
To the Department of Natural Resources:
In the matter of the applicability of rule -----
(or regulation or statute) to the petitioner (s) -----
Said rule provides as follows: -----

The grounds for this petition are to determine the applicability of the
above rule to the petitioner (s) because of the following state of
facts: -----

The reasons for the requested ruling are -----

The following are the names and addresses of all other persons other
than the petitioner (s) upon whom it is sought to make the ruling
binding: -----

Date -----

Name -----

Address -----

Signature -----

Verification -----

(4) SIX CITIZEN COMPLAINTS (s.144.537, Stats.). The complaint and
answer in the proceeding shall conform with the requirements of the
applicable provisions of ch. 263, Stats., [1973] and the complaint shall
specifically contain:

(a) The name, address and description of the activities of the person
who is causing or will be causing the alleged or potential environmental
pollution.

(b) The facts supporting the contention that alleged or potential en-
vironmental pollution is or will be taking place.

(c) A description of the nature of the alleged or potential environmen-
tal pollution.

(d) A specific description of the relief sought by the complainants.

(e) Verification and the signatures of the 6 or more citizens filing the
complaint.

(f) The name and address of a person within the state authorized to
receive the service of answer and other papers on behalf of the complain-
ants.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.06 Notice of hearing. (1) FORM. Notice of hearing shall be in
writing, with a title identifying the matter to be set for hearing, and
where appropriate, contain a docket number.

(2) CONTENT. The notice of hearing shall contain the following infor-
mation:

(a) Date, time and location of the hearing.

(b) The statutory authority for the hearing.

(c) A short summary of the matter to be considered.

Register, September, 1980, No. 297

NR 2

(d) Such other information as the department may deem appropriate.

(3) **SERVICE.** Except as otherwise specifically required, service of notice of hearing may be made by personal delivery or by mailing a copy thereof to the last known post office address of the person to be served in a sealed envelope with first class postage prepaid thereon and shall be deemed to have been served upon deposit thereof in the U.S. mails. The department may require service by registered or certified mail when deemed appropriate and with the same effect.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.065 Contested case designation. Unless ordered by the examiner, all department contested case hearings are class 1 proceedings under s. 227.01 (2), Stats., except hearings held under ss. 30.03, 144.025, 144.35, 144.537 and 144.91, Stats., and those hearings which modify, revoke or suspend a license as defined in s. 227.01 (3), Stats., issued by the department are class 2 proceedings.

History: Emerg. cr. eff. 11-1-76; cr. Register, March, 1977, No. 255, eff. 4-1-77.

NR 2.07 Place of hearings. Unless otherwise specifically provided by law or ordered by the department or the secretary, all hearings shall be held at the offices of the Department of Natural Resources, 4610 University Avenue, Madison, Wisconsin.

Note: The offices of the department are now located at 101 S. Webster.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.08 Persons entitled to participate in hearings. (1) **PERSONS.** In addition to the parties named in the pleadings, divisions of the department, the public intervenor if authorized by s. 165.07, Stats., and any member of the public may participate in all department hearings as parties in interest, including the right to offer testimony and when deemed appropriate by the hearing examiner to cross-examine witnesses.

(2) **APPEARANCE.** A person desiring to participate in a proceeding shall enter his or her appearance in person by giving his or her name and address and the name and address of any party he or she represents and in what capacity he or she is representing such party or by filing a notice of intervention with all known parties prior to the commencement of public hearings which shall contain the same information as an appearance made in person at a hearing.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73; am. (2), Register, July, 1978, No. 271, eff. 8-1-78.

NR 2.09 Changes in time or place of hearing; adjournments; failures to appear. (1) **CHANGES.** Requests for changes in the time and place of a scheduled hearing will be granted only for good cause shown prior to any required newspaper publication of legal notice thereof.

(2) **ADJOURNMENT.** The hearing examiner may adjourn a hearing for good cause shown, the hearing to be reset or reconvened at the discretion of the department on 10 days' notice or at a time certain on stipulation of the parties.

Register, September, 1980, No. 297

(3) **FAILURE TO APPEAR.** (a) If an applicant for a permit or license fails to appear at a hearing following notice and publication, the department may dismiss the application. If an applicant fails to submit proof of publication and notice as required by statute, the department may dismiss the application and cancel the hearing.

(b) If a respondent in a proceeding fails to appear, the department shall take testimony and issue, modify or rescind the order as may be appropriate.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.10 Witnesses and subpoenas. The hearing examiner may issue subpoenas to compel the attendance of witnesses at hearings or discovery proceedings pursuant to section NR 2.11. A subpoena duces tecum may be issued if the person requesting such subpoena specifies the documents to be presented by the subpoenaed witness. The provision of the statutes shall govern the payment of witness fees and expenses.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.11 Preservation of testimony and discovery of evidence. The department or any party in any contested case may obtain discovery and preserve testimony as provided by ch. 804, Stats. For good cause, the department's hearing examiner may allow a shorter or longer time for discovery or preserving testimony than is allowed by ch. 804, Stats.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73; am. Register, April, 1976, No. 244, eff. 5-1-76; am. Register, March 1978, No. 267, eff. 4-1-78.

NR 2.12 Informal conferences. (1) **CALL AND PURPOSE.** The department or the hearing examiner may call an informal conference at any time prior to or during the course of a hearing. The purposes of such conferences shall, insofar as applicable, be to consider:

- (a) Simplification of issues;
- (b) Amendments to the pleadings;
- (c) Admissibility of evidence; and
- (d) Such other matters as may aid in the disposition of the matter.

(2) **RECORDING STIPULATIONS.** The hearing examiner may record any stipulations made at such informal conferences, which shall bind the parties thereto in the proceedings.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.13 Conduct of hearings. (1) **PROCEDURE.** The hearing examiner will open the hearing and make a concise statement of its scope and purposes. Appearances then will be entered on the record. If the matter is contested, the examiner then will state the issues in the proceedings. Thereafter, parties may make motions or opening statements.

(2) **OPENING STATEMENTS.** When opening statements are made they shall be confined to:

- (a) A brief summary or outline in clear and concise form of the evidence intended to be offered; and
- (b) A statement of ultimate legal points relied upon.

Register, September, 1980, No. 297

NR 2

(3) **ORDER OF PROCEEDING.** Applicants, petitioners and complainants shall proceed first with presentation of their evidence and shall have the burden of proof. No person may use an environmental impact statement or any portion thereof as the exclusive means of meeting their burden of proof or to meet any statutory requirements for an approval, license or permit in a contested proceeding except upon stipulation of the parties.

(4) **OFF RECORD.** Proceedings may be conducted off the record only when the hearing examiner permits. If a discussion off the record is deemed pertinent by the hearing examiner, he may summarize it on the record.

(5) **OBJECTIONS TO EVIDENCE.** Any argument before the examiner on objections to receipt of evidence or on motions to strike will be recorded and parties will be afforded the opportunity to make an offer of proof.

(6) **CONTEMPT.** Contemptuous conduct at a hearing shall be grounds for exclusion from the hearing.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73; r. and recr. (3), Register, June, 1979, No. 282, eff. 7-1-79.

NR 2.14 Rules of evidence in contested cases. (1) **RULES.** Rules of evidence in contested cases are governed by s. 227.10, Stats.

(2) **ADMISSIBILITY.** Evidence submitted at the time of hearing need not be limited to matters set forth in pleadings, petitions or applications. If variances of this nature occur, then the pleadings, petitions or applications shall be considered amended by the record. The hearing examiner may, in his discretion, grant such continuances as may be necessary to give other parties adequate time to prepare evidence to rebut that involved in any such variances.

(3) **TECHNICAL DATA.** When evidence to be presented consists of technical figures so numerous as to make oral presentation difficult to follow, it may be presented in exhibit form and supplemented and explained by oral testimony.

(4) **PETITIONS, ETC.** Petitions or written communications not admissible as evidence may be filed with the hearing examiner but will not be part of the record.

(5) **EXHIBITS, ETC.** Parties offering documentary exhibits or prepared testimony may be ordered by the hearing examiner to furnish copies to all other parties in advance of the hearings and to provide such reasonable time as the hearing examiner may order to enable review of the prepared written testimony and exhibits. Upon compliance therewith, such written testimony and exhibits may be admitted in evidence as though given orally, providing the authors thereof are present and available for cross-examination.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.15 Close of hearing. (1) **CLOSING AND BRIEFS.** A hearing in a contested case shall be closed upon completion of the submission of all evidence and expiration of the period fixed for filing of briefs. If the time for filing briefs has expired and the brief of one or more parties shall not be filed within such time, the department may proceed to its determination of the case. Extension of time to file briefs may be granted by the hearing examiner upon good cause shown.

Register, September, 1980, No. 297

(2) **ADDITIONAL EVIDENCE.** If by stipulation of the parties, documentary evidence is permitted to be submitted after the close of testimony, the record will be closed when such documentary evidence is received by the department or when the specified time for furnishing it has elapsed without its being furnished. The hearing examiner may, upon the request of the stipulating parties, extend the time as originally prescribed for filing such additional evidence.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.155 Decisions in contested cases. (1) **EXAMINER DECISION.** The hearing examiner shall prepare findings of fact, conclusions of law and decision subsequent to each contested case heard. Said decision shall be the final decision of the department, but may be reviewed in the manner described in NR 2.20.

(2) **SECRETARY DECISION.** (a) Notwithstanding (1) the secretary prior to hearing, may direct that the record be certified to the secretary for decision in accordance with the provisions of s. 227.09 (3) (b), Stats., without an intervening decision by the hearing examiner.

(b) Notwithstanding (1) the secretary prior to hearing may direct that the decision be made in accordance with the provisions of s. 227.09 (2) or (4), Stats.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77.

NR 2.16 Reopening hearings. When a hearing in a contested case is closed, no further evidence shall be received, except by order of the department reopening a closed contested case for the taking of future evidence upon application of a party showing to the department's satisfaction that the evidence is newly discovered or was not available at the time of the hearing and that the evidence is necessary for a just disposition of the case.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.17 Transcripts. (1) **METHOD AND COPIES.** Hearings in contested cases will be transcribed either stenographically or mechanically. A typed transcript will be made when deemed necessary by the department. If a transcript is made by the department, copies will be furnished to all persons upon request at a reasonable cost. If no transcript is deemed necessary by the department and a party requests that one be prepared, that party shall be responsible for all costs of transcript preparation. In lieu of a transcript the department will provide any person a copy of the tape recording of a public hearing upon request and at a reasonable cost. All requests pursuant to the above provision shall be made in writing and presented to the hearing examiner at the hearing.

(2) **FINANCIAL NEED.** Any person who by affidavit or other appropriate means can establish to the department's satisfaction that the person is impecunious may be provided a copy of a transcript without charge.

(3) **CORRECTIONS.** Any party, within 7 days of the date of mailing of the transcript, may file with the hearing examiner a notice in writing of any claimed error therein, and shall mail a copy of such notice to each party of record. Other parties may contest any claimed error within 12 days of the date of the mailing of the transcript by so notifying the hear-

ing examiner and other parties of record. All parties will be advised by the hearing examiner of any authorized corrections to the record.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73; am. Register, December, 1976, No. 252, eff. 1-1-77.

NR 2.18 Briefs. (1) **TIME FOR BRIEFS.** In contested cases, parties shall indicate on the record after the close of testimony whether they desire to file briefs. The party or parties having the affirmative shall file affirmative briefs within 15 days after date of mailing of transcript. Other parties 8 days thereafter shall file answer briefs, which may be replied to within 5 days. The hearing examiner in his discretion may establish an alternate schedule for the filing of briefs.

(2) **NUMBER.** Five copies of all briefs shall be filed with the department together with a certification showing when and upon whom copies have been served. Briefs which contain a summary of evidence or facts relied upon shall include reference to specific pages of the record containing such evidence.

(3) **EFFECT OF EARLY FILING.** The filing of briefs in less time than allowed shall not change the due dates for the remaining briefs.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.19 Confidential status. (1) **APPLICABILITY.** This section establishes a procedure which shall apply to requests made to the department to treat as confidential, information in possession of the department or being requested by the department.

(2) **RESPONSIBILITY FOR ESTABLISHING CONFIDENTIALITY.** The burden of establishing the need for confidential treatment of any information shall be on the person requesting such treatment of the information.

(3) **APPLICATION FOR CONFIDENTIAL STATUS.** Any person seeking confidential treatment of information shall file with the department a written application for confidential status containing in affidavit form:

- (a) The name and address of the applicant;
- (b) The position of the individual filing the application;
- (c) The specific type of information for which confidential status is sought;
- (d) The facts and supporting legal authority believed to constitute a basis for obtaining confidential treatment of the information.

(4) **ADDITIONAL INFORMATION.** Within 21 days of the receipt of a complete application, the department shall mail to the applicant a list of written interrogatories the answers to which are necessary for a determination under this section. If an extension has not been granted and if the applicant fails to answer all the interrogatories within 30 days, the department shall deny the application. The department may also deny the application if the applicant fails to provide the information requested in the interrogatories. If a determination under this section can be made solely on the basis of information appearing in the application, written interrogatories may be waived by the department. The responses to the interrogatories shall be treated as confidential if a request for such treatment from the applicant accompanies the responses.

Register, September, 1980, No. 297

(5) PRELIMINARY DECISION. (a) Within 30 days of receipt of a complete application in instances in which interrogatories have been waived, or within 30 days of receipt by the department of the information requested in the interrogatories, the department shall issue a written preliminary decision on the request for confidentiality. The preliminary decision shall include:

1. A finding which identifies the type of information sought to be assigned confidential status, and

2. A determination of whether the department has the authority to compel submittal of the information, and

3. If such authority exists, a determination of whether the department is authorized by law to assign confidential status to the type of information at issue, and

4. The decision to deny or to grant the request in whole or in part.

(b) A preliminary decision to assign confidential status must be made pursuant to one of the following:

1. Section 144.33, Stats., or

2. Section 147.08 (2) (c), Stats., or

3. Upon a finding consistent with the ruling in *State ex rel. Youmans v. Owens* (1965), 28 Wis.2d 672, that confidential treatment of the information is in the public interest, or

4. Other specific statutory or common law right to confidential treatment of information.

(c) A preliminary decision made pursuant to s. 147.08(2) (c), Stats., or *Youmans* shall also include answers to the following questions:

1. How many people have knowledge of the supposedly "secret" information? Will disclosure increase that number to a significant degree?

2. Does the contested information have any value to the possessor? To a competitor? Is that value substantial?

3. What damage, if any, would the possessor of the secret suffer from its disclosure? What advantages would its competitors reap from disclosure?

4. What benefits are likely to flow from disclosure? To whom? Are they significant? In this connection, what is the public "need" for disclosure? Can it be satisfied in any other way?

(d) The definition of "trade secret" in s. 943.205 (2), Stats., is adopted to apply to determinations made pursuant to s. 147.08 (2) (c), Stats.

(e) A preliminary decision to approve the request in whole or in part shall be published by the department as a class 1 notice in the official state newspaper, and such other notice as the department deems appropriate shall be provided. The applicant or any interested member of the public may obtain an adjudicatory hearing on the preliminary decision to grant the request in whole or in part by petitioning the department for such a hearing within 10 days of receipt of notice. If the preliminary

decision is to deny the request, the applicant shall be notified in writing of the decision by the department, and shall have 10 days after receipt of the decision to petition the department for an adjudicatory hearing on the preliminary decision.

(6) **HEARING ON THE PRELIMINARY DECISION.** (a) If a timely request is received, the department shall provide a hearing at which the applicant, the department and any other interested party may appear and present evidence or testimony supporting its position. A class 1 notice of the hearing shall be published by the department in the official state newspaper, and such other notice as the department deems appropriate shall be provided.

(b) The hearing shall be before a hearing examiner and testimony shall be under oath and subject to cross-examination. The burden of establishing the confidential status shall be with the applicant.

(c) The hearing examiner shall exercise discretion to determine which individuals may have access to information alleged to be confidential and shall exercise the authority provided by law to impose protective measures and conditions for inspection necessary to safeguard confidentiality of the information during and after the hearing.

(7) **FINAL DECISION.** If no hearing is requested within the time provided, the preliminary decision shall become final. If a hearing is requested, the decision of the hearing examiner shall be the final decision of the department, but may be reviewed in the manner prescribed by NR 2.20. The decision of the hearing examiner shall be in writing, shall include findings of fact and conclusions of law, and shall be provided to all parties to the hearing.

(8) **INTERIM CONFIDENTIAL STATUS.** No information for which confidential status was requested shall be open to public scrutiny until 40 days after issuance of the final decision. Additional information supplied by the applicant to support the request for confidentiality shall be treated as confidential. Unless judicial review is requested, this additional information shall be returned to the applicant following the 30-day period for filing a petition for judicial review.

(9) In any contested case hearing the hearing examiner, in determining the merits of a request for trade secret protection or confidential treatment of information which arises during the course of the hearing, shall render a ruling on the request only after receiving answers to the questions appearing in NR 2.19(5)(c) 1., 2., 3. and 4.

History: Emerg. cr. eff. 1-1-75; Cr. Register, May, 1975, No. 233, eff. 6-1-75; r. and recr. Register, July, 1978, No. 271, eff. 8-1-78.

NR 2.195 Public records and information. (1) It is vital that the public receive factual information on the affairs of state government through all forms of communication. Whether such information is requested by media representatives or individual citizens, department employees should assist in securing facts necessary to allow understanding of and participation in government and government agencies.

(2) (a) All department employees are authorized to answer questions within their competency, whether these are asked by the public or by representatives of the news media. Employees, in turn, are responsible for the factual accuracy of the information they provide.

Register, September, 1980, No. 297

(b) The following are the only exceptions to this "freedom-of-information" policy. Employees will not release information within the 6 stated exceptions without prior approval from the bureau of legal services. The exceptions are:

1. Law enforcement, auditing or other investigational information that might prejudice later court cases or quasi-judicial hearings;
2. Comment on a case before, during or after court or quasi-judicial hearings prior to a decision (except as a witness);
3. Financial, medical, social or personal histories and disciplinary data which may unduly damage reputations;
4. Discussions of personalities in personnel actions or in training sessions for state employees;
5. Information of a confidential nature that might inhibit private competitive rights, the investment of state funds or the state's bargaining power in acquisition and disposal of land and facilities;
6. Information specifically excluded from public inspection by law. (See section NR 2.19, Wis. Adm. Code).

(3) In cases where the district or bureau director are concerned that the public interest in withholding inspection outweighs the public interest in permitting it, the file or requested information shall be provided to the secretary, deputy secretary or division administrator for review with the bureau of legal services and for determination.

(4) District directors are designated as custodians of department district records and files and are delegated the responsibility for them as well as the authority to provide copies or inspection as provided herein.

(5) (a) Requests for copies of records and files must be complied with unless the records fall within the aforementioned categories. The requestor shall pay the copying charge for 10 or more pages. For 9 or less pages, there will be no charge. Copies shall be provided to the requestor within a reasonable period of time, but as soon as possible taking into consideration other duties and assignments.

(b) When a request concerns large amount of copy work (i.e., more than 100 pages), the file and request may be sent to the copying facility at GEF #2. In such cases, the requestor must make an advance payment of the copying charge and be informed that there will be a 10-day to 2-week processing period. The payment must accompany the copying request to the central office facility.

(6) (a) All formal meetings of state agencies and bodies, including advisory councils, will be open to the communication media and to the public, except where the matters under discussion fall in the categories listed in s. 19.85, Stats.

(b) Department employees are authorized and encouraged to participate in information activities contributing to a better understanding of the functions of state government, including radio and television programs, speeches, group contacts and magazine articles.

History: Cr. Register, April, 1980, No. 292, eff. May 1, 1980.

Register, September, 1980, No. 297

NR 2.20 Review of contested case decision. (1) **FILING.** Any party to a contested case who is adversely affected by a final decision of the department rendered after a public hearing on the matter, may within 10 days after entry of the decision, file a written petition for review by the secretary. Said petition shall specify in detail the grounds for the review, the relief which petitioner seeks and citation to supporting authorities which petitioner feels aids petitioner's case. The secretary shall not delegate the review to anyone who has had prior involvement in either the hearing or decision-making process.

(2) **SERVICE.** Said petition for review shall be served either personally or by registered or certified mail upon the secretary and upon all other parties to the action.

(3) **DECISION.** Within 14 days of the receipt of the petition, the secretary shall decide whether or not to grant the requested review. If the secretary decides to grant the review, the secretary may order the filing of briefs, presentation of oral argument, or a rehearing of all or part of the evidence presented at the original public hearing (or any combination thereof).

(4) **APPEAL.** A petition for review pursuant to this section shall not be a prerequisite for appeal or review under ss. 227.15 to 227.16, Stats.

(5) **SUSPENSION OF ORDERS.** The filing of a petition for review shall not suspend or delay the effective date of an order, and the order shall take effect on the date fixed by the department and shall continue in effect unless provisions of the order are specifically suspended or delayed by the secretary in writing. Petition for such suspension of the effective date of an order shall be clearly specified in the petition for review.

History: Cr. Register, February, 1976, No. 242, eff. 3-1-76.