

REPORT TO LEGISLATURE

NR 149, Wis. Adm. Code

Board Order No. SS-22-12
Clearinghouse Rule No. CR 17-046

Germane Modifications

While the proposed rule CR 17-046 was under review by the Joint Committee for Review of Administrative Rules (JCRAR), concerns were expressed about a provision in the rule regarding the Department of Natural Resources (DNR)'s statutory authority to promulgate a method for producing an annual schedule of fees for certified and registered laboratories to recover the costs of administering the program. On October 28, 2019, the department recalled the proposed rule to make germane modifications to address this concern.

After review with the Laboratory Certification Standards Review Council and JCRAR, the department determined that an appropriate resolution would be for the legislature to amend the statute to clarify the DNR's authority to establish a method for producing an annual schedule of fees. On March 3, 2020, 2019 Wisconsin Act 169 was enacted as follows:

SECTION 1. 227.01 (13) (pt) of the statutes is created to read:

227.01 **(13)** (pt) Creates an annual schedule of fees under s. 299.11 (9).

SECTION 2. 299.11 (9) of the statutes is amended to read:

299.11 **(9)** FEES. The department shall promulgate by rule a graduated method for producing an annual schedule of fees for certified and registered laboratories which are is designed to recover the costs of administering this section.

This legislation clarifies that the DNR is authorized to adopt section NR 149.21 of the proposed rule, which sets out a method of calculating an annual schedule of fees that are designed to recover the costs of administering the lab certification program.

Resubmittal of the Proposed Rule

Because of the statutory change, there is no longer a need to make a germane modification to the proposed rule. Therefore, the department resubmits the proposed rule pursuant to s. 227.19(4)(b)4, Stats., with no modifications.

Brief Timeline Review

- 7/22/2019 – DNR submitted the proposed rule to the chief clerk of each house of the legislature. Both the Assembly and the Senate committees took no action.
- 9/5/2019 – The proposed rule was referred to JCRAR from the Senate.
- 9/10/2019 – The proposed rule was referred to JCRAR from the Assembly.
- 9/26/2019 – Senator Nass's office (JCRAR Co-Chair) reached out to DNR to discuss the fee provision in the proposed rule.
- 10/28/2019 – DNR recalled the proposed rule for germane modification pursuant to s. 227.19(4)(b)4., Stats.
- 3/3/2020 – 2019 Wisconsin Act 169 was enacted.