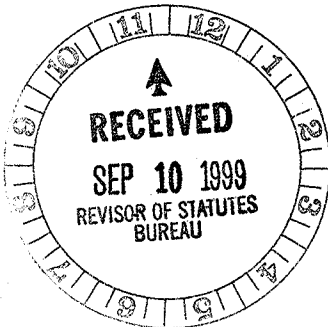


**RULES CERTIFICATE**

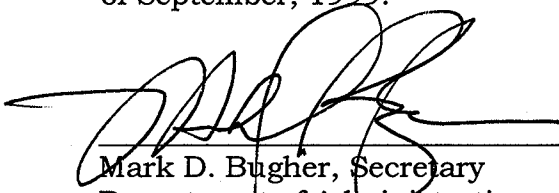
State of Wisconsin )  
 ) ss.  
Department of Administration )

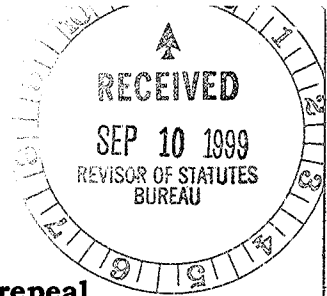
I, Mark D. Bugher, Secretary of the Wisconsin Department of Administration, and custodian of the official records, certify that the attached administrative rule relating to Appeals, Hearings and Enforcement Proceedings arising from regulatory activities of the Division of Gaming, was duly approved and adopted by the Department of Administration on September 10, 1999.

I further certify that this copy has been compared by me with the original on file with this Department and that it is a true copy thereof and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand in the City of Madison, Wisconsin this 10th day of September, 1999.

  
\_\_\_\_\_  
Mark D. Bugher, Secretary  
Department of Administration



**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.

#### **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.

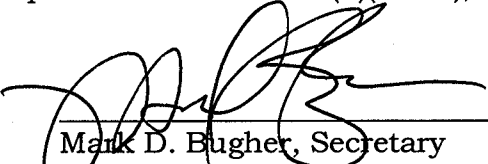
WGC 3.06(1) PROPOSED DECISIONS. (a) In all cases in which a proposed decision is required by s. 227.46(2), Stats., the hearing officer shall within 7 working days of the close of the presentation of evidence and arguments by the parties, prepare and submit to the ~~commission~~ department a proposed 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: September 10, 1999

  
\_\_\_\_\_  
Mark D. Bugher, Secretary  
Department of Administration

FISCAL ESTIMATE  
DOA-2048 (R10/92)

ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

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

**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.

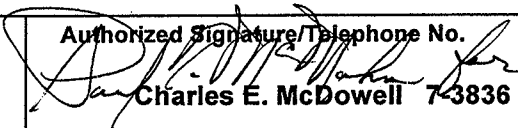
**Long-Range Fiscal Implications**

None

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

DOA/Tara Brunner 266-0016

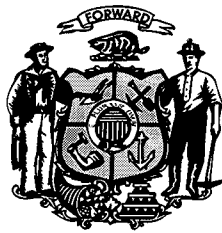
Authorized Signature/Telephone No.

  
Charles E. McDowell 7-3836

Date

March 25, 1999

TOMMY G. THOMPSON  
GOVERNOR  
MARK D. BUGHER  
SECRETARY



Mailing Address:  
Post Office Box 7864  
Madison, WI 53707-7864

September 10, 1999

Mr. Gary Poulson  
Revisor of Statutes  
131 W. Wilson Street, Suite 800  
Madison, WI 53703

Douglas LaFollette  
Secretary of State  
30 W. Mifflin St., 10<sup>th</sup> Fl.  
Madison, WI 53703

TRANSMITTAL OF RULE ADOPTION - WGC 3

RE: Appeals, Hearings and Enforcement Proceeding regarding regulatory activities  
of the Division of Gaming

Dear Messrs. Poulson and LaFollette:

Pursuant to s. 227.20, Stats., agencies are required to file a certified copy of every rule adopted by the agency with the Officers of the Secretary of State and the Revisor of Statutes.

Enclosed, please find a rule certificate form, the order of adoption and rule in final draft form, as well as the fiscal estimate.

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

Respectfully Submitted,

  
Mark D. Bugher  
Secretary

