

# STATEMENT OF SCOPE

## Labor and Industry Review Commission

**Rule No.:** LIRC 1-4 (revise)

**Relating to:** Procedural Rules for Filing Petitions for Commission Review and Commission Review of Cases

**Rule Type:** Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

N/A

### 2. Detailed description of the objective of the proposed rule:

The commission's objective in revising its procedural rules is to address rules identified as unnecessary or conflicting with statutory provisions, pursuant to the process contained in Wis. Stat. § 227.29. The commission also generally reviewed its rules for accuracy and completeness.

In LIRC 1, general operating rules for the Labor and Industry Review Commission, the proposed rule will indicate that LIRC has jurisdiction for review of cases arising under Wis. Stat. § 103.06(6)(c), the worker classification compliance statute. The proposed rule will also revise the place at which petitions for review may be filed. The current rule contemplates that petitions may be filed with either the commission or the Department of Workforce Development. However, pursuant to Wis. Stat. § 102.18(3), petitions in worker's compensation cases may be filed with the commission, the Department of Workforce Development, or the Division of Hearings and Appeals in the Department of Administration. Finally, in recognition of the fact that unemployment insurance decisions are subject to time lapse standards, the proposed rule will clarify that answers in opposition to a petition for review filed in unemployment insurance appeals will only be considered if received prior to the commission's completion of its decision.

In LIRC 2, regarding procedural rules for filing petitions for commission review of unemployment insurance appeal tribunal decisions, the proposed rule will revise the place and manner in which petitions for commission review may be filed. The rule will be revised to reflect that petitions may no longer be filed with the Department of Workforce Development and will be modified to reflect the fact that petitions may be filed in several ways including by mail, by fax, in person at the commission's office, or online at the commission's website. The revised rule will also delete the provisions relating to judicial review that restate statutory provisions regarding appealing commission decisions to circuit court and are therefore redundant. The rule will be revised to reflect the fact that the provisions contained in LIRC 2 also pertain to review of appeal tribunal decisions regarding worker classification compliance, pursuant to Wis. Stat. § 103.06(6)(c).

In LIRC 3, regarding procedural rules for filing petitions for commission review of worker's compensation cases, the proposed rule will update the location at which petitions for commission review may be filed to clarify that petitions may be filed with the commission, the Division of Hearings and Appeals of the Department of Administration, or the Department of Workforce Development and will clarify that petitions may be filed in several ways including by mail, by fax, in person at the commission's office, or online at the commission's website. The revised rule will also delete the provisions relating to judicial review that restate statutory provisions regarding appealing commission decisions to circuit court and are therefore redundant.

In LIRC 4, regarding procedural rules for filing petitions for commission review of equal rights administrative law judge decisions, the revised rule will delete the provisions relating to judicial review that Rev. 3/6/2012

restate statutory provisions regarding appealing commission decisions to circuit court and are therefore redundant.

The commission also seeks to simplify its rules by combining them into a single chapter.

**3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:**

The proposed rule does not alter or establish any policies.

**4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):**

Wisconsin Stat. § 103.04(2) authorizes the commission to promulgate rules of procedure.

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

State employees will spend approximately 25 hours developing the rule. No other resources are necessary to develop the rule.

**6. List with description of all entities that may be affected by the proposed rule:**

The proposed rule will affect all parties with cases being reviewed by the commission, including individuals with worker's compensation, unemployment insurance, fair employment, public accommodations, or worker classification compliance claims, employers, worker's compensation insurance carriers, and the department.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

There are no existing or proposed federal regulations that address the procedures to be regulated by the proposed rule.

**8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):**

The proposed rules will have no economic impact.

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**Michael Gillick, LIRC Chairperson**  
Department Head or Authorized Signature

09/13/2021

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Date approved under Wis. Stat. § 227.135(2)