Report From Agency

ADMINISTRATIVE RULES
DEPARTMENT OF HEALTH SERVICES
REPORT TO THE LEGISLATURE
CLEARINGHOUSE RULE 10-003
CH. DHS 19, Discretionary Enforcement
of Rules and Guidelines Against Small Businesses

Basis and Purpose of Proposed Rule
The proposed rules are created under s. 895.59 (2) Stats., and are required to include a reduction or waiver of penalties for voluntary disclosure by a small business of actual or potential violations of rules or guidelines. Section 895.59 (2) Stats., further requires that the rule specify when the use of discretion in the enforcement of a rule or guideline against a small business will not be allowed, and includes a list of circumstances under which discretion is not allowed. These circumstances must also be included in the rule. The rules may include consideration of a violator's ability to pay when determining the amount of any monetary penalty, assessment, or surcharge.

The department proposes to create a rule consistent with the requirements of s. 895.59, Stats., by indicating when the department may use discretionary enforcement concerning small businesses and when discretionary enforcement concerning small businesses is prohibited.

Responses to Legislative Council Rules Clearinghouse Recommendations
The department accepted the comment(s) made by the Legislative Council Rules Clearinghouse and modified the proposed rule where suggested.

Final Regulatory Flexibility Analysis
The proposed rules will have a direct impact on a substantial number of small businesses that are not covered under s. 48.685 or 50.065, Stats. The economic impact on the businesses affected by this rule is indeterminate.

Changes to the Analysis or Fiscal Estimate

Analysis
Changes in word usage and punctuation were made in the rule's analysis.

Fiscal Estimate
No changes were made to the fiscal estimate.

Public Hearing Summary
The department began accepting public comments on the proposed rule via the Wisconsin Administrative Rules website on January 21, 2010. A public hearing was held on February 18, 2010, in Madison, WI. No persons attended the hearing. Public comments on the proposed rule were accepted until February 18, 2010, 4:30 p.m.