

Clearinghouse Rule 06-133

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD RENUMBERING AND CREATING RULES

The Natural Resources Board proposes an order to renumber ss. NR 5.001(7m) and (11m); and create ss. NR 5.001(7r), (11r) and (12m) and 5.01 (5) Wis. Adm. Code relating to registration of boats used exclusively to make advertisements and creating definitions.

Analysis Prepared by Department of Natural Resources

1. Statutes Interpreted.

Sections 30.501(2)(a)2., 30.51 (2)(a)8. , 30.52(3g) and 30.68(9), Stats.

2. Statutory Authority.

Sections 30.52(3g)(b) and 227.11 (2) (a) , Stats.

3. Explanation of agency authority to promulgate the proposed rule under the statutory authority.

The proposed rule would allow for the department to issue boat certificate of numbers for free when applied for by a person who uses a boat exclusively for making an advertisement for the manufacture of the boat. The certificate of number may not be issued for a period that exceeds 15 days. The department is required to promulgate rules under s. 30.52 (3g) (b) stats, for the temporary certificate. Section 227.11 (2) (a) stats, grants the department rule making authority the creation of definitions to clarify terms used in the statutes.

4. Related statute or rule

None

5. Plain language analysis of the proposed rule

The attached rule will establish the procedure for applying for and issuance of a free 15-day boat registration/certificate of number. This rule will primarily affect persons or businesses that film commercials and shoot photos for advertisements to be used by the manufacturer of the boat. This rule will allow them easier access to Wisconsin's waters for creating such advertisements and commercials.

In addition this rule creates three new definitions to clarify terms used in Chapter 30, Wis. Stats. This rule clarifies the terms "safe carrying capacity" and "recommended number of persons" as they relate to the information provided on the capacity plate attached to boats. This rule clarifies that neither of maximum recommended number of persons and the maximum weight of persons, motor, gear, etc., that may be placed aboard the boat may be exceeded. The term lifeboat is also being clarified for purposes of interpretation of the statutory exemption from registration of a motorboat that is a lifeboat. This rule clarifies that the

exemption from registration provided for a lifeboat only applies to a boat used exclusively for the purpose of transporting person(s) from a vessel in distress.

6. Summary of and preliminary comparison with existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

N/A

7. Comparison of similar rules in adjacent states (Minnesota, Iowa, Illinois and Michigan)

The proposed rules do not have comparable rules in the above listed states that we were able to identify.

8. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule.

The department was approached with the idea of creating a free temporary certificate of numbers allowing manufacturers to utilize Wisconsin waterways more easily in advertisement of their new products. The department did not object based on the small number that this would apply to and to promote use of our waterways. Section 30.52 (3g) (a), Stats., was created under 2005 Wis. Act 481 requiring the department to issue a free temporary certificate of number for any such boats.

9. Analysis and supporting documentation that the agency used in support of the agency's determination of the rules effect on small businesses under s. 227.114, stats or that was used when the agency prepared an economic impact report.

The department determined that small businesses would not be significantly affected by the changes in these rules.

10. Effects on small business, including how the rule will be enforced.

This rule will have limited affect on small business. It simply provides a means by which a small business that uses a boat to make an advertisement for a boat manufacture can apply for a free registration for the boat used to make the advertisement, instead of having to pay the normal fee for a registration or certificate of number.

11. Agency contact person (including e-mail and telephone number).

Roy S. Zellmer, 101 S. Webster Street P.O. Box 7921, Madison, WI 53707-7921, (608) 264-8970, roy.zellmer@wi.gov

12. Place where comments are to be submitted and deadline for submission.

Roy S. Zellmer, 101 S. Webster Street P.O. Box 7921, Madison, WI 53707-7921, (608) 264-8970, roy.zellmer@wi.gov The deadline for written comments is February 1, 2007. Comments may also be electronically submitted at the following Internet site: <http://adminrules.wisconsin.gov>.

SECTION 1. NR 5.001 (7m) is renumbered (7g), (11m) is renumbered (11g), and (7r), (11r) and (12m) are created to read:

NR 5.001(7r) "Lifeboat" means a boat or other vessel which is used exclusively for the purpose of transporting a person from a vessel in distress.

(11r) "Recommended number of persons", for the purpose of ss. 30.501(2)(a)2. and 30.68(9), Stats., means the maximum number of persons that may occupy a boat that is being used on waters of the state even if the total weight of persons, motor, gear, and other articles placed aboard the boat does not exceed the maximum weight displayed on the boat's capacity plate.

(12m) "Safe carrying capacity", for the purposes of s. 30.68 (9), Stats., refers to both the maximum number of persons and the total weight of persons, motor, gear and other articles placed aboard the boat which is displayed on the boat's capacity plate under normal conditions. A boat is considered overloaded if either the maximum number of persons or the total weight of persons, motor, gear and other articles placed aboard the boat is exceeded. The safe carrying capacity may be less than the number displayed on the capacity plate when taking into consideration weather and other existing operating conditions.

SECTION 2. NR 5.01 (5) and note are created to read:

NR 5.01(5) An application made by a person who intends to use a boat exclusively as part of an advertisement being made for the manufacturer of the boat, may apply for a free certificate of number for the boat as authorized under s. 30.52(3g), Stats.

(a) *Application.* Persons applying for a free certificate of number under this subsection shall submit an application on the form provided by the department which contains all of the information required by the department which may include any information required under sub. (1).

(b) *Additional information.* In addition to the information required under par. (a) the application shall contain the following:

1. The beginning and ending dates for the period the boat will be used exclusively for making the advertisement, but not to exceed a total of 15 days.
2. The body of water on which the boat will be operated.
3. The name of the county in which the boat will be operated.

(c) *Effective period.* The department shall issue a certificate of number with a suffix of TN for the boat which will be valid for not more than 15 consecutive days.

(d) *Display of identification number and decals.* 1. Upon being issued a certificate of number notification and awarded an identification number and decals by the department, the person making the advertisement shall paint on or attach the identification number and decals to each side of the forward half of the boat as prescribed under s. NR 5.06.

2. Notwithstanding s. NR 5.06(2) and (3), the identification number may be attached to removable signs to be temporarily but firmly mounted upon or attached to the boat while being operated. No number other than the identification number awarded by the department under this paragraph may be painted, attached or otherwise displayed on either side of the forward half of a boat.

Note: 30.52 (3g) EXEMPTION. states: (a) A boat that is present in this state and used exclusively as part of an advertisement being made for the manufacturer of the boat shall be issued a certificate of number for a period not to exceed 15 days. The department may not charge a fee for the issuance of a certificate of number under this paragraph. (b) The department shall promulgate rules for the issuance of certificates of number under par. (a).

SECTION 3. Effective date. 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.

SECTION 4. Board adoption. The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)