

ADMINISTRATIVE RULES
DEPARTMENT OF HEALTH SERVICES

NOTICE OF PUBLIC HEARING
Chapter DHS 19

NOTICE IS HEREBY GIVEN that pursuant to ss. 227.11 (2) and 895.59 (2), Stats., and interpreting s. 895.59, Stats., the Department of Health Services will hold a public hearing on proposed permanent rules creating ch. DHS 19, relating to discretionary enforcement, and affecting small businesses.

Hearing Date(s) and Location(s)

Date and Time	Location
February 18, 2010 1:00 p.m. – 3:00 p.m.	Wilson Street State Office Building 1 W. Wilson Street, Room 638A Madison, Wisconsin

Accessibility

English

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Spanish

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Hmong

DHS yog ib tus tswv hauj lwm thiab yog ib qhov chaw pab cuam uas muab vaj huam sib luag rau sawv daws. Yog koj xav tau kev pab vim muaj mob xiam oob qhab los yog xav tau ib tus neeg pab txhais lus los yog txhais ntaub ntawv, los yog koj xav tau cov ntaub ntawv no ua lwm hom lus los yog lwm hom ntawv, koj yuav tau thov kev pab uas yog hu rau Rosie Greer ntawm 608-266-1279. Koj yuav tsum thov qhov kev pab yam tsawg kawg 7 hnub ua ntej qhov hauj lwm ntawd.

Copies of the Rule

A copy of the rules may be obtained from the department at no charge by downloading the documents from www.adminrules.wisconsin.gov or by contacting:

Rosie Greer
Department of Health Services
1 W. Wilson Street, Room 650

Madison, WI 53707
608-226-1279

greerrj@dhfs.state.wi.us

Analysis Prepared by the Department of Health Services

Statute interpreted: Section 895.59, Stats.

Statutory authority: Sections 227.11 (2) and 895.59 (2), Stats.

Explanation of agency authority:

The rules created under s. 895.59 (2) Stats., 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. Section 895.59 (2), Stats., 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.

Related statute or rule:

Section 895.59 Stats.

Plain language analysis:

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.

Summary of, and comparison with, existing or proposed federal regulations:

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

Comparison with rules in adjacent states:

Illinois:

There appear to be no rules in Illinois that are similar to the proposed rules.

Iowa:

There appear to be no rules in Iowa, that are similar to the proposed rules.

Michigan:

There appear to be no rules in Michigan that are similar to the proposed rules.

Minnesota:

There appear to be no rules in Minnesota that are similar to the proposed rules.

Summary of factual data and analytical methodologies:

The Department reviewed statutes that authorize enforcement to determine the limitations if any of whether discretionary enforcement could be used and the extent of that discretion.

Analysis and supporting documents used to determine effect on small business:

Entities that may be affected by the proposed rules include the following: Emergency Medical and Ambulance Service Providers; Asbestos & Lead Abatement Providers, Consultants, and Trainers; Hotels and Motels; Bed and Breakfast Establishments; Tourist Rooming Houses; Recreational and Educational Campgrounds; Restaurants (including mobile restaurants); Tattoo and Body Piercing Establishments; Tanning Bed Facilities; Public Pools; Vending Machine Operators; WIC Vendors; persons subject to licensing and regulation under ch. DHS 157; other entities regulated by the Department's Division of Public Health; and certain Medical Assistance providers regulated by the Department's Division of Health Care Access and Accountability.

Section 895.59, Stats., is applicable only to small businesses that are not covered under ss. 48.685 or 50.065, Stats. Because the rule requires a reduction or waiver of a penalty for voluntary disclosure of a violation, it is likely that the rule will have a positive fiscal effect on those businesses that receive a waiver or reduction.

Effect on small business:

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

Agency contact person:

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Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the agency contact person listed above or to the Wisconsin Administrative Rules Website at www.adminrules.wisconsin.gov until February 18, 2010, 4:30 p.m.

Fiscal Estimate

A copy of the full fiscal estimate may be obtained from the department's contact person listed above upon request.

Small Business Regulatory Coordinator

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608-266-1279