

BEFORE THE  
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PUBLIC HEARINGS  
WT-06-12

NOTICE IS HEREBY GIVEN that pursuant to ss.1.11 and 227.11, Wis. Stats., the Department of Natural Resources will hold public hearings on revisions to ch. NR 115, Wis. Adm. Code, relating to the shoreland zoning standards under Wisconsin's Shoreland Protection Program. The proposed rule revisions would clarify and modify certain sections of the code to address concerns, expressed by some counties, current standards are unclear or burdensome to implement.

NOTICE IS HEREBY FURTHER GIVEN that the hearings will be held on:

August 7th, 2013 Wednesday	Town of Greenville W6860 Parkview Drive, Greenville, WI 54942
August 8th, 2013 Thursday	City of Pewaukee W240 N3065 Pewaukee Road, Pewaukee, WI 53072
August 14 <sup>th</sup> , 2013 Wednesday	Best Western Tomah Hotel 1017 E McCoy Boulevard, Tomah, Wisconsin, 54660-3264
August 15 <sup>th</sup> , 2013 Thursday	Spooner High School 801 County A, Spooner, WI 54801
August 22 <sup>nd</sup> , 2013 Thursday	Rodeway Inn & Suites 1738 Comfort Drive, Tomahawk, WI, US, 54487

NOTICE IS HEREBY FURTHER GIVEN that the hearings will begin at 2:00 pm and end at 6:00 pm. The Department will provide a short presentation at the beginning of the hearings and then open the hearings to the public for submittal of comments on the proposed rule.

**Availability of Rules and Submitting Comments:**

The proposed rule supporting documents may be reviewed and comments electronically submitted at the following internet site: <http://adminrules.wisconsin.gov>. A copy of the proposed rules and supporting documents may also be obtained from Heidi Kennedy, Bureau of Watershed Management, P.O. Box 7921, Madison, WI 53707 or [DNRNR115COMMENTS@wisconsin.gov](mailto:DNRNR115COMMENTS@wisconsin.gov).

Written comments on the proposed rule may be submitted via U.S. mail or email to Heidi Kennedy at the addresses noted above. Written comments, whether submitted electronically or by U.S. mail, will have the same weight and effect as oral statements presented at the public hearings. Comments may be submitted until September 5, 2013.

**Analysis Prepared by the Department of Natural Resources:**

The State's shoreland management program under Chapter NR 115 provides that shoreland zoning regulations shall: "further the maintenance of safe and healthful conditions: prevent and control water pollution: protect spawning grounds, fish and aquatic life: control building sites, placement of structures

and land uses, and reserve shore cover and natural beauty." NR 115, Wis. Adm. Code, contains the statewide minimum standards for shoreland zoning in unincorporated areas. Although the rule was recently revised in 2009 and went into effect on February 1, 2010, some counties have expressed concerns about implementation and enforcement of the minimum standards regulating impervious surfaces and nonconforming structures. The proposed revisions would address concerns associated with administering and implementing the impervious surface standards and the nonconforming structure standards in the rule. Further, minor changes to the vegetative management and administrative reporting standards will clarify the requirements under the rule and ease reporting requirements.

### **Impervious Surface standards**

Current standards under ch. NR 115.05(1)(e), Wis. Adm. Code, specify that the impervious surface standards be applied to land within 300 feet of the ordinary high water mark. Shoreland mitigation is required if a property expands the impervious surfaces on the property above 15% and limits the amount of impervious surfaces on a property to a maximum of 30%. The proposed rule revisions would ease the application of the impervious surface standards by limiting application of the impervious surface standards to only riparian lots or non-riparian lots that are entirely within 300 feet of the ordinary high water mark and allowing properties to exceed the maximum impervious surface standards if the property owner can show that the runoff from the impervious surfaces is not draining towards a lake or river or is being treated by an engineered system.

The proposed rule language will also allow counties to adopt an ordinance that allows a higher percentage of impervious surfaces for areas of already highly developed shorelines. A highly developed shoreline areas, in the proposed rule language, are areas that were identified as an urbanized area or urban cluster in the 2010 US Census, areas that have a commercial, industrial or business land use classification, or any additional areas that meet the specifications in the proposed rule. Property owners in areas of highly developed shorelines would be allowed to expand the impervious surfaces on their lots, up to 30% for residential and 40% for commercial, industrial or business land uses, without a shoreland zoning permit. To expand the impervious surfaces above this limit, the property owner will have to receive a permit and provide shoreland mitigation. Finally, to expand the impervious surfaces on the property above 40% for residential and 60% for commercial, industrial or business land uses, the property owner would either have to obtain a variance or show that the additional impervious surface does not drain directly to the lake or river, or that the additional impervious surface is treated by an engineered system.

### **Nonconforming Structure standards**

The nonconforming structure standards in ch. NR 115.05(1)(g), Wis. Adm. Code, allow property owners, whose principal structures are greater than 35 feet from the waterbody, to expand vertically within the required setback and relocate or reconstruct the principal structure if the property owner completes a shoreland mitigation project. Further, property owners may expand principal structures vertically or horizontally beyond the required setback. All property owners are allowed unlimited maintenance and repair of their nonconforming structures, and the scope of these repairs is defined by the county ordinance.

The proposed rule language on shoreland standards would allow a one-time horizontal expansion of 200 square feet, within the setback, with shoreland mitigation. In addition, the proposed standards would eliminate the requirement that property owners must remove all other nonconforming accessory structures to relocate or replace their nonconforming principal structure. Finally, two other minor changes will clarify the statutory language and requirements associated discontinuance of nonconforming uses and wet boathouses.

**Vegetative Management Standards**

The proposed rule revision would clarify that the county is not required to issue a permit for the removal of vegetation within the buffer zone if they are managing for exotic, invasive, damaged or diseased vegetation or vegetation that poses an imminent safety hazard if the area is replanted such activities.

**Reporting Standards**

Under NR 115.05(4), Wis. Adm. Code, counties are required to adopt an ordinance that contains a number of administrative and reporting requirements. The proposed rule would eliminate a requirement that a county submit copies of any permit issued for a nonconforming structure, if requested by the department.

**Agency contact person:**

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NOTICE IS HEREBY FURTHER GIVEN THAT pursuant to ss. 227.114 and 227.137, Wis. Stats., it is not anticipated that the proposed rules will have a significant economic impact on small businesses. The Department conducted an economic impact analysis in consultation with businesses, business associations, local governmental units, and individuals. The Department determined that this rule would not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of this state. The Department’s Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us or by calling (608) 266-1959.

NOTICE IS HEREBY FURTHER GIVEN THAT the Department has made a preliminary determination that this action does not involve significant adverse environmental effects and does not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on the comments received, the Department may prepare an environmental analysis before proceeding with the proposal. This environmental review document would summarize the Department’s consideration of the impacts of the proposal and reasonable alternatives.

NOTICE IS HEREBY FURTHER GIVEN THAT pursuant to the Americans with Disabilities Act, reasonable accommodations, including the provision of information material in an alternative format, will be provided for qualified individuals with disabilities upon request. Please call Heidi Kennedy at (608) 261-6430 with specific information on your request at least 10 days before the date of the scheduled hearing.

Dated at Madison, Wisconsin \_\_\_\_\_

STATE OF WISCONSIN  
DEPARTMENT OF NATURAL RESOURCES

By \_\_\_\_\_  
Cathy Stepp, Secretary