

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 95-194

AN ORDER to create NR 19.02, relating to requiring a handling fee for certain approvals required for hunting, trapping or fishing.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

11-02-95 RECEIVED BY LEGISLATIVE COUNCIL.

11-30-95 REPORT SENT TO AGENCY.

RNS:AS:jt;kja

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES

NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES

NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES

NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached

YES

NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES

NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES

NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES

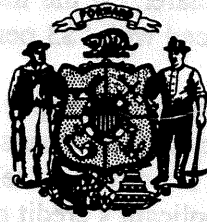
NO

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CLEARINGHOUSE RULE 95-194

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

Section 29.09 (9r), Stats., provides that if the department collects handling fees, it must establish the amount of the fee by rule. Section NR 19.02 does not set the amount of the fee. Rather, it requires the department to set the fee, based on certain costs, and places a cap of \$3 on the amount of the fee. How will the department or secretary actually set the fee under s. NR 19.02 (4) (b) and (c)? Will this be done by a rule that is updated annually?

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. NR 19.02 (1), it appears that s. 29.09 (9r), Stats., permits handling fees to be charged for processing applications. Therefore, it would be clearer to insert "applications for" or "requests for" before "approvals ordered by mail...."

Also in that subsection, "phone" should be "telephone."

b. In s. NR 19.02 (2), the phrase "telephone, mail or electronic means" should be "mail, telephone or electronic means" to be consistent with the rest of the section.

c. In s. NR 19.02 (3) (a), "As used in this section," should be deleted because it is repetitive. See s. NR 19.02 (3) (intro.).

d. In s. NR 19.02 (4) (a), "for each order" should be deleted if the intent is to charge the handling fee for each approval application or request. The phrase implies that the fee is a per

order fee. In s. NR 19.02 (4) (b), "\$3.00 per application" is somewhat vague. If the intent is to charge a handling fee for each application for each approval, perhaps a phrase such as "\$3 for each approval application" would be clearer. If the intent is to charge a handling fee for each order, the above phrase should be replaced with "\$3 per order."

e. Section NR 19.02 (4) (d) appears to apply only to orders submitted by mail. For orders made over the telephone or by electronic means, presumably the required fees would be charged to the applicant's credit card. Therefore, ", telephone, or electronic means" should be deleted. If there is a concern that an applicant's credit card charge will be denied, the manner in which that will be handled should be specifically addressed.

f. If an application for an approval that is subject to a handling fee is denied, must the applicant pay the handling fee? This should be addressed.

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD
CREATING RULES

The Wisconsin Natural Resources Board adopts an order to create NR 19.02 relating to requiring a handling fee for certain approvals required for hunting, trapping or fishing. FN-39-95

Analysis Prepared by Department of Natural Resources

Statutory authority: s. 227.11(2)(c), Stats.

Statutes interpreted: s. 29.09(9r), Stats.

The Department is seeking this rule to implement a new handling fee for approvals which are ordered by mail, telephone or electronic means. The rule defines the approvals to which a handling fee is applied and the amount of the handling fee.

SECTION 1. NR 19.02 is created to read:

NR 19.02 Handling Fees for Certain Approvals. (1) PURPOSE. This section establishes and describes handling fees which may be charged for processing requests for approvals ordered by mail, telephone or electronic means.

(2) APPLICABILITY. The provisions of this section apply to licenses, permits, stamps and other approvals issued under the authority of ch. 29, Stats, and offered by the department for sale under extended purchasing options and ordered by mail, telephone, or electronic means.

(3) DEFINITIONS. As used in this section:

- (a) "Approval" has the meaning in s. 29.01(1), Stats.
- (b) "Department" means the department of natural resources.
- (c) "Extended purchasing options" means the ability to purchase an approval in person and by mail, telephone or electronic means.
- (d) "Order" means a single request from a person for an approval or approvals.

(4) FEE FOR HANDLING APPLICATIONS FOR CERTAIN APPROVALS. (a) In addition to the obligation to pay all fees imposed under s. 29.092, Stats., a person who orders an approval by mail, telephone or electronic means is required to pay a handling fee established in accordance with this section for each order.

(b) The handling fee for each order shall be established by the department based upon projected mailing costs, credit transaction fees, credit verification fees, personnel costs, telecommunications costs and lock box

charges associated with processing the order and may not exceed \$3.00 per order.

(c) The handling fee under this section shall be established consistent with par. (b) annually prior to April 1 by the secretary of the department.

(d) An order submitted by mail, telephone, or electronic means without payment of all associated fees required under s. 29.092, Stats., and the handling fee in a manner acceptable by the department is not a complete application for the approval and the order will be returned.

(e) If an application for an approval is denied, the handling fee is not refundable.

The foregoing rule was approved and adopted by the State of Wisconsin Natural Resources Board on April 24, 1996.

The 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.

Dated at Madison, Wisconsin

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By

George E. Meyer, Secretary

REPORT TO LEGISLATURE

NR 19.02, Wis. Adm. Code Requiring a handling fee for certain approvals required for hunting, trapping or fishing

Board Order No. FM-39-95
Clearinghouse Rule No. 95-194

Statement of Need

The 1995-97 biennial budget contained statutory language authorizing the Department of Natural Resources to charge a handling fee for licenses, stamps, permits and other approvals which are issued by the department and ordered by mail, telephone or electronic means. The language further instructs that if the department collects handling fees, it shall promulgate rules which establish the amount of the fees and designate the approvals to which the fees shall apply.

The proposed rule specifies that the department may establish a fee to cover its costs up to a maximum of \$3.00 per order. Based upon the proposed rule, it appears the fee will be \$2.40 for the first two years following rule promulgation. The proposed rule does not limit the approvals to which it will apply. It is anticipated that it will in time apply to all approvals except the Conservation Patron License and any other approval that can only be obtained through limited locations.

Modifications as a Result of Public Hearing

No modifications were made as a result of the public hearings.

Appearances at the Public Hearings and Their Position

No comments were made at the public hearings.

Response to Legislative Council Rules Clearinghouse Report

Proposed changes in clarity, grammar and use of plain language were incorporated into the proposed rule.

The Clearinghouse also proposed a modification to s. NR 19.02(4)(d) to apply only to orders by mail but not by telephone or electronic means on the grounds that orders by telephone or electronic means will always be paid by credit card. That provision treats the failure to pay the handling fee as an incomplete application. The Council assumes that if a credit card is used, the handling fee is automatically paid and therefore does not need to be subject to this section. The department disagrees. Any validity checks on the credit card will be made after the fact and it is possible for someone to attempt to use an invalid card to pay the handling fee. The department must retain the right to reject an order submitted by telephone or electronic means where the handling fee is paid with an invalid credit card.

In addition, the Council notes the need to clarify whether the rule applies to those applications that may be subsequently denied by the department, e.g. permits available in limited numbers and distributed on a random basis. If the application is denied, is the handling fee refundable? The department has clarified the rule to indicate that handling fees are not refundable in this situation. The handling fee covers the cost of mailing the requested application form, not the application

itself. In addition, we expect very few orders that contain only a request for a permit; nearly all orders should contain requests for other related licenses and approvals.

Lastly, the Council raised a question regarding the statutory authority for the rule. The proposed rule does not actually set the amount of the fee, but rather sets a cap of \$3 on the amount of the fee. The Council asks how the department will actually set the fee and periodically update it. The department intends to announce the amount of the handling fee on April 1 of each year. The amount will be determined by the secretary after an analysis of actual costs in the prior year and anticipated costs in the upcoming year. The rule will not be updated until the proposed handling fee exceed the \$3 cap.

Final Regulatory Flexibility Analysis

The proposed rule does not regulate businesses; therefore, a final regulatory flexibility analysis is not required.

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Final Regulatory Flexibility Analysis

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LRB or Bill No./Adm. Rule No.
 Admin. Rule NR 19.02
 Amendment No. if Applicable

FISCAL ESTIMATE
 DOA-2048 (R 11/90)

ORIGINAL
 CORRECTED
 UPDATED
 SUPPLEMENTAL

Subject

Handling Fees for Certain Approvals

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

Increase Existing Appropriation
 Decrease Existing Appropriation
 Create New Appropriation
 Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs - May be possible to Absorb Within Agency's Budget
 Yes No

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
 Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others
 School Districts VTAE Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.370(1)(Lt)

Assumptions Used in Arriving at Fiscal Estimate

The proposed administrative rule establishes and describes the handling fees which may be charged for processing approvals ordered by mail, phone or electronic means. This authority is created in s. 29.09(9r) of the 1995-97 biennial budget.

The handling fee will only apply to approvals which are available through extended purchasing options, i.e. can be purchased in person AND by mail, telephone or electronic means. The fee only affects persons who prefer the convenience of ordering by mail, phone or FAX. Although all approvals contained in Chapter 29 are potential candidates for a handling fee, most approvals will not be immediately affected because they are not currently available through extended purchasing options.

This fiscal note is limited to those licenses and permits to be phased in during the two-year period following promulgation of the handling fee rule. During this time, the Department anticipates applying a handling fee on the following licenses and permits: (1) all licenses and permits sold to nonresidents by mail or phone by DNR central office staff; and (2) a special renewal project for the deer gun license, archery license and hunters choice permits for residents and nonresidents.

Item cost and volume assumptions used in this fiscal note are based on actual experience from a pilot mailing in fall 1994 for deer gun licenses, archery licenses and hunters choice permits. This pilot project mailed renewal notices to 30,000 hunters offering them an opportunity to renew by mail with a check or credit card. In that pilot, 30% of all hunters who received the initial mailing responded by mail and ordered one or more approvals. FirStar Bank handled all

Long-Range Fiscal Implications

The Department plans to expand the types of licenses and permits that can be purchased in person or ordered by mail, telephone or electronic means. However, at this time it is too early to know which approvals will be affected and in what volume.

Agency/Prepared by: (Name & Phone No.)

Natural Resources

Authorized Signature/Telephone No.

John P. Blasek 6-2794

Date

03/19/96

orders, remittances and data capture work. DNR License and Registration Section administered the sale and call center activities.

The proposed rule allows for a handling fee of up to a maximum of \$3.00. However, the Department proposes a \$2.40 handling fee for the first two years of implementation. This handling fee is anticipated to cover costs of ordering licenses and permits by mail or telephone as described above.

Variable costs which the Department must cover in these extended purchasing options are: renewal notification, catalog or other mailer and postage; remittance and credit card; data conversion, data processing and related administration; printing, fulfillment and postage; and call center, i.e. staff, telephones and services needed to process customer inquiries, orders and complaints. Assumptions used to derive the annual cost of offering extended purchasing options in the 1995-97 biennium are itemized below for the deer gun, archery and hunters choice project and for nonresident license and permit sales.

Deer Gun, Archery and Hunters Choice Project

Based on anticipated sales volume for FY 1995, the Department estimates that a total of 405,000 hunters will receive the initial mailing, and as a result, 164,000 hunters will purchase their licenses and permits by mail using either a check or credit card.

400,000 residents with 40% response rate =	160,000
5,000 nonresidents with 80% response rate =	4,000
405,000 total	164,000

This fiscal note assumes the following:

1. Of the 164,000 respondent, 10% purchase all three approvals, 85% purchase a gun deer license and hunters choice permit, and 5% purchase only one of the three approvals.
2. Of the 164,00 respondents, 60% use a credit card to pay for the approvals. Credit card transaction fees equal 2.62% of all revenues collected.

Cost of offering extended purchasing options to these 164,000 respondents is as follows:

Outbound renewal notification (incl. envelopes, inserts, presort, printing, postage)	\$137,700
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Inbound customer renewals (incl. lockbox charges, sorting, data entry & processing, tape service, credit card transaction fees)	182,780
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Mailing licenses and permits (incl. printing, fulfillment charges, postage)	52,480
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Administrative handling, incl. reconciliation, design, and procurement	15,913
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TOTAL	\$388,873
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Ave. cost per applicant $\$388,873/164,000$	\$2.37
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Nonresident Orders from DNR Central Office

In FY 95, a total of 2,424 licenses and permits were ordered by mail or phone from the Information Desk in the GEF 2 building. Total revenue from these sales equaled \$259,840.

Cost of extended purchasing options:

Staff time for phone call & mailing	\$2,662
Credit card fees (assume 90% pay with cr. card)	6,127
Envelopes & postage	800
TOTAL	\$9,588

Ave. cost per applicant $\$9,588/2,424 =$	\$3.96
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Weighted Average of Gun, Archery & Hunters Choice Project/Nonresident Sales

Total Costs	
Deer gun, archery, hunters choice	\$388,873
Nonresident sales	9,588
TOTAL	\$398,462

Total Participants	
Deer gun, archery, hunters choice	164,000
Nonresidents	2,424
TOTAL	166,424

Weighted average cost per applicant=	\$2.40
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Therefore, the Department proposes a \$2.40 handling fee for licenses and permits offered for sale under extended purchasing options for the first two years of implementation.

FISCAL ESTIMATE WORKSHEET
 Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R 11/90)

1995 SESSION

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No/Adm.Rule No.
 Admin Rule NR 19.02

Amendment No.

Subject
 Handling Fees for Certain Approvals

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):
 None

II. Annualized Costs:		Annualized Fiscal Impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations-Salaries and Fringes		\$ 17,600	\$ - 0
(FTE Position Changes)		(0 FTE)	(- 0 FTE)
State Operations-Other Costs		380,900	- 0
Local Assistance		0	- 0
Aids to Individuals or Organizations		0	- 0
TOTAL State Costs by Category		\$ 398,500	\$ - 0
B. State Costs by Source of Funds		Increased Costs	Decreased Costs
GPR		\$ 0	\$ - 0
FED		\$ 0	\$ - 0
PRO/PRS		\$ 0	\$ - 0
SEG/SEG-S		\$ 398,500	\$ - 0
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fees, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$ 0	\$ - 0
GPR Earned		0	- 0
FED		0	- 0
PRO/PRS		0	- 0
SEG/SEG-S		398,500	- 0
TOTAL State Revenues		\$ 398,500	\$ - 0

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	\$ 398,500	\$ 0
NET CHANGE IN REVENUES	\$ 398,500	\$ 0

Agency/Prepared by: (Name & Phone No.)
 Natural Resources

Authorized Signature/Telephone No.
 6-2794

Date
 03/19/96

[Handwritten Signature]