

**BEFORE THE
DEPARTMENT OF NATURAL RESOURCES**

NOTICE OF PUBLIC HEARING
Natural Resources Board Order LE-01-14

NOTICE IS HEREBY GIVEN THAT pursuant to ss. 227.16 and 227.17, Stats, the Department of Natural Resources, hereinafter the Department, will hold a public hearing on NR 5-Boat Rules and Regulations, relating to federal requirements, correct noise level testing procedures, improve officer safety, and establish a numbering system for approved waterway markers on the date(s) and at the time(s) and location(s) listed below.

Hearing Information - Date / Time / Location

Friday, September 5, 2014, 10:00-11:00 a.m.

DNR Satellite Center
DMV/DNR Conference Room
5301 Rib Mountain Road
Wausau, WI 54401

Wednesday, September 10, 2014, 10:00-11:00 a.m.

DNR Service Center
Glacier's Edge/Gathering Waters Conference Room
3911 Fish Hatchery Road
Fitchburg, WI 53711

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Penny Kanable, Madison, WI 53707; by E-mail to penny.kanable@wisconsin.gov or by calling (608) 228-9352. A request must include specific information and be received at least 10 days before the date of the scheduled hearing.

Availability of the Proposed Rules and Fiscal Estimate

The proposed rule and supporting documents, including the fiscal estimate, may be viewed and downloaded from the Administrative Rules System Web site which can be accessed through the link <https://health.wisconsin.gov/admrules/public/Home>. If you do not have Internet access, a printed copy of the proposed rule and supporting documents, including the fiscal estimate, may be obtained free of charge by contacting Penny Kanable, Department of Natural Resources, Bureau of Law Enforcement, 101 S. Webster St, Madison, WI, 53703, or by calling (608) 228-9352 .

Submitting Comments

Comments on the proposed rule must be received on or before Friday, September 19, 2014. Written comments may be submitted by U.S. mail, fax, E-mail, or through the Internet and will have the same weight and effect as oral statements presented at the public hearing. Written comments and any questions on the proposed rules should be submitted to either:

Roy Zellmer
Department of Natural Resources
Bureau of Law Enforcement
101 S Webster St,
Madison, WI 53703

Penny Kanable
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Bureau of Law Enforcement
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608-228-9352
608-266-3696
penny.kanable@wisconsin.gov

Internet: Use the Administrative Rules System Web site accessible through the link provided

Analysis Prepared by the Department of Natural Resources

Statute Interpreted: 30.505, 30.62(d)2, 30.62(d)3, 30.62(2)(d)3, 30.62(9) and 30.65(2)

Statutory Authority: 30.505, 30.62(d)2, 30.62(d)3, 30.62(2)(d)3, 30.62(9) and 30.65(2)

Explanation of Agency Authority: The above statutes have been interpreted as giving the department authority to promulgate rules necessary to conform with federal regulations, establish noise level testing procedures, adjust to advances in technology, and necessary in the interest of public safety.

Related Statutes or Rules: N/A

Plain Language Analysis: The proposed rule makes several modifications to chapter NR 5.

Sections 1-5 adds definitions for coastal waters, personal flotation devices, visual distress signal to conform to federal requirements.

Sections 6-12 require each recreational vessel owner provide a unique identification number with the birth date to register a vessel for a certificate of number as required by federal regulations. These elements are part of an approved vessel numbering system necessary to maintain overall program approval and eligibility to receive federal financial assistance under the State Recreational Boating Safety Grant Program.

Sections 13-14 changes the term “state of principal use” to “state of principal operation” as required by federal regulations. State of principal operation means the State in whose waters a vessel is or will be operated most during a calendar year.

Sections 15-19 require the state issuing authority verify that the owner of a vessel that is issued a state assigned hull identification number has permanently affixed the assigned hull identification number to the vessel in compliance with 33 CFR Part 181, subpart C

Section 20 adds a requirement to label approved waterway markers with a department assigned number to allow law enforcement officers to determine the legality of markers that have been placed.

Sections 21-22 modifies fire extinguisher requirements to match federal regulations.

Sections 23-27 corrects noise level testing requirements to meet Society of Automotive Engineers recommended practices.

Section 28-47 revises personal flotation device requirements to remove type requirements and replace with the terms wearable and throwable personal flotation devices as modified by federal regulations.

Section 48-52 creates requirements for visual distress signals and sound producing devices as required by federal regulations. U.S. Coast Guard conducted an on-site review of Wisconsin’s State Recreational Boating Safety (RBS) Program. Onsite reviews are used to help determine a state’s eligibility to receive funding made available under Title 46 U.S.C. Chapter 131 for the State RBS Program. A state's eligibility is determined by the content of its RBS Program and its conformance to applicable federal laws and regulations.

Based on the programmatic review of Wisconsin’s State RBS program, two deficiencies were noted that require corrective action. The State laws and regulations do not include a provision for the carriage of visual distress signals (VDS) in waters where required under Title 33 Code of Federal Regulations (CFR), Part 175 Subpart C; and State laws and regulations do not include a provision for the carriage of a sound-producing device where required under the Navigation Rules; International-Inland. State law must require the carriage of the minimum federal equipment requirements in order to meet eligibility requirements as an adequate law enforcement program.

Section 53 prohibits vessel owners from displaying blue colored lights which may be confused with an authorized patrol or emergency vessel. Pleasure boaters with aftermarket blue LED lighting can easily be mistaken for Law Enforcement in the dark of night.

Section 54 requires vessel operators to operate at slow no wake speeds when approaching a patrol or emergency vessel that is displaying an emergency light and/or siren due to public safety and law enforcement officer safety concerns.

Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations: A state's eligibility to receive federal financial assistance under the State Recreational Boating Safety (RBS) Grant Program is determined by the content of its RBS Program and its conformance to applicable federal laws and regulations.

State law must require the carriage of the minimum federal equipment requirements in order to meet eligibility requirements as an adequate law enforcement program.

These elements are part of an approved vessel numbering system necessary to maintain overall program approval and eligibility

Comparison with Similar Rules in Adjacent States: Adjacent states have substantially the same rules as eligibility to receive federal financial assistance under the State Recreational Boating Safety (RBS) Grant Program is determined by the content of the state's RBS Program and its conformance to applicable federal laws and regulations.

Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen: Eligibility to receive federal financial assistance under the State Recreational Boating Safety (RBS) Grant Program is determined by the content of the state's RBS Program and its conformance to applicable federal laws and regulations.

Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report: The department anticipates that the proposed rule will have no more than a minimal economic impact.

Effect on Small Business (initial regulatory flexibility analysis): None. The Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us , or by calling (608) 266-1959.

Environmental Analysis

The Department has made a preliminary determination that adoption of the proposed rules would not involve significant adverse environmental effects and would not need an environmental analysis under ch. NR 150, Wis. Adm. Code. However, based on comments received, an environmental analysis may be prepared before proceeding. This analysis would summarize the Department's consideration of the impacts of the proposal and any reasonable alternatives.

Fiscal Estimate Summary

The Department anticipates that the proposed rule will have no more than a minimal fiscal impact.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Cathy Stepp, Secretary