

SUBJECT: Request approval for Secretary's Executive Order to extend deadline for county adoption of updated ordinances under NR 115.

FOR: AUGUST 2011 BOARD MEETING

TO BE PRESENTED BY / TITLE: Heidi Kennedy, Shoreland Policy Coordinator

SUMMARY:

The department proposes to extend the time period specified for adoption or amendment of county shoreland zoning ordinances. The department has the authority to extend the time period, under s. NR 115.06(3)(c), Wis. Adm. Code, if the department determines that an extension is in the public interest. Counties currently must adopt an ordinance in compliance with NR 115, by February 1, 2012. The department seeks to extend the deadline, through an executive order issued by the Secretary, to all of the counties in Wisconsin.

The revisions to ch. NR 115 included a number of new standards that are unfamiliar to many counties in Wisconsin. Consequently, a number of counties have raised concerns and posed implementation and policy questions for the department. Further, many counties are facing staff shortages or budgetary concerns which are limiting their ability to complete ordinance revisions by February 1, 2012. Extending the deadline will provide additional time for the department to work with counties to answer key policy and implementation questions and allow counties to plan for sufficient staffing to complete ordinance revisions. Additionally, the legislature has requested that the department complete an economic impact analysis of ch. NR 115. An extension of the deadline will allow the department time to complete this analysis and meet the department's responsibilities and duties to the counties.

Attached is a copy of the proposed Executive Order, which would extend the deadline from February 1, 2012 to February 1, 2014.

RECOMMENDATION: Authorize the issuance of an Executive order, by the Secretary, to extend the deadline for county adoption of updated ordinances under NR 115.

LIST OF ATTACHED MATERIALS:

- | | | | | | |
|----|-------------------------------------|---|-----|--------------------------|----------|
| No | <input checked="" type="checkbox"/> | Fiscal Estimate Required | Yes | <input type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Environmental Assessment or Impact Statement Required | Yes | <input type="checkbox"/> | Attached |
| No | <input checked="" type="checkbox"/> | Background Memo | Yes | <input type="checkbox"/> | Attached |

APPROVED:

Susan Sylvester
Bureau Director,

7-12-11
Date

Ken Johnson
Administrator,

7-12-11
Date

Pat McPowney
Secretary, Cathy Stepp

7-14-11
Date

cc: NRB Liaison
DNR Rules Coordinator

DATE: July 13, 2011

FILE REF: 3600

TO: Natural Resources Board

FROM: Cathy Stepp

SUBJECT: Request approval for Secretary's Executive Order to extend deadline for county adoption of updated ordinances under NR 115.

The department proposes to extend the time period specified for adoption or amendment of county shoreland zoning ordinances. The department has the authority to extend the time period, under s. NR 115.06(3)(c), Wis. Adm. Code, if the department determines that an extension is in the public interest. Counties currently must adopt an ordinance in compliance with NR 115, by February 1, 2012. The department seeks to extend the deadline, through an executive order issued by the Secretary, to all of the counties in Wisconsin.

The revisions to ch. NR 115 included a number of new standards that are unfamiliar to many counties in Wisconsin. Consequently, a number of counties have raised concerns and posed implementation and policy questions for the department. Further, many counties are facing staff shortages or budgetary concerns which are limiting their ability to complete ordinance revisions by February 1, 2012. Extending the deadline will provide additional time for the department to work with counties to answer key policy and implementation questions and allow counties to plan for sufficient staffing to complete ordinance revisions. Additionally, the legislature has requested that the department complete an economic impact analysis of ch. NR 115. An extension of the deadline will allow the department time to complete this analysis and meet the department's responsibilities and duties to the counties.

Therefore, the department is requesting approval to extend the deadline, through an executive order issued by the Secretary, from February 1, 2012 to February 1, 2014.

BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

In the matter of the Secretary's Order pertaining to modification of the deadline for counties to enact or amend a shoreland zoning and subdivision ordinance in compliance with the revised statewide minimum shoreland zoning standards under ch. NR 115, Wisconsin Administrative Code.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

1. Wisconsin's minimum shoreland zoning standards were originally promulgated as ch. NR 115, Wisconsin Administrative Code (NR 115), in the late 1960's. Many of the basic standards have remained unchanged since the rule was originally adopted over 40 years ago. Ch. NR 115 standards are implemented by counties through their shoreland zoning and subdivision ordinances.
2. On February 1, 2010, revisions to the statewide minimum shoreland zoning standards in ch. NR 115 went into effect. These revisions were the result of a rulemaking process that involved six years of advisory committee meetings, eight listening sessions in 2003, two rounds of public hearings in 2005 and 2007, and over 50,000 public comments.
3. Section NR 115.06(2)(b)1.a., gives counties two years from the effective date of the rule, which means until February 1, 2012, to amend or enact an ordinance that complies with the revised statewide minimum shoreland zoning standards set out in ch. NR 115.
4. While some of the basic standards in ch. NR 115 remain the same, there are a number of new standards that are unfamiliar to many counties in Wisconsin. As a result, a number of counties have raised concerns and posed implementation and policy questions for the department.
5. As a result of economic downturn, many counties are facing staff shortages or budgetary concerns which are limiting their ability to complete ordinance revisions to comply with ch. NR 115 by February 1, 2012.
6. Extending the deadline for counties to revise their shoreland zoning and subdivision ordinances will provide additional time for the department to work with counties to answer key policy and implementation questions. Additional time will also allow counties to plan for sufficient staffing to complete ordinance revisions.
7. The legislature has requested that the department complete an economic impact analysis of ch. NR 115 by December 31, 2011. Additional time will also allow the department time to complete this analysis and meet the department's responsibilities and duties to the counties.

8. Based on the facts in Findings of Fact 4 and 5 and for the reasons noted in Findings of Fact 6 and 7, the Department has determined that it is in the public interest to extend the time period in which counties must amend their shoreland zoning and subdivision ordinances

CONCLUSIONS OF LAW

1. According to s. NR 115.06(3)(c), Wis. Adm. Code, the department may extend the time period specified for adoption or amendment of county ordinances if it determines that an extension is in the public interest.

ORDER

1. *Amendments to ordinance.* Notwithstanding all other provisions of ch. NR 115, Wis. Adm. Code, which remain in effect, the deadline specified in s. NR 115.06(2)(b)1.a., by which a county shall amend or enact a shoreland zoning and subdivision ordinance in compliance with s. 59.692, Wis. Stats., is extended from February 1, 2012 to February 1, 2014.

Date at Madison, WI, _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Cathy Stepp, Secretary