

**Wisconsin Department of Natural Resources
Natural Resources Board Agenda Item**

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

FOR: December 2013 Board meeting

TO BE PRESENTED BY: Russ Rasmussen, Deputy Water Division Administrator

SUMMARY:

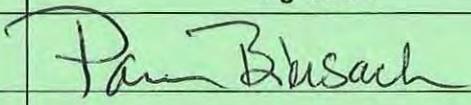
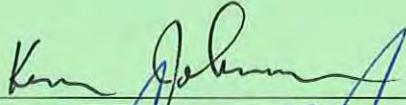
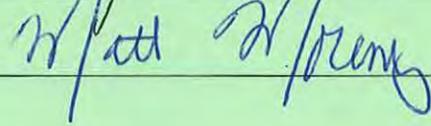
The department proposes to extend the time period for adoption or amendment of county shoreland zoning ordinances. The department has the authority to extend the time period, under s. NR 115.06(3)(c), Wis. Adm. Code, if the department determines that an extension is in the public interest. Counties must currently adopt an ordinance in compliance with NR 115 by February 1, 2014. The department seeks to extend the deadline, through an executive order issued by the Secretary, to all of the counties in Wisconsin until May 1, 2016.

The 2009 revisions to ch. NR 115 included a number of new standards, and some counties raised concerns regarding the implementation and administration of the revised standards. Consequently, to address these concerns the department submitted a scope statement (WT-06-12) for NR 115, which was approved by the Governor on February 15, 2012, and approved by Natural Resources Board as required by s.227.135(2), Stats. on March 28, 2012. The department has completed an Economic Impact Analysis and held public hearings in August of 2013. The department expects the current rulemaking process to be complete by the spring of 2014. Extending the deadline for counties to revise their shoreland zoning ordinances will provide additional time for the department to complete the rulemaking process and will reduce the expense and time associated with amend county shoreland ordinance multiple times. Further, additional time will also allow counties to plan for sufficient staffing to complete ordinance revisions.

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 (check all that are applicable):

- Background memo
- Draft Executive Order
- Type name of attachment or type N/A if not applicable
- Type name of attachment or type N/A if not applicable

Approved by	Signature	Date
Pamela Biersach, Bureau Director		11-11-13
Ken Johnson, Administrator		11-11-13
Cathy Stepp, Secretary		11-11-13

CORRESPONDENCE/MEMORANDUM

DATE: October 21, 2013

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. The deadline was extended by a previous executive order and counties currently must adopt an ordinance in compliance with NR 115, by February 1, 2014. The department seeks to extend the deadline further, 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 raised concerns and posed implementation and policy questions for the department. To address the implementation and administrative concerns of some of the counties the department submitted a scope statement (WT-06-12) for NR 115, which was approved by the Governor on February 15, 2012, and approved by Natural Resources Board as required by s.227.135(2), Stats. on March 28, 2012. The department has completed an Economic Impact Analysis, held public hearings in August of 2013 and plans on submitted the proposed rule language to the Natural Resources Board this year.

Extending the deadline for counties to revise their shoreland zoning ordinances will provide additional time for the department to complete the rulemaking process and will reduce the expense and time associated with amending county shoreland ordinances multiple times. Further, additional time will also allow counties to plan for sufficient staffing to complete ordinance revisions.

Therefore, the department is requesting approval to extend the deadline, through an executive order issued by the Secretary, from February 1, 2014 to May 1, 2016.

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. To address the implementation and administrative concerns of some of the counties the department submitted a scope statement (WT-06-12) for NR 115, which was approved by the Governor on February 15, 2012, and approved by Natural Resources Board as required by s. 227.135(2), Stats. on March 28, 2012. The department has completed an Economic Impact Analysis and held public hearings in August 2013.
6. Extending the deadline for counties to revise their shoreland zoning ordinances will provide additional time for the department to complete the rulemaking process and will reduce the expense and time associated with amending county shoreland ordinance multiple times. Further, additional time will also allow counties to plan for sufficient staffing to complete ordinance revisions.

7. 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 May 1, 2016.

Date at Madison, WI, _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Cathy Stepp, Secretary