**BEFORE THE**
**DEPARTMENT OF NATURAL RESOURCES**

**NOTICE OF PUBLIC HEARING**
Natural Resources Board Order CF-12-13

**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 the repeal and recreation of ch. NR 166, Wis. Adm. Code, relating to the implementation of the Safe Drinking Water Loan Program on the date(s) and at the time(s) and location(s) listed below.

**Hearing Information**

| ***Date and Time*** | ***Location*** |
|---|---|
| July 29, 2014 9:00 a.m. – 10:30 a.m. | UWEX Pyle Center; 702 Langdon St, Madison |
| July 29, 2014 9:00 a.m. – 10:30 a.m. | UW Green Bay, 2420 Nicolet Drive, Room IS1034, Green Bay |
| July 29, 2014 9:00 a.m. – 10:30 a.m. | UW Eau Claire Schofield Hall, 105 Garfield St, Room 1132, Eau Claire, |
| July 29, 2014 9:00 a.m. – 10:30 a.m. | UW Milwaukee School of Continuing Education, 161 W. Wisconsin Ave, Milwaukee |
| July 29, 2014 9:00 a.m. – 10:30 a.m. | UW-Marathon County, 518 S. 7th Ave, Room 218, Wausau |

Reasonable accommodations, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Contact Cindy Wheeler, Environmental Loans Program, 101 South Webster Street, P.O. Box 7921, Madison, WI 53707; by E-mail to cynthia.wheeler@wisconsin.gov or by calling (608) 266-9955. 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 Cindy Wheeler, Environmental Loans Program, 101 South Webster Street, P.O. Box 7921, Madison, WI 53707; by E-mail to cynthia.wheeler@wisconsin.gov or by calling (608) 266-9955.

**Submitting Comments**
Comments on the proposed rule must be received on or before August 15, 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:

Robin Schmidt
Department of Natural Resources
Bureau of Community Financial Assistance
101 S Webster St, Madison, WI 53703

Phone: 608-266-3915
Fax: 608-267-1496
E-mail: robin.schmidt@wisconsin.gov
Internet: Use the Administrative Rules System Web site accessible through the link provided

**Analysis Prepared by the Department of Natural Resources**
***1. Statute Interpreted, Statutory Authority and Explanation:*** Section 281.60(12), Wis. Stats., authorizes the department to promulgate rules establishing eligibility criteria for applicants and projects

and that are necessary for the execution of its responsibilities under the Safe Drinking Water Loan Program. The Safe Drinking Water Loan Program provides financial assistance to municipalities for their drinking water systems.

***2. Related Statutes or Rules*:** Concurrent with this effort, the department is also repealing and recreating ch. NR 162 relating to the Clean Water Fund Program. Both the Safe Drinking Water Loan Program and the Clean Water Fund Program are part of the Environmental Improvement Fund.

***3. Plain Language Analysis*:** Revisions to ch. NR 166, Wis. Adm. Code, relating to the Safe Drinking Water Loan Program, clarify eligibility criteria, streamline processes, and update implementation issues since the rule was last revised. No new significant changes to the program result from the rule revisions. The main topics for revision include:

- Eligible projects/activities - updates language to incorporate current practices
- Dates for ITA/PERF submittals – changed to Oct 31st and allows for on-line submittals
- PERF scoring system – minor changes and on-line, annual submittal required
- Interim financing costs - increased from $7500 to up to $15,000
- Refinancing - clarifies that a municipality cannot already have "long-term affordable debt" outstanding for its completed or substantially completed project"; any project that has been substantially completed for more than 3 years is not eligible for financing.
- Disadvantaged Business Enterprise – updated requirements to refer to federal requirements
- Median Household Income – clarifies the source of this data as the American Community Survey (as part of the US Census Bureau) and provides options for sanitary districts.

***4. Summary of, and Comparison with, Existing or Proposed Federal Statutes and Regulations*:** All state programs must comply with the federal requirements for the program, as outlined in 42 USC 300g-1. This rule complies with the requirements of the Federal Safe Drinking Water Act, 42 USC 300f to 300j-26.

***5. Comparison with Similar Rules in Adjacent States*:** Each state implements the federal Safe Drinking Water Act consistently with the associated state statutes and federal requirements. Each state loan program has unique features, but all of the programs are designed to meet federal Safe Drinking Water Act requirements. Each state has a unique priority scoring system based on state priorities but consistent with federal priorities. The EPA reviews program implementation to ensure consistency with the federal requirements.

***6. Summary of Factual Data and Analytical Methodologies Used and How Any Related Findings Support the Regulatory Approach Chosen*:** The implementation of the Safe Drinking Water Loan Program does not include regulatory activities. Refinements to the program were established with both internal and external advisory groups with the intent of streamlining processes and clarifying criteria for program implementation.

***7. Analysis and Supporting Documents Used to Determine the Effect on Small Business or in Preparation of an Economic Impact Report*:** Rule revisions are expected to have minimal impact on small businesses, in that it streamlines existing processes and clarifies implementation criteria. Rule revisions do not contain any new requirements for small businesses.

**8. *Effect on Small Business (initial regulatory flexibility analysis)*:** Minimal.

The Small Business Regulatory Coordinator may be contacted at SmallBusiness@dnr.state.wi.us, or by calling (608) 266-1959.

**9. *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.

**10. *Fiscal Estimate Summary***

The rule will have minimal economic or fiscal impacts on businesses or municipalities seeking funding from the Safe Drinking Water Loan Program. General eligibility criteria are prescripted by the federal Safe Drinking Water Act and the costs for obtaining funding is prescribed by State Statute. The rule revisions simplify and clarify protocols and streamline processes but don't affect overall ability of municipalities to seek and obtain financing or the rates of that financing.

Dated at Madison, Wisconsin 7-1-14

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By Cathy Stepp
Cathy Stepp, Secretary
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