



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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SUBJECT: Shoreland protection rule revision process nears completion

The revision of the 40-year-old shoreland management rules (NR 115) will be sent for final approval by the Natural Resources Board and the State Legislature this spring. This will conclude the five-plus years the Department of Natural Resources has spent developing alternatives for the rules that set minimum standards for shoreland development. The most recent draft received 8,945 comments about various aspects of the rule from 2,381 individuals. A comment summary and Departmental response highlight the changes made, including the following two examples.

The impervious surface section received the most specific comments- half said parts were “too restrictive”, one-third said they “support” and about one-fifth said they “oppose because too permissive”. The most significant change is the addition of a relief valve for the 20% cap on impervious (hard) surface lot coverage. Development that meets specific conditions may be able to exceed the cap without applying for a variance.

During the public hearing process, many people misunderstood the lot size requirements. The 20,000 square footage and 100 foot width only applies to lots created in the future. There was also concern that a 100 foot width might affect affordability and constrain building on odd shaped lots. To add some flexibility, now the 100 foot width must be taken as the average of three measurements taken at the ordinary high water mark, building setback and another location on the lot within 300-feet of the water.

Comments raised a range of miscellaneous issues, such as concern that the rules are one-size-fits-all; support for revising the inflexible rules; concerns about implementation costs for property owners and counties; and feeling that short-term financial restraints should not override long-term environmental, social, economic benefits. Many of these issues are addressed in the code. For example, allowing counties to define locally which surfaces are impervious based on soils and the performance-based mitigation system offer opportunities for counties to fit the rules to local conditions. Rather than requiring buffer restoration as the only form of mitigation, counties may allow a number of options as long as they meet performance standards. Another example of flexibility is that counties are allowed to set their own multifamily dwelling, mobile home park and campground lot sizes.

Many comments raised issues outside the scope of what the DNR is capable of changing. The biggest concern was that the law does not apply to all development in incorporated areas of the state. Only the State Legislature is empowered to change this through legislation. Concern was also expressed over agricultural runoff impacts on water. The State has separate regulations that address the distinct impacts from shoreland development and agricultural runoff.

The final proposed rules will be available on the website listed below once they are submitted to the Natural Resources Board. If the Board approves the proposed changes, they will be sent to the Wisconsin State Legislature for its review and possible modifications. There may be an opportunity to appear before the Board and testify in front of the Legislature if hearings on the code are held. Once passed into law, counties will have two years to bring their shoreland ordinances into compliance and begin requiring property owners to follow the revised standards, which aim to protect clean water, healthy habitat and natural scenic beauty.

Find documents referred to above at:

<http://dnr.wi.gov/org/water/wm/dsfm/shore/news.htm>

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