2009 ANNUAL REPORT
LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

WISCONSIN LEGISLATIVE COUNCIL

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February 2010

State of Wisconsin
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February 2010

TO: THE HONORABLE JAMES E. DOYLE, GOVERNOR, AND THE WISCONSIN LEGISLATURE

This report of the calendar year 2009 activity of the Legislative Council Rules Clearinghouse is submitted to you pursuant to s. 227.15 (5), Stats.

Sincerely,

Terry C. Anderson
Director

TCA:jal

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January 5, 2009

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s. 13.81, Stats.

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This 22-member committee consists of the majority and minority party leadership of both houses of the Legislature, the co-chairs and ranking minority members of the Joint Committee on Finance, and 5 Senators and 5 Representatives appointed as are members of standing committees.

Terry C. Anderson, Director, Legislative Council Staff
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WISCONSIN LEGISLATIVE COUNCIL STAFF

2009 ANNUAL REPORT ON THE LEGISLATIVE COUNCIL RULES CLEARINGHOUSE*

CONTENTS

	Page
FUNCTION OF THE LEGISLATIVE COUNCIL RULES CLEARINGHOUSE	3
2009 ACTIVITIES OF THE RULES CLEARINGHOUSE	7
APPENDIX 1: SAMPLE CLEARINGHOUSE REPORT	13
APPENDIX 2: PROCESSING INSTRUCTIONS TO AGENCY HEADS	21

* This Report was prepared by Ronald Sklansky, Director, and Richard Sweet, Assistant Director, Rules Clearinghouse, Legislative Council.

FUNCTION OF THE LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

REVIEW OF RULES

Legislative review of proposed administrative rules begins with the submission of a rule to the Legislative Council Rules Clearinghouse. Section 227.15, Stats., requires that, prior to any public hearing on a proposed rule or prior to notification of the chief clerk of each house of the Legislature if no hearing is held, an agency must submit the proposed rule to the Legislative Council Rules Clearinghouse for staff review. (See the *Administrative Rules Procedures Manual* (September 2008), prepared by the Legislative Council and the Legislative Reference Bureau, for more information on drafting, promulgating, and reviewing administrative rules.)

The Legislative Council is provided 20 working days, following receipt of a proposed rule, to prepare a report on its review of the rule. However, with the consent of the Director of the Legislative Council, the review period may be extended for an additional 20 working days.

Upon receipt of a proposed administrative rule, a Clearinghouse rule number is assigned and submission of the rule is recorded in the *Bulletin of Proceedings* of the Wisconsin Legislature. Two numbered rule jackets, one for the Assembly and one for the Senate, are prepared.

The Director of the Rules Clearinghouse assigns the rule to a Legislative Council staff member for review and preparation of the statutorily required report. The staff member generally prepares the report within 10 working days and transmits the report to the Director or Assistant Director for final review. When the report on the proposed rule is completed, the staff returns the rule jackets and the Clearinghouse report containing the results of the review to the agency. [See ***Appendix 1*** for a sample Clearinghouse report.]

In accordance with s. 227.15, Stats., the Clearinghouse report:

1. Reviews the statutory authority under which the agency intends to adopt the proposed rule.

2. Reviews the proposed rule for form, style, and placement in the Wisconsin Administrative Code.

3. Reviews the proposed rule to avoid conflict with, or duplication of, existing rules.

4. Reviews the proposed rule to ensure that it provides adequate references to related statutes, rules, and forms.

5. Reviews the language of the proposed rule for clarity, grammar, and punctuation and to ensure the use of plain language.

6. Reviews the proposed rule to determine potential conflicts and to make comparisons with related federal statutes and regulations.

7. Reviews the proposed rule to determine whether the agency has specified the number of business days within which the agency will review and make a determination on an application for a business permit.

As part of this review process, staff of the Legislative Council is directed to ensure that procedures for the promulgation of the rule are followed, as required by ch. 227, Stats., and to streamline and simplify the rule-making process.

OTHER RELATED RESPONSIBILITIES

Other primary rule review responsibilities of the Legislative Council include:

1. Working with and assisting the appropriate legislative committees throughout the rule–making process.

2. Notifying the Joint Committee for Review of Administrative Rules (JCRAR) and appropriate committees of the Legislature whenever the rule–making authority of an agency is eliminated or significantly changed by the repeal, amendment, or creation of a statute, by the interpretive decision of a court of competent jurisdiction, or for any other reason.

3. Assisting the public in resolving problems related to administrative rules. This function includes providing information, identifying agency personnel who may be contacted in relation to rule-making functions, describing locations where copies of rules, proposed rules, and forms are available, and encouraging and assisting participation in the rule-making process.

4. Creating and maintaining an Internet site that includes a copy of each proposed rule in a format that allows the site to be searched using keywords.

The final responsibility of the Legislative Council is the submission of an annual report to the chief clerk of each house of the Legislature and to the Governor summarizing any action taken by the staff and making recommendations to streamline the rule-making process and to eliminate obsolete, duplicative, and conflicting rules. This report is the 30th *Annual Report* submitted by the Legislative Council and covers the staff's activities during calendar year 2009. It has been preceded by an initial report to the 1979 Legislature, which covered the staff's activities from November 2, 1979 to April 1, 1980 (i.e., from the effective date of Ch. 34, Laws of 1979, which initiated the omnibus rule review process, to the end of Floorperiod IV of the 1979 Session) and annual reports for calendar years 1980 to 2008.

RECORDKEEPING SYSTEM

The Legislature's *Bulletin of Proceedings* is used for recording actions relating to the review of administrative rules. The Legislative Council, the Senate and Assembly Chief Clerks, and the Legislative Reference Bureau cooperate in a computerized recordkeeping system.

Commencing with the 1979 Session, action on administrative rules has been shown in a separate part of the *Bulletin of Proceedings*.

Under this system, each proposed rule is assigned a number and entered in the computer system by the staff of the Legislative Council. A copy of the Clearinghouse report is placed in a Senate and Assembly rule jacket (similar to bill jackets) and the rule jacket is then transmitted to the agency promulgating the rule. After transmittal, all legislative actions taken on the rule are entered on the face of the jacket and are reported to the chief clerk of each house. The chief clerk enters the actions in the computer system, thereby compiling a history of all legislative actions taken on the rule.

At the beginning of each biennial session, the administrative rule portion of the *Bulletin of Proceedings* is updated by deletion of all records relating to rules which, in the preceding session, have become effective, have been withdrawn, or have been permanently objected to by law. Also removed from the *Bulletin of Proceedings* annually and withdrawn from the rule–making process is any proposed rule that, in accordance with s. 227.14 (6) (c), Stats., has been pending for at least four years, but no more than five years, after the date of its receipt by the Legislative Council under s. 227.15 (1), Stats. The final *Bulletin of Proceedings* printed for the preceding session then serves as the permanent record of the disposition of those rules. The remaining rules, which are still in the promulgation process, are carried over into the new *Bulletin of Proceedings* for the following biennial session.

Access to rules and agency reports over the Internet became available in 2001 for all rules initiated after the year 2000. These materials may be found at the Legislative Council's website, www.legis.state.wi.us/lc. A useful executive branch website for information about administrative rules is https://health.wisconsin.gov/admrules/public/Home.

2009 ACTIVITIES OF THE RULES CLEARINGHOUSE

During 2009, 123 proposed administrative rules were submitted to the Legislative Council by 23 state agencies.

As of December 31, 2009, Clearinghouse reports had been completed on 104 of the 123 proposed rules and 16 rules were in the process of review. Three rules were withdrawn prior to the preparation of a report. In addition to the 104 rule reports completed on 2009 rules, reports were prepared in 2009 on four rules received in late 2008. Of the 108 reports completed in 2009, no rule required an extension of the review process by the Director of the Legislative Council. Clearinghouse activities in 2009 are summarized below:

Rules Received in 2009		123
Withdrawn	3	
No report required	0	
Pending	16	
		-19
2009 Reports Completed		104
2008 Reports Completed in January 2009		4
Total Reports in 2009		108

The table below shows that, from November 2, 1979 (the beginning of the omnibus rule review process) through December 31, 2009, the Clearinghouse has received 5,883 rule submissions and completed reviews on 5,774 proposed rules. Of the total rule submissions, 93 were exempt from the reporting process for various reasons and 16 were under review at the end of 2009.

Year	***Received***	***Completed***	***Exempt***
1979	70	45	12
1980	252	227	24
1981	252	234	9
1982	251	254	3
1983	222	220	4
1984	255	247	2
1985	213	206	4
1986	251	252	4
1987	182	186	1
1988	219	216	5
1989	212	208	1
1990	264	254	3
1991	199	205	2
1992	225	228	0
1993	241	232	1
1994	225	234	0
1995	236	224	2
1996	194	201	1
1997	158	159	1
1998	208	200	2
1999	170	177	1
2000	189	176	1
2001	157	158	1
2002	155	160	1
2003	126	127	2
2004	142	142	0
2005	122	123	0
2006	139	139	3
2007	117	114	0
2008	114	118	0
2009	123	108	3
Total	**5,883**	**5,774**	**93**

In 2009, rules were received from the following 23 state agencies:

Number of Proposed Rules, by Submitting Agency

Department of Administration	2
Department of Agriculture, Trade and Consumer Protection	6
Department of Children and Families	3
Department of Commerce	14
Department of Corrections	4
Department of Employe Trust Funds	3
Department of Financial Institutions	2
Department of Health Services	8
Department of Natural Resources	19
Department of Public Instruction	6
Department of Regulation and Licensing	16
Department of Revenue	4
Department of Tourism	1
Department of Transportation	6
Department of Veterans Affairs	5
Department of Workforce Development	2
Division of Hearings and Appeals	1
Government Accountability Board	3
Insurance Commissioner	13
Public Defender Board	2
Public Service Commission	1
Technical College System Board	1
University of Wisconsin System	1
Total Number of Rules Submitted	**123**

Although the statistics presented in this report give some indication of the workload of the Legislative Council staff in reviewing proposed administrative rules, it should be noted that rules vary in length. Similarly, Clearinghouse reports vary from completion of a simple checklist to large reports. In summary, for all rule reports completed in 2009, the Legislative Council staff commented on:

1. The *statutory authority* of a proposed administrative rule on 14 occasions.

2. The *form, style and placement* of proposed administrative rules in the Wisconsin Administrative Code on 82 occasions.

3. A *conflict* with, or *duplication* of, existing rules on 5 occasions.

4. The *adequacy of references* of proposed administrative rules to related statutes, rules and forms on 46 occasions.

5. *Clarity, grammar, punctuation and use of plain language* in proposed administrative rules on 83 occasions.

6. The *potential conflicts* of proposed administrative rules with, and their comparability to, related federal statutes and regulations on two occasions. In addition, the Legislative Council staff has adopted a policy of noting when proposed rules are based on federal "*guidelines*," which do not have the force of law, as opposed to rules based on federal "*regulations*," which do have the force of law and with which the state may have a legal obligation to comply.

7. The *permit action deadline requirement* on no occasions.

WORKING WITH AND ASSISTING COMMITTEES

A Legislative Council staff attorney or analyst works with each standing committee and statutory committees, except Joint Finance. When a committee has a proposed rule referred to it by the presiding officer of the house, the staff member will participate in the committee's oversight.

During 2009, legislative committees held hearings or requested meetings on ***16 proposed rules***. Modifications to rules were either requested or received in the legislative review of ***4 proposed rules***. Legislative committees did not object to any rules during the year.

As a result of committee activities, no rules were subject to JCRAR jurisdiction in 2009.

The table below reviews legislative committee activity in the review of proposed administrative rules beginning on November 2, 1979 and ending on December 31, 2009.

LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES
(November 2, 1979 Through December 31, 2009)*

Year	Rules Submitted	Rules Subject to Modification	Committee Review Objections	JCRAR Rule Objections	Enacted Laws Following Rule Objections	Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections
11/2/79–80	322	18	5	1	0	No bill introduced, rule withdrawn
1981	252	29	10	4	4	Chapters 20 (SEC. 1561), 26, 31 and 180, Laws of 1981
1982	251	31	4	1	1	1983 Wisconsin Act 94
1983	222	30	5	0	0	—
1984	255	26	2	2	2	1983 Wisconsin Act 310 and 1985 Wisconsin Act 29 (SEC. 826)
1985	213	37	8	3	2	♦1985 Wisconsin Act 29 (SECS. 1059r and 2238ng to 2238or) ♦1985 Assembly Bill 460, passed and vetoed; override failed
1986	251	30	1	0	0	—
1987	182	30	5	0	0	—
1988	219	38	4	0	0	—
1989	212	22	6	2	0	♦1989 Senate Bill 89 and 1989 Assembly Bill 171 (failed to pass) ♦1989 Senate Bill 248 and 1989 Assembly Bill 457 (failed to pass)

LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 2009)*						
Year	Rules Submitted	Rules Subject to Modification	Committee Review Objections	JCRAR Rule Objections	Enacted Laws Following Rule Objections	Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections
1990	264	29	2	1	0	♦1991 Senate Bill 24 and 1991 Assembly Bill 71 (failed to pass)
1991	199	19	5	1	0	♦1991 Senate Bill 442 and 1991 Assembly Bill 840 (failed to pass after rule objected to withdrawn by agency)
1992	225	33	3	2	1	♦1993 Wisconsin Act 9 ♦1993 Senate Bill 3 and 1993 Assembly Bill 17 (failed to pass)
1993	241	24	1	0	0	—
1994	225	29	3	0	0	—
1995	236	19	0	0	0	—
1996	194	19	1	1	1	♦1997 Assembly Bill 5 and 1997 Senate Bill 20 (failed to pass) ♦1997 Wisconsin Act 237 (SECS. 320s, 322d and 322e)
1997	158	19	6	0	0	—
1998	208	15	0	0	0	—
1999	170	18	2	1	0	—
2000	189	20	2	1	1	♦1999 Wisconsin Act 178
2001	157	14	5	2	0	♦2001 Assembly Bill 18 and Senate Bill 2 (failed to pass); ♦2001 Assembly Bill 524 and Senate Bill 267 (failed to pass) ♦2001 Assembly Bill 697 and Senate Bill 361 (failed to pass)
2002	155	35	2	1	0	♦2003 Assembly Bill 25 and Senate Bill 19 (failed to pass)
2003	126	20	2	2	0	♦2003 Assembly Bill 253 and Senate Bill 123 (failed to pass)
2004	142	21	4	2	1	♦2003 Wisconsin Act 240
2005	122	20	4	3	0	♦2005 Assembly Bill 8 and Senate Bill 8 (failed to pass) ♦2005 Assembly Bill 12 and Senate Bill 12 (failed to pass) ♦2005 Assembly Bill 401 and Senate Bill 200 (failed to pass) ♦2005 Assembly Bill 404 and Senate Bill 201 (failed to pass) ♦2005 Assembly Bill 442 and Senate Bill 220 (failed to pass)
2006	139	21	8	4	0	2005 Assembly Bill 1225 and Senate Bill 732 (failed to pass, late introduction in 2005 Session and reintroduction in 2007 session as Assembly Bill 37 and Senate Bill 9) 2005 Assembly Bill 1226 and Senate Bill 733 (failed to pass; late introduction in 2005 Session and reintroduction in 2007 session as Assembly Bill 27 and Senate Bill 10)

LEGISLATIVE REVIEW OF PROPOSED ADMINISTRATIVE RULES (November 2, 1979 Through December 31, 2009)*						
Year	Rules Submitted	Rules Subject to Modification	Committee Review Objections	JCRAR Rule Objections	Enacted Laws Following Rule Objections	Enactments by Session Law and Other Description of Bills Introduced Following Rule Objections
2007	117	16	2	0	0	—
2008	114	13	1	0	0	—
2009	123	4	0	0	0	—
TOTAL	5,883	699	103	34	13 (PLUS ONE BILL PASSED AND VETOED; VETO NOT OVERRIDDEN)	

* The general system of legislative review of proposed administrative rules, primarily embodied in ss. 227.15 and 227.19, Stats., took effect on November 2, 1979, as part of Ch. 34, Laws of 1979.

ELECTRONIC ACCESS

In 2001, the Legislature, through its service agencies, began providing electronic access to all proposed administrative rules submitted to the Clearinghouse. The system mirrors the process already in place for legislative proposals. That is, interested persons are able to use the Internet to search for proposed rules directly or to link to them from the Legislature's Bulletin of Proceedings. The site holds the initial version of the proposed rule, the Clearinghouse report on the proposed rule, all modified versions of the proposed rule submitted to the Legislature, and the related agency report to the Legislature. Electronic access is available for proposed rules submitted to the Clearinghouse after the year 2000. [The Clearinghouse also has given advice to the Department of Health and Family Services (now the Department of Health Services) regarding a searchable rules website operated by the Executive Branch. The website is https://health.wisconsin.gov/admrules/public/Home.]

NOTICE OF CHANGE IN RULE-MAKING AUTHORITY

To date, no court decisions or changes in legislation have been brought to the attention of the Legislative Council staff that would require notification of JCRAR or appropriate standing committees of a change in, or the elimination of, agency rule–making authority.

ASSISTING ADMINISTRATIVE AGENCIES

The Legislative Council staff has responded to numerous questions from agency personnel, relating to both the process and the law governing legislative review of proposed rules.

PUBLIC LIAISON

To date, the Legislative Council staff has received minimal requests from the public. These infrequent questions have either concerned aspects of the rule review procedure or have related to the status of specific rules.

RS:RNS:jal

APPENDIX 1

SAMPLE CLEARINGHOUSE REPORT

LCRC
FORM 2

WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

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Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **09-077**

AN ORDER to create chapter NR 52, relating to ensuring that lands acquired with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats., are open to public hunting, trapping, fishing, hiking and cross county skiing.

Submitted by **DEPARTMENT OF NATURAL RESOURCES**

09-03-2009 RECEIVED BY LEGISLATIVE COUNCIL.

09-29-2009 REPORT SENT TO AGENCY.

RS:SG

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LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

   Comment Attached YES ☑ NO ☐

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

   Comment Attached YES ☑ NO ☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

   Comment Attached YES ☐ NO ☑

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

   Comment Attached YES ☐ NO ☑

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

   Comment Attached YES ☑ NO ☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

   Comment Attached YES ☐ NO ☑

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

   Comment Attached YES ☐ NO ☑

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CLEARINGHOUSE RULE 09-077

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]

1. Statutory Authority

a. Based on s. 23.0916 (2) (a), Stats., an acquisition date of "on or after October 27, 2007" should be included in the definition of "non-departmental land."

b. In s. NR 52.04 (2), the department should clarify its authority to limit public comments to those made by "affected" parties. Additionally, if the authority exists, the department should provide additional guidance regarding the determination of whether a party is sufficiently "affected" to merit consideration of that party's comments.

c. Section 23.0916 (2) and (3), Stats., generally provide that nature-based outdoor activities must be allowed on certain lands unless the Natural Resources Board determines that it is necessary to prohibit public access for one or more nature-based outdoor activities. However, s. NR 52.04 (2) (a) provides that if no objection is received within a 15-business day comment period following the submission of a proposal to prohibit a nature-based outdoor activity, the department will allow the project to proceed. Thus, in the situation in which no objection is received to a proposal to prohibit a nature-based outdoor activity, the statutory presumption of open use of the property is reversed into a presumption that some activities will be prohibited without a specific determination made by the Natural Resources Board. What statutory authority exists for this rule provision?

2. Form, Style and Placement in Administrative Code

a. In the related statute section of the rule analysis, the department should use the word "establish" instead of "establishes." A space should be placed between "ch." and "NR 1."

b. In s. NR 52.01 (1), the department should move the substantive material in the last sentence to a different section of the rule and provide more explanation regarding the treatment of "restrictions" under ch. NR 52. Also, in sub. (1), the word "Department" should be replaced by the word "department."

c. Section NR 52.02 (intro.) should read "In this chapter:".

d. In s. NR 52.02 (1), the department should refer to "s. NR 52.05 (1) (c)." [But see comment 2. k., below.]

e. The rule should include a definition of "department" in s. NR 52.02.

f. Section NR 52.02 (3) should refer to the definition in s. 23.0916 (1) (a), Stats.

g. In s. NR 52.02 (4), should the department use the same definition of hunting used in ss. NR 46.02 (10) and 46.15 (17)?

h. In s. NR 52.02 (5), the word "given" should be inserted after the word "meaning."

i. In s. NR 52.02 (8), the word "and" should be inserted before "23.0917" and the word "by" should be inserted before the reference "s. NR 51.05."

j. In s. NR 52.02 (9), the department should refer to "ss. 23.0915 and 23.0917, Stats."

k. In s. NR 52.03 (1), the notation "(a)" should be deleted. When any section, or part of a section, is divided into smaller subunits, at least two subunits should be created. Similarly, in sub. (2), the notation "(a)" should be deleted, the subdivisions should be renumbered as paragraphs, and the subparagraphs should be renumbered as subdivisions. [See also the creation of one subsection in s. NR 52.05.]

l. In s. NR 52.03 (2) (a) 2., the word "or" should be inserted before "23.0917." In subd. 3., the word "Grantee" should be replaced by the word "applicant." In sub. (3) (b), the notation "Wis. Adm. Code" is unnecessary and should be deleted.

m. In s. NR 52.04 (1) (d), the cross-reference should read "s. 23.0916 (2) (b) or (3) (b), Stats.". [See, also, sub. (2) (a).]

n. In s. NR 52.04 (2), the introductory material should be renumbered as par. (a) and the remaining paragraphs should be renumbered accordingly. Also, in what is currently in sub. (2) (e), the word "rule" should be replaced by the phrase "section …. [legislative reference bureau inserts date]."

o. In s. NR 52.04 (2) (b), the department refers to procedures following resolution of issues during a comment period. The department should elaborate on the procedure if no resolution is reached during that time. Generally, the department should further explain the review process it intends to use. For example, s. NR 52.04 (2) (e) Note refers to review by the Natural Resources Board. The rule could be clarified with regard to this review, as well the procedure after the board hears the department's report as described in s. NR 52.04 (2) (e).

Additionally, the decision-making process of the department in s. NR 52.04 (2) (d) could be clarified.

p. In s. NR 52.04 (2) (d), the department should refer to "pars. (b) and (c)" and "s. 23.0916 (2) (b) and (3) (b), Stats."

q. In s. NR 52.05 (1) (b) (intro.) and 2., the department should avoid repetition of the phrase "the necessity to prohibit."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section NR 52.01 (3) provides that certain provisions of the administrative code will govern public access on "all other department and non-department lands." This sentence should be expanded to specifically contrast this land to land covered under other provisions; for example, the sentence could read: "…all department and non-department lands acquired in whole or in part with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats., that are not referred to in sub. (1) or (2)."

b. In s. NR 52.03 (1) (a), the department should rephrase the last sentence to say "This paragraph applies to new plans as well as…."

c. In s. NR 52.04 (1) (d), the department should replace "assessment of the need" with "determination" or provide additional information distinguishing the two terms. Generally, should the department choose different terms of art to differentiate between decisions made by the department and decisions made by the board?

APPENDIX 2

PROCESSING INSTRUCTIONS TO AGENCY HEADS

LCRC
FORM 3

WISCONSIN LEGISLATIVE COUNCIL
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Legislative Council Deputy Director

PROCESSING INSTRUCTIONS TO AGENCY HEADS

[ENCLOSED ARE THE SENATE AND ASSEMBLY RULE JACKETS CONTAINING THE LEGISLATIVE COUNCIL CLEARINGHOUSE REPORT. AN ADDITIONAL COPY OF THE CLEARINGHOUSE REPORT IS ENCLOSED FOR YOUR FILES.]

PLEASE NOTE: Your agency must complete the following steps in the legislative process of administrative rule review:

1. On the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Report Received by Agency."

2. On the appropriate line or lines on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date or dates and, in column 2, "Public Hearing Held" OR "Public Hearing Not Required."

3. Enclose in both clearinghouse rule jackets, in triplicate, the notice and report required by s. 227.19 (2) and (3), Stats. [The report includes the rule in final draft form.]

4. Notify the presiding officer of the Senate and Assembly that the rule is in final draft form by hand delivering the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk. At the time of this submission, on the appropriate line on the face of the clearinghouse rule jacket, each Chief Clerk will enter, in column 1, the appropriate date and, in column 2, "Report Received from Agency." Each clearinghouse rule jacket will be promptly delivered to each presiding officer for referral of the notice and report to a standing committee in each house.

5. If the agency does not proceed with the rule-making process on this rule, on the appropriate line on the face of both clearinghouse rule jackets, enter, in column 1, the appropriate date and, in column 2, "Rule Draft Withdrawn by Agency" and hand deliver the Senate clearinghouse rule jacket to the Senate Chief Clerk and the Assembly clearinghouse rule jacket to the Assembly Chief Clerk.

FOR YOUR INFORMATION: A record of all actions taken on administrative rules is contained in the Bulletin of Proceedings of the Wisconsin Legislature. The clearinghouse rule jackets will be retained by the Legislature as a permanent record.

[See reverse side for jacket sample.]

LCRC
FORM 3

— *SAMPLE* —

CLEARINGHOUSE RULE ASSEMBLY 09-077

AN ORDER to create chapter NR 52, relating to ensuring that lands acquired with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats., are open to public hunting, trapping, fishing, hiking and cross county skiing.

Submitted by Department of Natural Resources

09-03-09	Received by Legislative Council.		
09-29-09	Report sent to Agency.		

NOTE: EACH SUBSEQUENT ACTION TAKEN BY A STANDING COMMITTEE OR THE JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES WILL BE ENTERED ON THE JACKETS BY APPROPRIATE LEGISLATIVE STAFF.