Report From Agency

DEPARTMENT OF REVENUE

CLEARINGHOUSE RULE NUMBER 13-102

SECTION 227.19(2) AND (3), STATS., REPORT

Basis and Purpose of the Proposed Rule

The proposed rule revises chapter Tax 18.05(1) to provide further clarity regarding what land in federal and state pollution control and soil erosion programs should be classified as agricultural property then qualifying these lands for use-value assessment. This listing has not been updated since 2000.

Public Hearing and Comments

I. Public Hearing

A. Appearances

A public hearing was held on Tuesday January 14, 2014 at 1:30 p.m. Testimony was provided by the following individuals. Phil Crary (Columbia County, Wisconsin), Ryan Waldschmidt, Frank Multerer (owner of 107 acres of restored to wetlands in the Town of Harris, Marquette County, Wisconsin), Paul Becker (City of Two Rivers, Manitowoc County, Wisconsin), Michael McDonald, Mike Savoy (owner of 275 acres of WRP land in the Town of Marcellon, Columbia County, Wisconsin), Troy Bader (Carrousel Farms, City of Monroe, Green County, Wisconsin), Nels Swenson (Wisconsin State Ducks Unlimited), Don Kirby (Wisconsin Waterfowl Association), Jordan Lamb (Wisconsin State Cranberry Growers Association, the Wisconsin Pork Association, the Wisconsin Cattleman's Association, and Wisconsin Farm Bureau Federation), Lisa Conley (Town and Country Resource Conservation and Development Board), Tracy Hames (Wisconsin Wetlands Association), Scott Taylor (Rock River Coalition), and Chairman Michael Moore, (Town of Avon, Rock County, Wisconsin).

Additional participants registered, but did not speak, in support of the rule: Nonalee Savoy, Sam Moen, Dan Schmidt, and Ryan Woody.

A summary of the comments made at the public hearing pertaining to requested changes to the rule and the department's responses are reported below.

Wetland Reserve Program (WRP) participants made comments at the public hearing as follows:

- Wetland restoration resulting from WRP projects benefit upstream and downstream landowners and agriculture as well as adjacent waterways through the removal and filtering of sediment and other run-off. WRP benefits agriculture and conservation, and a rule including WRP lands for use value assessment benefits the state.

- Changing the rule will stop the disincentive for future participation in WRP.

- Re-classification of WRP acres as agricultural property and eligible for use value assessment through the rule provides the opportunity for farms to be passed onto the next generation due to property tax reductions.

- Some lands enrolled in WRP were formerly tiled and farmed, but were taken out of crop production as result of failed attempts to remove water through tiling and other methods. Constant drain tiling was required to be able to farm.

- Land was enrolled in WRP when desirable crops could no longer be raised on the land.

- WRP enrollment was considered to recoup some of the investment into the land, while giving back to nature after the land had been drained from what it once was.

- The proposed revisions to Tax 18.05 were supported as the changes enable wetlands restored through state and federal easement programs such as WRP, to retain agricultural tax treatment.

- Wetlands are an important part of a sustainable agricultural landscape.

Other speakers generally indicated support of the rule as written since it provides greater clarity for assessors and Department of Revenue staff. Support generally included the removal of the list eligible programs from the rule, and a transfer to the Wisconsin Property Assessor's Manual.

- Proposed revisions to the rule were supported through wetland restoration and development practices as eligible for agricultural tax classification, providing the land is subject to a temporary or permanent easement under state or federal program. The land was in a qualified agricultural use prior to restoration. Restoration conforms to standards in NRCS Technical standards for wetland restoration.

- Clarification in the rule provides consistent assessment of eligible property.

- The current rule has become outdated and replacement of the list of programs with criteria is preferential. The rule supports flexibility to deal with new programs, terminated or consolidated programs, and residual easements and rules that have simply undergone a name change.

- Tax 18.05(1)(d) is supported in applying use value assessment to land that temporarily enrolled in state of federal easement programs if various criteria are fulfilled, including that the terms of that easement or program do not restrict the return of the land to farming after the completion of the program.

- Opposes the inclusion of a provision that grants agricultural use value assessment to land that is permanently removed from agricultural

production. "If the land can never farmed again, it is in opposition to the idea of use value assessment."

- The current rule does not address the potential loss of the tax base in communities subject to various enrollment programs and easements.

- Clarify the requirements to explicitly state that the qualifying easement shall adhere to the soil and water conservation resource standards and practices of ATCP 50.

B. Written Comments

Written comments were received from Roy A. Bauer (City of Durand, Pepin County, Wisconsin), Jonas Hacket, (Wisconsin Corn Growers Association), Margaret Krome, (Michael Fields Agricultural Institute), Jim VandenBrook, (Wisconsin Land and Water Conservation Association), Paul Zimmerman, (Wisconsin Farm Bureau Federation), Mark and Susan Foote-Martin (Village of Arlington, Columbia County, Wisconsin), Richard Wedepohl (Wisconsin Woodland Owners Association), Mike Engel (City of Madison, Dane County, Wisconsin),State Conservationist Jimmy Bramblett (Natural Resources Conservation Service), Curt Wytinski (League of Municipalities), and Richard Stadelman (Wisconsin Towns Association).

Written comments that accompanied verbal testimony were summarized above.

Curt Witynski, League of Municipalities

- Opposes the proposed rule on the merits of the increased definition of qualifying agricultural programs and resultant tax shift.

Richard J. Stadelman, Wisconsin Towns Association

- Supports the proposed rule as it provides consistency in local assessment by having a review of the named eligible programs and list of those programs provided in the WPAM. Modification of the rule supports the fairness and equity issues raised by the Wisconsin Wetlands Association.

Jonas Hacket, Wisconsin Corn Growers Association

- Supports removing the list of conservation programs, as it is outdated.

- Lands enrolled in conservation programs under permanent easements prohibiting cropping or pasturing should not be eligible for use-value assessment. If a management plan or emergency declaration causes the land to be cropped or pastured, the land should be reclassified as agricultural land at that time.

- The rule should include wind breaks and grassed waterways.

State Conservationist Jimmy Bramblett, Natural Resources Conservation Service:

- Proposed rule changes make state and federal wetland easement land eligible for agricultural tax classification, improving the competitiveness of Federal easement programs.

Roy A. Bauer, City of Durand, Pepin County, Wisconsin:

- Revised rule recognizes WRP landowners for their conservation efforts that benefit the public through the potential for lower taxes.

Paul Zimmerman, Wisconsin Farm Bureau Federation:

- The revised rule provides an opportunity for the current conservation program list to be timely updated, while outdated programs and those no longer in existence are removed.

- Supports revised rule language on temporary enrolled program lands like those in Conservation Reserve Program (CRP) that allow return to agricultural production.

- Conservation programs under a permanent easement that prohibit the cropping or pasturing of the land should not be eligible for use value assessment.

- Land in any given year, which due to a management plan or emergency declaration, is actually cropped or pastured should be classified as agricultural land for the following year.

- Voluntarily installed conservation practices, such as grassed waterways and wind breaks, should be classified as use value because these conservation practices were installed, as prescribed under ATCP 50, to meet state water quality standards.

Jim VandenBrook, Wisconsin Land and Water Conservation Association:

- The established criteria in the proposed rule, further defined in the Wisconsin Property Assessment Manual, instead of named programs, recognize the changing nature of conservation programming and allow the department the flexibility it needs to appropriately provide guidance to assessors.

- Including WRP lands under a use value classification would remove a disincentive to participation in that program

Mark Martin and Susan Foote-Martin, Village of Arlington, Columbia County, Wisconsin:

- Request the revisions to Tax 18.05 (1) and the Wisconsin Property Assessment Manual be enacted to clearly designate agricultural lands restored to wetlands under state and federal easement programs as qualified for agricultural property tax assessment.

Mike Engel, City of Madison, Dane County, Wisconsin:

- Supports Tax 18 revision so as to not penalize private landowners for making wise land management choices that benefit Wisconsin as a whole.

Margaret Krome, Michael Fields Agricultural Institute:

- Extend use value property tax treatment to WRP lands and to lands enrolled in the NRCS's Emergency Watershed Protection and Floodplain Easement Program.

Richard Wedepohl, Wisconsin Woodland Owners Association:

- Supports the change that would allow programs such as WRP to be considered as agricultural following enrollment.

- Does not support the proposed rule change that would no longer list the specific programs/easements that would qualify under Tax 18. The reason for this opposition is that there are no formal processes for public notification, review, and legislative approvals if programs are only identified in a guidance manual.

- Further states that the proposed rule language that "The …Assessment Manual….shall list the qualifying easements and programs according to the ATCP 50 provisions." It is not clear what these "provisions" are. ATCP 50 identifies conservation practices that must be used on the land to achieve compliance with DNR performance standards under NR 151. It does not identify programs that would remove land from agricultural production nor does it have provisions for identifying programs that should be listed. A definition of ATCP 50 provisions is needed if the approach of not listing specific program eligibility moves forward.

- The proposed rule references ATCP 50.72, 50.83, 50.88, and 50.98. These sections describe how land that is taken out of production must meet conservation standards if cost sharing is received. Other ATCP 50 sections, such as critical area stabilization, diversions, field windbreaks, grade stabilization and waterway systems are not mentioned.

- Proposed rule would appear to duplicate requirements for installation and maintenance of various practices, requirements already in place and used by those governmental agencies that manage these various conservation programs.

- Rather than eliminating the list of programs, the revised rule should list and update programs without differentiating between easements. Having to periodically update the rule if new programs come into existence is rare enough that it would not justify the need for a procedure out of the normal rule making process.

- The potential loss of the tax base due to the enrollment of lands into use value eligible programs or contracts is not addressed in the proposed rule revision.

II. Pre-Public Hearing Written Comments

Jeff Lyon, Department Agriculture Trade and Consumer Protection, October 25, 2013:

- Proposed language does not mention practices that are included in CRP and Conservation Reserve Enhancement Program (CREP), including: grasslands for wildlife habitat, tree planting, and grassed waterways under ATCP 50.96.

- Rule is supported if it continues to require the land to be in agricultural production to be eligible for use value assessment. Land removed from the program when program expires needs to be available again for agricultural production.

Michael Bruhn, Wisconsin Department of Natural Resources, November 11, 2013

- Recommends that lands entered into Managed Forest Land not be eligible.

Don Kirby and Peter Ziegler, Wisconsin Waterfowl Association, November 6, 2013:

- Generally supportive of proposed rule language; suggested inclusion of the Partners for Fish and Wildlife Program, as this federal program helps control pollution and soil erosion runoff. Lands in this program may have been agricultural production at time of enrollment.

Tom and Eva Wedel, Village of Argyle, Lafayette County, Wisconsin, November 5, 2013:

- Own 398 acres of conservation land and indicate that it would be very helpful for their lands to not be taxed recreational land, giving them additional funds to further the restoration and not give rise to the temptation to return to field crops.

Erin O Brien, Wisconsin Wetlands Association, November 5, 2013:

- Supports the decision to review and revise the eligibility criteria for use value assessment under Tax 18.05(10(d) and (e). Supports the restoration and development of wetlands under state and federal programs as an eligible practice.

- Supports replacement of the list of programs with eligibility criteria. However, rule should be as prescriptive as possible because there is no public review of the WPAM.

- Expressed concerns about the broad language of the rule specifically that the draft language appears to apply to a much broader array of projects and lands.

- Not clear on the distinction between temporary and permanent easements.

- Supports the inclusion of standards for farm conservation practices, filter strips, riparian buffers, and streambank/shoreline protection.

- Concern on the potential for some CRP practices to loose current use value eligibility.

- Reference to ATCP 50 should contain reference to "the No. 667 and subsequent versions."

- Concern that assessors are in the position of determining if parcel adheres to the technical standards.

- Economic impacts affecting WRP owners and the municipal tax base are diminished as WRP lands are currently classified incorrectly (receiving use value assessment) in many municipalities.

Frank Multerer, Town of Harris, Marquette County, Wisconsin, November 21, 2013:

- Concern that proposed draft opens up more land to use value assessment.

- Suggests the elimination of "temporary" and "permanent" language to eliminate various complications in the application of the two types of easements and thus decouple future use.

Gwen and John Sothman, Village of Junction City, Portage County, Wisconsin, December 5, 2013:

- Request Tax 18.05(1) and the WPAM are enacted to designate agricultural lands restored to wetlands under state and federal easement programs as qualified for agricultural property tax assessment.

Alvin Brinkman, December 5, 2013:

- Supports Tax 18.05(01) and the WPAM enacted to designate agricultural lands restored to wetlands under state and federal easement programs as qualified for agricultural property tax assessment.

Roy A. Bauer, City of Durand, Pepin County, Wisconsin, December 5, 2013:

- Supports classifying WRP property as agricultural land for property tax assessment purposes and requests that revisions to Tax 18.05(01) and the Wisconsin Property Assessment Manual be enacted to clearly designate agricultural lands restored to wetlands under state and federal easement programs as qualified for agricultural property tax assessment.

Written comments were received from William J. Hovath (City of Stevens Point, Portage County, Wisconsin), Joseph and Evelyn Hoppa (City of Berlin, Green Lake County, Wisconsin), Ron Paulson (Paulson Living Trust), Francis G. Nellis (City of Shawano, Shawano County, Wisconsin), Daniel Schmidt (D&D Schmidt Farms, LLC, City of Fond du Lac, Fond du Lac County, Wisconsin), Scott Link (Springvale Link LLC, Village of Cambria, Columbia County, Wisconsin), Debra Peterson, Robert Jicinsky (Village of Startford, Marathon County, Wisconsin), Tom & Ann Podwell (Town of Shields, Marquette County, Wisconsin), John Van Altenav (City of Milton, Rock county, Wisconsin), Thomas & Elizabeth Geiger (Village of Stetsonville, Taylor County, Wisconsin), Alvin Abegglen (Village of Stetsonville, Taylor County, Wisconsin), Delmar and Charlotte Siverling, Russell W. Tinder (Village of Orfordville, Rock County, Wisconsin), and William J. Albrecht (City of Pewaukee, Waukesha County, Wisconsin). These written comments generally indicated support for WRP acreage classified by the proposed rule as agricultural land for tax purposes, but did not make a direct comment on the rule.

III. Post-Public Hearing Comments

Jeff Lyon, Department Agriculture Trade and Consumer Protection, January 16, 2014:

- Proposed language referred to ATCP 50 related to standards and practices for temporary and permanent state and federal programs. ATCP 50.04, 50.06, 50.72, 50.83, 50.88, and 50.98 are the provisions to be referenced. Tax 18 should reflect updated ATCP 50 with an effective date of May 1, 2014.

Jordan Lamb (Wisconsin State Cranberry Growers Association, the Wisconsin Pork Association, the Wisconsin Cattleman's Association, and the Wisconsin Farm Bureau), Paul Zimmerman (Wisconsin Farm Bureau Federation), and Bob Welch (Wisconsin Corn Growers Association):

- Clarified their concerns regarding the permanent removal of land from agricultural production.

- Want the rule to reflect that land receiving agricultural assessment is available for agricultural production. Believe that the requirement that land enrolled in temporary programs is not prohibited from returning to agricultural production achieves this goal. Permanent easement land is not likewise required to have the ability to return to some level of agricultural production.

- Suggested that land enrolled in a permanent easement program be required to have an authorization for agricultural production (cropping, haying, or grazing) in order to qualify.

Erin O' Brien, Wisconsin Wetlands Association, February 24, 2014:

- Suggests revised rule language violates uniformity as lands under temporary agreements limit use in the same manner as permanent conservation easements do.
- Revised proposal creates numerous administrative challenges for assessors and requires further tracking of contracts, eligible programs and site specific variables on a parcel by parcel basis.

- Revised proposal undermines the ability of the affected conservation programs to provide critically-needed water quality improvements.

- Defines a condition where identical 'looking' properties do not receive the same use value classification if a permit is not obtained.

Ryan Woody, Matthiesen, Wickert, & Lehrer S.C., March 19, 2014:

- Claims provisions of the revised rule are unwieldy for assessors, suggesting added discovery requirements.

- Defines a condition where identical 'looking' properties do not receive same use value classification if a permit is not obtained, while use may not be agricultural "haying and or grazing."

- Questions uniformity and equal protection under the application of a current and future use standards or speculative use.

- Proposes a solution based upon the base acreage of the farm under federal code and federal definitions of agricultural use, deeming WRP land to be part of the base acreage of a farm, and to be agricultural land.

- Rationale indicated permanent easement lands provide greater value to sustainable agriculture.

- Wisconsin Farm Bureau Federation's concerns are simply pre-text for their opposition to WRP.

Frank Multerer, Town of Harris, Marquette County, Wisconsin, March 19, 2014

- Suggested broad language "agricultural conservation program supporting sustainable agriculture" and the elimination of the requirement that land was in agricultural production before entering the program.

- Suggests problems with a rule that relies on past and future land use, but not current land use.

- Rules should be clear, succinct, and subject to narrow interpretation. Rules should also be easy to administer, and in this case, not require assessors to perform tasks or analyses they are poorly equipped to perform.

IV. Changes Made to the Proposed Rule

- The revised rule is consistent with the statutory language, and a more detailed description may inappropriately expand or narrow the intent of agricultural use value.

- The version of the proposed rule that was submitted to the Legislative Council first applied to lands under qualifying easements and programs adhering to ATCP 50.04, 50.06, 50.72, 50.83, 50.88, or 50.98.

    - The revised rule was updated to include: 50.71, 50.91, 50.96 since these are pollution and soil erosion control practices in ATCP 50. This also responds to public comments from the Wisconsin Farm Bureau Federation, Department of Agriculture Trade and Consumer Protection, and others.

- The department considered comments requesting that the list of programs in the current rule simply be updated. The proposed rule that was

submitted to the Legislative Council and the revised rule will continue to define eligible lands, while the Wisconsin Property Assessment Manual (WPAM) will define eligible programs.

- The current rule does not include or remove conservation programs by name, thus permitting evolution, alterations, and combinations of programs resulting from Farm Bill changes. The department finds these interests, which were expressed in public comments, to outweigh the concerns that the current rule eliminates the formal processes for public notification, review, and legislative approvals if programs are only identified in a guidance manual. The criteria for eligibility, upon which the guidance material will be based, are still subject to the formal rule-making process, including gubernatorial and legislative review.

- The department considered comments in support of identifying WRP acreage classified as agricultural land for tax purposes, and lands restored to wetlands under state and federal easement programs.
  - The department finds that all lands should be viewed through the same criteria on an ongoing basis, and therefore, revisions to the proposed rule do not specify WRP, or lands in any specific program, as agricultural use.
  - Reference to ATCP 50.98, Wetland Restoration, remains in the revised rule.
- The department considered the concerns received about wetlands converted from agricultural land receiving use value classification without being available for agricultural production. The version of the proposed rule that was submitted to the Legislative Council did not define a requirement for easements under a permanent federal or state program or contract to have an authorized agricultural use in writing for the prior year.
  - The rule has been modified under section Tax 18.05(1)(d)3.b. to include language for land entered into an easement or program where the easement, contract, compatible use agreement, or conservation plan for the specific parcel granted agricultural use for that parcel in the prior year. This change ensures these lands are available for agricultural production. This also responds to concerns raised by representatives of agricultural groups that the proposed rule allowed land permanently removed from agricultural production to receive use value assessment.
- The Department considered the comments that temporary CRP contracts, permanent WRP contracts, and permanent CREP easements have no significant differences between programs; therefore the revised rule should have uniform language that applies to both permanent and temporary contracts and easements.

- Clear distinctions are present between temporary and permanent easements. Land in a temporary easement can be returned to agricultural production at the end of the easement, and often is when commodity prices rise. Additionally, temporary easements are more likely to offer a buyout provision where land may be immediately returned to agricultural production upon payment of a certain sum to the authorizing agency; therefore, additional modifications to the rule were not made.
- Contracts, conservation plans, and compatible use agreements may allow for modifications to lands in a permanent program or easement. The plans and agreements define compatible use as defined by the practice installed. The revised rule has been modified so that where specific parcels of land identified in the easement, contract, compatible use agreement, or conservation plan are permitted to engage in an agricultural production; those lands are eligible for use value assessment.
- Authorization for compatible agricultural production practices under common permanent programs includes the following:
  - CREP: CREP offers compatible uses if identified in the conservation plan.
  - WRP: WRP Compatible Use Agreements are issued by the federal Natural Resources Conservation Service and may allow for haying and grazing on certain WRP lands.
  - Nonpoint Source Water Pollution Abatement Program: The Department is not aware of any provisions in this program allowing for permitted agricultural production practices.
  - Stream Bank Protection Program: The Department is not aware of any provisions in this program allowing for permitted agricultural production practices.

- Post-hearing comments included a suggestion to defer to the federal regulations and subsequent definitions.

  - The prior and revised rule have been developed utilizing Wisconsin state law and specifications from Wisconsin agricultural standards and programs. This provides for consistent application of the rule through consistent definitions and terminology. Distinctions between federal programs under USDA NRCS and USDA FSA, have been identified in both the current and prior rule-making processes. NRCS programs and associated definitions do not generally specify crop history as a consistent criterion for eligibility, as does the Farm Service Agency and their program requirements. Adoption of federal programs and terminology create the potential for contradictions between the intent of agricultural use value and conservation program requirements.

- The Department heard many comments defining the benefits wetlands provide to agricultural and non-agricultural lands.

- These benefits are not questioned; however, not everything that benefits agricultural land constitutes agricultural use. Parcels with barns, well pumps, and dikes may benefit agricultural land, but these are not considered to be in agricultural use and they do not receive use-value classification because they are not producing agricultural products. Both wetlands and watersheds benefits agricultural land, but they are not defined as land in agricultural use in general. Agricultural conservation use has, since the origin of the statute, been considered to be an agricultural use; however, it is distinguishable from general conservation use. Previously, the Department distinguished by program. However, programs may evolve rapidly, so the Department no longer wishes to define agricultural conservation by program. The revised rule defines agricultural use with criteria that show that certain conservation land has sufficient nexus with agricultural production to justify defining it as agricultural use. Useful criteria include whether or not the land was in agricultural use at the time of enrollment, whether or not the program or easement complies with state standards for agricultural conservation, and whether or not the land may be returned to agricultural production, and if so, when and under what circumstances.

- In Wisconsin, assessors are familiar with annual changes in use value lands. Language in the rule was not changed to address assessment discovery requirements, as these requirements will be similar to current practice. Discovery requirements that are otherwise modified do not require a change to the rule, as this specification and related requirement will be outlined in the Wisconsin Property Assessment Manual.

Response to Legislative Council Report

Legislative Council suggested that DOR consider the following:

- "[R]evising s. Tax 18.05 (1) (d) and (e) to more precisely delineate the types of easements and programs that are encompassed in the revised definition. Both provisions refer to 'qualifying easements or programs' but do not expressly specify which types of easements and programs are 'qualifying'. The plain language analysis refers to 'federal and state pollution control and soil erosion programs'. If the intent is to limit the scope of the provisions to pollution control and soil erosion programs, that limitation should be made explicit in the text of the provisions. Although the provisions require programs and easements to adhere to specified standards and practices, it is not clear that easements and programs other than pollution control and soil erosion programs would be found not to comply with the referenced standards and practices. One approach for revising the provisions would be to create subdivisions that enumerate the criteria for inclusion within the definition. For example, the introduction in s. Tax 18.05 (1) (d) could be revised to read: 'Commencing with the January 1, 2015 assessment, land without improvements subject to a

temporary federal or state easement or enrolled in a temporary federal or state program, if all of the following apply:'. If that approach is taken, consider merging the two provisions into a single paragraph that covers both temporary and permanent easements and programs. In that scenario, one subdivision (relating to the return of land to agricultural use) would be applicable only to temporary easements."

- The revised rule combines the two paragraphs, (d) and (e), and is drafted with the criteria listed as subsections.

- "In the effective date section, the agency might consider specifying an effective date, rather than using the general effective date of the first day of the month following publication, because the proposed rule does not apply until January 1, 2015. [s. 1.02 (4) (b), Manual; see also s. 1.02 (4) (c), Manual.]"

    - The department made the suggested change.

- "Section Tax 18.05 (1) (d) and (e) refers to 'standards and practices provided under the July 2011 No. 667 version of s. ATCP 50.04, 50.06, 50.72, 50.83, 50.88, or 50.98'. It appears that none of these rule sections were treated in ATCP rules published in Register July 2011 No. 667. However, that Register did contain a scope statement for proposed rules relating to ch. ATCP 50, which became Clearinghouse Rule (CHR) 13-016. Is it the intent to include changes made to ch. ATCP 50 by CHR 13-016 (which has not yet been promulgated)? If so, the agency should replace 'standards and practices provided under the July 2011 No. 667 version of s. ATCP 50.04, 50.06, 50.72, 50.83, 50.88, or 50.98' with 'standards and practices contained in s. ATCP 50.04, 50.06, 50.72, 50.83, 50.88, or 50.98'? The latter reference will capture the contents of CHR 13-016 once it is promulgated. Alternatively, if the agency wants to not incorporate subsequent amendments to the ch. ATCP 50 sections, the reference to those sections could be replaced with “standards and practices contained in s. ATCP 50.04, 50.06, 50.72, 50.83, 50.88, or 50.98, Register July 2011 No. 667”."

    - The department updated the reference to a specific Register to January 31, 2014 No. 697, which contained the most recent revisions to chapter ATCP 50. The department does not want to incorporate subsequent amendments to the chapter ATCP 50 without subsequent revision to chapter Tax 18.

- "In s. Tax 18.05 (1) (d), following the phrase 'when it was entered into the easement or program, and', the word “that” should be removed."

    - The department adopted this change.

Regulatory Flexibility Analysis

The proposed rule order does not affect small businesses.