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# Wisconsin Legislative Council

## RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 22-079

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]**

#### 2. Form, Style and Placement in Administrative Code

a. In SECTION 10, if the rule is repealing all of s. Adm 35.03 (2), the treatment clause could be revised to read “... (1) and (2) are repealed” rather than listing the subunits in sub. (2).

b. In SECTION 13, “(intro.)” should be added after “(b)” in the treatment clause, because that section only amends the introductory clause in par. (b).

c. The treatment in SECTION 22 is better described as the repeal of s. Adm 35.06 (intro.). The retained title is a separate provision, unaffected as s. Adm 35.06 (title).

d. It appears the treatments of SECTIONS 25 to 27 may be combined to repeal and recreate s. Adm 35.06 (2) and (3).

e. In SECTION 29, “ss.” should be underscored in s. Adm 35.07 (1) (c).

f. Would the proposed rule benefit from an initial applicability clause? [s. 1.03 (3), Manual.]

g. The sections of the proposed rule that amend the code should be reviewed to consistently indicate new, underscored text as following removed, stricken text. [s. 1.04 (4), Manual.] In particular, see SECTIONS 11, 23, and 29.

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

a. In SECTION 4, when the agency states that financial assistance includes assistance from the environmental improvement fund under certain statutes, use of the first “includes” suggests that the term “financial assistance” might also be comprised of other assistance. If accurate, what is that assistance? If all assistance arises from one of the listed statutes, should the agency use “means” instead? [s. 1.07 (3), Manual.]

b. In SECTIONS 4 and 25, “, Stats.,” should follow the statutory citations.

- c. In SECTION 19, is “proceeds” still the best word to use in the retained language in s. Adm 35.05 (1), given the other changes made by the proposed rule?
- d. In SECTION 24, there is period missing in s. Adm 35.06 (1) (a).
- e. Generally, with respect to the determination of market interest rates, where will such rates be published upon determination?
- f. The following comments apply to SECTION 29:
  - (1) The phrase “all of” (or, alternatively “any of”) should be added after “to do” in s. Adm 35.07 (1) (intro.) to indicate which of the actions specified in sub. (1) are required. [See s. 1.11 (2), Manual.]
  - (2) Is the intent that s. Adm 35.07 (2) applies only to those financial assistance agreements that involve an obligation? If so, that could be clarified. (A similar question applies to s. Adm 35.08 in SECTION 30.)
  - (3) In s. Adm 35.07 (3), the phrase “project designated as federal equivalency” is somewhat awkward. Could it be replaced with the phrase “designated as a federal equivalency project”? Alternatively, or in addition, adding a definition for the term “federal equivalency project” may help to clarify that such projects receive funds from a federal capitalization grant.

## **6. Potential Conflicts With, and Comparability to, Related Federal Regulations**

The Department of Natural Resources’ [Form 8700-201](#) enumerates a number of federal requirements applicable to federal equivalency projects. In SECTION 29, do the references to the federal act and guidance in s. Adm 35.07 (3) adequately reflect the federal requirements applicable to federal equivalency projects? If not, would it be possible to replace those specific references with a more general reference to all applicable federal requirements?