



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-086

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 December 2014.]

1. Statutory Authority

In the rule summary’s listing of statutory authority, consider removing the broad reference to ch. 77, Stats., and referring only to the general rulemaking authority under s. 227.11 (2) (a), Stats., to effectuate the purpose and administration of the program, which is already listed. As noted in the listing of statutes interpreted, the proposed rule interprets subchapters within ch. 77, Stats., for administration by the department. Alternatively, consider identifying specific statutes that explicitly grant authority related to certain aspects of the proposed rule, such as s. 77.83 (3), Stats., for sign design standards, s. 77.88 (2m) (c), Stats., for restoration periods, or others. [s. 1.02 (2m), Manual.]

2. Form, Style and Placement in Administrative Code

a. In the rule summary, entries should be inserted for the summary of factual data and analytical methodologies, the analysis and supporting documentation to determine the effect on small business, and the effect on small business. Also, a heading and entry should be inserted for the place where comments are to be submitted and the deadline for submission. [s. 1.02 (2) (a) 8., 9., 10., and 13., Manual.]

b. SECTION 8 of the proposed rule should be separated into two SECTIONS: (1) to renumber and amend s. NR 46.15 (2) (intro.) to s. NR 46.15 (2); and (2) to repeal s. NR 46.15 (2) (Table). Also, in the text of s. NR 46.15 (2) (intro.), the colon from the current rule text should be inserted and shown with a strikethrough. [ss. 1.04 (2) (b), 1.057, 1.06 (1) (a), and 1.067, Manual.]

c. In s. NR 46.16 (5), the acronym “MFL” should either be spelled out or added to the current definition for “managed forest land” in s. NR 46.15 (20). This same comment applies to ss. NR 46.16 (7) and (7m) (b) 2., 46.18 (4) (a) 6. and (6) (Note 1), 46.215 (1) (a), and 46.22 (2) (Note 1). [s. 1.01 (8), Manual.]

d. In s. NR 46.16 (7), “current” should be deleted. In addition, “currently” should be deleted in s. NR 46.17 (1) (c) 1. [s. 1.01 (9) (b), Manual.]

e. In s. NR 46.17 (3) (c), “cannot” should be changed to “may not”. [s. 1.01 (2), Manual.]

f. SECTION 23 of the proposed rule should be separated into three SECTIONS: (1) to amend s. NR 46.18 (2) (intro.); (2) to renumber and amend s. NR 46.18 (2) (d) (intro.) to s. NR 46.18 (2) (d); and (3) to repeal s. NR 46.18 (2) (d) (Table). Also, in the text of s. NR 46.18 (2) (d) (intro.), the word “classifications” and the colon from the current rule text should be inserted and shown with a strikethrough, and the word “density” should not be underscored. [ss. 1.04 (2) (b), 1.057, 1.06 (1) (a), and 1.067, Manual.]

g. SECTION 25 of the proposed rule should be separated into three SECTIONS: (1) to renumber and amend s. NR 46.18 (3) (b) 1. to s. NR 46.18 (3) (b) 1. a.; (2) to create s. NR 46.18 (3) (b) 1. b.; and (3) to amend s. NR 46.18 (3) (b) 2. a. [ss. 1.04 (2) (b), 1.055, 1.06 (1) (a), and 1.067, Manual.]

h. In s. NR 46.20 (1) (b), “can” should be changed to “may”. [s. 1.01 (2), Manual.]

i. In the treatment clause of s. NR 46.21 (2) (b), the colon should be changed to a period. The same issue occurs in the treatment clause of s. NR 46.26. [s. 1.057, Manual.]

j. In s. NR 46.23 (2m), a title should be created for the subsection, in order to mirror the use of titles in the other subsections of s. NR 46.23. [s. 1.05 (1), Manual.]

k. In s. NR 46.27 (1) (intro.), a colon should be added after “managed forest land orders”. [s. 1.03 (3), Manual.]

l. In the treatment clause for SECTION 61 of the proposed rule, it appears that the second listing of sub. (1) should be removed, as par. (f) is among the list of paragraphs already identified.

m. The effective date provision should be revised to identify one date upon which the proposed rule would take effect, rather than listing two effective date alternatives. [s. 1.02 (4), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

In s. NR 46.15 (2) (intro.), what are the “other guidelines” that would apply? A specific reference to another rule or other source should be identified. [s. 1.07 (1) (a), Manual.]

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

a. In s. NR 46.15 (1m), “space” should be added after “office”.

b. In s. NR 46.15 (32m) (c), is “telephone service based locally” intended to mean only land line telephone service? The rule should be clarified to reflect the department’s intent.

c. In s. NR 46.17 (1) (c) 1., the rule should clarify who will determine what is considered “a reasonable timeframe”.

d. Section NR 46.18 (2) (intro.) provides that “practices projected beyond the term of the order may be added as appropriate”. Who determines whether this is “appropriate”? What is the authority of the department to require an owner to perform mandatory practices in a management plan beyond the term of an order?

e. In s. NR 46.20 (1) (b), it appears that “or otherwise” should be changed to “or other legal agreement”. In sub. (1) (c), “is” should be added between “or” and “continuous managed forest land of the owner which has been designated closed”.

f. In s. NR 46.21 (2) (c), is this requirement intended to apply to open land and closed land under the same ownership that is contiguous? If so, this should be added to the rule. In addition, the rule might be clearer if the word “closed” were inserted between “posted” and “and surrounds the land designated as open to public recreation”.

g. In s. NR 46.21 (3) (c), “the map” and “the managed forest law map” are noted; however, it is unclear from the rule whether this map is required to be part of the sign, or is the map that is required to be submitted under s. NR 46.25.

h. In s. NR 46.215 (1) (intro.), a colon should be added after “are met”. In sub. (2) (b), it appears that “and” in between “s. 77.88 (3k) and (3L)”, should be changed to “or”. The same issue occurs in s. NR 46.23 (1) (a).

i. In s. NR 46.23 (1) (b), the hyphen should be removed from “land-conveyed”.