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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 96-169

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

Section 29.415 (6m) (e), Stats., as created by 1995 Wisconsin Act 296, provides that, upon receipt of an application for an incidental taking, the department must distribute publicity to the news media in the vicinity of the proposed taking and to the official state newspaper. In contrast, the second sentence of s. NR 27.07 (1) (a) states that, when deemed appropriate by the department, other notice may be provided “in lieu of a news release.” If the intent of this rule provision is to supplant, rather than augment, notice through the news media, it appears that the rule provision is not statutorily authorized.

2. Form, Style and Placement in Administrative Code

a. In the first sentence of the analysis, the phrase “department on” should be replaced by the phrase “department of.”

b. Section NR 27.07 (1) (a) should be restructured. The first sentence of the paragraph should be renumbered as subd. 1. and the sentence should conclude with the phrase “news release that includes all of the following information.” Subdivisions 1. to 6. then should be renumbered pars. (a) to (f) and all of the new subparagraphs should conclude with a period. Finally, the second sentence of par. (a) should be renumbered as subd. 2.; should begin with the phrase “Notwithstanding subd. 1.”; and should amend the internal cross-reference appropriately.

c. The words “specified in par. (a)” should be added after “information” in s. NR 27.07 (1) (c) (intro.).

d. The rule does not contain an appropriate effective date clause. [See s. 1.02 (4), Manual.]

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

a. In s. NR 27.07 (1) (a), what is the meaning of the phrase “approval notice”?

b. Section NR 27.07 (1) (c) (intro.) requires the department to provide information by mail or “in the manner requested.” Does this mean that each organization listed in that paragraph and any other organization or individual that requests notification can specify any manner of receiving the information? This seems exceptionally open-ended. It may be advisable to be more specific.

c. In s. NR 27.07 (1) (c) 20., the first occurrence of the word “the” should be replaced by the word “a.”