



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 02-048

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 September 1998.]

1. Statutory Authority

“Dam grant inventory” is defined in s. NR 336.03 (3) as a list of dams with two elements: requirement of a dam safety project and filing of a grant application. However, s. 31.385 (4) (a), Stats., only requires that the inventory of dams contain those dams that require a dam safety project. Application for a grant is not required under the statute in order for a dam to be listed on the inventory. Is the rule consistent with the statute?

2. Form, Style and Placement in Administrative Code

- a. In s. NR 336.02 (1) (a) and (2) (a), “, and” should be replaced by a period.
- b. In s. NR 336.02 (7), “means” should replace “are.”
- c. The title to s. NR 336.05 (1) should be deleted since none of the other subsections have titles.
- d. The note regarding applications, which is at the end of s. NR 336.05, should be placed at the end of s. NR 336.06.
- e. In s. NR 336.09 (1) (intro.), “, as follows:” should replace the period.

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

a. Section NR 336.02 (2) (b) refers to dams “abandoned under” s. 31.187, Stats. Section NR 336.03 (1) refers to declarations of abandonment “using the process under” s. 31.187, Stats. However, this statute does not relate to declarations of abandonment, but rather is a procedure for the department to remove dams. An example of a more appropriate reference to this statute is found in current s. 30.121 (4), Stats.

b. The term “sponsor” is used in s. NR 336.03 (7) and a number of other places in the rule. However, the rule does not include a direct statement of who is eligible to be a sponsor.

c. The definition of “sponsor match” in s. NR 336.03 (14) refers to cash from the sponsor. However, the rule also allows the sponsor match to include in-kind contributions. [See s. NR 336.09 (1) (c).]

d. In the note after s. NR 336.07, it should apparently be applicants, rather than projects, that may begin construction. Also, the note should state that the department may rescind “its” notification of eligibility. Finally, the time frame should be stated as six months “after” the application date.

e. In s. NR 336.08 (intro.), “the” should be inserted before “following.”

f. In the note after s. NR 336.09 (1), “formulated” should be replaced by “promulgated.”

g. The reference to “contract” in s. NR 336.09 (2) (e) is apparently the first use of this term in the rule. Can it be clarified how this term relates to the remainder of the rule? Also, in that provision, “this projects” should be replaced by “the project.”