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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 05-037

#### 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 January 2005.]**

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

a. In s. NR 329.01, following the amendment, the internal cross-reference to s. 30.12, Stats., should read “s. 30.12 (1g), (1p), (3) (a), and (3m), Stats.”

b. In s. NR 329.02, the word “and” should precede the citation “(3m).”

c. In most cases, substantive material should not be included in definitions. The standards for pea gravel blankets in s. NR 329.04 (2) (j) 8. can be modified to include the last sentence in the definition of “pea gravel blanket” in s. NR 329.03 (9) and the last sentence of the definition of “pea gravel blanket” can be deleted.

d. SECTION 9 should be moved to follow SECTION 11.

e. In s. NR 345.04 (2) (f), the introduction should be renumbered as sub. (1). Also, the subdivision should begin with the following language: “A general permit, subject to the limitations in subds. 2. to 4....” Finally, subds. 1. to 3. should be renumbered as subds. 2. to 4.

f. The department should review the use of introductory material so that the reader is clear as to whether all or any of the conditions listed following the introduction must be met. For example, in s. NR 345.04 (2) (g), the phrase “all of” should precede the phrase “the following limitations.”

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

a. Section NR 329.02 contains two references to regulations under “another chapter.” The note lists several chapters in the NR 300 series of rules. Could this section be made more specific by referring to specific regulations under chs. NR 300 to 399?

b. The current rule that is renumbered in SECTION 2 should be s. NR 329.03 (9) to (13), and the reference to “[piling]” should be deleted.

c. The rule does not make clear the relationship between ch. NR 109 and the standards for jetting to harvest aquatic plants in s. NR 345.04 (2) (h). Chapter NR 109 applies substantive standards by means of a permit, and each permit could have different substantive requirements. Is it the point in the rule that compliance with the general permit will be deemed to meet the requirements of ch. NR 109? The reference to “aquatic plant management activities authorized under ch. NR 109” also is unclear. Chapter NR 109 does not by itself authorize aquatic plant management activities, but rather sets up a permit system that is used for that purpose.

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

a. In s. NR 329.03 (9), the phrase “no greater” should be replaced by the word “less,” in order to be consistent with s. NR 329.04 (2) (j) 4.

b. It is not clear what “specific” means in s. NR 345.04 (2) (f) 2. It appears that this word can simply be deleted.

c. In s. NR 345.04 (2) (g) 2., the phrase “equal to or” should be inserted before the word “greater.”

d. The last phrase in s. NR 345.04 (2) (g) 3. could be changed to “the previous dredge project.” Dredging removes material, and the word “constructed” does not seem to fit.

e. “Previously” in s. NR 345.04 (2) (g) 4. a. is redundant and can be deleted.

f. Section NR 345.04 (2) (h) 7. does not appear to be consistent with the concept of a general permit. This appears to require a general permit to be issued for each area on a water body that is proposed to be dredged.