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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 10-109

#### 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 September 2008.]

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

a. In item 4 of the rule preface, the citation should read “Sections 30.18...281.346, and 281.35, Stats.”

b. In s. NR 860.10, the citation should read “s. 281.346 (4m), (4s), (5), (5m), (6), and (9), Stats.”

c. In s. NR 860.11 (7), the second occurrence of the word “owner” should appear within quotation marks.

d. In s. NR 860.14 (2) (intro.), the phrase “all of” should be inserted before the phrase “the following.” The entire rule should be reviewed for the appropriate use of phrases like “all of the following” and “any of the following” in introductory material to ensure that the rule clearly indicates whether the provisions of all the following subunits, or the provisions of at least one of the following subunits, must be met.

e. In s. NR 860.15 (1) (b), the phrase “laws or regulations” should be replaced by the phrase “laws, rules, or regulations.” In sub. (1) (c) 3., the use of parentheses should be avoided. The pertinent phrase in this provision may be set off by commas. In sub. (1) (d), the second occurrence of the notation “NR” should be deleted.

f. In s. NR 860.17 (2), the phrase “these rules” should be replaced by the phrase “this chapter.”

- g. In s. NR 860.20 (1), the notation “sub.” should be inserted before the notation “(2).”
- h. In s. NR 860.22, the introduction should be renumbered as sub. (1) and remaining subsections and internal cross-references should be renumbered accordingly. [See also s. NR 860.31.]
- i. In s. NR 860.22 (1) (a) and (c), “will” should be changed to “shall.” And in par. (c), the word “must” should be replaced by the word “shall.” [See also s. NR 860.31 (1) (c).]
- j. In s. NR 860.22 (2) (a) 8., the correct cross-reference is “s. 30.12...281.41, or 283.31, Stats., or s. 281.17, 2001 Stats.” [See also ss. NR 860.23 (1) (b) and 860.31 (2) (a) 9. The correct format is used in s. NR 860.32 (1) (c).]
- k. In s. NR 860.31 (2) (a) 12. (intro.), it appears that the correct cross-reference is to “subds. 1 to 11.” In sub. (12) (f), it appears that a reference to rules and regulations should be included.
- l. In s. NR 860.31 (2) (d), “will” should be changed to “shall.”
- m. In s. NR 860.40 (1) (b), it appears that the correct cross-reference is “s. 281.346 (4s), Stats.” [See the cross-reference to s. 281.346 (5), Stats., in sub. (1) (a).]
- n. In s. NR 860.42 (4), the word “of” should be replaced by the word “after.”

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

- a. In s. NR 860.13, since all interim approvals expire on December 8, 2011, it may be clearer if the rule provided that any person regulated under this chapter must obtain a general or individual permit no later than December 7, 2011 instead of “by December 8, 2011.”
- b. In s. NR 860.16 (3), “as provided in s. 281.346 (2) (e), Stats.” should be added after “baseline.”
- c. In s. NR 860.22 (1) and (2), it would be helpful to add a Note specifying the department address to which an application must be sent. This problem also occurs in ss. NR 860.31, 860.32, 860.33 and 860.34.
- d. In s. NR 860.22 (2) (a) (intro.), the phrase “in the manner described by the department” is unnecessary because the rule goes on to specify the types of information that must be included in an application. This problem also occurs in ss. NR 860.31 (2) (a) (intro.) and 860.33. The entire rule should be checked for this problem.
- e. Section NR 860.42 (11) provides that the department must consider the comments received at the hearing in making its decision. However, sub. (10) provides that when a public hearing is conducted, the public comment period is extended for 10 days starting from the date of the hearing. It appears that sub. (11) should be rewritten to accommodate the comments that are submitted after the date of the hearing.