



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 23-060

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. Consider inserting a heading for “Text of Rule”, before the text of the proposed rule, in the same manner as the heading for the rule analysis.

b. In SECTION 4 of the proposed rule, amending s. NR 45.03 (1), the stricken period after “families” should be removed, and the final period after “older” should be shown without underscoring.

c. In SECTION 15 of the proposed rule, the created definition of “property master plan” is numbered as s. NR 45.03 (14m); however, the current rule already contains a definition numbered (14m). In order to maintain alphabetical sequence in the definitions, it appears the definition of “property master plan” should be numbered as “(18h)”, or other designation from “(18g)” to “(18j)”. The treatment of this provision should be moved to a new SECTION of the proposed rule, following SECTION 16.

d. In SECTION 18 of the proposed rule, creating s. NR 45.03 (18u), the designation “s. NR” should be inserted before the citation to “45.045 (2) (c) 4.”.

e. In SECTIONS 34, 37, 47 and 103 of the proposed rule, notes are created that are not identified in the respective treatment clauses. A citation to “and (Note)” should be identified in the appropriate location in each treatment clause.

f. In SECTION 40 of the proposed rule, renumbering and amending s. NR 45.04 (3) (e), the current text does not appear to be accurately shown. For example, the phrase “Except in accordance with a written permit issued by the department,” is not part of the current text. If the department intends to insert that phrase, it should be shown with underscoring. The strike-through of the word “No” should be shown before the underscored “Except in”. Also, in the treatment clause, the designation “(intro.)” should be removed, as the provision does not currently include an introduction. Lastly, the stricken period after “department” should be removed, and the final period after “disturbance” should be shown without underscoring.

g. In SECTION 42 of the proposed rule, amending s. NR 45.04 (3) (g), the stricken period after “others” should be removed, and the final period after “person” should be shown without underscoring.

h. In SECTION 44 of the proposed rule, the treatment clause does not correspond to the changes being made in the text of the proposed rule. To match the proposed text, it appears the treatment clause should be to renumber and amend s. NR 45.04 (3) (m) 1. as NR 45.04 (3) (m) 1. (intro.).

i. In SECTION 45 of the proposed rule, creating s. NR 45.03 (3) (m) 1. b., the format for the reference to “sub. (3) (w)” should be changed to “par. (w)”.

j. In SECTION 48 of the proposed rule, amending s. NR 45.04 (4) (title), the new underscored material should come after the material that is stricken through. The same comment applies to SECTION 53 of the proposed rule, renumbering and amending s. NR 45.05 (1) (a), and SECTION 72, amending s. NR 45.06 (7).

k. In the treatment clause of SECTION 56 of the proposed rule, the designation “(intro.)” should be inserted after “1.”.

l. In SECTION 63 of the proposed rule, amending s. NR 45.05 (3) (g), the title “Unsafe operation” is new, and should be shown with underscoring.

m. In SECTION 71 of the proposed rule, amending s. 45.06 (6) (a), the strike-through of the word “No” should be shown before the underscored “Except as”.

n. In SECTION 81 of the proposed rule, amending s. NR 45.10 (1) (f), the strike-through of the word “No” should be shown before the underscored “Except by”.

o. In the treatment clause of SECTION 88 of the proposed rule, “45.10 (2) (intro.)” should be changed to “45.10 (2) (title)”.

p. In the treatment clause and text of SECTION 89 of the proposed rule, the designation “(a)” should be added between “(2m)” and “1. c.”.

q. In the treatment clause of SECTION 92 of the proposed rule, “(3) (intro.)” should be changed to “(3) (title)”.

r. The treatment in SECTION 110 of the proposed rule should be moved to the restructured treatment of SECTIONS 116 to 120, as described in the next comment.

s. The treatment in SECTIONS 116 to 120 should be restructured as follows:

- (1) Renumber s. NR 45.12 (1) (d) (intro.) and 1. to 16. as NR 45.12 (1) (bm) (intro.) and 1. to 16.
- (2) Repeal s. NR 45.12 (1) (d) 17.
- (3) Renumber s. NR 45.12 (1) (d) 18. as NR 45.12 (1) (bm) 18.
- (4) Repeal s. NR 45.12 (1) (d) 19.
- (5) Renumber s. NR 45.12 (1) (d) 20. and 21. as NR 45.12 (1) (bm) 20. and 21.
- (6) Repeal s. NR 45.12 (1) (d) 22.

- (7) Renumber s. NR 45.12 (1) (d) 23. to 57. as NR 45.12 (1) (bm) 23. to 57., and NR 45.12 (1) (bm) 39., 55., and 57., as renumbered, are amended. [s. 1.04 (6) (d), Manual.]
- (8) Repeal s. NR 45.12 (1) (d) 57. (Note).
- (9) Renumber s. NR 45.12 (1) (d) 58. as NR 45.12 (1) (bm) 58.

t. In SECTION 121 of the proposed rule, the stricken period after “area” should be removed, and the final period after “property” should be shown without underscoring.

u. In the treatment clause of SECTION 124 of the proposed rule, the designation “(intro.)” should be added between “(b)” and “2.”. However, the text in sub. (2) (b) (intro.) is identified as being amended, but is struck in its entirety. Is the provision instead intended to be repealed? Or repealed and recreated with a different introductory phrase? The department should review its intent with the treatment of s. NR 45.12 (2) (b) (intro.) and update the text, treatment clause, and rule caption’s enumeration of affected provisions to reflect the intended action.

v. In SECTION 127 of the proposed rule, the inserted material explaining where the form may be obtained should be moved to a new SECTION of the proposed rule, creating a note explaining where the form may be obtained. [s. 1.12 (3), Manual.]

w. In SECTION 128 of the proposed rule, the treatment should be restructured as follows:

- (1) Renumber and amend s. NR 45.12 (3) (c) (intro.) as NR 45.12 (3) (c).
- (2) Repeal s. NR 45.12 (3) (c) 1. and 2.
- (3) Also, in the text, the numbering designation “NR 45.13 (3) (c)” should be changed to “NR 45.12 (3) (c)”.

x. In SECTION 132 of the proposed rule, the colon in the current text of “The fees are:” appears to be missing. The colon should be inserted and shown with a strike-through.

y. In SECTION 136 of the proposed rule, creating s. NR 45.12 (4m), a title should be created for the subsection, for consistency with the titles in subs. (1) to (4).

z. Although not affected in the proposed rule, the department could consider adding a SECTION to create a title for current rule s. NR 45.12 (5), for consistency with the titles in subs. (1) to (4).

aa. In SECTIONS 141 and 142 of the proposed rule, the treatment should be restructured as follows:

- (1) Repeal and recreate s. NR 45.13 (9) (b), in its entirety.
- (2) Repeal s. NR 45.13 (9) (c).

bb. In SECTION 143 of the proposed rule, amending s. NR 45.13 (12), the “W” shown at the beginning of the title with a strike-through should be removed.

cc. In the rule caption’s enumeration of affected provisions, the citations should be updated to reflect any corrections and other treatment changes made in response to these comments.

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

a. In the statutes interpreted and explanation of agency authority section of the rule analysis, the sentence explaining the department's authority regarding a campground reservation system under s. 27.01 (11), Stats., should note that the department is required to promulgate rules associated with the system. In the same section of the rule analysis, the department should clarify that s. 29.335, Stats., requires the department to promulgate rules regulating feeding of wildlife for purposes other than hunting.

b. In the plain language analysis section of the rule analysis, a period should be added to the sentence describing SECTION 51. In the same section of the rule analysis, each instance of the word "update" should be changed to "updates" in describing SECTIONS 95, 96, and 97.

c. In the plain language analysis section of the rule analysis, the department could elaborate on the description of the changes in SECTIONS 152 and 153 of the proposed rule. For example, the department could explain whether the stricken material creates a substantive change, or is removing a possibly circular applicability of the exemption from local requirements under s. 13.48 (13), Stats.

d. In the summary of factual data section of the rule analysis, in the last paragraph, "inopportune" should be changed to "inopportune".

e. In s. NR 45.04 (1s) b. 2., it appears that the word "on" after "fossil materials" should not be stricken through. In sub. (4) (am) (intro.), it may improve the rule's clarity if the phrase "first day of" were inserted between "30 days prior to the" and "use".

f. In s. NR 45.095 (1) (b) m., the word "a" should be added between "with" and "permit".

g. The following comments apply to SECTION 98 of the proposed rule, creating s. NR 45.10 (6):

- (1) In par. (a), the department should consider whether the provision is adequate to give notice as to the specific reservation cancellation and modification penalties that would apply in any particular circumstance. For example, consider identifying the circumstances in which only the reservation fee would be non-refundable, versus when a cancel or change fee would apply, and when a portion or totality of camping fee would be non-refundable. Also, how would a reader determine what the cancel or change fee amount would be? Consider specifying the fee amounts in s. NR 45.12 and adding a cross-reference in par. (a) to that fee provision.
- (2) In par. (b), the proposed rule states that a reservation cannot be cancelled or modified "more than 10 months prior" to the arrival date. This means that a cancellation may only occur within 10 months of the reservation date. Is this provision instead intended to mean that a cancellation may only occur 10 months or more before the reservation date, and may not occur within 10 months of the reservation date? If so, the provision should be revised to reflect the department's intent.
- (3) In par. (c), the department should consider whether the provision is adequate to give notice as to what the specific cancellation and modification "restrictions" are when a person makes a reservation for the maximum allowable period. Consider identifying the specific restrictions that would apply in that circumstance.

h. In SECTION 102 of the proposed rule, s. NR 45.11 (9) (a) states, “Within the boundaries of state parks, air boats may not be operated on lands and waters including wetlands under the supervision, management or control of the department unless air boat use is specifically authorized by the property master plan”. However, the description of this change for this SECTION in the department’s rule analysis is “air boat use is prohibited on state park lands and waters under the supervision, management, or control of the department within the boundary of state parks, except if posted...”. The department should change either the text of the rule or its description to reflect the department’s intent.