



Wisconsin Legislative Council

RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 22-002

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. In s. NR 107.04 (2), a subsection title should be inserted, as titles are used in the other subsections. [s. 1.10 (2) (a), 2., Manual.]

b. In s. NR 107.05 (1), an introductory statement should be inserted to indicate the relationship and applicability of the subunits. [s. 1.11 (2), Manual.]

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

a. In the department’s explanation of statutory authority, the rule analysis notes that the rule “authorizes the department to require that an application for a permit contain a plan as to how aquatic plants will be managed”. That description could be revised to reflect that s. 23.24 (3) (b), Stats., authorizes the department to require such plans.

b. In s. NR 107.03 (1) (d), should the “and” before the final semicolon be an “or”?

c. For those seeking to conduct control activities in small ponds, the language in the waiver authorized in s. NR 107.04 (4) may seem confusing in contrast with the similar but slightly different defined terms utilized for the exemptions in proposed subch. V of ch. NR 107. Although the waiver in s. NR 107.04 (4) utilizes statutory language that should not be modified, perhaps any potential confusion could be addressed through a note or cross-reference in subch. V that acknowledges that the waiver for manual removal may also apply to privately accessible ponds in many circumstances.

d. In s. NR 107.07 (4), consider adding the phrase “Except as provided in sub. (5),” at the beginning of the introduction to add clarity. If that change is made, sub. (5) (intro.) could be revised to read something like “The department will follow alternate, statutorily required timelines if any of the following circumstances apply:”.

e. In s. NR 107.10 (2) (d) (intro.), the phrase “under all of the following processes” is somewhat awkward. It could be replaced with “if”, and subds. 1. and 2. could then be merged with

the introductory language (striking “when” from the language in subd. 1). Especially if those changes are made, it does not appear that the waiver in subd. 3. is necessary, as the hearing would be required only if the requests are made. If retained, subd. 3. could be revised to clarify whether the hearing may be waived based on a lack of all five requests, or a lack of any requests.