

Modifications From Agency

REPORT TO LEGISLATURE

NR 162, Wis. Adm. Code

Board Order No. CF-12-19
Clearinghouse Rule No. 22-045

Germane Modifications

While the proposed rule CR 22-045 was under review by the Senate Committee on Natural Resources and Energy, concerns were raised about the language describing the requirements for submitting a notice of intent to apply (ss. NR 162.05 (1) and 166.08 (1) of the proposed rules), given the potential that the department may eliminate the intent to apply requirement in the foreseeable future, and the differences in the language regarding submittal of land ownership and easements documentation in the two codes (ss. NR 162.055 and 166.09 of the proposed rules). On March 3, 2023, the department recalled CR 22-045 and related rule, CR 22-068, to make germane modifications to address these concerns in accordance with s. 227.19 (4) (b) 3m., Stats.

The department has made the following germane modifications:

1. In SECTIONS NR 162.001, 162.05 (4) (c) 4., and 162.40 (1), modified the notes to provide more precise information to our customers.
2. In SECTION NR 162.002, added an effective date statement.
3. In SECTION NR 162.003 (55), replaced a reference to the “intent to apply form” with “priority evaluation and ranking form information as required by the department” to provide flexibility in streamlining the application process.
4. In SECTION NR 162.05 (1) intro., revised text to allow flexibility for the possibility of removing the notice of intent to apply requirement as part of an application process streamlining effort.
5. In SECTION NR 162.05 (1) (dm), created a new section to ask for approval numbers of project plans and specifications to make the application requirements for the Clean Water Fund Program and the Safe Drinking Water Loan Program as similar as possible.
6. In SECTIONS NR 162.05 (1) (e), 162.05 (4) (c) 4., and 162.24 (3) (c) 1., replaced references to the department’s “online intent to apply and priority evaluation and ranking system” with references to the “online application systems” as it may no longer be necessary to maintain a separate system for the information currently collected through the intent to apply and priority evaluation and ranking information system.
7. In SECTION NR 162.055, revised the text to read the same as the language in s. NR 166.09 to make the requirements regarding documentation of land ownership and easements for a project the same in both administrative rules.
8. In SECTION NR 162.10 (2) (d), removed intent to apply references and made the section read the same as s. NR 166.135 regarding how median household incomes (MHIs) are determined for applicants that are not a city, town, village, or census designated place.
9. In SECTION NR 162.25 (1) (b), modified text based on the revisions to s. NR 162.055 revisions regarding documentation of land ownership and easements.
10. In SECTION NR 162.51 (1), modified text to provide flexibility regarding the potential discontinuation of use of the online intent to apply and priority evaluation and ranking system.

Resubmittal of the Proposed Rule

The department resubmits the proposed rule pursuant to s. 227.19 (2), Stats., with germane modifications.

Brief Timeline Review

- October 10, 2022 – The department submitted the proposed rule to the chief clerk of each house of the legislature.
- January 30, 2022 – The Senate Committee on Natural Resources and Energy requested a meeting with the department.
- February 20, 2023 – The Senate Committee on Natural Resources and Energy and the department met to discuss revisions to the proposed rule.
- March 3, 2023 – The department recalled CR 22-045 and related rule, CR 22-068, for germane modifications pursuant to s. 227.19 (2), Stats.
- May 24, 2023 – The Natural Resources Board adopted the germane modifications.