



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 03-050

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 October 2002.]

2. Form, Style and Placement in Administrative Code

a. In s. NR 105 Table 2, the strike-through of the “I” in the phrase “In ACI” is unnecessary since it is already capitalized.

b. In the treatment clause for SECTION 8 of the rule, the notation “NR 105” should be added before “Table 4B”.

c. In s. NR 106.10 (1) (intro.), the subsection title “NONCONTACT COOLING WATER” should be included in the text of the rule.

d. In SECTION 17, the department is creating subch. III of ch. NR 106. That chapter currently only has a number of sections that are not part of any subchapter and a subch. IV. The department should consider placing the current material preceding subch. IV into a subch. I and a subch. II. For example, ss. NR 106.01 to 106.03 or 106.04 could be placed in a subch. I and the remainder could be placed in a subch. II, with appropriate subchapter titles.

e. In s. NR 106.31, the notations “(1)” to “(6)” should not be stricken-through because the entire section is being created, not renumbered or amended. Subchapter III of the rule should be checked for unnecessary underscores and strike-throughs of numbers and text.

f. The definitions section should include acronyms that are used and defined parenthetically in the subchapter. For example, see s. NR 106.32 (3) (a) (intro.).

g. In s. NR 106.32 (3) (a) 6., the notation “ch.” should be added before the first “NR 104”.

h. In s. NR 106.32 (4) (c), “all of” should be inserted in between “address” and “the”. Also, “affect” should be changed to “effect”.

i. In s. NR 106.36 (3), the department should indicate in a note how and where the “Whole Effluent Toxicity Program Guidance Document” may be obtained. Also, the bottom line of Table 1 should be added.

j. In s. NR 106.37 (2) (intro.), the phrase “of the following applies” should be added before the colon.

k. Introductory material should end with a colon and lead into the subunits that follow. Since s. NR 106.38 (1) (intro.) does not do this, it should be numbered to be s. NR 106.38 (1) (a) and subsequent paragraphs should be renumbered. Also, see s. NR 106.38 (3) (b) (intro.) and (4) (a) 4. (intro.).

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

a. In s. NR 104.02 (3) (b) 2. c., a period should be added at the end of the sentence.

b. In s. NR 105 Table 2C, does the department intend the material after the table to be a footnote or a note?

c. In SECTION 8 of the rule, in the note following Table 4B, the full term “early life stage absent” should be used instead of “absent”, and both this term and the term “early life stage present” should be in quotations.

d. In s. NR 106.09 (2) (b) (intro.), the second comma should be stricken.

e. In s. NR 106.32 (2) (d) 1., can the department clarify what “acute ammonia criteria” are? In subd. 2., can the department specify under what conditions it would allow the pH to be adjusted to a lower value?

f. In s. NR 106.32 (3) (a) 1., “department” should be changed to “department’s”. In sub. (3) (a) 5., is the department or the permittee responsible for future toxicity testing? In sub. (3) (b) 3., “acceptable models or dye studies” should be changed to “models or dye studies as determined by the department”. In sub. (3) (c) 2., “real-time” is hyphenated; however, in the definitions section of the rule “real time” is not hyphenated. The department should use one method consistently throughout the rule. In sub. (3) (c) 4., the phrase “Based on the demonstration in this subdivision” is confusing; can the department be more specific? In addition, it appears that “as determined by the department” should be added after the phrase “appropriate and reasonable methods”.

g. In s. NR 106.32 (5) (a) and (b), can the department include the “acute toxicity criteria” and “chronic toxicity criteria” in the rule or cross-reference the rule section where these criteria can be found? In par. (b), “an exceptional or outstanding resource water” should be changed to “an exceptional resource water designated under s. NR 102.11 or outstanding resource water designated under s. NR 102.10”.

h. In s. NR 106.34 (2), it appears that the phrase “the effluent limitation” should be inserted between the comma and “may”.

i. In s. NR 106.36 (1), “water-quality” is hyphenated, but in other parts of the rule it is not hyphenated. For example, see s. NR 106.34 (2). The department should use one method consistently throughout the rule.

j. In s. NR 106.37 (1), “five years” should be changed to “5 years”. Also, it would be clearer if the phrase “after the date of permit reissuance” were added after “5 years”. Can the department clarify what “circumstances beyond the permittee’s control” includes? In sub. (4), “Any point source which was not authorized by a WPDES permit prior to the effective date of the rule...may not be provided with a schedule of compliance for achieving ammonia limits, but rather shall meet the limits upon initiation of discharge.” Is a point source described in this subsection required to obtain a WPDES permit?

k. In s. NR 106.38 (1) (c), can the department provide a definition of “an industrial stabilization pond system” or “lagoon system”? In sub. (1) (d), it appears that the phrase “to discharge” should be deleted. In sub. (2) (b) 1., a period should be added at the end of the sentence. The second sentence of sub. (4) (b) should specify that the permittee must submit the study to the department, and “site specific” should be hyphenated. Does sub. (5) (a) apply only to a permittee that is a municipality? Also, should the rule specify that a variance should be requested based upon the reasons given in s. 283.15 (4), Stats.? In sub. (5) (b) (intro.), “subsequent reissuances” should be changed to the singular “a subsequent reissuance”. In sub. (5) (b) 3., “To the extent not required by s. NR 200.22 (1) (p)” is vague; can the department be more specific about the financial information it wants from a permittee? In sub. (5) (b) 5., “Other” should be changed to “Any other” and “standards related” should be hyphenated.