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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 04-107

#### 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 the preface to the rule, the state regulatory analysis should also refer to the regulatory experience in Iowa and Illinois.
- b. In s. NR 406.16 (1), it appears that the word “similar” should be inserted before the phrase “stationary sources” in order to conform with the language in s. 285.60 (3) (a), Stats.
- c. In s. NR 407.105 (8), it appears that the reference “sub. (4)” should be replaced by reference to “s. NR 407.15 (4).”

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

- a. In s. NR 400.02 (73m), the word “made” and the phrase “which is” should be deleted. In sub. (131m), “stationary sources” should be changed to “a stationary source.”
- b. In s. NR 406.16 (3) (intro.), can the department provide guidance in the rule as to how it will determine which categories are “more appropriately regulated under a general permit than under individual construction permits”? Also, it is unclear whether this section lists the categories of sources for which the department may issue general permits, the criteria the department will use to identify categories of sources for which the department may issue general permits, or the general requirements applicable to sources that qualify for general permits. Can the department clarify the intent of this subsection?

c. In s. NR 406.16 (4), do the “source categories” refer to the material in sub. (3) (a) to (d)? If so, the phrase “under sub. (3) (a) to (d)” should be inserted after the word “categories” and before the word “using.” This problem also occurs in sub. (6) (intro.). Also, in sub. (4), the word “then” in the third sentence should be deleted. This problem also occurs in ss. NR 406.17 (4) and NR 407.105 (4) and in current s. NR 407.10 (4).

d. In s. NR 406.16 (6) (d), a comma should be added after the word “exacerbate.” This problem also occurs in ss. NR 406.17 (6) (d) and NR 407.105 (6) (d). In sub. (6) (e), can the department explain in the rule how it would determine that the stationary source is “more appropriately regulated by an individual permit”? This problem also occurs in ss. NR 406.17 (6) (e) and NR 407.105 (6) (e) and in current s. NR 407.10 (6) (e).

e. In s. NR 406.16 (9), it appears that the phrase “may be” should be changed to “is” and the phrase “by the department” should be inserted after the second instance of the word “determined.” Also in sub. (9), it is unclear whether the department or another entity is responsible for prosecuting permit violations and what procedure would be followed under the circumstances described in the rule. For example, would permit suspension and revocation under s. NR 406.11 be followed before a prosecution begins? This problem also occurs in ss. NR 406.17 (9) and 407.105 (9) and in current s. NR 407.10 (6) (e).

f. In s. NR 406.17 (3) (a), can the department provide additional information in the rule as to how it will determine which categories are “more appropriately regulated under a registration permit than under an individual construction permit”? This problem also occurs in s. NR 407.105 (3) (a).

g. Section NR 406.17 (4) does not include a sentence relating to whether the inclusion of a source is an appealable decision. [See ss. NR 406.16 (4) and 407.105 (4).]

h. Section NR 407.105 (4) does not include a sentence stating that the procedural requirements of s. 285.62 (2) to (7), Stats., do not apply to the issuance of a registration permit. [See s. NR 406.17 (4).]