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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 07-094

#### 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 January 2005.]**

#### 2. Form, Style and Placement in Administrative Code

a. In the analysis, the rule lists the same statutes as providing authority for the rule and as being interpreted by the rule. None of these statutes confer rule-making authority. In addition to s. 227.11 (2) (a), it appears that ss. 30.123 (6s), 30.20 (1k), and 30.206 (1) (a) authorize the department to promulgate this rule; there may be other statutes that should be listed, as well.

b. On the first line of page 3, “(1) (d) 7.” should be replaced with “(d) 7.” The same applies to the treatment of s. NR 345.04 (1) (d) 9. on page 7.

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

- a. The following comments apply to each repetition of the language created by this rule:
- (1) The words “but not limited to,” should be omitted; they are implied by the word “includes.”
  - (2) Words such as “you” and “your” should not be used in rules. See the introductory material and subd. par. b.
  - (3) It appears that the terms “silt or turbidity curtain” and “sheet pile” should be pluralized and that a period should be inserted after “pumps”.
  - (4) What VHS disinfection measures are required, as stated in the introductory language? Are these the same as “the most current disinfection protocols” referred to in subd. par. d. and the note? This should be clarified, and the

specific protocols should be identified. This should be done in the text of the rule, rather than in a note. Notes are not a part of a rule, and so cannot be used to establish a standard. Rather, they are used for explanatory purposes, such as where to find a certain standard.

- (5) It is unnecessary to repeat the list of kinds of equipment in subd. par. b.
  - (6) In subd. par. c., the first comma should be replaced with the word “and.” In addition, “aquatic plants, animals or water” should be replaced with “aquatic plants or animals or water.”
  - (7) While subd. par. d. specifies what constitutes hot, what constitutes high pressure?
  - (8) The introductory language requires that *all* equipment *shall* be decontaminated before and after use, but subd. par. e. states that this is required “only to the extent practicable.” Whichever standard the department uses, it should be expressed in the introductory language, and subd. par. e. should be omitted. If subd. par. e. is retained, “may not” should replace “should not.”
- b. The following is a suggested alternative to the language created by the rule:

An operator shall decontaminate all equipment used for the project, including tracked vehicles, barges, boats, silt or turbidity curtains, hoses, sheet piles, and pumps, for invasive species and viruses before and after use, as follows:

- a. Inspect all equipment and remove all aquatic plants, and animals, and mud.
- b. Drain all water from all equipment.
- c. Dispose of aquatic plants and animals in the trash. An operator may not transfer aquatic plants or animals or water from one water body to another.
- d. Do one of the following:
  - i. Wash all equipment with water at a temperature of not less than 140 degrees Fahrenheit or pressure of not less than \_\_\_ pounds per square inch, or both.
  - ii. Allow all equipment to dry thoroughly for not less than 5 days.
  - iii. Follow the most recent disinfection protocols for the viral hemorrhagic septicemia virus specified in...