



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 07-112

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.]

1. Statutory Authority

a. What is the department’s authority to allow dredging in outlying waters under a general permit? Section 30.20 (1t) (b), Stats., provides the department with broad authority to authorize dredging under general permits. However, s. 30.20 (1), Stats., appears to require a contract to be entered into with the department or authorization from the Legislature for a person to be allowed to remove any material from the bed of any outlying water. This subsection also allows general permits to be issued for dredging in waters *other than* outlying waters or the bed of a natural navigable lake.

2. Form, Style and Placement in Administrative Code

a. The insertions under SECTION 1 of (10e) and (10s) should be (10g) and (10r), respectively. [See s. 1.03 (7), Manual.]

b. It is suggested that the removal of riprap as a topsoil stabilization tool under s. NR 345.04 (2) (c) 7. be noted in the plain language analysis of the rule.

c. Since titles are not part of the text of a rule, both s. NR 345.04 (2) (im) and (ir) need introductory material that leads into the subdivisions. For example, the following should be inserted after the title of par. (im)—“All of the following are standards for removal of plant and animal deposits:”. The text that currently precedes subd. 1. should become subd. 1. and the remaining subdivisions should become subsd. 2. to 11.

4. Adequacy of References to Related Statutes, Rules and Forms

- a. Section 44.40, Stats., should be added to the statutes interpreted list.
- b. The department lists s. 30.20 (1k), Stats., as statutory authority for this rule proposal. However, this subsection only applies to rules governing exempt activities under sub. (1g), which do not appear to apply to activities governed by this rule proposal. Similarly, the “explanation of agency authority” notes the department’s authority to condition dredging conducted under statutory exemptions, which do not appear to apply to this rule.
- c. In s. NR 345.04 (2) (a) 2m., “s.” should be inserted before the two statutory citations.

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

- a. A comma should be placed between “(d)” and “(e)” in the treatment of s. NR 345.04 (2) (c) (intro.) under SECTION 5.
- b. In SECTION 6, the reference to “each area of a waterbody” should be defined.
- c. In SECTION 6, the phrases “native lakebed material” and “native bed material” should be made consistent and defined. Alternatively, if this is the intent, the department could replace these references with references to “material other than the plant and animal nuisance deposit” where applicable.