



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 15-024

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated December 2014.]

2. Form, Style and Placement in Administrative Code

a. In s. NR 10.13 (1) (b) of the current rule, in order to form a complete sentence with sub. (1) (intro.), consider revising subs. 7., 9., 10., 16., and 17. to remove the phrases “No person shall” or “No person may”. [s. 1.03 (3), Manual.] A revision would also make the phrasing consistent with the other subdivisions under par. (b).

b. In s. NR 10.001 (20) of the proposed rule, the definition given for “open water” is a substantive requirement that should not be contained in a definition. [s. 1.01 (7) (b), Manual.] Consider eliminating the definition of “open water” and instead revising s. NR 10.12 (3) to provide for shoreline and marsh hunting and to provide for legal “jump shooting”.

For example, a paragraph could be added to the exceptions from the open water restrictions already provided in s. NR 10.12 (3), to prohibit waterfowl hunting in open water except:

(f) *Shoreline and Marshes*. If any of the following apply:

1. A part of the boat, blind, or similar device is located within 3 feet of a shoreline.
2. A part of the boat, blind or similar device is located within 3 feet of a naturally-occurring, un-manipulated growth of vegetation....

Also, if intended, add a paragraph to the exceptions to include: “(g) *Streams*. From a non-motorized boat, canoe, or raft, which is not anchored, on streams where shooting shore to shore is possible.”. Consider creating a definition for the word “un-manipulated”, and consider creating a

definition for the phrase “navigable water” that refers to the declaration of navigability in s. 30.10, Stats., if these terms are retained.

If the department does not make those modifications, the definition of “open water” should be revised as follows: replace “and” with “, or” in the phrase “by a boat, blind and similar device” in the introduction, replace “but does not include” with “except” in the introduction, and end the introduction with “any of the following:”. [s. 1.03 (3) and (4), Manual.] Also, consider creating definitions for the word “un-manipulated” and for the phrase “navigable water”.

c. SECTIONS 2 to 6 of the proposed rule could be combined into one SECTION. When two or more subsections, paragraphs, or subdivisions of the same rule section are affected by the same treatment, in the manner that those SECTIONS each affect s. NR 10.01, they may be included in the same SECTION of the rule-making order even though there are unaffected subunits intervening. [s. 1.04 (2) (a) 4., Manual.]

Also, in the treatment clause for each of the rule sections affected by SECTIONS 2 to 6 of the proposed rule, a reference to “(Table (2))” or “(Table (3))”, as applicable, should be inserted in the citation between the subsection and paragraph designation. For example: “SECTION 2. NR 10.01 (2) (Table (2)) (a) is amended to read:”.

d. In the treatment clause for SECTION 7 of the proposed rule, a reference to “(intro.)” should be inserted in the citation after “NR 10.06 (5)”. Also, in the text of the rule that is shown, the chart should not be included, as it is not affected by the treatment of the section. [s. 1.04 (1) (b) 2., Manual.]

e. The treatment of s. NR 10.13 (3) should be revised to be divided into two separate SECTIONS of the proposed rule as follows:

(1) “NR 10.13 (3) (title), (a), and (b) are repealed.”. [No text shown.]

(2) “NR 10.13 (3) (c) is renumbered (3).” [No text shown.]

This assumes that, although unmarked, the department intends that subds. 3. and 4. of par. (c) should be renumbered along with subds. 1. and 2., as marked in the proposed rule.

f. The introductory clause that enumerates the rule provisions treated by the proposed rule should be updated to reflect any revisions made in accordance with these comments.