



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 15-085

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 106.03 (2m), the material listed in parentheses should be deleted and added in a Note, which would state that “examples of common ions include sodium, calcium, magnesium, and potassium”.

b. In the treatment clause of SECTION 4, the notation “note” should be changed to “(Note)”. This problem also occurs in SECTIONS 22, 24, 26, 42, 44, 49, 53, 56, 58, and 59. This problem also occurs in SECTION 46, and in addition, “(2)” should be changed to “2.”.

c. In s. NR 106.06 (3) (b) 1., it appears that “(a)” should be added after “referenced in sub. (1)”.

d. Throughout the rule, the terms “permit” [for example, in s. NR 106.05 (1) (c)], “WPDES permit” [for example, in s. NR 106.32 (2) (e)], and “discharge permit” [for example, in s. NR 106.33 (1) (a)], are used. The rule should be reviewed to ensure that one term is used consistently throughout the rule.

e. In SECTION 19, “(intro.)” should be added after “(7)” in the treatment clause.

f. In s. NR 106.07 (2) (Note), the last sentence appears to be substantive, so should be included in the text of the rule instead of in a Note. [See s. 1.09 (1) Manual.]

g. In s. NR 106.07 (3) (e) 4. Table 1, the citation to the table should be written as “NR 106.07 (3) (e) 4.”, rather than “NR 106.07 (3) (e) (4)”. Similarly, references to subds. 1. to 4. in s. NR 106.07 (3) (e) 5. should be written without parentheses.

h. In s. NR 106.07 (4) (e) 2., “s. NR 106.07 (5m)” should be changed to “sub. (5m)”. In sub. (4) (e) 3., “s. NR 106.07 (3) (e) 4.” should be changed to “sub. (3) (e) 4.”, and “s. NR 106.07 (5m)”, should be changed to “sub. (5m)”.

i. In s. NR 106.07 (5) (c) (intro.), “Department” should be changed to “department”. This problem also occurs in ss. NR 106.08 (6) (d) and (7) (intro.), NR 106.33 (4) (intro.), and NR 205.065 (3) (c). The entire rule should be checked for this problem. In addition, periods should be added at the end of the sentences in sub. (5) (c) 1. to 3.

j. In s. NR 106.07 (10), “subs. (3)-(5)” should be changed to “subs. (3) to (5)”.

k. In s. NR 106.08 (3) (intro.), it appears that “all of” should be added in between “meet” and “the”. In subs. (3) (a) to (d), the semi-colons should be changed to periods. In sub. (3) (c), “and” should be deleted. In sub. (3) (d), “and” or “or” should be inserted between “quality assurance” and “quality control requirements” instead of using slashed alternatives.

l. Should the Table following s. NR 106.08 (6) (c) be indicated as “NR 106.08 (6) (c) Table 4” rather than “NR 106.08 (5) (c) Table 4”?

m. In s. NR 106.08 (7) (a) and (b), the semi-colons should be deleted and replaced with periods, and in sub. (7) (b), “or” should be deleted.

n. In SECTION 43, the old material should be stricken-through and the new material should be underscored. This problem also occurs in SECTIONS 52 and 61.

o. In the treatment clause of SECTION 45, “(intro.)” should be included in between “(b)” and “and”.

p. In s. NR 106.32 (2) (b) 2., “chapter” should be changed to “ch.”. This problem also occurs in sub. (3) (a) 4. a.

q. In s. NR 106.32 (3) (a) 4. (Note), the material that is stricken-through should be deleted.

r. In s. NR 106.33 (title), the section title should be written with an initial capital letter and in bold print. [See s. 1.05 (2) (b) Manual.] This problem also occurs in s. NR 106.89 (title), s. NR 205.065 (title), s. NR 205.066 (title), s. NR 212.73 (intro.), and s. NR 212.74 (intro.).

s. Throughout the rule, the terms “water quality based” [for example, in s. NR 106.33 (4) (a)] and “water-quality based” [for example, in s. NR 106.88 (1)] are used. The term should be consistently hyphenated throughout the rule.

t. In the treatment clause of SECTION 62, “(intro.)”, should be added after “NR 106.62”. Also, it appears that the text of subs. (1) and (2) should be deleted. [s. 1.04 (1) (b) 2., Manual.]

u. In s. NR 106.83 (2) (c), “US EPA” should be changed to “U.S. environmental protection agency”. This problem also occurs in s. NR 106.91.

v. In s. NR 106.88 (1) (a), the semi-colon should be changed to a comma. In sub. (2) (intro.), “in lieu of” should be changed to “instead of”. This also occurs in s. NR 106.89 (2) (c) and (5).

w. In s. NR 106.89 (2), (3) and (4), the semi-colons and commas at the ends of paragraphs should be changed to periods. In sub. (2) (c), it appears that “will be” should be changed to “shall be”.

x. In s. NR 205.065 (1) (intro.), “all of the following apply” should be inserted between “when” and the colon. In sub. (4) (intro.), “all of” should be inserted before “the following conditions”. In addition, the period should be changed to a colon.

y. In s. NR 205.065 (1) (a), the semicolon should be deleted and replaced with a period. In sub. (1) (b), the semicolon should be deleted and replaced with a period, and “and” should be deleted. These punctuation problems also occur in subs. (6) (a) 1. and 2., and subs. (7) (a) and (b). In sub. (4), “technology based” should be hyphenated. In sub. (4) (c), “the” should be inserted between “that” and “applicable”. In sub. (4) (d), it appears that “is” should be changed to “shall be”. In addition, “into” should be inserted before “which”. In sub. (5) (c), “When determining limitations” should be added before “The department”. In sub (5) (c) 1. to 3., periods should be added at the end of the sentences. In sub. (6) (a) (intro.), it appears that “all of” should be changed to “any of”. In addition, a comma should be added between “mass” and “except”. In sub. (6) (b), “may be” should be deleted.

z. In the treatment clause of SECTION 83, the second instance of “NR 212.03” should be deleted and replaced with “(intro.)”.

aa. In the treatment clause of SECTION 86, “(intro)” should be inserted between “(1)” and “(b)”.

bb. In s. NR 212.75 (4) (a) to (c), the semi-colons should be changed to periods. In sub. (4) (e), “do not need to” should be changed to “are not required to”.

cc. While numerous instances are cited above, the rule should be reviewed in its entirety to remove semi-colons and the words “and” or “or” from the ends of rule provisions. All subunits of a rule should end with a period. [s. 1.03 (4), Manual]

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

a. In the explanation of agency authority section of the rule analysis prepared by the department, “Section 281.31, Stats. provide” should be changed to “Section 281.31, Stats., provides”.

b. In the plain language section of the rule analysis prepared by the department, under the heading, “Expression and Inclusion of Effluent Limits in WPDES Permits (Issue 2, 30, 34, 40 and 41 and 70)”, in the second paragraph, “clarifies the Departments” should be changed to “clarifies the department’s”. Under the heading “Whole Effluent Toxicity (WET) (Issue 2, 10, 42, and 74)”, it is unclear what “EPA over promulgated” means. In addition, the second sentence in this paragraph appears to be part of the first sentence, so the material should be separated by commas. Under the heading “Compliance Schedules (Issues 31, 32, 37, and 40)”, in the second paragraph, “Law” should be changed to “law”.

c. In s. NR 106.07 (2) (c), it appears that a comma should be added in between “life” and “chronic”. In addition, “s. NR 106(4)(d)” should be deleted and the correct cross-reference should be added.

d. In s. NR 106.07 (3) (a), “another administrative code” should be changed to “another Wisconsin administrative code chapter”. This problem also occurs in sub. (4) (a) and s. NR 212.76 (5). In sub. (3) (b), a comma should be added in between “secondary value” and “that”. In sub. (3) (e) 4., in “Monthly Average Limitation *MF”, if “*” is supposed to symbolize multiplication, then it should be changed to “x”. The formulas included throughout the rule should be checked for this problem.

e. In s. NR 106.07 (8), “permittees” should be changed to “a permittee”.

f. In s. NR 106.08 (6) (b) 1., “maximum” should be changed to “Maximum”. In sub. (6) (d), it appears that the hyphen between “not-detected” should be deleted.

g. In s. NR 106.11 (Note), the first instance of “to” should be deleted. In addition, “does not have to be” should be changed to “is not required to be”.

h. In s. NR 106.33 (2) (intro.), the second instance of “monthly average limitation” should be changed to the plural. In sub. (2) (a), “weekly average limitations” should be changed to “a weekly average limitation”. In sub. (2) (b), “monthly average limitations” should be changed to “a monthly average limitation”. In sub. (2) (c), a period should be added at the end of “NR 106.32 (3) (c) 2”. This problem also occurs in sub. (3) (c).

i. In s. NR 106.33 (3) (intro.), “A weekly average limitations” should be changed to “A weekly average limitation”. In sub. (3) (a), “Multiplication Factor” should be changed to the lowercase. In sub. (3) (d), a period should be added after “s. NR 106.07 (3) (e) 4”. In sub. (4) (a) to (c), periods should be added to the end of the sentences.

j. In s. NR 106.37 (2), it appears that the first instance of “or” should be deleted.

k. In s. NR 212.01, the notation “NR 212.02 (1)” should be changed to “NR 212.01”.

l. In s. NR 212.71, “Subchapter” should be changed to “subch.”.

m. In s. NR 212.72, (1), “Environmental Protection Agency” should be changed to the lowercase. In sub. (4), “allocations” should be changed to the singular. The same problem occurs in sub. (12). In sub. (6), “loads” should be changed to the singular. In sub. (8), “Safety” should be changed to the lowercase.

n. In s. NR 212.73 (1) (intro.), “area wide” should be one word. This problem also occurs in s. NR 212.76 (5), and the entire rule should be checked for this problem. Also, in sub. (1) (intro.), it appears that “over the next two years” should be changed to “two years after the effective date of this rule” or to a specific future date provided in the rule. Similarly, in sub. (1) (c), instead of “existing remediation and restoration activities”, should the rule specify instead remediation and restoration activities required as of a specific date, or existing on the effective date of the rule?

o. In s. NR 212.73 (2) (b), “a” should be inserted between “using” and “pollutant”. In sub. (2) (c) (intro.), “pollutant(s)” should be changed to “pollutant or pollutants”. In sub. (2) (c) 3., a hyphen should be inserted between “EPA” and “approved”. In sub. (2) (e), “shall not” should be changed to “may not”. In addition, “in” in the phrase “the TMDL is revised in to include” should be deleted.

p. In s. NR 212.73 (3) (a), “quantify” should be changed to “quantifying”.

q. In s. NR 212.73 (4), the last two commas should be changed to semi-colons.

r. As used in ss. NR 212.74 (intro.) and NR 212.75 (intro.), is it possible to provide a definition of “Open Waters of the Great Lakes”? Similarly, can a definition be provided for the term “Great Lakes System”? If so, definitions should be inserted in s. NR 212.72. In addition, “Open Waters” and “System” should be changed to the lowercase.

s. In s. NR 212.76 (2) (title), “LAKE” should be changed to the plural. In sub. (2) (b) 1., the semi-colon should be changed to a period. In sub. (5), “contain” should be changed to “include”.

t. In s. NR 212.77 (2), it appears that “all applicable” should be inserted between “into” and “areawide”. In addition, “plans” should be changed to the singular. In sub. (4), “provide” should be inserted between “shall” and “public notice”. In addition, “chapter” should be changed to “ch.”.