



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 20-038

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.]

1. Statutory Authority

In the explanation of statutory authority for the proposed rule, it might be useful to more specifically address the department’s authority to impose site-specific standards for groundwater quality, particularly given the various definitions throughout ch. 292, Stats., of “enforcement standard” as a standard promulgated under ch. 160, Stats.

2. Form, Style and Placement in Administrative Code

a. In SECTION 7 of the proposed rule, s. NR 700.03 (3e), the quotation marks are not necessary before and after the second “cap”.

b. Section NR 700.03 (43g) (Note 1), created in SECTION 15 of the proposed rule, should be removed, as it is not necessary to provide a note regarding a definition in the same section.

c. SECTIONS 202 and 203 of the proposed rule repeal s. NR 726.09 (2) (b) and then create certain provisions of that same provision. In lieu of those two separate provisions, s. NR 726.09 (2) (b) should be treated in a single SECTION that either repeals and recreates or amends that paragraph. [See s. 1.065, Manual.]

d. In s. NR 726.11 (7) (intro.) in SECTION 223 of the proposed rule, the department should amend the period from the current text at the end of the introductory statement to a colon. The department could also consider adding amendments to pars. (a) and (b) in the current text of that subsection in order to revise the semicolons in that series to periods, in conformance with current drafting conventions.

e. In s. NR 726.13 (2) (h) (intro.) in SECTION 229 of the proposed rule, the abbreviation “par.” should be revised to “pars.”.

f. In s. NR 726.15 (2) (f) in SECTION 236 of the proposed rule, the underscored period after the word “contamination” should be moved to follow the stricken word “and”.

g. In s. NR 727.02 in SECTION 238 of the proposed rule, the underscored citations should be moved to appear contiguously with the underscored material after the stricken material. Also, the period that is shown with a strike-through after the word “department” should be removed, and the final period should be shown without underscoring.

h. In s. NR 749.06 in SECTION 253 of the proposed rule, the references to “Table 1” should include the applicable section designation where the table may be found, as it appears to refer to a table in a different section, s. NR 749.04.

i. In s. NR 756.04 (3) (c) in SECTION 262 of the proposed rule, the format for the reference to “s. NR 756.04 (1) (a) and (b)” should be revised to “sub. (1) (a) and (b)”.

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

a. In s. NR 700.03 (1h) in SECTION 7 of the proposed rule, for greater clarity, the semicolon could be replaced with “or”.

b. In s. NR 700.03 (8m) in SECTION 9 of the proposed rule, the word “of” should be removed before the phrase “issuing a case”.

c. In s. NR 700.11 (3g) in SECTION 29 of the proposed rule, is the phrase “through limited scope of the procedure found” necessary? If not, it could be removed.

d. In s. NR 700.11 (4) in SECTION 33 of the proposed rule, consider replacing “the requirements stated within this section are met” with “it meets the requirements under this section”.

e. In the last sentence in s. NR 708.17 (2) (d), in SECTION 53 of the proposed rule, the phrase “conduct those response actions directed by the department” could be clarified. Does the phrase refer only to prior response actions regarding the structural impediment proposed to be affected, or does it also refer to other response actions?

f. In s. NR 712.07 (1) in SECTION 63 of the proposed rule, the first “must be considered” could be removed in the second sentence.

g. In SECTION 150 of the proposed rule, s. NR 722.07 (3) (b) 2s. should be reworded to match the style of the other subdivisions in that paragraph. For example, it could be reworded to read: “Uses chemicals in the treatment process that can be identified and that do not adversely impact public health, safety, welfare, or the environment.”.

h. In s. NR 726.05 (6) (c) in SECTION 193 of the proposed rule, the comma after “or” should be moved to appear after “s. NR 140”.

i. In SECTION 194 of the proposed rule, s. NR 726.05 (8m) (b) could more precisely clarify the risk levels which must no longer be exceeded. Is the intention to refer to risk levels identified as part of a risk assessment under ch. s. NR 722? The same comment applies to s. NR 726.09 (2)

(b) 3. in SECTION 203. Also in SECTION 194, s. NR 726.05 (8m) (e) could be revised to read: “If required, financial assurance has been obtained and maintained under ch. s. NR 756.”.

j. In s. NR 726.09 (2) (b) 2., 3., and 4., in SECTION 203 of the proposed rule, each instance of the word “include” could be removed prior to the phrase “a demonstration”, as “including” is addressed in s. NR 726.09 (2) (b) (intro.). Also in that section, the phrase “applicable requirements” in s. NR 726.09 (2) (b) 4. should be clarified. Are the “applicable requirements” the same as the “applicable standards” referenced previously in that subdivision?

k. In SECTION 219 of the proposed rule, the text added in s. NR 726.11 (5) (c) should begin with “The map shall” or similar text.

l. In SECTION 221 of the proposed rule, should the text added in s. NR 726.11 (6) (b) 1. refer to site-specific standards in addition to standards under ch. NR 140?

m. In s. NR 727.05 (5) (intro.) in SECTION 241 of the proposed rule, consider replacing “shall avoid” with “may not” and making corresponding wording changes in s. NR 727.05 (5) (a) and (b). The department could also review and consider revising the same phrasing that appears in the current text, in s. NR 727.05 (4).

n. In SECTION 251 of the proposed rule, are the two entries of only the letter “a” in the “fee” column in Table 1 each intended to be a reference to footnote (a)? If so, consider adding “varies” or a similar word, with “a” in superscript format.

o. In SECTION 256 of the proposed rule, each of the notes created in s. NR 750.03 (2m) and (3) begins with an external reference to a code and/or statutory section. Because they appear at the beginning of a sentence, those references should begin with the full word “Section”.

p. In SECTION 262 of the proposed rule:

- (1) It appears that text may be missing from s. NR 756.04 (2) (b) (intro.).
- (2) The references to “bonds”, “all bonds”, and “forms”, in the plural in s. NR 756.06 (1) should be revised to the singular. Consider also revising “Bonds shall be submitted” to be in the active voice and identify who should submit the bonds.
- (3) Is the word “unplanned” necessary in s. NR 756.07 (5) (c), given the definition of “event” in this context?
- (4) The first sentence in s. NR 756.07 (6) (note) could be removed.
- (5) Should the title for s. NR 756.12 (2) include a reference to third-party actions?

q. In s. NR 758.24 (4) in SECTION 263 of the proposed rule, the comma following the first reference to “s. NR 758.23 (4)” should be removed. Also, it appears that the phrase “comply with the agreement” should be revised to “comply with the requirements”.