

APM Rule Technical Advisory Committee

April 11, 2025

Individual Member Feedback

This information is a general summary of all the comments, questions and specific changes brought forth by individual committee members. The committee did not vote or indicate as a group which of these changes were supported by a majority. The department will collect all comments, questions and changes from all stakeholders through the end of June 2025. After that time, the department will consider which changes may be made to the draft rule prior to releasing a first draft of the Board Order with the Economic Impact Analysis.

Questions from Individual Members:

Fees

- Is there a way to incorporate cost of living increases to fees?
 - The APM Program will look into this.

Plans

- How is the DNR using aquatic plant point-intercept (PI) surveys in the planning process for decision-making?
 - The APM program uses the overall data trends and changes to the plant community to consider whether the proposed control strategies within the plan are permissible under the standards of NR 107 or NR 109. This would continue under the current draft of the rule.
- Under what circumstances would a public pond be required to provide a plan?
 - As written in the proposed draft rule, the APM program would consider the standards of NR 107.05 (1) (a) – (d) to see if a plan would be required.
- If a permit "may" require a plan, would that prevent a permit from being submitted if the department requires it?
 - The APM program will consider this question.
- Some plans are on a form supplied by the government (Minnesota), will DNR create a template for use?
 - Due to limited staff resources, the APM program does not intend to create planning templates at this time.
- What does it mean when it says: "*Plan approval*. In deciding whether to deny or approve a plan in full or in part, the department shall consider the standards of s. NR 107.07"

- As written, the department would consider the permitting standards of NR 107.07 when determining whether a plan was approved. If a portion of the plan recommendations would not meet the standards of NR 107, it would not be approved. This provision was put in place to provide a clear standard for plan review and approval.

Neighbor Notification

- Can applicators access an offline copy of the permit application so they can send a copy of the permit prior to submitting to DNR?
 - The APM Program will look into this.

Other

- Where do wetlands fit into the rule change?
 - Wetlands were not included explicitly in the scope statement for WY-20-23.
- What is the purpose of the provision in 107.07 (3) (b)?
 - The APM Program will look into this.

General Comments by Individual Members

- Noted that customers will likely have concerns on proposed fee structure.
- Public meetings should be kept local for large scale chemical control.
- Putting a 7 day time cap for riparian notification may be problematic for large lake groups that rely on newsletter notification at set times of the year.
- Specific AIS control plan instead of comprehensive APM plan for certain situations
- Concern for subset of public ponds that do not have discharge but have public access (ex: county park) being subjected to further regulation including plans.
- When plans are required as a link it can be difficult if the plan is not on a website, the plans are also large files so they can be difficult to attach to the permit application.
- Some issue with "The involvement of local units of government and any lake organizations in the development of the plan."
 - Some lakes contain various lake organizations, but the statement is just requiring you mention those involved in the planning process.
- The rule should be carefully worded so AIS population control and recreational/nuisance navigation relief can both be done.
- Dyes should not be considered for prohibition in public ponds.
- Consider adding waivers for other invasive species.
- Watershed work isn't in the plan requirements currently.

Summary of Specific Changes Provided by Individual Members in Note Form

Purpose:

- Bring AIS control explicitly into the purpose, therefore implying AIS prevention/control is a part of the APM program.

Definitions:

- (5) Aquatic plant – naturally growing in water/saturated soils may be too broad/include non-aquatic species
 - “limited to the following” instead of “including the following”
 - Does bringing in the term “saturated soil” apply to wetlands, where are wetlands addressed in the rule?
 - Just use the 23.24 language
- (6) Aquatic plant community - change to "Native aquatic plant community"
- (10) Completed application - remove "and any other information that may be reasonably required..."
- (16) Integrated pest management - add language defining economic risk
- (19) Large scale control
 - One member: move littoral zone to 15 ft
 - One member: move to 15% of the area of the body of water.
- (21) Mechanical control
 - Define "transport", it may apply to unintended situations such as skimmers, picking up plant material that has been harvested.
 - Add "skim" to the list.
 - Are water movers/muck blowers going to be wrapped into this? Could these be grouped under "...or otherwise affect aquatic plants"? In some cases they are being used to control cyanobacteria
- (28) (30) Public pond and shared pond: change persons to “owner”
- (34) Waters of the state definition: References two statutes defining waters of the state – remove reference to s. 281.01 (18), Stats.
- Add a definition for "chemical."
- Add a definition for “drainage ditch or right of way”

Waivers:

- 107.04 (2) (b), (3) (a) 1. - Include more AIS species into fee exemptions. Mentioned state statute only mentions purple loosestrife.
- 107.04 (2) (b) 6 - Ponds
 - Desire for department to consider broader private pond exemptions - private and shared at 10 acres.
 - One member: Up the acreage and get rid of functional liner language.
 - One member: Remove acreage keep functional liner.
- 107.04 (2) (c) - Waiver for drainage ditches, add back in the language which says the department determines that the resource is insignificant.
- 107.04 (4) (b) 2. b. Add “during same season” to clarify the time that removal cannot be in a new area or additional area.

Plan Specifications:

- Clarify if the plan covers the waterbody or the specific sponsor
 - Plans cover waterbody.
 - Permits cover individual person applying for the permit.

- Clarify time limit for applicant/applicator response time (currently just "in a timely manner")
- Skeptical that the department can review plans within 30 days, suggest increasing the number from 30 to 45 to match grant program.
- Suggestion to add tribal governments explicitly to "local units of governments" under 2 (i)
 - Mentioned that there is no mention of tribal entities besides the wild rice.
- Add the 21-day public comment period as a requirement for clarity.
- Explicitly add language that someone can get a permit while developing a plan.
 - Potential qualifiers: plans for large scale, not for small scale.
 - Could applicators work with DNR/create specific AIS plan while APM plan is obtained?

Permit Requirements and Fees:

- Would like amendment language added so permits are more flexible.
 - Minor amendment examples: addition of a product, reasonable acreage increase, increase in amount of product
- Add note that applicant contact information will not be public.
- Riparian owner phone number/email address is difficult to obtain and suggested it be removed
 - Block, lot, fire number seems redundant as address is supplied
- Clarify what riparian owner refers to - is it 150 ft from treatment or owner directly adjacent to control area?
- Riparian notification - desire for riparian notification deadline to be extended beyond 7 days after permit submittal.
 - Can be expensive for lake districts to notify, many defer to physical mail notification on set timelines.
- Large-scale - consider 15 ft instead of 10 ft for the littoral zone.
- Legal notice - remove the specification that it has to be 2x4 inch format.
- Second public notice:
 - Add "or other approved source" in the case that some other public notice site is created.
 - Add more options
 - Post at town hall, library
 - Boat launch, public shoreline
 - Include mailers as an option
 - Specify that DNR public notice fee would not exceed first notice (newspaper).
- Public informational meetings
 - Remove "or dated" and replace with "or received" in case that people make up dates
 - (f) change to department "shall attend the meeting" instead of "may attend the meeting."
- Refunds
 - Allow for refund when no control is done.
 - Suggestion to put a cap if for example 80% of area wasn't treated

Permit Issuance and Review:

- Remove 107.07 (4).
- Desire to exempt public ponds from APM plans.
- Incorporate AIS control into permit review somehow, no specific suggestions provided.
- Remove "beneficial water use activities" from 107.07 (5) (a).

- (5) (b) – remove the word remedy and replace with something else.
- (5) (d) Exempt private ponds from this.
- (5) (g) Incorporate timing into the consideration or clarify what this means.
- (5) (h) Set standard distance or clarify how this is interpreted.
- (5) (j) Remove list of high value species entirely.
- (5) (j) Add a general statement of high conservation value species.

Control Limitations:

- Add agent as individual who can request information on why control was limited under (8) (a).
- 107.07 (8) (b) clarify AIS control is to public benefit.

Control Reports:

- Change reporting deadline to Dec 31 for mechanical reports.
- 107.07 (12) (b) Mechanical, manual, and physical control... remove physical.

Prohibitions

- 107.11 (2) Clarify this prohibition on what copper sulfate is being limited, or change to a volumetric calculation.
- (3) Add in wetland marking as allowable use of dye.
- (3) 2. Allow dye in public swim ponds.

Sub Chapter II:

Chemical Controls:

- 107.08 (2) change to "The permit holder or their agent shall notify the department staff..."
- 107.11 (2) needs clarity
 - Update to a volumetric/ppm rate
- 107.11 (3)
 - May have some exceptions: public swim ponds
 - Change language to exclude "constant outflows" instead of listing private or shared ponds
- 107.13 (2) change to "shall offer to send copies"
- 107.14 Require DATCP licenses in all cases except for private ponds.

Subchapter III:

Waters Less than 10 Acres

- Exempt chemical fact sheets for private ponds.
- Exempt private ponds and shared ponds from 107.07 (5) (j)-(L), (6), (8), 107.08, 107.09.
- Require ponds follow 107.15 (2).
- Fix numbering issues
- Waive all waters less than 10 acres from permitting entirely.