

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 95-215

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 October 1994.]

2. Form, Style and Placement in Administrative Code

a. The title to s. HS 3.05 (3) is not descriptive; there is no indication in the substance of the rule that eligibility for listing in the national register or state register leads only to “preliminary” certification.

b. In s. HS 3.06 (6) (f), it is suggested that “, if possible” precede the period of the first sentence and “If” replace “Where” at the beginning of the second sentence.

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

a. In s. HS 3.01, the first citation should read: “ss. 44.02 (24), 44.34 (4) and 227.11 (2) (a), Stats.”

b. In s. HS 3.02, the Note would be more helpful if an appropriate citation to the rules of the Department of Revenue could be given.

c. In s. HS 3.03 (2), the citation should read: “s. 71.07 (9r) (a) and (b) 1m., Stats.”

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

a. In s. HS 3.03 (3), why does the definition of the term “eligible property” not include the notion that historic property must be an owner-occupied personal residence? [See s. 71.07 (9r) (b) 2., Stats.]

b. The definition of “outbuilding” in s. HS 3.03 (8) refers to “any building” within the legal boundaries of a property. The definition does not distinguish an outbuilding from an “otherwise eligible property.” Compare the use of “outbuilding” in the rule and in s. 71.07 (9r) (b) 3. a., Stats.

c. In s. HS 3.03 (9), the term “owner” is defined in terms of a person who holds record title to a property. A land contract vendee does not hold record title to property. Does the Historical Society mean to exclude a land contract vendee from the definition of the term “owner”? [See s. 71.07 (9r) (i) (intro.), Stats.]

d. Section HS 3.03 (15) defines the term “rehabilitation work.” Should the term “preservation” also be defined? [See other uses of the word “rehabilitation” in the rule and s. 71.07 (9r) (a), Stats.]

e. Section HS 3.05 makes frequent use of the phrases “or adequate” and “or inadequate.” These phrases, also found in ss. HS 3.05 to 3.08, appear to be unnecessary and probably should be deleted. Also, in these sections, what result occurs if the Historical Society does not meet review deadlines? Is an application automatically approved? Rejected?

f. Section HS 3.06 (3) provides that if the officer determines that a property is not historic property, the officer returns the “part 2” application to the owner. However, determination of whether property is historic property is made in s. HS 3.05 as a result of the “part 1” application process. Clarification is in order. See, also, s. HS 3.06 (8).

g. In s. HS 3.06 (6) (d), the phrase “Most properties change over time; those” is unnecessary and should be deleted.

h. Section HS 3.06 (9) should conclude with the phrase “in accordance with the procedures contained in this section.”

i. Section HS 3.07 (5) describes the denial of a part 3 application when rehabilitation work does not conform to the part 2 application. Is there a process by which the owner of the property can rectify the nonconformance?