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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 00-087

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 September 1998.]

1. Statutory Authority

Section 299.15 (3) (e), Stats., requires that the rule implement wastewater fees to be paid beginning with fiscal year 2000-01 and that the fees be determined by using a “5-year rolling average.” Since the first drafted option for s. NR 101.13 (3) (b) would not utilize a “5-year” average until 2004, is the department satisfied that this option meets the Legislature’s intent of having fees for 2000-01 determined by a five-year average?

2. Form, Style and Placement in Administrative Code

In s. NR 101.13 (4) (e), the phrase “shall be” should be replaced by the word “is.”

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

Section NR 101.13 (9) refers to adjustment factors. What adjustment factors are being referred to? Are they the factors identified in sub. (8) or some other factors? An appropriate cross-reference to the adjustment factors referred to in sub. (9) should be provided.

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

a. Once the appropriate option for s. NR 101.13 (3) (b) is determined, it appears that s. NR 101.03 (2m) could be revised to more narrowly conform with the “five-year rolling average” option actually chosen. Also, since sub. (2m) defines “five-year rolling average” and the remainder of the rule seems to use the term “5-year rolling average,” the term “5-year rolling average” should be included in the definition. Also, the provision seems to define the term “five-year rolling average” and “rolling average.” These terms should be defined in separate provisions since they appear to have different meanings. Finally, if five years of data is available, is it necessary for the phrase “up to” to be included in the definition?

b. The first s. NR 101.13 (3) (b) option refers to the “5-year rolling average of the effluent quantities from s. NR 101.12 (5).” The second par. (b) option does not identify the basis of the five-year rolling average. It seems that it probably should. In addition, the phrase “5-year rolling average” should be spelled consistently throughout the rule. Therefore, a hyphen should be inserted in the first line of the second par. (b) option.

c. Section NR 101.13 (12) refers to a number varying by “more than 20%.” The rule should be clarified to better identify the basis from which the 20% is to be measured. Also, it appears that the word “a” before “30%” should be deleted or that some other term should be inserted towards the end of the sentence to clarify its meaning.