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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 01-014

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.]

2. Form, Style and Placement in Administrative Code

a. In s. NR 199.02 (1), s. 66.299 (1) (a), Stats., has been renumbered as part of the ch. 66 recodification, and is now s. 66.0131 (1) (a), Stats. References to s. 66.299 (1) (a), Stats., throughout the rule should be changed to s. 66.0131 (1) (a), Stats. Also, the definition of “local governmental unit” is different in s. 66.0131 (1) (a), Stats., than in s. 281.665 (1) (a), Stats. Which definition should be used?

b. In s. NR 199.03 (intro.), the part of the sentence before “in this chapter” should be deleted. Also, subs. (2), (3) and (4) should use the phrase “has the meaning given in” when referring to a statutory definition.

c. In s. NR 199.05, the section title should not be presented with upper case lettering. This problem also occurs in the titles to ss. NR 199.06, 199.07, 199.08, 199.09 and 199.11.

d. In s. NR 199.08 (1) (intro.), a period should be inserted after “3”.

e. In s. NR 199.10 (1) (intro.), “all of” should be inserted before “the following provisions.”

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

Section NR 199.10 (1) (e) refers to “department established criteria” for determining whether a first appraisal is unacceptable. Have these criteria been promulgated as rules? [See ss. 227.01 (13) and 227.10 (1), Stats.] If not, where may a person obtain them?

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

a. In s. NR 199.08 (1) (b) 6. (intro.), it appears that the word “provided” should be replaced by the phrase “subject to the following conditions,” to assist the reader in understanding that certain conditions apply to the purchase of property with conservation and flowage easements in order for the acquisition costs to be considered “eligible costs” by the department.

b. Section NR 199.10 (1) (a) provides that: “Property shall be acquired by the grant recipient pursuant to ss. 32.19 to 32.27, Stats.,” under the eminent domain chapter. However, sub. (1) (m) states that: “No grant may be awarded to acquire property through the power of eminent domain.” It appears that these subsections conflict. If differences exist between the enumerated sections of ch. 32, Stats., and the power of eminent domain, those distinctions should be clearly stated in the rule.