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# WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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## CLEARINGHOUSE RULE 01-070

### 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. SECTION 7 of the rule should be divided into two separate treatments. First, s. Comm 113.06 (1) should be renumbered s. Comm 113.06 (1) (a) and amended as shown. Second, a new SECTION creating pars. (b) through (e) could be inserted after SECTION 7. Doing this would eliminate the need for the underscoring of the created material.

b. The treatment clause of SECTION 10 should state “Comm 13.07 (1) (k) is renumbered Comm 13.07 (1) (m).”

c. In SECTION 12, it is suggested that an upper-case “L” replace the lower-case “l” to avoid confusion with the numeral one. Also, “FEIN” should either be defined or spelled out.

d. In SECTION 13, “an” should follow the underscored material.

e. SECTION 14 of the rule should be revised to simply provide that s. Comm 113.07 (3) (c) 1. to 7. are repealed. This would eliminate the need to have to reproduce the entirety of sub. (3) and show all of the stricken material. [See s. 1.06 (1), Manual.]

f. The treatment in SECTION 15 of the rule can be simplified. For example, rather than striking through the material to be repealed and underscoring new material, it would be simpler to provide that s. Comm 113.07 (4) (e) is repealed and that s. Comm 113.07 (4) (f) through (j) are renumbered pars. (e) through (i). This should be accomplished in two different SECTIONS of the rule.

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

a. Although the Rule Report indicates that there are no known federal regulations which are relevant to the rule, it is noted that s. 560.032, Stats., refers specifically to various provisions of the U.S. Code, e.g., 26 U.S.C. ss. 141 (a) and 146. The relevance of these federal statutes and any related regulations should be reviewed.

b. SECTION 3 of the rule defines “brownfields.” It is noted that the rule could be simplified by providing a cross-reference to the definition of “brownfields” that is contained in s. 560.13 (1) (a), Stats.

c. Section Comm 113.06 (1) refers to the department annually developing an allocation plan. Where will this plan be developed and how may interested persons obtain a copy? Will the plan be developed in the rules?

d. Section Comm 113.06 (1) (a) requires businesses to submit a prospect data sheet. Where can this prospect data sheet be obtained? A note should be contained in the rule identifying where this sheet may be obtained by businesses seeking to file an application.

Also, what is a “Commerce Area Development Manager”? Can a definition or cross-reference be provided? In addition, the term should be lower case.

e. Section Comm 113.06 (1) (d) provides that if the business accepts the proposal in writing, the business may then proceed with the volume cap allocation process on behalf of the issuer. What is the “volume cap allocation process”? Is this the process under s. Comm 113.07? An appropriate cross-reference should be provided.

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

a. Section Comm 113.06 (1) refers to “exempt environmental projects.” What are these projects? Can a definition or cross-reference be provided?

b. Section Comm 113.07 (1) (L) provides that if documents or information submitted with an application contain certain types of information, the documents or information are not subject to public disclosure. Is it the department’s intent to comply with s. 19.36 (6), Stats., of the Open Records Law, which provides that if a record contains information that is subject to disclosure and information that is not subject to disclosure, the authority having custody of the record must provide the information that is subject to disclosure and delete the information that is not subject to disclosure from the record before release? Or, in the alternative, will all of the information contained in the document be withheld from disclosure? If the latter is the case, an appropriate statutory reference citing the department’s authority to apply this provision should be cited. If the former is the case, the rule should be clarified.