



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 02-129

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 2002.]

2. Form, Style and Placement in Administrative Code

- a. In s. Comm 2.675 (1) and (2), the phrase “shall be” should be replaced by the word “is.”
- b. In ss. Comm 83.55 (1) (a) and (b) and 85.60 (1) (a), the phrase “his or her” and the word “their” should be replaced by the phrase “the owner’s.”
- c. In s. Comm 85.60 (4) (c) (intro.) and (d) (intro.), the word “shall” should be deleted.

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

- a. On the second page of the analysis, the sixth and seventh listed items should conclude with periods.
- b. Section Comm 83.03 (5), as repealed and recreated, refers to the authority of the “municipality” to enact a uniform private onsite wastewater treatment system (POWTS) ordinance. “Municipality” is defined in s. Comm 81.01 (157) to mean a city, village, town, or county. Should “municipality” be replaced by “governmental unit”?
- c. The note after s. Comm 83.02 (5) could be rewritten to achieve greater clarity and accuracy. The core idea of this note is in the phrase “this chapter does not affect municipal authority for zoning.” That is true, and it is useful information. In this instance, the defined term “municipal” is appropriate. The introductory phrase in the note, “pursuant to s. 59.69, Stats.,” has two problems. First, that statute relates only to counties, and second, s. 59.69, Stats., does not contain an express statement about the relationship of that statute to POWTS regulation. The

reference to establishing nitrate standards raises potentially difficult questions. It is clear that a municipality may “encourage,” as part of its zoning ordinance, protection of groundwater resources. However, it is difficult to say with certainty what is the relationship between ch. 160, Stats. (the groundwater law), and local zoning authority related to groundwater. It might be better not to include the phrase regarding nitrate standards.

d. Section Comm 83.22 (4) (a) 5. is an addition to a series of items after an introductory paragraph. The first part of s. Comm 83.22 (4) (a) 5. relates correctly to the introductory paragraph. However, the material commencing with “shall be” does not fit with the rule as currently drafted. It may be appropriate to shift this material to a separate provision, such as s. 83.22 (4) (e), with a cross-reference back to s. Comm 83.22 (4) (a) 5.

e. Section Comm 83.54 (1) (e) (intro.) should conclude with a colon.