



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 03-019

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. HFS 163.14 (1) (g), the correct way to make the word “Requirement” plural is to strikethrough “Requirement” and insert “Requirements.” [See s. 1.06 (2), Manual.]

b. The treatment clause to SECTION 3 should read: “HFS 163.14 (9) (g) 1. and 2. are amended to read:”.

c. In SECTION 4, the notation “(title)” should be inserted before the amended title. [See s. 1.05 (3) (a), Manual.] Also, in sub. (2) (intro.), “the” on line 1 should be retained without strikethrough and “.the” on line 2 should be deleted. The period at the end of sub. (2) (b) should not be underscored and “sample” should be plural.

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

Section HFS 163.14 (1) (g) provides that if soil is removed, replacement soil shall have a lead concentration *no greater than* 400 parts per million (ppm). Since this would allow a lead concentration of exactly 400 ppm, does this provision conflict with the amended language in s. HFS 163.15 (2) (intro.) and (a), which provides that a soil-lead hazard is present when the soil-lead concentration from a composite sample of bare soil in a play area is *equal to or greater than* 400 ppm?

6. Potential Conflicts With, and Comparability to, Related Federal Regulations

In s. HFS 163.14 (9) (g), a requirement to test soil at the drip line and foundation areas is eliminated and replaced with a requirement to test on “the rest of the yard” where bare soil is present. This is in addition to a requirement to test in play areas. Perhaps the change was made because the department believes that “the rest of the yard” would include the drip line and foundation areas. However, eliminating the reference to the drip line and foundation appears to be inconsistent with 40 CFR 745.227 (d) (8) (iii), which requires collection of samples from the drip line and foundation areas, in addition to play areas and the rest of the yard.