



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 04-103

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. The preface to the rule should include a reference to the agency contact person, including this person’s email address and telephone number, and an indication of the place where comments on the rule are to be submitted and the deadline for submission of these comments. In general, it would be useful to follow the preface structure suggested in a memo from the Clearinghouse to all agency heads and agency rule contact personnel, dated April 13, 2004.

b. On page 8, line 18, a line break is missing before “SECTION 6.”

c. On page 8, lines 21 and 22, the citations should read: “ATCP 12.02 (1) (intro.)”.

d. There are two provisions numbered s. ATCP 17.01 (1) (a). The paragraphs in that subsection should be renumbered.

e. In the definition of “address,” the phrase “that identifies a location” is superfluous and should be omitted.

f. The term “location description” is not used in the text of the rule, so the definition of the term should be omitted.

g. Section ATCP 17.02 (4) (g) lists both defined and undefined terms. Some terms, such as “clinic,” are defined in spite of being fairly obvious; others, such as “market or livestock collection point,” are not defined in spite of being less obvious. The same occurs in the following paragraph: “poultry” is defined in spite of being well understood, while “camelid,” a term that does not appear in *Webster’s Third New International Dictionary*, is not defined. A

reconsideration of which terms should be defined may be warranted. Does the rule rely on definitions in USDA regulations or other documents? If so, the definitions for such terms should be referenced or reproduced in the rule.

h. Should s. ATCP 17.02 (4) (g) 4. read, “Rendering or other carcass collection *point*.”?

i. Section ATCP 17.02 (4) (g) 6. uses the undefined term, “exhibition,” while the rule defines the term, “livestock exhibition.” Similarly, s. ATCP 17.02 (4) (h) 9. uses the undefined term “farm-raised game birds,” while the rule defines the term “captive game birds.” If these differences are intentional, the distinctions between the terms should be stated; otherwise, the defined terms should be used.

j. In s. ATCP 17.02 (4) (h) 1., the words, “cattle or other,” should be omitted, as they add nothing to the term, “bovine animals.” Similar changes should be made to subds. 5., 8., and 10.

k. The note following s. ATCP 17.05 (2) is substantive, and so should be incorporated into the text of the rule.

l. The last SECTION of the rule, regarding effective date and initial applicability, should be given a number, i.e., SECTION 18.

m. The majority of the initial applicability dates appear to be one day too early, coinciding with the last day of the licensing year preceding application of the rule rather than the first day of the first licensing year in which the rule applies. SECTION 18 (2) (a) and (g) appear to be correct, while SECTION 18 (2) (b) to (f) appear to be incorrect.

n. SECTION 18 (2) (h) establishes a delayed effective date of January 1, 2006, for “all other persons.” Presumably, this means the department and any contract agent. It does not appear necessary to delay the application of the rule to the department and contract agent. In fact, it appears that it may be necessary for certain provisions, such as those that relate to the conditions of a contract between the department and a contract agent and the necessary qualifications of a contract agent, to apply to them before any contract negotiations begin, which presumably will be before January 1, 2006. If this provision were simply omitted, the rule would first apply to these entities on the effective date of the rule.

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

a. In the provisions outside of the new ch. ATCP 17, both preceding and following that chapter, the rule consistently identifies the provision of ch. ATCP 17 that lists the information required in a registration application as s. ATCP 17.02 (5). The cited provision relates to agency action on registration applications; the provision identifying required application information is s. ATCP 17.02 (4).

b. In those same provisions, the rule consistently identifies the provision under which livestock premises codes are issued as s. ATCP 17.02 (6). Registration certificates are issued

under the cited provision, but livestock premises codes are issued (or assigned, rather) under s. ATCP 17.02 (7).

c. In s. ATCP 17.04 (5) (b), the notation “ADM” should be replaced by the notation “Adm.”

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

a. Most types of facilities that are required to be licensed or registered are defined in s. ATCP 17.01 in terms of the licensing or registration requirements that apply to them. The definition of “deer farm” does not take this form. Is this difference intentional?

b. SECTION 2 of the rule, and most parallel provisions throughout the rule, refer to “additional information, if any, required” in an application for a livestock premises registration. Does this mean any information listed in s. ATCP 17.02 (4) (see comment 4. a., above, relating to cross-references) that is not listed in the application process affected by the respective provision? If so, it would be clearer to simply list those types of information in the respective provisions. If not, this language should be clarified in some other manner.

c. The punctuation of s. ATCP 17.02 (2) (b) is confusing. It appears that commas should be inserted following “par. (c)” and “operating the premises,” both on p. 15, line 22.

d. Following the format of similar provisions, should s. ATCP 17.02 (2) (c) 9. refer to establishments that are *required to be* licensed under s. 95.72, Stats.? Similarly, should the initial applicability provisions of SECTION 18 (2) refer to entities *required to be* licensed, rather than only those that actually are licensed?

e. There are stray occurrences of the notation “;” in s. ATCP 17.04 (8) (a) and (c), which should be deleted.

f. Section ATCP 17.05 (1) prohibits the acceptance of livestock from a premises that is required to be registered, but that is not registered. Subsection (2) waives this prohibition if a similar prohibition is not in force in all of the adjacent states, applying also to livestock originating in Wisconsin. Should the prohibition apply to livestock both received *and* originating in Wisconsin, that is to say intrastate transport of livestock, regardless of applicable rules in the adjacent states? Also, in sub. (1), the comma following the word “slaughter” should be deleted.

g. In s. ATCP 60.02 (2) (am), presumably the department intends to require the applicant to submit *all* of the information submitted with a registration application, not *any*.