



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 05-071

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 January 2005.]

2. Form, Style and Placement in Administrative Code

- a. The treatment of s. NR 58.08 should be accomplished as follows:

SECTION 10. NR 58.03 is repealed.

SECTION 11. NR 58.08 (4) is repealed and recreated to read:

SECTION 12. NR 58.05 is repealed.

SECTION 13. NR 58.08 (6) is renumbered NR 58.08 (3).

b. The treatment clause of SECTION 12 should read: “NR 58.09 (2) (a), (b), (c) and (d) are renumbered NR 58.09 (1), (2), (3) and (4).” A SECTION should be used to create the title to s. NR 58.09 (4).

c. The treatment clause of SECTION 14 should read: “NR 58.10 (intro.), (1), (2), (3), (4) and (5) are renumbered NR 58.10 (1) (intro.), (a), (b), (c), (d) and (e). In addition, newly created sub. (2) should be moved to a separate subsection and the treatment clause should read: “NR 58.10 (2) is created to read:”. [See s. 1.04 (2) (b), Manual.]

d. In s. NR 58.22 (1) (intro.), “All of the” should be substituted for “The.”

e. In s. NR 58.23 (intro.), “all of” should be inserted after the comma.

f. Section NR 58.32 should provide definitions for the terms “endangered species” and “threatened species.” The definitions may be drafted as references to the statutory definitions. For example: “Endangered species” has the meaning given in s. 29.604 (2) (a), Stats.” Also, this section should define the term “guidance team” by referring to the landowner incentive program guidance team created in s. NR 58.33.

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

a. In the second sentence of the sixth paragraph in the plain language rule analysis, the word “is” should be inserted after “land.” In the eighth paragraph, the department should explain what “NatureServe” is. In the 10th paragraph, the full title of the entity should accompany the use of the acronym “NRCS.”

b. In the preface to the rule relating to anticipated private sector costs, it appears that the word “now” should be replaced by the word “not.”

c. In s. NR 58.05 (1) (g), can the department specify what types of costs may be included in “contract costs”? Also, it appears that the first occurrence of the word “chapter” should be replaced by the word “subchapter” in order to give this section meaning.

d. In s. NR 58.07 (2) (intro.), the phrase “The application shall include but is not limited to:” should be clarified. For example, this section could provide that the department may request additional information from the applicant upon receipt of the application. In sub. (3), “will be” should be changed to “are.”

e. In s. NR 58.14 (2), the word “their” should be replaced by the word “any.” Also, in par. (e), the phrase “fails to amend or extend the contract” seems to indicate the grantee may take either of these actions unilaterally. The provision should indicate that an amendment or an extension of the grant takes place through an agreement between the department and the grantee.

f. Section NR 58.25 (intro.) indicates that factors other than those included in this section may be used to award grants. If other factors are known to the department, they should be included in this section. If other factors become standard, those policies will meet the definition of the term “rule” in s. 227.01 (13), Stats. If random factors are used, the process becomes quite arbitrary for applicants.

g. Section NR 58.32 (1) leaves a number of questions unanswered, such as: (1) who lists endangered or threatened species?; (2) where can the list be located?; and (3) how will the department determine and list other species that are in decline in Wisconsin? These questions can be answered in a note to the rule.

h. Section NR 58.23 (1) provides a grant period of three years for the endangered resources small grants program. However, the landowner incentive program does not provide a grant period. If the landowner incentive program grants are intended to have a limited duration, that information should be included in the rule.