



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 06-023

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 preface to the rule should include a summary of the factual data and analytical methodologies used to support the rule and an analysis and supporting documents used to determine the effect of the rule on small business. [See s. 1.02 (2) (a) 8. and 9., Manual.] If there is no information to be presented under these headings, the preface can simply state that those topics are not applicable to the rule.

b. “Amendment” is defined in s. NR 166.03 (2) as a written change to a financial assistance agreement. However, “amendment” is used in s. NR 166.12 (6) to mean a change to an architectural or engineering service contract and changes to the project in s. NR 166.16 (4) (b) 2. Defined terms should be used consistently in the proposed rule. Several other examples follow.

c. “Applicant” is defined as a local governmental unit that applies for financial assistance. The defined term should be used, rather than “applicant local governmental unit” in s. NR 166.06 (2) (k).

d. “Approval” is defined as a written approval. “Written” should be deleted in s. NR 166.12 (7) (b).

e. “Construction” is defined as building, modifying, inspecting or supervising, or purchasing any water system. It is not necessary to add “or modification of water system projects” in the note after s. NR 166.03 (42). Also, “of public water systems” can be deleted in s.

NR 166.04 (2). Finally, the definition of “construction” is inappropriate for use in s. NR 166.06 (2) (a), and a different term should be substituted for “construction.”

f. The definition and use of the term “debt” should be carefully reviewed. In the definition in s. NR 166.03 (13), “debt” means the liability for a project, such as general obligation bonds. The definition seems more appropriate as a definition of “evidence of indebtedness.” “Debt,” as used in the rule [see s. NR 166.07 (3) (d)] seems to be more equivalent to “borrowing” or “indebtedness.” Also, it is not clear why “obligation” is added to the use of the defined term in s. NR 166.04 (1).

g. Use of defined terms in s. NR 166.03 (19) (a) (“construction” and “planning and design”) is sufficient. The additional reference to “qualifies under sub. (11) as” and “under sub. (32) as” is redundant and should be deleted.

h. Use of the defined term “contaminant” in s. NR 166.03 (26) should be sufficient. “In water” should be deleted.

i. In s. NR 166.03 (36), the defined terms should be used and the cross-reference to “sub. (11) and sub. (32)” should be deleted.

j. Section NR 166.03 (52) uses the phrase “an operated.” Is this different than the phrase “and actively managed” in sub. (29)? If not, the same terminology should be used.

k. The defined term “project” is sufficient in s. NR 166.09 and the cross-reference to the definition should be deleted.

l. The defined term “amendment” in s. NR 166.17 (1) (intro.) is sufficient, and “to a financial assistance agreement” should be deleted.

m. In s. NR 166.23 (1) (b) 1. (intro.), the introduction should conclude with a colon.

n. In s. NR 166.23, the title to sub. (3) is not part of the text of the rule. The introduction should make reference to secondary containment violations or system compliance.

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

a. If possible, the cross-reference in s. NR 166.11 (5) should be made more specific. Is the proper cross-reference to s. ADM 35.03? See, also, s. NR 166.15 (2).

b. Is it possible to specify in s. NR 166.11 (6) the permits that may be applicable other than those under ch. 283, Stats.?

c. The proper federal citation should be used in s. NR 166.14 (1) (c).

d. Can the U.S. Treasury requirements be indicated with specificity and by proper cross-references in s. NR 166.15 (3)?

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

a. Is “normally accepted” and “standard” redundant in s. NR 166.03 (20)?

b. In s. NR 166.08 (1) (intro.), it appears that the phrase “from which” should be replaced by the phrase “for which.” Also, the phrase “to receive” appears to be redundant and, if so, should be deleted.

c. If possible, s. NR 166.08 (1) (b), should indicate which office in the department must receive the notice of intent to apply.

d. In s. NR 166.10 (1), does the term “fiscal year” refer to the state’s fiscal year or to the applicant’s fiscal year?

e. What is meant by “activity” in s. NR 166.10 (2) (e)?

f. Section NR 166.11 (7) refers to “rules” and s. NR 166.11 (8) refers to “operating rules.” It appears that the same term should be used in both of these subsections.

g. The note after s. NR 166.16 (4) (b) 4. refers to “SBRA,” which appears to be a reference to certain small businesses. Should “SBRA” be included in s. NR 166.16 (4) (b) 4.? If used, the acronym should be spelled out.

h. Should “biennium” be defined in s. NR 166.17 (3) (b) 1. and 2.?

i. In s. NR 166.19 (3), the first sentence should be renumbered as par. (a) and remaining paragraphs should be renumbered accordingly. Further, in the first sentence, the word “project” should be inserted before the phrase “close out date.”

j. In s. NR 166.23 (1) (a) 2. b., to what does the acronym “THM” refer?

k. It appears that “2” is inserted incorrectly in s. NR 166.23 (1) (b) 1. b.

l. In s. NR 166.23 (3) (i), the word “an” should be inserted before the word “existing.”

m. Should “pressure” be added after “acceptable” in s. NR 166.23 (3) (p)?

n. In s. NR 166.24 (8), it appears that the reference to a notice under sub. (5) or (6) should be replaced by a reference to the objection received under sub. (7).