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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 06-024

#### 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. In s. NR 135.02 (1), the second instance of “2000” should be stricken-through.
- b. In s. NR 135.18 (1) (b) (intro.), “all of” should be inserted after “submit.”
- c. In s. NR 135.19 (4) (j), the material in the note is substantive and should be moved into the text of the rule. This problem also occurs in ss. NR 135.20 (3) (c) and 135.21 (2). The entire rule should be reviewed for this problem.
- d. In s. NR 135.19 (6), “The” at the beginning of the second sentence should be stricken-through.
- e. In s. NR 135.20 (3) (c) note, “cannot” should be changed to “may not.” The note should also explain how regulatory authority staff should “make it clear” that the hearings may not cover nonreclamation matters.
- f. In s. NR 135.32 (1), it is improper drafting style to strike a single letter of a word. The entire word should be stricken and the entire new word should be underscored. [See s. 1.06 (2), Manual.]
- g. In s. NR 340.055 (3) (c), the word “applicable” should be inserted after “all.”

#### **3. Conflict With or Duplication of Existing Rules**

The rule repeals the definition of “registered geologist” in s. NR 135.03 (18) and creates a definition of “licensed professional geologist” in s. NR 135.03 (9m). However, current ss. NR

135.56 (1) and (2) and 135.61 use the term “registered geologist” or “registered professional geologist.” Should these provisions be amended?

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

a. In s. NR 135.03 (20) (a), “under s. 295.13, Stats.,” should be inserted after “ordinance.” In sub. (b), “under s. 295.14, Stats.” should be added before the period. In sub. (c), “under s. 295.18 (4), Stats.,” should be inserted after “effect.”

b. In s. NR 135.10 (1), “under s. NR 135.19” should be added after “approved reclamation plan.”

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

a. In the rule analysis statutes interpreted section, “ch.” should be changed to “Chapter” and commas should be inserted around “subch. I”. In the related statute or rule section, both “rule” and “none” should be capitalized. In the plain language analysis section, in the phrase “nominal fee increases,” “increases” should be changed to the singular. In the title of the summary of factual data section, “analysis” should be capitalized. Also, the sentence on page 2 does not lead into page 3; it appears that some information is missing.

b. In s. NR 135.10 (1), “post mining” should be hyphenated. A comma should be added in between “subsection” and “the regulatory authority.” The word “be” should be inserted after the phrase “site-specific engineering analysis.” In sub. (2), in the material after the colon, the commas should be changed to semicolons. In sub. (3), a comma should be inserted between “water” and “the.”

c. In s. NR 135.32 (1), “ordinance” should be changed to the plural. The same problem occurs in sub. (2).

d. In s. NR 135.39 (1) (c), commas should be inserted after “and” and “if applicable.” The same problem occurs in sub. (2) (c). In sub. (3) (b) note, the first sentence is repetitive of the text of the rule and should be deleted. The word “includes” should be changed back to “include.” In sub. (4) (b) (intro.), “their” should be changed to “its.” The third instance of “as” should be deleted. The fourth instance of “reclamation” should also be deleted. In sub. (5) (b), “4” should be stricken-through. The same problem occurs in the table. Subsections (5) (d) and (e) should be deleted because they are not affected by the rule changes, this problem occurs elsewhere in the rule.

e. Section NR 135.52 (3) (c) should specify whether the department will respond within 10 days of the receipt of the request.

f. In s. NR 340.055 (3) (e), it is unclear how operators will be able to determine the amount of financial assurance “based on 1989 dollars.” Can the department provide this information in the rule?