



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 06-026

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. When a rule SECTION renumbers a provision in the administrative code, the treatment clause for the SECTION should identify the renumbered provision by a complete citation to the provision. This style was not followed in the treatment clauses in SECTIONS 9 and 13. For example, the treatment clause in SECTION 9 should state “NR 514.07 (9) is renumbered NR 514.07 (9) (a) and amended to read:”.

b. Section NR 514.07 (9) (c) 1. to 3. contain text that includes chemical abbreviations and text in parenthesis. The preferred drafting style is to avoid both undefined abbreviations and parenthetical text. See s. 1.01 (6) and (8), Manual.

c. In s. NR 514.07 (9) (e), “(b) 7.” should replace “(b) 7”.

d. The inclusion of “respectively” in the treatment clause in SECTION 13 is unnecessary and contrary to preferred drafting style. It should be removed from the rule.

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

a. In the analysis accompanying the rule, the list of statutes interpreted includes ss. 289.24 and 289.30, Stats. These references include provisions that are not interpreted by the rule. Can the department be more specific and cite particular subsections within these sections? In addition, it is not clear why this list of statutes interpreted includes s. 289.61, Stats., and

excludes s. 289.41, Stats., as the rule makes no changes in solid waste management fees but does amend one financial responsibility requirement.

b. In the analysis accompanying the rule, the list of statutes providing authority for the rule includes ss. 289.05 and 289.06, Stats. Can the department be more specific on which subsections in these sections provide this rule-making authority? Sections 289.24 (1) and 289.30 (4), Stats., also provide explicit authority for rule-making on subject matter covered by the rule. It is not apparent why these statutes are also not included in the list of statutes providing authority for the rule. Finally, this list of statutes providing authority for the rule includes s. 289.07, Stats., inappropriately, as this section does not explicitly grant rule-making authority to the department.

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

a. The first sentence in s. NR 514.07 (9) (c) (intro.) refers to the provisions in subds. 1. to 3. as “characteristics” and in subd. 4. as “the timeframe.” The second sentence in par. (c) (intro.) refers to the provisions in subds. 1. to 4. as “goals.” To avoid any ambiguity in the interpretation of these two sentences, the department should use consistent terminology to refer to the provisions in subds. 1. to 4. Also, sub. (9) (c) (intro.) should be redrafted to meet the provisions of s. 1.03 (8), Manual; namely, it should end with a colon and lead into the subdivisions that follow.

b. It is not clear when the characteristic in s. NR 514.07 (9) (c) 3. is to be applied. Is it upon site closing or some unspecified time after site closing?