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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 09-020

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

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

a. The department should review the list of statutes interpreted and statutes providing statutory authority for the rule that are listed in the analysis accompanying the rule to ensure that these lists are complete. For example, the rule includes provisions that amend construction and operation permit requirements and exemptions in chs. NR 406 and 407. These amendments suggest that the department is interpreting specific provisions in ss. 285.60 to 285.67, Stats., yet none of these statutory sections are cited in the list of statutes interpreted. Similarly, the analysis accompanying the rule indicates that the rule modifies when a permit modification is required when biodiesel fuel is being used. However, the list of statutes providing authority for the rule does not include s. 285.11 (17), Stats., which directs the department to promulgate rules modifying the meaning of the term “modification.”

In addition, the department could assist a reader who wants to correlate specific statutes interpreted and statutes providing authority for the rule to specific provisions in the rule by indicating in the plain language analysis accompanying the rule which statute is being interpreted and which statute provides authority for a particular provision summarized in that analysis.

b. In item 4 of the analysis, reference to the Revisor of Statutes should be deleted. Also, the final sentence in item 12 of the analysis should be deleted since it is duplicative of the sentence in item 4.

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

a. The addition of biodiesel fuel to the definition of “clean fuel” in s. NR 406.02 (1) appears to include only biodiesel fuel that contains 100% biodiesel fuel blend stock (B100), based on the title of the ASTM standard specified in s. NR 484.10 (55v). If the department intends that “clean fuel” can include blends of biodiesel fuel and petroleum-based middle distillate fuels, then the department should revise the definition of “clean fuel” in s. NR 406.02 (1) to specify the acceptable ranges of blending.

b. Amendments to ss. NR 406.04 (1) (n) (intro.), 1. and 2. (intro.) and 407.03 (1) (sq) refer to “regulated asbestos containing material.” This term is not defined in these provisions, but it is defined in s. NR 447.02 (33). If the department intends for the uses of this term to be the same as in the s. NR 447.07 (33) definition, then it should amend the appropriate definition sections in s. NR 400.02, or ss. NR 406.02 and 407.02.

c. In s. NR 406.04 (1f) (b) and (1k) (b), a final parenthesis is needed at the end of the provision. This was done correctly later in the rule.