



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 13-070

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 November 2011.]

2. Form, Style and Placement in Administrative Code

a. The agency should include a subject matter, such as air pollution control, in the relating clause of the introductory clause. [s. 1.02 (1) (a), Manual.]

b. In SECTIONS 3 and 6 of the rule, it is not clear why the agency inserted semicolons into each of the subdivision paragraphs. Eliminating these semicolons would preserve consistency with the structure of the existing subdivision paragraphs. If the agency believes punctuation is needed, it might consider using commas instead.

c. In SECTION 5 of the rule, the second sentence of s. NR 405.02 (25i) (ag) (beginning “As defined in...”) is unnecessary. The definitions in ch. NR 400 apply to ch. NR 405 and, as amended in SECTION 2 of the rule, encompass the emissions mentioned in the second sentence. The second sentence in s. NR 405.02 (25i) (ag) is therefore redundant. The same comment applies to SECTION 8 of the rule.

d. In SECTION 5 of the rule, the subdivisions under par. (ar) should be designated by plain numbers rather than by letters of the alphabet. [s. 1.03 (1), Manual.]

e. The way the agency has worded proposed s. NR 405.02 (25i) (ar) in SECTION 5 of the rule is awkward because the paragraph refers to “any air contaminant...identified under this paragraph...for which a national ambient air quality standard has been promulgated...”. The word “any” connotes inclusivity, whereas the phrase “identified under this paragraph” specifies that the list in the subsequent subdivisions is exclusive. If the list is exclusive, the agency might

consider changing “any” to “a”. Additionally, are the phrases “identified by the administrator” or “for purposes of this chapter” necessary? Identification of these precursors by the administrator appears to be the reason they are enumerated, but it is generally unnecessary to include the rationale for a rule within the rule because the rule should speak for itself. The phrase “for purposes of this chapter” appears to be redundant because the rule text has already stated that the relevant air contaminants are the ones enumerated. All of the above comments also apply to SECTION 7 of the rule.

f. In SECTION 5 of the rule, the agency refers to “precursors” and “constituents”. All of the contaminants identified in the list under par. (ar), however, are identified as “precursors”. Is it necessary to include the reference to “constituents”? The same comment applies to SECTION 7 of the rule.

g. In various sections of the rule, the agency refers to “the EPA”. Acronyms or other abbreviations should be used only to improve readability. If acronyms are used for names of agencies, they must be defined and used consistently. [s. 1.01 (8), Manual.]

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

a. There is a period missing at the end of the paragraph titled “Explanation of agency authority”.

b. Under the heading referencing the preparation of an economic impact analysis, the agency has written the following: “The WDNR has not yet prepared an economic impact analysis under s. 227.137, Stats.”. However, an economic impact analysis was submitted with the proposed rule. Was the inclusion of the above sentence inadvertent?