



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 16-044

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 December 2014.]

2. Form, Style and Placement in Administrative Code

- a. The enumeration of the rule provisions treated by the proposed rule should be revised to list the manner of treatment in the following order: renumber, amend, repeal and recreate, and create. [s. 1.02 (1) (Example), Manual.]
- b. A specific date should be given for the deadline to submit comments on the proposed rule. [s. 1.02 (2) (a) 13., Manual.]
- c. SECTION 2 of the proposed rule should be separated into three SECTIONS:
 - (1) To renumber s. ATCP 70.05 (1) to ATCP 70.05 (1) (a).
 - (2) To repeal and recreate s. ATCP 70.05 (1) (title).
 - (3) To create s. ATCP 70.05 (1) (b).
- d. SECTION 3 of the proposed rule should be separated into two SECTIONS:
 - (1) To renumber s. ATCP 70.06 (1) to ATCP 70.06 (1) (a).
 - (2) To create s. ATCP 70.06 (1) (b).
- e. SECTION 4 of the proposed rule should be separated into two SECTIONS:
 - (1) To amend s. ATCP 70.06 (7) (d) 5. [Show the text of only the amended subdivision.]
 - (2) To create s. ATCP 70.06 (7) (d) 6.

f. In ss. ATCP 70.07 (1) (f), 87.11 (9), and 87.24 (6) and (7) (b) and (c), replace each instance of the abbreviation “sub.” with “s.”. [s. 1.07 (2) (Table), Manual.]

g. Review and revise the use of parenthetical notes in the proposed rule. Parentheses should be removed, and the material should be set apart with a comma or placed in an explanatory Note. For example, review ss. ATCP 87.11 (3), (11), and (16), and ATCP 87.14 (3). [ss. 1.01 (6) and 1.09 (1), Manual.]

h. In s. ATCP 87.11 (10), the directive material (“shall not”) of the definition should be revised to be descriptive. [s. 1.01 (7) (b), Manual.]

i. In the text of s. ATCP 87.16, define or describe the “facilities” that are the subject of the section. The title for the section is not part of the substantive rule. This comment also applies to the word “containers” in s. ATCP 87.22, and the phrase “equipment and utensils” in s. ATCP 87.26 (1). [s. 1.05 (1), Manual.]

j. In s. ATCP 87.24, it appears that the regulation of “maple-derived water” in sub. (7) is a separate substantive provision from the regulation of “operations water” that is the subject of the section and subs. (1) to (6). Consider whether it would be appropriate to create a separate section that applies to maple-derived water.

k. In s. ATCP 87.24 (2), the abbreviation “ch.” should be inserted before “NR 809”. [s. 1.07 (2) (Table), Manual.]

l. In s. ATCP 87.26 (1) (a), the phrase “, but not limited to,” should be removed. [s. 1.01 (9) (f), Manual.]

m. In s. ATCP 87.26, it appears that pars. (b) to (d) in sub. (1) were intended to be numbered as subs. (2) to (4). If so, the subunits should be renumbered and the designation for par. (a) in sub. (1) should be removed. If not, the paragraph titles should be removed.

n. In s. ATCP 87.36 (1), both instances of the word “through” should be changed to “to”. [s. 1.01 (9) (d), Manual.]

o. In s. ATCP 87.36 (2) and (3), consider rephrasing the listed “Grade A” and “Processing Grade” characteristics to form a complete sentence with the introductory clause wording. For example, the introductory clause could be phrased as, “maple syrup that has all of the following characteristics: (a) Less than 69% solids content by weight. (b) Uniform color...”. [s. 1.03 (3), Manual.]

p. SECTION 9 should be renumbered to follow sequentially from the previous SECTION of the proposed rule. Also, in that SECTION, the phrase “administrative register” should be capitalized. [s. 1.02 (4) (Example), Manual.]

q. The enumeration of provisions treated by the proposed rule should be updated to reflect any revisions made in accordance with these comments.

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

In s. ATCP 87.36 (2) (c), it appears that the reference to “sub. 4.” should be changed to “sub. (5)”.

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

a. The proposed rule contains vague and subjective language in its requirements that may not provide sufficient instruction to the regulated public, such as the words or phrases “adequate”, “conveniently located”, “sufficient”, “effective”, “sanitary”, “necessary”, “fairly”, “off”, “objectionable”, and “sound”. Review the proposal for subjective language and replace where possible.

b. In s. ATCP 87.11 (6), the phrase “of agriculture, trade and consumer protection” should be removed in order to use the defined term “department”.

c. In s. ATCP 87.11 (9), is the last clause of the definition intended to be a statement that all maple sap is a potentially hazardous food or is some maple sap potentially hazardous and some not? If this is a declaration that all maple sap is a potentially hazardous food, this should be removed from the definition and placed in a substantive section. This comment also applies to subs. (11) and (16).

d. In s. ATCP 87.12 (3), it appears that the phrase “products of” should be “products or”.

e. It is difficult to follow what types of facilities are included in the first part of proposed s. ATCP 87.14 (1). Consider a list of facility types after an introductory clause such as, “All of the following buildings and facilities shall be constructed...”.

f. In ss. ATCP 87.14 (8) (d) and (9) (a), 87.24 (7) (d), 87.26 (1) (c), and 87.32 (1), each instance of the phrase “shall not” should be revised to “may not”.

g. In s. ATCP 87.14 (9) (a):

(1) It appears that the phrase “shall be approved” should be “may not be approved”.

(2) The phrase “shall be stored” should be revised to “may be stored”.

(3) Should the phrase “or used” be inserted in the last sentence, between “stored” and “in the facility”?

h. In s. ATCP 87.24, should the phrase “operations water” be defined? Also, in subs. (5) and (6), should the references to “water” be “operations water”?

i. In s. ATCP 87.26 (1) (a), the phrase “soldering shall not” should be revised to “soldering may not”. Also, insert the word “other” before “than the application”.

j. In s. ATCP 87.26 (6), it appears that the phrase “or continuous” should be “of continuous”.

k. In s. ATCP 87.36 (2), should the phrase “deviants for damage” be defined?