WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 02-106

Comments

[NOTE: All citations to "Manual" in the comments below are to the <u>Administrative Rules Procedures Manual</u>, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1.   Statutory Authority

Section 166.20 (2) (bs), Stats., is one of the statutes cited as statutory authority for this rule. That provision, created in 2001 Wisconsin Act 16, requires the division to promulgate rules establishing the procedures that a regional emergency response team must follow to determine if an emergency requiring the team's response exists as the result of a Level A release or potential release and that a local emergency response team must follow to determine if an emergency requiring the team's response exists as the result of a release or potential release of a hazardous substance. It is unclear where those procedures are in this rule. Is the hazardous materials incident response matrix intended to be "the procedures"? If so, this should be clarified in the analysis. If the procedures are not included in this rule, s. 166.20 (2) (bs), Stats., should not be cited as statutory authority or in the list of statutes interpreted.

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

In s. WEM 6.04 (4) (a), the citation "s. 6.04 (4) (b)" should be changed to "par. (b)". See s. 1.07 (2), Manual, for rules on citing internal references.

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

a.   In the bold order language, "create WEM 6" sounds like the entire chapter is being created. The phrase "provisions of" could be inserted after "create" to avoid this impression.

b. In the listing of statutes interpreted, commas should be inserted after the "(f)," "(fm)," "(ge)," and "(k)"; "and" should be inserted after "(gi)" and in place of the comma following "(k)."

c. The proposed order should read:

The Wisconsin Division of Emergency Management proposes an order to repeal chapter WEM 4; to renumber WEM 6.05 (4) (a), (b) and (c) and 6.13 (1), (2), (3), (4) and (5); to amend WEM 6.02 (1), (2) and (12), 6.04 (1), (2) and (3), 6.12 and 6.13 (Note); and to create WEM 6.04 (4), 6.05 (4) (a) and (5) (g) and 6.13 (1) (intro.) and (2) relating to the hazardous materials transportation program and to reimbursement procedures for regional and local emergency response teams.

d. In the plain language summary, in addition to clarifying whether the procedures required by s. 166.20 (2) (bs), Stats., are included in this rule (see the statutory authority comment above), the analysis should note that a responsible party appeals process is created in the rule. Also, a comma should be inserted after the "(dr)" on the last line.

e. In s. WEM 6.02 (2), is "county" on line 3 still the appropriate term, given the change in reference on line 1 from "county" to "local" response team, pursuant to the statutory change to s. 166.21 (2m) (e), Stats.? Also, on line 1, "local" should follow "county."

f. In s. WEM 6.02 (12), the first word on line 2 should be "Stats."

g. In the treatment clause to SECTION 3, an "and" should be inserted after the second comma. In the treatment clause to SECTION 5, an "and" should be inserted before the first "(c)" and the "(d)."

h. To flow from the language in s. WEM 6.04 (intro.), s. WEM 6.04 (4) should begin with the phrase: "The following administrative costs . . ." and the period following the word "party" should be changed to a colon.

i. In s. WEM 6.12, a comma should be inserted after the "(dr)" on the last line.

j. In the treatment language to SECTION 10, "to read" should be changed to "WEM" and the colon at the end should be changed to a period.

k. In s. WEM 6.13 (2) (a), "s." should be inserted before the statutory citation and ", Stats." should follow it. In sub. (2) (b), the phrase "that exceed $500" should be moved to follow "costs" on line 1.