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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 05-108

#### 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. Two standards, API 650 and 653, are included in the definitions. The department should consider whether standards that are incorporated by reference should be included in a separate section following the definitions. For example, see ch. Comm 81. This can contribute to clarity in the rule.

b. In s. ATCP 33.10 (2) and (3), “, in its discretion,” should be deleted since the word “may” allows for the exercise of discretion.

c. In s. ATCP 33.44 (3) (intro.) and (3) (f) (intro.), the period should be replaced by a colon.

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

a. Several of the definitions, including the definition of “fertilizer,” are based on statutory cross-references. It may be useful to the reader if the rules include the text of the statute as a note following the definition in the rule. See also “waters of the state.”

b. In s. ATCP 33.14 (2) (a) 2., “Comm” should replace “COMM.”

c. In s. ATCP 33.20 (10) (b), “et seq.” should be replaced by the ending citation.

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

a. The chapter includes regulations on transportation of fertilizer and pesticides. Should the title also include the word “transportation”?

b. The term “bedrock” is used in s. ATCP 30.12 (1) (a). Should this term be defined?

c. Setbacks from a navigable lake or stream are included in s. ATCP 33.12 (1) (c). These setbacks are similar to those for shoreland zoning in s. 59.692, Stats., which measure the setback from a lake or stream commencing at the ordinary high-water mark. Would it be appropriate to measure the setbacks in the rule the same way?