



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 08-091

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.]

1. Statutory Authority

The rule provides that the department may apply for and receive cost-sharing grants for a portion of the costs accrued by the department in a gypsy moth suppression program on land that is owned and managed by the department. The statute, s. 26.30, especially sub. (6m), authorizes the department to establish a program to provide funds to counties for aerial insecticide treatment, but does not also expressly authorize the department to award these funds to any other local unit of government or to the department. The department should more fully explain its statutory authority for promulgating the rule.

2. Form, Style and Placement in Administrative Code

a. The plain language analysis states that the rule revises “the existing procedures for participation” and “will change the eligibility requirements of the state program to comply with those of the federal program.” The plain language analysis needs to provide more information than this. For example, how will existing procedures for participation be revised and what eligibility requirements will be changed? Further, the plain language analysis says nothing about the new authority the department gives itself to apply for and receive cost-sharing grants in the gypsy moth suppression program on land that is owned and managed by the department.

b. In at least two places the rule preface claims that the rule “is not regulatory.” If it is not regulatory, then what is it?

c. The use of notes is an effective way of conveying information that does not need to be part of the text of the rule. The note after s. NR 47.914 (2) would be more useful if it included the web page address for the department's gypsy moth suppression program, as mentioned in the text of the rule.

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

a. The rule could be redrafted in s. NR 47.912 (2m) to clarify which entity in the department is the "principal" of the bureau coordinator. Is the principal the bureau or division that applies for funds, is it the bureau or division that employs the bureau coordinator, or is it the department? See also s. NR 47.913 (1) (b) (intro.), which seems to suggest that bureau coordinators must be employed by the bureau or division that is the applicant.

b. Bureau coordinators are required to administer requests for "treatment for properties within that department, bureau, or division." Presumably, the property itself is not within the department, bureau, or division, but rather the property is managed by the bureau or division. See s. NR 47.913 (1) (b) (intro.) and 2., which refers to properties managed by the bureau or division. These provisions should be made consistent and clear. Further, it is awkward to state that "properties" make requests for assistance or apply for treatment. Clearly, some person makes such a request or such an application. The provision should be rewritten to refer to those properties for which an application for treatment is made by a named individual and which will be subject to an approved gypsy moth management plan.

c. The rule requires the bureau coordinator to file applications "with the department." See s. NR 47.913 (1) (b) 2. e. It should be made clear that the application is not filed with the bureau or division which manages the land that will receive treatment, but rather is filed with the bureau or division that manages the grant program.

d. The requirement in s. NR 47.913 (1) (b) 2. i. should state: "Assist as a ground observer or provide observers, or both, as required by the department...."

e. In s. NR 47.915 (1), the colon should be amended to insert a period.