



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 09-062

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.]

2. Form, Style and Placement in Administrative Code

- a. At the end of the proposed order, the phrase “relating to radiation protection,” should be inserted before “and affecting small business”.
- b. In s. DHS 157.61 (10) (b), “Radiation Safety Officer” should be lower case.
- c. In s. DHS 157.82 (6), “thereafter” should be deleted.

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

- a. Under the heading “related statute or rule”, second paragraph, the “to” on lines 5 and 6 should be deleted.
- b. Under the heading “Summary of factual data and analytical methodologies”, first paragraph, the word “affect” on lines 7 and 8 should read “effect”.
- c. Under the heading “Analysis and supporting documents used to determine effect on small business”, third paragraph, a period should be inserted at the end of the citation “157.80 (2) (a) 2.” Also under this heading, where s. DHS 157.74 (2) (L) is explained:
 - (1) The word “subsection” on line 1 should read “paragraph”.
 - (2) The word “they” on line 8 should read “the facility”.
 - (3) The word “section” on line 9 should read “paragraph”.

d. In s. DHS 157.03 (5), is the term “particle accelerator” used in the rule? If not, it seems unnecessary to add the underscored language to the definition of “accelerator”. If the term is used and has the same definition as “accelerator”, the phrase “or particle accelerator” could be inserted after “Accelerator”.

e. In s. DHS 157.03 (75r), the definition should end after the word “facility” on line 4. The rest of the language is substantive and should not be in the definition. [See s. 1.01 (7) (b), Manual.] It is suggested that the terms “medical use licensee” and “positron emission tomography (PET) radionuclide production facility” be defined. Since the latter term is long, the definition could begin with: “Positron emission tomography or PET radionuclide production facility” or “PET facility” means.... Then, “PET facility” could be used in the rule text.

f. In s. DHS 167.03 (200), “and” should be inserted after the comma on line 3.

g. The following comments pertain to s. DHS 157.03 (221m):

(1) The citation in the treatment clause and on line 1 contains a typographical error and should read “DHS 157.03 (221m)”.

(2) The definition of “nationally tracked source” is confusing in the following respects:

(a) It is not clear how much radioactive material the source must contain to be a nationally tracked source. Part of the confusion is that three different terms are used in the definition in reference to that amount: quantity, level, and threshold.

(b) The definition of “nationally tracked source” embeds a definition of “sealed source”, which the definition states, means, “in this context”, a radioactive material that is sealed in a capsule or closely bonded, in a solid form and which is not exempt from regulatory control and does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. The phrase “in this context” is unclear. It appears that the type of sealed source that is a nationally tracked source is a subset of sealed sources in general. Could the current rule definition of “sealed source” in s. HFS 157.03 (328) be modified to add this type of sealed source and clarify what the term means for purposes of being a nationally tracked source? Also, what is meant by the sealed source not being exempt from regulatory control?

(c) The definition also embeds definitions of “Category 1 nationally tracked sources” and “Category 2 nationally tracked sources”. It is unclear how that language, at the end of the definition, relates to the references to those categories at the beginning of the definition. Those definitions should be pulled out of this definition and placed in their own subsections.

(d) To conclude, the definition should be re-worked to clearly state what “nationally tracked source” means and what it does not include. It might be helpful to state that the term means a radioactive material that “meets all of the following requirements:” and then list those requirements (for example, that it is sealed in a capsule or closely bonded, that it is in solid form, etc.).

h. In s. DHS 157.03 (374) (a), the acronym “kV” is stricken and replaced by the full term “kilovoltage”, but “ kV” is then used in the following provision--sub. (374) (c). Also, in sub. (374) (a), the acronym “mAs” is stricken and replaced by “millamperage-seconds (mAs)”, which is unnecessary, because “mAs” is already defined in current sub. (206) as “milliamperesecond.” (Note the correct spelling of “milliampere.”) The entire rule should be reviewed to ensure consistency in the definition and use of terms and their acronyms. Generally, if an acronym is provided for a term, the acronym should be used throughout the rule in place of the full term.

i. In s. DHS 157.03 (413), quotation marks should be placed around “low-level radioactive waste” in the second sentence.

j. In the treatment clause of SECTION 6 and on line 1 of s. DHS 157.03 (430m), the correct subsection number is (429m), to preserve alphabetical order. Also, “or” should replace “and/or”, to avoid use of a slashed alternative. [See s. 1.01 (9) (a), Manual.]

k. In the treatment clause to SECTION 7, parentheses should be placed around “title”. The same comment applies to “intro.” and “title” in the treatment clause to SECTION 8. The entire rule should be checked for other instances.

l. In s. DHS 157.09 (2) (c) 3., the phrase “the effective date of” should be deleted.

m. In s. DHS 157.11 (2) (b) 3. L., what is meant by the “appropriate” requirements?

n. In s. DHS 157.11 (2) (h) 1. e., “or” should precede “ionization”. Also, in par. (h) 2., “license” should read “licensee”. In par. (h) 3. (intro.), the second “acquires” should be deleted and an “of” should be inserted after “all”.

o. In the treatment clause to SECTION 15, “as renumbered is” should be deleted.

p. In 157. 13 (1) (j) 3., “any individual” should replace “individuals(s)”.

q. In s. DHS 157.13 (4) (i) (title), is it possible to shorten the title or subdivide the material covered in the provision? Also, in the introductory sentence, “of” should be inserted after “all” on the last line.

r. In s. DHS 157. 13 (4) (i) 2. e., which state agency is referred to?

s. In s. DHS 157.22 (1) (c) 1., is the method to be approved by the department by rule?

t. In s. DHS 157.30 (8) (b), a U.S. Code citation should be given for the cited federal law.

u. In s. DHS 157. 63 (1) (a), “either” should be replaced by “any”. See also s. DHS 157.63 (2) (a) (intro.).

v. In s. DHS 157.63. (1) (b) intro., should the underlined phrase be moved to the beginning of the sentence? What is production of PET radionuclides being excluded from?

w. In s. DHS 157.67 (8) (b) 1., if “of the source strength” is deleted, what is the 5% a percentage of?

x. In s. DHS 157.74 (2) (L), “therapy devices” should be defined.

y. In s. DHS 157.76 (11) (a), “shall be” should be replaced by “is”. In sub. (11) (e) 2., “but not limited to” should be deleted, as the term “include” means “not limited to”. [See s. 1.01 (7) (c), Manual.]

z. In s. DHS 157.85 (16) (g) 7. (intro.), “is” should be changed to “are”. In subd. par. 7. b., does the protective shielding have to be used? If so, “available” should be changed to “required”.

aa. In s. DHS 157.92 (3) (intro.), “DOT” should be “U. S. department of transportation”.