



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 11-038

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. The definitions in s. ATPC 87.01 should be reorganized to be in alphabetical order, and the creation of the definition for “department” should be inserted and numbered accordingly.

b. In the note to s. ATPC 87.015, “ss.” before “97.72” should be deleted, and “s.” should be inserted before both “97.72” and “97.73”.

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

a. Before submitting the proposed rule to the Legislature under s. 227.19, Stats., the rule summary section on standards incorporated by reference should be updated by inserting “Consent has been granted” (assuming approval will have been granted) and deleting “DATCP will seek permission”. Also, after “bureau” at the end of the last sentence in that paragraph, “and is available in electronic format at www.codexalimentarius.net/download/standards/310/cxs_012e.pdf” should be inserted.

b. In ss. ATPC 87.015 and 87.017, the “standard of identity” as it relates to the *Codex Alimentarius* should be more precisely identified, as the phrase “standard of identity” is not used in that document. In particular, does the standard of identity include only the “essential composition and quality factors” in Part One, Section 3 of that document, or does it also include the “contaminants” provision in Part One, Section 4? Or is the standard of identity only the “description” in Part One, Section 2 of that document?

c. In the notes to ss. ATCP 87.015 and 87.017, the link to the electronic format of the *Codex Alimentarius* should be corrected to include the “n” in *alimentarius*.

d. In the note to s. ATCP 87.015, “100.87” should be corrected to “100.187”.

e. In s. ATCP 87.017 (1), a note should be added at the end of the subsection as follows: “Violations of s. ATCP 87.017 (1) are subject to the penalties in s. 97.72, Stats., and the injunctive or other remedies provided in s. 100.187 (2) (b), Stats.”.

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

a. A deadline provision should be added to the rule summary, even if only to state that the public hearing date and a deadline for comments have not yet been set.

b. In s. ATCP 87.017 (3) (b), should the specified list of laboratory test results to be included with the application for annual approval also include water insoluble solids content, heavy metals, and residues of pesticides and veterinary drugs content, as provided in the *Codex Alimentarius*, Part One, Sections 3.6, 4.1, and 4.2, adopted in s. 100.187 (2) (a) 1., Stats.?

c. In s. ATCP 87.01 (13), “state of” should be inserted between “the” and “Wisconsin”, to be consistent with other sections of the administrative code. See, for example, s. ATCP 88.01 (2).

d. In s. ATCP 87.017 (1) (intro.), “, directly or by implication in connection with the sale, offering for sale, or advertising or distributing for sale of any product, that the product is” should replace “a product as”, to be consistent with s. ATCP 87.015 and to meet the requirements of s. 100.187 (2) (a), Stats.

e. In the note to s. ATCP 87.017 (2), “downstream” should be deleted.

f. In s. ATCP 87.017 (3) (intro.), “for an annual approval” should be inserted between “application” and “under”.

g. In s. ATCP 87.017 (3) (a), “that” should replace “which”.

h. In s. ATCP 87.017 (3) (b), in the third sentence, “under par. (a),” should be deleted.

i. In the note to s. ATCP 87.017 (3) (b), “A person” should replace “You”. Also, the department might consider replacing “Attn: Donna Johnson” with “Attn: honey certification”, and adding a website where the application form is available. See, for example, the format of s. ATCP 10.22 (9) (b) note.