



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Co-Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 13-058

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 November 2011.]

2. Form, Style and Placement in Administrative Code

a. In the rule summary, the heading “Explanation of Statutory Authority” should be replaced with the heading “Explanation of Agency Authority”. [s. 1.02 (2) (a) 3., Manual.]

b. In the rule summary, the department should note, under the heading “Standards Incorporated by Reference”, that only the Attorney General must grant permission to incorporate a standard by reference under s. 227.21, Stats. A copy of the incorporated material must be filed with the Legislative Reference Bureau, which has assumed the responsibilities of the Revisor of Statutes. [s. 2.08, Manual.]

c. In the department’s treatment of s. ATCP 10.01 (56), material that is to be deleted from the code should be indicated via strike-through; currently, the phrase “a human being” is omitted entirely. [s. 1.06 (1), Manual.]

d. The material treated in SECTION 3 of the proposed rule should appear prior to the treatment of s. ATCP 10.01 (56).

e. In SECTION 4 of the proposed rule, the word “œ” should precede the underscored material. Additionally, the department may wish to indicate, by note, where the material incorporated by reference may be viewed. [ss. 1.06 (1) and 1.09 (1), Manual.]

f. In SECTIONS 6 and 79, it appears a considerable amount of material in the definition may be substantive in nature. The department should consider incorporating this material elsewhere in the administrative code. [s. 1.01 (7) (b), Manual.]

g. In s. ATCP 10.01 (88m) (Note), the content of the note appears to be substantive in nature. The department should consider incorporating this material elsewhere in the administrative code. [s. 1.09 (1), Manual.]

h. In SECTIONS 8 and 9, why is it necessary to renumber existing portions of the administrative code? Could the department avoid renumbering and only create the provision currently created in SECTION 9 as s. ATCP 10.01 (105) (e)?

i. In SECTION 13, “No” should precede all underscored material. [s. 1.06 (1), Manual.]

j. SECTION 22 of the proposed rule may be better characterized as the renumbering and amendment of s. ATCP 10.22 (1) (a) 1., followed by the creation of s. ATCP 10.22 (1) (a) 1. b. in a separate section of the rule text.

k. In SECTION 39, the word “of” should precede the underscored material. Also, it appears the period following “deer” at the end of s. ATCP 10.52 (1m) (b) 1. should be underscored. Section ATCP 10.52 (1m) (3) (c) 2. a. should appear on a new line of the rule text.

l. In SECTION 85, if the department creates a definition of “new world camelid”, it should use the defined term in the rule text rather than repeating the list of animals that define the term.

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

a. In s. ATCP 10.07 (2m) (b) 3., the department should elaborate on its process for approval of “other circumstances”. Would this approval meet the definition of “rule,” requiring placement in the administrative code? Similarly, in s. ATCP 10.07 (2m) (c), does the term “may” connote invalidation at the department’s discretion? Should this exercise of discretion be further explained in the rule text?

b. In s. ATCP 10.07 (2m) (d) 3., what other information may the department require? Would this requirement meet the definition of “rule”, requiring placement in the administrative code?

c. In SECTION 16, the department refers to “available funding”. Who determines whether funding is “available”? Is funding connected to a specific appropriation?