



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 16-083

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 December 2014.]

2. Form, Style and Placement in Administrative Code

- a. On line 19, in SECTION 1, replace “s. ATCP 50.04 (3)” with “sub. (3)”. [See s. 1.07 (2), Manual.]
- b. In SECTIONS 3 and 4, the order of strike-through and underscored text should be reviewed. [See s. 1.06 (1) (a), Manual.]
- c. In SECTION 8, “(intro.)” should be added after “ATCP 50.16 (3) (a)” in the treatment clause. [See s. 1.04, Manual.]
- d. Throughout the rule, separate sections could be combined if they affect two or more subsections, paragraphs, or subdivisions of the same rule section by the same treatment. For example, SECTIONS 8 to 12 could be combined, as could SECTIONS 13 to 15. [See s. 1.04 (2) (a) 4., Manual.]
- e. In treatment clauses throughout the rule, subdivision numbers should be followed by a period rather than surrounded by parentheses. [See s. 1.03 (2) (e), Manual.]
- f. SECTION 12 should be reviewed. It appears that the repeal of s. ATCP 50.16 (3) (b) 1. and 2. in that section would leave s. ATCP 16 (3) (intro.), which ends with “all of the following:”, without any corresponding subdivision provisions.
- g. In SECTION 16, the colon at the end of the treatment clause should be replaced with a period. [See s. 1.057, Manual.]

- h. In SECTION 17, “(intro.)” should be added after “(b)” in the treatment clause.
- i. In SECTION 18, the department should avoid the use of “(s)” to indicate a word may be singular or plural. [See s. 1.01 (9) (e), Manual.]
- j. In SECTION 25, “and 1. through 4. are” should be replaced with “is” in the treatment clause. In addition, the new text should not be underscored. [See s. 1.055 (2), Manual.]
- k. In SECTION 27, the reference to “ATCP 50.48 (1)” should be replaced with “sub. (1)”. [See s. 1.07 (2), Manual.] In addition, ATCP 50.48 (2) 4. (Note) should be treated in a separate section, because it is being repealed rather than amended. [See s. 1.06 (1) (b), Manual.]
- l. In SECTION 29, because the subdivision provisions are not treated, they should be removed from the rule text, and the treatment clause on line 179 should be revised to read “ATCP 50.50 (2) (d) (intro.) and (note) are amended to read:”. [s. 1.04 (1) (b) 2., Manual.]
- m. In SECTIONS 30 and 43, the text of the repealed provisions should be removed. [See s. 1.057, Manual.]
- n. In SECTION 33, “s. ATCP” should be added before “50.04 (3)” on line 216. [See s. 1.07 (2), Manual.] Additionally, s. ATCP 50.50 (9) (title) should be created in small capital letters. [See s. 1.05 (2) (c), Manual.]

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

- a. Unless accepted citation formats dictate another approach, parenthetical notations indicating the month and year of a publication should be formatted consistently. For example, in SECTION 4, either “(December 2015)” or “(December, 2015)” should be used.
- b. In various SECTIONS, including, for example, SECTIONS 13, 17, and 19, consider removing changes that replace “a” with “the” before the word “form” in any instance in which a given form is initially introduced in the rule text. Use of the phrase “a form” rather than “the form” for initial mentions of a particular form will be more consistent with Wisconsin drafting conventions and will be consistent with other provisions of the rule, such as SECTION 20, in which “a” is retained before “form”.
- c. To clarify that it is the issuance of the notice that renders a landowner ineligible (if that is the intent), consider replacing the phrase “department, making the landowner” in SECTION 17 with “department. Upon issuance of the notice, the landowner is”, or something similar.
- d. The added language in SECTION 19 could be revised to provide a clearer antecedent for the pronoun “it”. For example, the sentence added on lines 120-122 could be revised to read: “A notice of withdrawal issued under this paragraph demonstrates that a landowner has been found in compliance with this section.”.
- e. In SECTION 25, a practitioner’s “wishes” is an imprecise basis for non-renewal. Consider replacing the phrase “wishes to rescind” on line 150 with “has rescinded” or another more precise phrase.
- f. In SECTION 27, “; however” should be replaced with “; but” or “. However,” on line 167.

g. In SECTION 28, on line 175, the underscored text refers to a “qualified nutrient management planner under ATCP 50.48 (3)”, but sub. (3) appears to require qualified planners to prepare qualified nutrient management plans; it does not appear to provide a basis or standards for qualification. Are the underscored sentences on lines 174 to 178 intended to refer to a subset of qualified nutrient management planners who are distinct from other qualified nutrient management planners referred to elsewhere throughout that paragraph (and section)? If so, the cross-reference should be checked for accuracy (and form – see s. 1.07 (2), Manual). If not, the phrases “qualified nutrient management planner under ATCP 50.48 (3)” and “qualified nutrient management planner” on lines 175 and 176 to 177 should be replaced with “the planner”. In addition, for greater clarity, the phrase “response and provide it” on lines 177 to 178 should be replaced with “response. The planner shall provide the documentation”.

h. In SECTION 29, is the intent of adding the phrase “or subsequent versions” on lines 183 to 184 and 186 to authorize reliance on the October, 2013 version **or** any subsequent version of the referenced publications? If the intent is to require reliance on only the most recent version of those publications, that intent should be clarified.

i. In SECTION 34, the word “being” could be removed on line 222.