



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 18-083

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.]

1. Statutory Authority

The department’s plain language analysis states: “Although the department is required to continue monitoring these sites by statute, ch. DHS 158 was formulated to apply only to nuclear power plants that ‘operate’ in Wisconsin. This has had the unintended effect of constraining and jeopardizing the Department’s ability to monitor plants that are permanently shutdown or that are being actively decommissioned, but which continue to pose risks of radiological release to the state and its residents.”. This statement appears to indicate that the department’s current practice is to perform testing around plants “that are permanently shutdown”. However, the rule defines “radiation monitoring” to only include readings taken from the area around a “nuclear power plant”, which is defined to exclude a “decommissioned facility”. In addition, the rule does not charge any fee to the owner of a “decommissioned facility.” Consider revising the plain language analysis to clearly indicate whether s. 254.41, Stats., requires testing around a plant that is “permanently shutdown”. If so, should the proposed rule revise the definition of “radiation monitoring” and specify a fee associated with monitoring of a decommissioned facility?

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

a. The definition of “Decommissioned facility” states that the term “means a nuclear power plant...”. However, the definition of “Nuclear power plant” states that it “...excludes a decommissioned facility”. Consider removing the words “nuclear power plant” from the definition of “Decommissioned facility” and replacing them with terms that do not conflict with other definitions included in the rule.

b. In proposed s. DHS 158.03 (a), consider removing one of the two uses of the word “other” in the phrase “released for other use other than the continuing use of an independent spent fuel storage installation...”.

c. The definition of “Operating nuclear power plant” includes the statement that “An operating nuclear power plant may shut down temporarily for refueling or maintenance activities”. Consider rephrasing this statement to clarify that what is meant is that shutting down temporarily for refueling or maintenance activities does not alter an operating nuclear plant’s status.

d. Although a definition of “Radiation monitoring” is provided in the rule, the term is only used in proposed s. DHS 158.01 which states the authority and purpose for the rule. Consider specifying in proposed s. DHS 158.04 that the fee is charged for “radiation monitoring”.