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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 96-073

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

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

[NOTE: The following comments apply to s. NR 205.07 (1) (g) and (r) 4. and (5), which each create comparable provisions regarding electronic submission of applications and monitoring data.]

a. The rule is unclear about what is being submitted. The rule refers to the submittals alternatively as “data,” “information” and “monitoring reports.”

b. As a precondition to these submittals, either an electronic permit application agreement or an electronic transfer agreement is required. The rule does not describe the purpose of the two types of agreements. Is there any reason why a single electronic transfer agreement could not authorize all types of electronic submittals?

c. It appears that the electronic permit application agreement or electronic transfer agreement is a conventional paper form that is physically signed by the permittee. Upon approval of this form by the department, the permittee is authorized to make subsequent electronic submittals. It is not clear why this form requires the permittee to “certify that the information was gathered and prepared under his or her supervision...” if the purpose of this form is merely to approve subsequent electronic submittals. Also, the rule should comply with the requirement of s. 227.14 (3), Stats., regarding forms.

d. The reference to the “appropriate” responsible corporate officer is potentially confusing. This could imply that some, but not all, of the corporate officers listed earlier in the para-

graph may sign the agreements. This confusion could be eliminated by replacing “the appropriate” with “a.”

e. Use of the word “above” in lieu of an internal cross-reference is potentially confusing. The better drafting practice is to use “in this paragraph.”

f. The rule requires subsequent electronic monitoring reports to be certified by “the party signing the agreements.” This appears to require that the individual corporate officer who signs the initial written request to submit electronic reports must also sign each of the subsequent transmissions. Is this unduly restrictive? If the initial approval to submit electronic data applies to the permittee, should any responsible corporate officer be able to certify subsequent electronic submittals?

g. The rule creates the following statement: “The party signing the agreements shall further certify his or her adoption or belief in the truth of each...transmission...” The intent of this statement is not clear. May a party choose to certify either adoption of or belief in the truth of each transmission or is a party required to certify both? Is there a difference between these two alternatives? It may be appropriate in the rule either to provide the wording for a specific statement that must be included as the officer’s certification, to create a form for this purpose or to include suggested language in a note in the rule.

h. The rule uses the phrase “each and every.” The phrase “and every” is unnecessary.