

# WISCONSIN LEGISLATIVE COUNCIL STAFF

## RULES CLEARINGHOUSE

**Ronald Sklansky**  
Director  
(608) 266-1946

**Richard Sweet**  
Assistant Director  
(608) 266-2982



**David J. Stute, Director**  
Legislative Council Staff  
(608) 266-1304

One E. Main St., Ste. 401  
P.O. Box 2536  
Madison, WI 53701-2536  
FAX: (608) 266-3830

## CLEARINGHOUSE RULE 96-115

### 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.]**

#### 2. Form, Style and Placement in Administrative Code

- a. The section created by SECTION 1 of the rule should be numbered s. NR 108.02 (11).
- b. The rule treats definitions for different terms differently. It consistently repeals definitions of the term “hydrogeologist,” creates definitions for the term “professional geologist,” leaves undefined the term “professional engineer” and describes the term “soils scientist” in notes but does not define the term. If the term “professional geologist” were left undefined, presumably, the definition in s. 443.01 (7e), Stats., would apply, as the definition in s. 443.01 (7), Stats., presumably applies to the term “professional engineer.” Thus, it may not be necessary to define the term “professional geologist.” However, since the department chooses to define “professional geologist,” why not define the other terms, as well? While the rule is very consistent in how terms are defined in different chapters, it should be more consistent in choosing which terms to define.
- c. When more than one subunit of a rule unit is treated in the same SECTION, the treatment clause names the larger unit only once. The treatment clause of SECTION 5 should read as follows: “NR 110.09 (8) (b) 1. and (c) (intro.), 3. Note and 7. are amended to read:”. The text that follows should use the same notations. Similarly, the treatment clause of SECTION 17 should read as follows: “NR 640.06 (1) (e) (intro.) and 5. and (g) (title) and (intro.) and (2) (d) 1. are amended to read:”. The treatment clauses of all SECTIONS 18 and 19 need similar corrections.
- d. The amendment of s. NR 213.11 (2) (f) should be accomplished by a separate SECTION, following SECTION 10.

e. In s. NR 635.18 (11) and (22) (e) 3., the terms “professional geologist” and “geologist” are used interchangeably. Since the term “professional geologist” is defined, it should be used consistently and the shortened form should not be used.

f. The amendment of s. NR 640.06 (1) (g) (title) and (intro.) should be shown as follows:

(g) (title) *Plans*. (intro.) ~~Engineering plans~~ Plans shall consist of the following:

g. The alternate certification language for professional geologists in s. NR 680.05 (1) (c) 1., should be in the text of the rule, rather than a note. See s. NR 712.09 (3) for a suggestion on how this could be redrafted.

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

a. In the last paragraph of the analysis, the word “licensed” should be replaced by the word “registered.”

b. The phrase “where the expertise of a geologist is required,” used in s. NR 108.04 (2) (c) (intro.) and elsewhere, seems vague. Can any more guidance be given regarding when a professional geologist’s signature and seal are required?

c. The rule sometimes refers to a “professional geologist” and other times refers to a “professional geologist registered in Wisconsin.” Since a professional geologist may not practice in Wisconsin if he or she is not registered in Wisconsin, the phrase “registered in Wisconsin” may be omitted. The same comment applies to references to professional engineers.

d. Section NR 110.09 (8) (c) Note should read as follows:

“Soil scientist” includes a person possessing a certified soil tester classification (CSTM or CSTS) from the department of workforce development or a bachelor of science degree in soil science from a 4-year accredited college or a person who is a certified professional soil scientist or soil classifier in good standing with the American Society of Agronomy.

e. The certification required of professional geologists in s. NR 680.05 (1) (c) 1. Note includes a statement that is not included in the certification required of professional engineers. This statement is also included in the certification of both professional engineers and professional geologists contained in s. NR 712.09 (3). Is the difference between the certifications required of professional engineers and professional geologists in s. NR 680.05 (1) (c) 1. intentional?