



---

---

## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

---

---

**Ronald Sklansky**  
*Clearinghouse Director*

**Richard Sweet**  
*Clearinghouse Assistant Director*

**Terry C. Anderson**  
*Legislative Council Director*

**Laura D. Rose**  
*Legislative Council Deputy Director*

### CLEARINGHOUSE RULE 06-104

#### 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 January 2005.]**

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

a. The statutory authority for the rule cited in the summary accompanying the rule includes s. 227.14 (1m), Stats. This reference should be to the more specific par. (a) or (b) in sub. (1m) as these paragraphs refer to different administration of the rule, as compared to the corresponding federal rule, i.e., whether the state rule will be administered in a manner identical or similar to the federal rule. The explanation of agency authority in the summary accompanying the rule should be revised accordingly.

b. The statutory authority for the rule cited in the summary accompanying the rule includes s. 285.11 (6), Stats., though this subsection does not grant rule-making authority.

c. The department should review the entire rule for references to “this chapter” to ensure that the references are to the appropriate state or federal rule. As drafted, “this chapter” refers to ch. NR 432. See, for example, the references to “this chapter” in s. NR 432.02 (10) and (11).

d. Is the reference in s. NR 432.07 (1) (intro.) to “this section” correct? Should this reference be to “this subsection”?

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

a. Section NR 432.02 (10) includes a reference to a “permitting authority.” Since this type of authority is not defined in s. NR 400.02 or 432.02, the department should clarify the rule by providing a definition of this term.

b. Section NR 432.02 (13) refers to the “CAIR NO<sub>x</sub> ozone trading program” under 40 C.F.R. 97.304. If this program is the same as the “CAIR NO<sub>x</sub> ozone season trading program” defined in s. NR 432.02 (11), then the department should add “season” to the phrase in sub. (13).

c. The department should review s. NR 432.02 (29) (b) and correct it, as appropriate, since nuclear power is typically not thought of as a form of hydroelectric power.

d. To assist readers of the rule on the origin of the definition of “renewable resource” in s. NR 432.02 (29), the department should consider adding a note following that definition to the effect that the definition is based upon the definition of “renewable resource” in s. 196.378 (1) (h), Stats.

e. Under s. NR 432.06 (1), the department must notify the administer of the environmental protection agency of the specified allocations by either of the two specified dates. The department should clarify if this notification will occur by the later or the earlier of the two listed dates.

f. The department should clarify whether a source must engage in any one or all of the voluntary activities listed in s. NR 432.07 (1) (a) to (c) to be considered engaging in superior environmental performance.