



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 06-112

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.]

2. Form, Style and Placement in Administrative Code

a. In s. PSC 118.02 (13), the use of the language “created on or after January 1, 2004” would be inaccurate if the renewable resource credit (RRC) tracking program also tracks RRCs created before that date. Section PSC 118.04 (2) (g) 1. states that RRCs created before January 1, 2004 may be sold or used to meet an electric provider’s minimum percentage requirement under s. 196.378 (2) (a), Stats. The involvement in the tracking program of RRCs created prior to January 1, 2004 should be clarified.

b. In s. PSC 118.04 (2) (g) 1., the phrase “may only be used until December 31, 2011” should be changed to “may not be used after December 31, 2011” to be consistent with s. 196.378 (3) (c), Stats.

c. In s. PSC 118.04 (2) (g) 2. and 3., the phrase “may only be used through the fourth year after their creation” should be changed to “may not be used after the fourth year after the year in which the credit is created” to be consistent with s. 196.378 (3) (c), Stats.

d. In s. PSC 118.05 (1) (a), the use of both “shall” and “may” in the last sentence is confusing since “shall” denotes a mandatory duty while “may” denotes a permissive privilege. If the thought to be expressed involves a mandatory choice between one of two alternatives, the words “it may” should be deleted and the phrasing “shall certify ... or delegate ...” should be used.

e. In s. PSC 118.06 (1), the word “may” should be replaced by “shall” if the thought to be expressed involves a mandatory choice between a statewide or a regional RRC tracking program.

f. In the introductory clause to the rule-making order, the abbreviation “ch.” should be deleted from the phrase “to repeal ch. PSC 118.02 (5)...” The word “chapter” should be placed before PSC 118 (title) in the phrase “to amend PSC 118 (title).”

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

a. The repeal of s. PSC 118.02 (10) removes the definition of “renewable resource credit.” Since s. 196.378 (1) (i), Stats., defines renewable resource credit by reference to the Public Service Commission (PSC) rules, the repeal of s. PSC 118.02 (10) renders the term undefined.

b. In s. PSC 118.04 (2) (e), the cited statute refers to the PSC definition of “renewable resource credit,” now deleted. As noted in comment 4. a., the deletion of the PSC definition of renewable resource credit should be reconsidered. Additionally, if the term is defined in ch. PSC 118, then the reference should be to the rule rather than a statute that only refers to a rule.

c. Section PSC 118.07 refers to “aggregation of minimum percentage requirements.” If the thought to be expressed refers to aggregation and allocation of RRCs among the members or customers of a wholesale supplier, the rule should refer to s. 196.378 (2) (b) 4., Stats., instead of s. 196.378 (2) (a), Stats. If not, what statute provides for aggregation of minimum percentage requirements? Also, the use of the phrase “aggregates the minimum percentage requirements” should be revised for consistency or clarified. Section 196.378 (2) (b) 4., Stats., refers to aggregation and allocation of RRCs.

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

a. In s. PSC 118.06 (2) (d) 1., the use of the word “certificate” should be clarified with respect to its relationship to RRCs and the RRC tracking program.

b. In s. PSC 118.04 (2) (g) 2., the second sentence seems to repeat the concept conveyed by the first sentence of s. PSC 118.04 (2) (g) 2. If so, can it be removed or be placed to follow the rule section as explanatory material, labeled “Note:” or “Example:”? [See s. 1.09 (1), Manual.]

c. In s. PSC 118.07, the use of the word “acceptable” is vague and should be clarified.

d. In ch. PSC 118, consistency in the use of words such as “issue,” “award,” “create,” and their derivatives should be reviewed. For example, s. PSC 118.06 (5), as renumbered, changes “create” to “award” while other existing code provisions use “create” or “issue” in similar contexts.