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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 08-114

#### 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 September 2008.]**

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

a. The inclusion of the reference to s. 227.14 (1m) (b), Stats., in the statutes interpreted in the analysis accompanying the rule suggests that the format of the rule is based upon the format of the corresponding federal regulations in the Code of Federal Regulations, as authorized under this provision. If that format was indeed used in the rule, the department should include in the analysis its determination that all or part of the state environmental regulatory program covered by the rule is to be administered according to standards, requirements, or methods which are similar to standards, requirements, or methods that are specified for all or part of corresponding federal and environmental regulatory programs, as required under s. 227.14 (1m) (b), Stats.

If the department has not used the format of the corresponding federal regulation in the rule, then the reference to s. 227.14 (1m) (b), Stats., should be deleted from the list of statutes interpreted in the analysis accompanying the rule.

b. Subdivisions 1. and 2. in s. NR 421.07 (6) should be lettered paragraphs rather than numbered subdivisions.

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

a. The analysis accompanying the rule lists s. 285.11 (6), Stats., as providing authority for the rule. Section 285.11 (6), Stats., does not specifically direct or permit the department to

promulgate rules; s. 285.11 (1), Stats., does direct the department to promulgate rules implementing ch. 285, Stats.

b. Should the notwithstanding clause in s. NR 421.07 (3) (b) reference s. NR 440.686 (1) (b) (intro.) rather than s. NR 440.675 (1) (b) (intro.)? Similarly, should s. NR 421.07 (3) (e) reference s. NR 440.686 (7) rather than s. NR 440.675 (7)?

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

The phrase “from air oxidation unit processes or from distillation operations and reactor processes” in s. NR 421.07 (1) (a) implies that distillation operations and reactor processes are regulated together in subsequent provisions in s. NR 421.07. However, s. NR 421.07 (3) and (4) treat distillation operations and reactor processes separately. The department should consider revising s. NR 421.07 (1) (a) to conform the text of that paragraph with the treatment of distillation operations and reactor processes in s. NR 421.07 (3) and (4).