



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-128

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. In the analysis, it appears that s. 289.07 should be identified as a statute interpreted, rather than as a statute granting rule-making authority. Further, the analysis should specify the subunits of ss. 289.05, 289.06, and 289.43 that grant rule-making authority. It would probably be appropriate to be more specific as well in identifying the portions of ss. 289.30 and 289.31 that the rule interprets.

b. The definitions created in SECTION 1 of the rule and those amended in SECTION 2 should appear in sequential order, with separate SECTIONS for uninterrupted sequences of provisions given the same treatment. That is to say, SECTION 1 should create ss. NR 500.03 (20r), (29), (30g), (30r), and (44m); SECTION 2 should amend s. NR 500.03 (45); SECTION 3 should create s. NR 500.03 (86m), (88m), and (155m); etc.

c. The following formatting errors occur throughout the rule:

- (1) When a rule SECTION affects multiple subunits of the same unit of the Administrative Code, the full citation should be included before the first affected subunit, but subsequent subunits should be identified only by the number of the subunit. For example, in SECTION 1, the notation “NR 500.03” should be included for the definition of “botanical residuals” (s. NR 500.03 (20r)), but should not be repeated before any of the subsequent subsections.

d. The definition of “class A compost” includes substance (“that has been produced in accordance with...”), which should be placed in the text of the rule.

e. With regard to the definition of “compostable”:

- (1) Defining the term as “during composting” appears to be circular. However, it also appears that those words are not necessary to the meaning of the term.
- (2) What does “at a rate consistent with other compostable materials” mean? This too appears to render the definition circular. Is this phrase necessary? Could it be expressed another way, without using the word being defined?
- (3) It appears that “biomass” should be replaced with “organic matter.” Note that “biomass” is living matter, not a decomposition product.

f. The definition of “nonrecyclable compostable paper” addresses only the nonrecyclable aspect of the term, and not the compostable aspect.

g. Section NR 502.12 (1) (note) states that the department has the discretion to regulate certain facilities under s. NR 243.15 (8), rather than this section. However, since it is not a part of the rule, the note alone does not accomplish this. It is necessary to create an exemption from s. NR 502.12 for facilities regulated under s. NR 243.15 (8).

h. In SECTIONS 10 and 15, “intro.” should be shown in parentheses.

i. In s. NR 502.12 (4) (e) (intro.), the word “if” should be underscored and placed before the comma that currently precedes it.

j. The treatment of s. NR 502.12 (4) (e) 3. should be done in a SECTION separate from the treatment of s. NR 502.12 (4) (e) (intro.) and following the treatment of s. NR 502.12 (4) (e) 2.

k. Section NR 502.12 (8) (b) 1. should end with a period and the word “and” should be deleted.

l. In s. NR 502.12 (10) (b) 2., “another” should be replaced with “~~either~~ another”.

m. The treatment clause of SECTION 30 should indicate that it is creating s. NR 502.12 (11) (e) *and note*.

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

a. There are several instances in which the word “which” should be replaced with “that.” See, for example, ss. NR 500.03 (29) and 502.12 (10) (h) 3.

b. In s. NR 502.12 (4) (intro.), “deer and elk” should be “deer or elk”.

c. In the treatment of s. NR 502.12 (5) (e), the final period should not be underscored.

d. In s. NR 502.12 (12) (b), “low permeability” should be hyphenated.

e. The word “either” in the second sentence of s. NR 502.12 (13) (g) should be stricken.

f. In s. NR 502.12 (15) (b) (intro.), “owner and operator” should be “owner or operator”. In s. NR 502.12 (16) (d), “Tables 1 or 2” should be “Tables 1 and 2”.

g. To create full sentences, each paragraph of s. NR 502.12 (16) should begin with “The compost is” or something similar.