



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 20-083

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 November 2020.]

1. Statutory Authority

The analysis cites s. 196.49 (3), Stats., as a source of statutory authority. However, it is unclear how the authority conveyed under this section relates to the agency’s administration of the renewable resource credit tracking program. Consider providing additional information in the analysis to describe the relationship between the proposed rule and s. 196.49 (3), Stats. Alternatively, are the other sources of statutory authority sufficient, such that the reference to authority under s. 196.49 (3), Stats., could be omitted in order to avoid confusion?

2. Form, Style and Placement in Administrative Code

The treatments prescribed by SECTIONS 1 and 2 of the proposed rule appear unnecessarily complex. In particular, SECTION 1 could be more accurately described as a repeal and recreation of s. PSC 118.02 (5g) (e). Repeal and recreation of a provision often creates confusion, particularly in this context where SECTION 2 subsequently reproduces the content of the existing par. (e) as par. (f). [See s. 1.04 (5), Manual.] Subject to the clarity comment, below, it appears the agency’s intent could be more accurately conveyed by creating the new text in SECTION 1 as s. PSC 118.02 (5g) (dm), rather than both amending s. PSC 118.02 (5g) (e) and creating s. PSC 118.02 (5g) (f). Such treatment would preserve the existing par. (e) as the last paragraph in sub. (5g).

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

a. The proposed rule adds “heat that is a byproduct of a manufacturing process” to the definition of “displacement facility” under s. PSC s. 118.02 (5g). Other items within the current definition all refer to a physical installation (e.g., “a solar water heater”, “an installation generating thermal output”, and “any other installation under s. 196.378 (3) (a) 1m., Stats., identified...”). Contrastingly, “heat that is a byproduct of a manufacturing process” is amorphous and is not a physical installation. Consider amending the proposed rule to refer to an installation that collects heat that is a byproduct of a manufacturing process.

b. A period should be placed at the end of the text in SECTION 3 of the proposed rule.