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CLEARINGHOUSE RULE 98-062

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 October 1994.]

2. Form, Style and Placement in Administrative Code

a. The arrangement of text in SECTIONS needs review throughout the rule. For example, the full rule citation does not precede the text of the rule and, where applicable, the title is not included. [See s. 1.04, Manual.]

b. The subsection titles set forth in s. Comm 106.405 should not be underscored. [See s. 1.05 (2) (c), Manual.]

c. In s. Comm 106.41 (2m), “given” should replace “contained.” This change represents the preferred drafting style for referencing definitions contained in other rules or statutory provisions. The entire rule should be reviewed in this regard.

d. SECTION 10 should be shown as treating s. Comm 106.44 (2) (intro.). The period at the end of the clause should be a colon.

e. Section Comm 106.46 references an application manual. Will the application manual contain forms? Where may a manual be obtained? [See s. 1.09 (2), Manual.] If any portions of the manual have the effect of law and meet the definition of a rule, those portions should be promulgated as rules. [See ss. 227.01 (13) and 227.10 (1), Stats.] This comment applies to other provisions of the rule referencing an application manual as well.

f. In s. Comm 106.49, first sentence, “will be required to” can be stricken and replaced by “shall.”

g. In s. Comm 106.50 (1), first sentence, “be responsible for” can be stricken as can the “ing” at the end of each verb. Also see ss. Comm 106.69 and 106.88.

h. Section Comm 106.50 (2) should be created in a separate SECTION for which the treatment clause says: “SECTION ____ . Comm 106.50 (2) is created to read:”. It should not be underscored. Also see s. Comm 106.88 (2).

i. Section Comm 106.61 (2) should read: ““Board” has the meaning given in s. 560.60 (1s), Stats.” Section 15.155 (1), Stats., is not a definition. Alternatively, the definition can simply read ““Board” means the development finance board.”

j. In the treatment clause of SECTION 25, “Comm 106.63” should precede “(1)” and the second “are” should be eliminated.

k. The numbering of the SECTIONS following the first SECTION 27 needs attention.

l. In s. Comm 106.70, second sentence, “can enter” should be stricken and replaced by “enters.”

m. SECTION 31 shows s. Comm 106.81 (8) as being amended. The subsection is repealed and recreated.

n. In SECTION 36, “(13),” which precedes the text, should be “Comm 106.81 (13m).”

o. In s. Comm 106.825, the underscoring of the text should be eliminated and “will be” should be replaced by “is”; in the second sentence, “will” should be replaced by “shall.”

p. In s. Comm 106.86, first sentence, “be required to” can be stricken. In the second sentence, “contracts” should be in the singular. In the fourth sentence, “these contracts” should be stricken and replaced by “the contract.”

q. In the treatment clause of SECTION 45, “of ch. Comm 106” should precede “is.”

r. There is no effective date clause. [See s. 1.02 (4), Manual.]

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

a. The citations in the department’s analysis to statutes authorizing the rule and statutes interpreted by the rule are inadequate because of lack of specificity. The citations in the analysis should be consistent with those in the “Pursuant to” clause that precedes SECTION 1.

b. The reference in the department’s analysis to changes made by 1997 Wisconsin Act 27 should be more specific by referencing relevant SECTIONS of Act 27.

c. In s. Comm 106.40, the stricken “subchapter” should be retained. Internal cross-references to “this subchapter” should not be abbreviated. See the table in s. 1.07 (2), Manual. This comment applies to several provisions in the rule.

d. In s. Comm 106.41 (8), the statutory reference should be to s. 560.60 (10), Stats.

e. In s. Comm 106.41 (10m), the reference to s. 560.605 (2m), Stats., is inappropriate. The cited statutory section provision does not identify a targeted area but merely provides criteria for the board to consider in determining whether a project will be located in a targeted area. It is suggested that the definition refer to an area identified by the board as a targeted area (with a statutory reference, if appropriate). See, also, in this regard, ss. Comm 106.61 (14) and 106.81 (15).

f. In s. Comm 106.62 (2), it is suggested that “under this subchapter” be inserted after “loan.”

g. Should s. Comm 106.85 also cross-reference the considerations required under s. 560.66, Stats.?

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

a. In s. Comm 106.41 (6) (b) (as currently numbered), “such” should be stricken and replaced by “the.”

b. Section Comm 106.45 provides no criteria for the board to use in determining whether to require a higher match. See, also, ss. Comm 106.64 (1) and (2) and 106.83.

c. In s. Comm 106.63 (1), as renumbered, the underscored “a” should be “the.” Also, “case by case” should be hyphenated.

d. In s. Comm 106.67, second sentence, the stricken “the” preceding “chief” should be retained.

e. In s. Comm 106.68, third sentence, “programs” should be singular.

f. In s. Comm 106.69, first sentence, a semicolon should follow “106.68.”