

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



Jane R. Henkel,
Acting Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 99-164

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 September 1998.]

2. Form, Style and Placement in Administrative Code

a. Many of the strike-throughs and underscores used in the rule are printed very lightly and, consequently, it is difficult to discern the extent of the various amendments. The rule should be reviewed and this problem corrected, if possible.

b. The introductory clause preceding the analysis needs a “relating to” clause. [s. 1.02 (1), Manual.]

c. The amendment to the note to s. DWD 290.01 (10) should contain a treatment clause indicating that the note is being amended.

d. In SECTION 8 of the rule, it is not appropriate drafting style to repeal and recreate a rule and also renumber it. Section DWD 290.01 (14) should be repealed and a new sub. (9) should be created.

e. The new sentences at the end of s. DWD 290.01 (17) should be redrafted in conventional definitional style. For example, the sentences could be rewritten in substantially the following form: ““Public works project” includes alterations, painting and decorating. “Public works project” does not include maintenance work,”

f. The treatment clause of SECTION 12 of the rule indicates that all of s. DWD 290.01 (18) is being amended. However, the subdivisions of par. (c) are not reproduced or amended in

the rule. If they do not require amending, the treatment clause should reflect the fact that just pars. (a), (b) and (c) (intro.) are being amended.

g. The treatment clause of SECTION 15 should read: "SECTION 15. DWD 290.01 (22) is renumbered DWD 290.01 (16m) and amended to read:".

h. In s. DWD 290.01 (16m), "Prevailing" should follow "~~Wage~~."

i. In s. DWD 290.015 (6) (a) and elsewhere in the rule, "s." rather than "ss." should be used when citing two statutory sections with the word "or" between them.

j. The title of s. DWD 290.02 should not be reproduced in the rule. [s. 1.05 (3) (c), Manual.]

k. The treatment clause in SECTION 19 of the rule should read: "DWD 290.025 (note) is created to read:".

l. In s. DWD 290.03 (3) and elsewhere in the rule, "the" should replace "such." Also, "shall" should replace "must."

m. All of the examples provided in s. DWD 290.035 should be placed in provisions labeled "note" or "example" after each substantive provision of the section. [s. 1.09 (1), Manual.]

n. In the third sentence of s. DWD 290.05, the period should not be stricken.

o. In s. DWD 290.09 (1) (intro.), "shall" should replace "should."

p. In ss. DWD 290.09 (1) (b) (intro.) and 290.14 (intro.), the phrase "all of the following" should be inserted immediately before the colon.

q. In s. DWD 290.11 (1) (intro.), the phrase "all of the following" should be inserted immediately before the colon. In addition, all of the paragraphs that follow the (intro.) should be reviewed for grammatical completeness.

r. The word "as" in SECTION 34 of the rule should be deleted.

s. The first sentence of the note to s. DWD 290.14 (2) appears to be a substantive provision which should not be in a note. Therefore, the sentence should be removed from the note and relocated to a substantive provision of the rule. [s. 1.09 (1), Manual.]

t. In s. DWD 290.17, "Wis. Admin. Code" should be deleted.

u. The treatment clause of SECTION 40 of the rule should identify the chapter of the Wisconsin Administrative Code to which the appendix is to be appended.

- v. All of the amendatory language in s. DWD 294.01 (1) (a) should precede the existing period.
- w. The term “local governmental unit” in s. DWD 294.02 (5) should be underscored.
- x. The rule should have an effective date clause. [s. 1.02 (4), Manual.]

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

The note to s. DWD 290.01 (10) (c) refers to a formula recognized by the U.S. Department of Labor. The note should indicate where this formula may be obtained.

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

- a. In s. DWD 290.01 (16p), the definition of the term “project” is somewhat circular and less than clear. The provision defines “project” to be labor and materials to be supplied by a contractor to construct a specific “project” and excludes certain things that are not a permanent part of the “project.” The definition should be clarified.
- b. For purposes of clarity, it would appear that the phrase “a contract under which,” or a similar phrase, should be inserted in s. DWD 290.01 (20p) after the word “means” and before the phrase “the material.” In addition, the period after the subsection number should be deleted.
- c. The term “habitable” in s. DWD 290.035 (1) (a) should not be in quotation marks.
- d. In s. DWD 290.035 (3) (a), the word “no” should be changed to “not.”
- e. In s. DWD 290.035 (4) (a), should the word “paving” be inserted after the word “miscellaneous” in the first sentence? It appears that by inserting “paving,” the text of the rule would correspond to the title of the provision.
- f. In s. DWD 290.04 (1), what is an employer’s “straight time obligation”? That term does not appear to be defined in the rule or in the Wisconsin Administrative Code. The rule should be clarified.