



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 06-125

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 January 2005.]

1. Statutory Authority

In the analysis, the department refers to subch. VI of ch. 440, Stats., as created by SECTION 2336m of 2005 Wisconsin Act 25. This subchapter was renumbered subch. XI of ch. 440, Stats., by SECTION 34 of 2005 Wisconsin Act 254. Since s. 440.98, Stats., is the only section in the subchapter, the department may instead want to refer directly to s. 440.98, Stats., as a source of statutory authority. Direct reference to the statute would remove ambiguity arising from the renumbering and would be consistent with the authority referred to in s. RL 174.01.

2. Form, Style and Placement in Administrative Code

a. In the analysis, the department should avoid the use of ambiguous words and phrases including “newly created,” “previously,” “former,” and “formerly.” If necessary, the department should refer to a certain date. [See s. 1.01 (9) (b), Manual.]

b. In s. RL 174.01, the statement of intent to replace the former rules in ch. HFS 160 will become confusing in the future when the Department of Health and Family Services (DHFS) repeals ch. HFS 160. While statements of intent may be useful in some circumstances, this reference should be deleted.

c. Section RL 174.04 should begin with an introduction that reads: “In chs. RL 174 to 177?”.

d. In s. RL 175.05 (1), the word “shall” in the second sentence should be deleted.

e. Section RL 177.01 uses the word “registrant.” The defined term “registered sanitarian” should be used.

f. In s. RL 177.01 (1), the phrase “but not limited to,” should be removed. Use of the word “including” does not need to be modified by “but not limited to,” in order to convey the intent that the list is illustrative rather than exclusive.

3. Conflict With or Duplication of Existing Rules

Section RL 174.01 states that the proposed rules are intended to replace rules in ch. HFS 160. The department should contact DHFS to coordinate the repeal of ch. HFS 160.

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

a. In the related statute or rule section of the analysis, the department should refer to the rules in ch. HFS 160 rather than ch. HFS 150.

b. In the analysis, the comparisons with rules in adjacent states should be revised. The cited Minnesota Statute, s. 214.3, does not exist. Nonetheless, ch. 214 of the Minnesota Statutes relates to examining and licensing boards. Section 1615 of the Michigan Public Health Code appears to be repealed. Additionally, citation to the Michigan Compiled Laws is a more common citation form for Michigan law. Michigan appears to regulate and license sanitarians pursuant to Mich. Comp. Laws ss. 333.161, 333.184. Citations to the Illinois Compiled Statutes and the Illinois Administrative Code are typical citation forms for Illinois law. Illinois appears to regulate and license environmental health practitioners pursuant to 225 Ill. Comp. Stat. 37 and Ill. Admin. Code, tit. 68, s. 1247.

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

a. In the analysis, the word “the” should precede the word “basis” in the second sentence on page 2. [The same comment applies in the “Analysis and Supporting Documents” portion of the rule preface.]

b. The analysis and the entire rule should be reviewed for consistent use of commas in lists. The analysis and rule should be consistent as to whether a comma precedes the words “and” and “or” when three or more items appear in sequence.

c. In s. RL 174.04 (6), a hyphen should connect the words “department” and “approved.”

d. In s. RL 175.02 (2) (a) and (b), should “or” replace “and” in the phrase “environmental, physical, biological, chemical, and environmental health areas”? In s. RL 175.02 (2) (d), should “or” replace “and” in the phrase “environmental, physical, biological and chemical sciences”?

e. In s. RL 175.06, the word “or” should be deleted from the phrase “any state, or territory” in the first sentence of the section. In the first sentence of the section, the word “any” should be inserted before the phrase “foreign country, or any other organization.” In the last sentence of the section, the phrase “any other state, territory or possession, country or organization, may be construed...” should be replaced by the phrase “any state, territory, or

possession of the United States, any foreign country, or any other organization may be construed....” The word “is” should be replaced by the word “are” in the last sentence of s. RL 175.06.

f. In s. RL 176.01, the singular word “applicant” should be used in order to be consistent with rest of the rule. In s. RL 176.01 (1), the words “Each applicant” could replace “All applicants.” In s. RL 176.01 (2) “each applicant with a completed and approved application...” could replace “those who have completed and approved applications....”

g. In s. RL 177.01 (intro.), the phrase “, without limitation because of enumeration,” is unnecessary and should be deleted. Further, the rule should indicate the forms of disciplinary action that the department may take.