



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-073

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. The introductory clause of the rule provides that it “proposes to amend ch. DWD 295.” This statement inadequately describes the actions taken in the rule. [s. 1.02 (1), Manual.]

b. The rule preface should include a section concerning related statutes or rules. [See s. 1.02 (2) (a) 4., Manual.]

c. SECTION 4 of the rule should create “DWD 295.001 (2) to (6).”

d. The treatment of ss. DWD 295.01 to 295.05 is muddled. The treatments should be undertaken in the following manner:

SECTION 7. DWD 295.01 is repealed and recreated to read:

SECTION 8. DWD 295.02 is renumbered DWD 295.03 and amended to read:

SECTION 9. DWD 295.02 is created to read:

SECTION 10. DWD 295.03 is renumbered DWD 295.04 and is amended to read:

SECTION 11. DWD 295.04 is renumbered DWD 295.05 and is amended to read:

SECTION 12. DWD 295.05 is repealed.

[s. 1.04 (1), Manual.]

e. Throughout the rule, the department should avoid the use of the phrase “but is not limited to” and “but are not limited to” in connection with “includes” and “including.” [s. 1.01 (7) (c), Manual.]

f. In s. DWD 295.001 (9), the department should avoid the use of parentheses and slashed alternatives. [s. 1.01 (6) and (9), Manual.] The entire rule should be reviewed for these problems.

g. In s. DWD 295.001 (10), the second occurrence of the word “Federal” should be shown in lower case.

h. In s. DWD 295.001 (12), the use of “means” and the phrase “may also refer” is inconsistent. [s. 1.01. (7) (c), Manual.] The department may wish to retain “means” in the definition and place the parenthetical material as examples in a note following the subsection.

i. In s. DWD 295.001 (14), the department should remove the substantive content of the second sentence of the definition and place it elsewhere in the rule. Substantive provisions should not be incorporated as part of a definition. [s. 1.01 (7) (b), Manual.]

j. In s. DWD 295.001 (15), the department refers to “part” to define the extent of the definition’s applicability. The department should revise this term to use an appropriate reference such as chapter or section. [s. 1.01 (7) (a), Manual.] The entire rule should be reviewed for this problem. Also, the phrase “Assurance Assessment” should be shown in lower case.

k. In s. DWD 295.001 (16), the department should refer to an “apprenticeship program” as defined in s. 106.001 (4), Stats.

l. In s. DWD 295.001 (17), why is it necessary to include the language defining the department’s responsibilities rather than simply defining “registration agency” to mean the department? Further, considering the use of the phrase “registration agency” in ch. DWD 295, would it be more appropriate for the department to substitute “department” for “registration agency” in the substantive portions of the rule?

m. In s. DWD 295.001 (19), the last sentence of the definition appears to be a substantive provision that should be placed elsewhere in the rule. [s. 1.01 (7) (b), Manual.]

n. In s. DWD 295.001 (22), it appears that the phrase “apprenticeship, apprentice contracts,” should be replaced by the phrase “apprenticeship or of apprentice contracts;” and a semi-colon should be inserted after the word “chapter.”

o. In s. DWD 295.01 (1), the phrase “these published standards” should be replaced by the phrase “this chapter” or by another more suitable reference.

p. Section DWD 295.01 (2) (intro.) should be rewritten to read: “An apprenticeship program or any apprentice contract is eligible for registration by the department if it meets all of the following criteria:”.

q. The first sentence of s. DWD 295.01 (4) should be rewritten to read: “A person applying for registration of an apprenticeship program shall appear personally before a

committee when the committee requests the applicant to appear.” Also, to which “committee” does this provision refer?

r. In s. DWD 295.01 (7), the department should refer to “application” rather than “applications.” In s. DWD 295.01 (7) (a) and (b), the department should replace “part” and “the regulations” with an appropriate reference such as “chapter” or “section.” Also, in pars (a) and (b), the word “a” should be replaced by the word “A.”

s. In s. DWD 295.01 (10) and (11), the department should use a hyphen to refer to “individually-sponsored.”

t. “Joint apprenticeship committee” is defined in s. 106.001 (6), Stats. What is the department’s intent when it replaces the word “joint” with “local” in ss. DWD 295.02 (1) and 295.03?

u. Section DWD 295.02 (2) (a) refers to “apprenticable occupation” as defined in ch. DWD 295. Where is this definition found? If there is such a definition, it should be placed in s. DWD 295.001. In sub (2) (b) 2., the introduction should be renumbered as par. (a) and the remaining subparagraphs should be renumbered accordingly. In sub. (2) (b) 4., subparagraphs a. and b. should be incorporated into the text of subd. 4. In sub. (2) (b) 5., a citation to the Fair Labor Standards Act should be included. In sub. (2) (b) 19., the word “therefore” should be replaced by the word “therefor.” In sub. (2) (b) 8., the department should replace “cannot” with “may not.” In sub. (2) (b) 11., the department should remove the phrase “Wisconsin s. 106” and replace it with an appropriate reference to ch. 106, Stats. In sub. (2) (b) 21., the department should use consistent references to the Code of Federal Regulations and should place “s.” before references to other sections of the Wisconsin Administrative Code. Also, in sub. (21), the phrase “DWD 296, as amended,” should be replaced by the reference “ch. DWD 296” and the word “State” should be replaced by the word “state.” Subsection (2) (b) 22. should refer to “The name, address, telephone number and email address” instead of referring to contact information and defining the term in parentheses.

v. In s. DWD 295.03 (1), the underscored material should follow the stricken-through material.

w. In s. DWD 295.05, the number “3” in sub. (3) should be enclosed within parentheses.

x. In s. DWD 295.07 (title), the department should include stricken material in the rule. [s. 1.06 (1), Manual.]

y. Section DWD 295.07 (3) (intro.) should read: “The apprentice contract shall contain, explicitly or by reference, all of the following information:”

z. Section DWD 295.07 (3) (e) should refer to “s. 106.01 (6) (a) and (b), Stats.” In sub. (3) (h), the introduction should be renumbered as subd. 1. and the remaining subdivisions should be renumbered accordingly. In sub. (3) (L), the phrase “there to” should be replaced by the word “thereto.”

aa. In s. DWD 295.20 (1), “ch.” should be inserted before “DWD 296.” The use of “(s)” here and elsewhere in the rule should be avoided. [s. 1.01 (6), Manual.]

bb. In s. DWD 295.20 (3), each occurrence of the word “Department” should be replaced by the word “department.” Also, the words “Federal” and “State” should be shown in lower case.

cc. Section DWD 295.20 (5) (e) seems to be unnecessary given the last sentence of s. DWD 295.20 (1).

dd. In s. DWD 295.21 (1), each occurrence of the phrase “of this section” should be deleted. Subsections (2) and (3) appear to include titles. Either each subsection in a section should have a title or none of them should have a title. [s. 1.05 (1), Manual.]

ee. In s. DWD 295.22, there appears to be an incomplete sentence with a word or phrase missing: “the apprenticeship program is _____ in accordance with this chapter?”

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

The rule makes a number of references to forms. The requirements of s. 227.14 (3), Stats., should be met.

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

a. In s. DWD 295.001 (6), the department refers to “apprenticeship agreements,” while the defined term “cancellation” refers to “apprenticeship contracts.”

b. In s. DWD 295.01 (3), it appears that the word “affected” should be replaced by the word “effected.”

c. In s. DWD 295.01 (5), does the department intend the phrase “any cancellations” to actually require explanation of other occurrences such as unassignments? The department may wish to revise this subsection to clarify its intent.

d. In s. DWD 295.01 (6), what is the “other approval” to which the department refers? Currently, s. DWD 295.001 (19) refers only to approval by registration and as evidenced by a certificate of registration.

e. In the consideration of other state efforts regarding information privacy, what is the department’s intent regarding the voluntary submission of an apprentice’s Social Security number in s. DWD 295.07 (3) (b)? If the submission of the Social Security number is voluntary, why allow it to be submitted at all? How will the department use submitted Social Security numbers?

f. In s. DWD 295.10 (2), who is responsible for approval of affirmative action plans as referenced by the department?