



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Pam Shannon
Clearinghouse Director

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Assistant Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 11-042

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 should be rewritten as follows:

An order to repeal ETF 10.08 (2) (b) 3. Note; to amend ETF 10.08 (1) (a), (2) (a), (b) 2. and 5. Example, and (d) Note, and 20.02 (1); and to create ETF 10.08 (2) (b) (title), (c) (title) and (d) (title), and 20.02 (2) (title), (3) (title), and (4), relating to rehired annuitants and separation from employment.

b. The treatment clauses for the various SECTIONS of the rule should be modified to conform to the treatments in the introductory clause, as shown above. Where a title is created for a provision, but the remaining text of the provision is not affected, the title should be created, rather than amending the provision, and the language of the provision should not be included in the rule. For example, in SECTION 3, the treatment clause should read: “ETF 10.08 (2) (b) (title) is created to read:” and the text should simply read: “ETF 10.08 (2) (b) *Required conditions.*” Note that paragraph titles are written with an initial capital letter and italicized, as shown here. [s. 1.05 (2) (d), Manual.] Because this is newly created material, it is not underscored.

Where a title is being created for a provision that is also being amended, the insertion of the title may be done in conjunction with amending the provision. For example, in SECTION 2, the treatment clause would read: “ETF 10.08 (2) (a) is amended to read:”. The title would be

shown, with underscoring, as follows: “ETF 10.08 (2) (a) Intent to terminate.” This would be followed by the rule text of sub. (2) (a), as currently shown in the first portion of SECTION 2.

The entire rule should be reviewed for consistency with this approach. This, along with other suggested changes, may result in a renumbering of SECTIONS.

c. In the rule summary, the agency should include the “place where comments are to be submitted and deadline for submission” heading, as described in s. 1.02 (2) (a) 12., Manual.

d. In the sequentially numbered provisions of the rule, the word “Section” should be written as “SECTION” throughout. [See s. 1.04 (1), Manual.]

e. Underscored material should follow stricken material when material is deleted and inserted in the same location. For example, in s. ETF 10.08 (1) (a), the underscored material should follow the stricken “and”. The entire rule should be reviewed for occurrences of this problem. [s. 1.06 (1), Manual.]

f. Periods should be preserved in the amended material. For example, in s. ETF 10.08 (2) (b) 2., “~~if applicable.~~” should replace “~~if applicable.~~” [s. 1.06 (4), Manual.]

g. The text of s. ETF 10.08 (2) (b) 3. is not amended and therefore should not be included in the rule. Only the Note following the provision is being repealed. The repeal should be in a separate SECTION, with the following treatment clause: “ETF 10.08 (2) (b) 3. Note is repealed.” Because it is repealed, the text of the Note is not shown.

h. The second set of rule SECTIONS that are currently denoted as SECTIONS 1 and 2 (on pages 9 and 10) should be renumbered as appropriate.

i. A title should be inserted for s. ETF 20.02 (1). The other subsections in s. ETF 20.02 contain titles. If titles are used for any subsection in a section, they must be used for all subsections in the section. [s. 1.05 (1), Manual.] The proper format for a subsection title is solid capital letters. [s. 1.05 (2) (c), Manual.]

j. Section ETF 20.02 (3) (a) 1. should end with a period instead of a semicolon.

k. Section ETF 20.02 (3) (a) 3. and (c) should not be renumbered. The renumbering of a provision requires the renumbering of any cross-references to that provision throughout the Wisconsin Administrative Code and therefore is discouraged.

l. The agency should include an effective date clause at the end of the proposed rule. [s. 1.02 (4), Manual.]

m. Throughout the rule and rule summary, “s.” or “ss.”, whichever is applicable, should precede references to a section of the administrative code or state statutes. [s. 1.07, Manual.]

n. Rule subdivisions should be designated by a number followed by a period. [s. 1.03 (2) (e), Manual.] For example, in s. ETF 10.08 (2) (b) 2., “ETF 10.08 (2) (b) 2.” should replace “ETF 10.08 (2) (b) (2)”.

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

In s. ETF 20.02 (1), “s. 40.23, Stats.” should replace “s. 40.21, Stats.” The existing text refers to s. 40.23, Stats., and not s. 40.21, Stats.

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

a. In s. ETF 10.08 (1) (a), the last sentence is long and ungrammatical, which makes its meaning unclear. It appears that the word “who” should be stricken on line 11 and the word “and” on line 12 should not be stricken. The agency should revise the sentence to clarify its meaning.

b. In s. ETF 10.08 (2) (b) 5., the word “provides” should remain “provide” because it refers to the employees and not the WRS participating employer. Consequently, s. ETF 10.08 (2) (b) 5. does not need to be amended. Note that if the word were to be amended, the proper format for doing so would be as follows: ~~provide~~ provides.

c. In s. ETF 10.08 (2) (b) 5. Example, the phrase “on condition that” should read “*on the condition that*”.

d. In s. ETF 20.02 (1), the new material added at the end of the subsection should be replaced with the following language to make it clear that the material is referring to previous employment and not the employment for which the annuitant was rehired: “and whose termination of previous employment by a participating employer meets all criteria under s. ETF 10.08 (2) (b)”.

e. Section ETF 20.02 (4), as created in the rule, requires that employers report rehired annuitants in the “manner, form, and at the time requested by the department”. The agency should promulgate the requirements relating to the manner, form, and time for reporting rehired annuitants as an administrative rule.