



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 08-053

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.]

2. Form, Style and Placement in Administrative Code

a. In the plain language analysis and summary of the rule, the notation “Ins” should be inserted after the notation “ch.” and the number “1” should be replaced by “I.”

b. Paragraph 8. of the rule analysis describes model regulations adopted by the National Association of Insurance Commissioners. Since preceding paragraphs refer to the model regulations, the commissioner should describe the model regulations at the beginning of the rule analysis. Also, the commissioner should refer to “National Association of Insurance Commissioners” prior to the first use of the acronym “NAIC.”

c. Generally, the commissioner should make revisions to ensure that, except for introductory material, subunits of a rule end with a period, rather than a comma or semicolon or the word “and” or “or.” [See s. 1.03 (intro.), Manual.]

d. Generally, the commissioner should reorganize the sections of the rule-making order in compliance with s. 1.04, Manual.

e. The rule makes numerous references to the NAIC. The acronym should be defined. The same comment applies to “AICPA.”

f. In s. Ins 50.01 (1r), the phrase “this regulation” should be replaced by “this chapter.” Also, the second sentence should conclude with the phrase “under s. Ins 50.15 (5)” and the second-to-last sentence then can be deleted.

g. Section Ins 50.01 (4r) defines the term “independent board member.” Since this term is only used in s. Ins 50.15 (3), the definition should be deleted from s. Ins 50.01 and confined to s. Ins 50.15 (3).

h. In s. Ins 50.01 (7p), the phrase “as described in (5)” is unnecessary and should be deleted. The same problem occurs in ss. Ins 50.05 (5) and 50.17 (1).

i. In s. Ins 50.01 (7t), par. (b) is used twice.

j. In s. Ins 5.05 (title), “~~Filing~~” should precede “General.”

k. In s. Ins 50.05 (3), the phrase “this provision” should be replaced by the phrase “this subsection.”

l. The treatment clause for s. Ins 50.08 (2) should refer to (2) (intro.). Section 50.08 (2) (a) to (c) do not appear to be modified and do not need to be included in the rule.

m. In s. Ins 50.08 (3), the correct cross-reference is “sub. (2).”

n. Section Ins 50.08 (4) (a) 9. provides that the commissioner may not recognize as a qualified independent certified public accountant a person who provides specified contemporaneous non-audit services to an insurer. Among these services are services that the commissioner determines are impermissible. These determinations should be placed in the text of the rule as they are made. Also, it appears that sub. (4) (a) (intro.) should be rewritten to read:

The commissioner shall not recognize as a qualified independent certified public accountant a person who, or except an annual audited financial report prepared by a person who, provides to an insurer, contemporaneously with the audit, the following non-audit services:

o. In s. Ins 50.08 (9) (a), the phrase “shall apply” should be replaced by the word “applies” and the word “subsection” should be replaced by the word “paragraph.” Also, in par. (b), the correct cross-reference is “par. (a).”

p. In s. Ins 50.10, both occurrences of the word “should” should be replaced by the word “shall.”

q. Section Ins 50.11 (5) should be rewritten to read: “If the accountant..., the accountant shall take the action prescribed in...AICPA.”

r. In s. Ins 50.12 (2), the phrase “is required to” should be replaced by the word “shall.”

s. Section Ins 50.15 requires a title. Also, in the introductory material, the word “shall” should be replaced by the word “does.” Finally, the introductory material should be renumbered as sub. (1) and the remaining subsections and internal cross-references should be amended accordingly.

t. Section Ins 50.15 (6) (a) (intro.) refers to “SAS 61, Communication with Audit Committees.” The commissioner should provide a definition for that reference.

u. In s. Ins 50.15 (7), the commissioner should create and refer to a formal table describing criteria of independent audit committee members.

v. In s. Ins 50.16, subs. (2) and (3) should be combined. The introduction that begins sub. (3) should read: “In this subsection, actions that ‘if successful’...” include actions taken at any time....”

w. In s. Ins 50.17 (1), the phrase “this regulation” should be replaced by the phrase “this chapter.”

x. In s. Ins 50.17 (5) (e), the phrase “is not permitted to” should be replaced by the word “may.”

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

It is not necessary for the commissioner to include the statutory references in SECTION 17. However, if desired, the references should be assigned a section in the administrative code.

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

a. In paragraph 5. of the rule analysis, a comma should follow “Wis. Adm. Code.”

b. In s. Ins 50.01 (1r), who is the “controlling person”? See, also, the use of the phrase “ultimate controlling person” in s. Ins 50.15 (5).

c. In s. Ins 50.01 (4g), a set of insurers may be identified by management. Management of what?

d. In s. Ins 50.01 (7t), a comma should be inserted after the phrase “compliant with.”

e. In s. Ins 50.08 (3) and (9) (b), the intent of the phrase “shall file with its annual statement filing the approval for relief from Ins 50.08 (2) with the states...” could be expressed with greater clarity.

f. In s. Ins 50.08 (6), the word “subsection” should be replaced by the notation “sub.”

g. Section Ins 50.15 (1) would be clearer if written as follows: “The audit committee shall appoint, set compensation, and oversee the work of any accountant...” In sub. (4), what is the “responsible entity”? In sub. (5), to what does the phrase “statutory audit report” refer? Also, in sub. (5), it appears that the word “commissioners” should be replaced by the word “commissioner.”

h. A period should be placed at the end of s. Ins 50.16 (title).

i. Section Ins 50.15 (6) (a) 2. makes the first reference to the term “statutory accounting principles” found in the rule. To what does this phrase refer?

j. In s. Ins 50.17 (1), the last sentence is incomplete. A period should be placed at the end of s. Ins 50.17 (title).

k. In SECTION 16 of the rule, the letter “i” in “ins” should be capitalized.