



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 10-019

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. In the introductory clause, the rule sections treated by the proposed rule should be specifically identified, and a comma should be inserted before “relating.” [s. 1.02 (1), Manual.]

b. In the plain language analysis of the rule summary, a change to s. ERC 50.04 (4) is described under the subsection titled “Changes Specific to Particular Chapters.” However, s. ERC 50.04 (4) does not appear in the proposed rule.

c. In the rule preface comparison of the rule with rules in adjacent states, the cross-reference in the answer to question 7 appears to be incorrect.

d. The rule text should be paginated.

e. The SECTIONS in the proposed rule should be arranged in the numerical order of the rule section treated in each SECTION. For example, the treatments in SECTIONS 16 to 21 should be placed after the treatment in SECTION 26, and the treatments in SECTIONS 22 to 25 should be placed after the treatment in SECTION 27. [s. 1.04 (1), Manual.]

f. In SECTION 1, it appears that the following rule sections are included in the treatment but do not include “procedures” in their text: ss. ERC 9.10, 25.05, and 26.10.

g. In SECTION 3, the text of the rule should begin with “ERC 8.01 **Scope**.” Similarly, the text in SECTION 7 should begin with “ERC 10.06 (5) SIGNATURE FACSIMILE.” SECTIONS 3 to 25 should be reviewed for correcting this problem, where appropriate.

h. In SECTIONS 3 and 21, the period at the end of each section should not be underscored; they are in the text of the current rule. [s. 1.06, Manual.]

i. The agency should review SECTIONS 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 22, and 24 to ensure that the text of the proposed rule sections accurately reflects the text in the current rule. For example, many of the current rule sections treated in the above-referenced SECTIONS contain commas and additional text that are not reflected in the proposed rule.

j. In SECTION 19, “at” on the first line should not be underscored; it is in the text of the current rule. [s. 1.06, Manual.]

k. In SECTION 22, “~~and~~ state and UW system faculty and academic staff” should replace “; ~~and~~ state and UW system faculty and academic staff.” [The comma should be underscored; s. 1.06, Manual.]

l. In SECTION 24, “arbitration” should be underscored. [s. 1.06, Manual.]

m. In s. ERC 29.04 (2), the introductory material should be renumbered as par. (a) and the remaining paragraphs should be renumbered accordingly. [See also s. ERC 29.06 (2).]

n. In SECTION 27, the title of s. ERC 34.07 does not match the title in the chapter introduction.

o. In SECTION 27, the text in s. ERC 34.08 should not be underscored. [s. 1.06, Manual.]

p. In s. ERC 60.02, the word “should” should be replaced by the word “shall.”

q. In s. ERC 60.04, the word “given” should be inserted after the phrase “have the meaning as.”

r. In SECTION 29, s. ERC 61.07 should not contain a subsection because subsections should only be created when at least two subsections are created. [s. 1.03 (1), Manual.]

s. In the effective date section, does the agency want the effective date to be July 1, 2010, or the first day of the month following publication? The agency should clarify this.

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

a. In the statutes interpreted section of the rule summary, a period should follow any reference to a subdivision or subdivision paragraph. For example, “s. 111.02 (7) (a) 4.” should replace “s. 111.02 (7) (a) 4.” [See s. 1.03 (1) (c), Manual.] In addition, “Stats.” should be inserted at the end of the series of statutory references in the introductory clause. [s. 1.07 (2), Manual.]

b. In the statutes interpreted section of the rule summary, should “111.92 (1) (a)” replace “111.91 (1) (a)”?

c. In the plain language analysis of the rule summary, “ch. 111, Stats.” should replace “Chapter 111, Stats.” in the first paragraph. [s. 1.07 (2), Manual.]

d. In the plain language analysis of the rule summary, “s. 111.02 (7m) and (9m), Stats.” should replace “ss. 111.02 (7m) and (9m), Stats.” in the first paragraph under the subsection titled “Changes Specific to Particular Chapters.” [s. 1.07, Manual.]

e. In the plain language analysis of the rule summary, “s. 111.81 (17m), Stats.” should replace “s. 111.81 (7m), Stats.” in the fourth paragraph under the subsection titled “Changes Specific to Particular Chapters.”

f. In the plain language analysis of the rule summary, “s. ERC 29.02 (5) (b)” should replace “s. ERC 29.02 (4) (b)” in the eighth paragraph under the subsection titled “Changes Specific to Particular Chapters.”

g. In the plain language analysis of the rule summary, “Chapter ERC 40” should replace “Chapters ERC 40” and “ch. ERC 50” should replace “50” in the second-to-last paragraph in the subsection titled “Changes Specific to Particular Chapters.” [See also the second-to-last page of the other states comparison; s. 1.07, Manual.]

h. In SECTION 27, “s. ERC 34.18” should replace “s. ERC 34.18 (1)” in s. ERC 34.10 (1).

i. In SECTION 27, “s.” should be inserted before “ERC 32.17” in s. ERC 34.17. [s. 1.07, Manual.]

j. In SECTION 28, references to ch. ERC 60 should instead reference “this chapter.” [s. 1.07, Manual.]

k. In SECTION 28, “chs. ERC 40 and 50” should replace “chs. 40 and 50” in s. ERC 60.01. [s. 1.07, Manual.]

l. In SECTION 29, “s.” should be inserted before “111.98 (5), Stats.” in s. ERC 61.01. [s. 1.07, Manual.] The same comment applies to s. ERC 63.01 in SECTION 31; s. ERC 64.01 in SECTION 32; s. ERC 65.01 in SECTION 33; and s. ERC 67.01 in SECTION 35.

m. Section ERC 66.02 (3) references a form provided by the Wisconsin Employment Relations Commission. The requirements of s. 227.14 (3), Stats., should be met.

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

a. In the plain language analysis of the rule summary, “to” should be inserted between “changes” and “Subchapters I, IV and V” in the first paragraph.

b. In the place where comments are to be submitted section of the rule summary, the “0” in the phone number following “608” should be replaced with a hyphen.

c. In the title to ch. ERC 8 and in s. ERC 8.01, the appropriate phrase with respect to daycare providers is “an employer of a day care provider under s. 111.02 (7) (a) 4., Stats.” In the chapter title, the notations “s.” and “(a)” both should be in lowercase.

d. In s. ERC 29.01, the word “shall” should be replaced by the word “does.”

- e. In SECTION 26, “and” should replace “but” in s. ERC 29.02 (3) (e).
- f. In SECTION 26, “(e)” should replace “e)” in s. ERC 29.02 (4) (e). [s. 1.03 (1) (c), Manual.]
- g. Section ERC 29.05 (1) refers to “eight days,” while s. ERC 29.07 (3) (b) refers to “10 calendar days.” Contrasting the two provisions, a reader might conclude that the reference in s. ERC 29.05 (1) is to business days. The normal practice in statutory drafting is that a reference to days refers to calendar days and that a specific reference to business days will be used when necessary.
- h. In SECTION 27, “chapter” should replace “chaapter” in s. ERC 34.07.
- i. In SECTION 28, a period should be inserted at the end of the text in s. ERC 60.06.
- j. In SECTION 34, “agreement” should be inserted between “fair-share” and “may” in s. ERC 66.02 (2) (b).
- k. In SECTION 34, references to maintenance of membership agreements should be removed in ss. ERC 66.02 (2) (b) and 66.10 (2) (a).
- l. In SECTION 34, “2” should replace “two” in s. ERC 66.02 (3).
- m. In SECTION 36, a period should be inserted at the end of the text in s. ERC 68.09.