



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 22-010

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. In the analysis for the proposed rule, the listing of the deadline to submit comments should specify the date or how a reader could determine that date, rather than referring only generally to “a date to be determined”.

b. A heading for “Text of Rule” should be inserted before SECTION 1 of the proposed rule, similar to the title for the “Analysis Prepared by the Department of Workforce Development”.

c. Throughout the proposed rule, instead of prefacing references to the North American Classification System with the word “current”, can the department include the year or publication date of the most recent NAICS instead? Use of the word “current” in administrative rules is generally disfavored, and a rule that incorporates a standard by reference must specify the publication date of the standards. Future changes to an incorporated standard cannot be adopted prospectively or automatically by specifying that the standard in place at the time of enforcement is the applicable standard. [s. 1.14 (3) (a) and (5), Manual.]

d. Also in relation to the NAICS codes, the department should explain whether it has received the consent of the Attorney General for adoption of those codes. Materials may, in certain circumstances, be incorporated or updated with the consent of the Attorney General. The analysis for the proposed rule should be revised to include a comment on compliance with that requirement. [s. 227.21 (2) (a), Stats.; and s. 1.14, Manual.]

e. In SECTION 3 of the proposed rule, the treatment clause should be revised to identify that it is amending s. DWD 102.02 (3) (am) (intro.) and 2. The text of subd. 1 from the current rule should be removed, as it is not amended. Alternatively, if the department intends to amend subd. 1., any amendments should be shown with strike-throughs and underscoring. [s. 1.03 (2) (a) 2., Manual.]

f. In SECTION 14 of the proposed rule, repealing and recreating the title for ch. DWD 150, the period after the word “FORMS” should be deleted, and the format should be revised to remove the bold font. A chapter title is formatted in only solid capital letters. [s. 1.10 (2) (b) 1., Manual.]

g. The listing of affected provisions in the caption for the proposed rule should be updated to reflect any changes made in response to these comments.