



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 20-068

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 November 2020.]

2. Form, Style and Placement in Administrative Code

a. In the caption for the proposed rule, it is not necessary to repeat the “DHS” rule designation for each amended section. [s. 1.01 (1) (Example), Manual.] For simplicity, the agency should consider revising the introductory clause to remove the repeated instances of the “DHS” designation as follows:

The Wisconsin Department of Health Services (“the Department”) proposes an order to **amend** DHS 5.07 (2) (intro) and (2) (a), ~~DHS~~ 10.41 (Note), 60.01 (6) (d), ~~DHS~~ 61.021 (11), ~~DHS~~ 61.022 (5) and (13), ~~DHS~~ 61.06 (8), ~~DHS~~ 61.10, ~~DHS~~ 61.40 (intro), ~~DHS~~ 61.76 (intro), ~~DHS~~ 61.79 (2) (a), ~~DHS~~ 63.02 (12), ~~DHS~~ 63.06 (1) (a), ~~DHS~~ 63.09 (4), ~~DHS~~ 88.10 (3) (L), ~~DHS~~ 101.03 (152), ~~DHS~~ 103.06 (2) (c) 1. c., ~~DHS~~ 104.01 (2) (title) and (2), ~~DHS~~ 105.36 (2) (a) 2., ~~DHS~~ 106.02 (10), ~~DHS~~ 106.06 (22), (23) (title) and (23), ~~DHS~~ 107.06 (3) (d) 2., ~~DHS~~ 110.54 (24), ~~DHS~~ 124.06 (1) (a), ~~DHS~~ 129.05 (2) (a) 1. e., ~~DHS~~ 129.07 (2) (a) 3., ~~DHS~~ 129.08 (5) (a), ~~DHS~~ 134.60 (2) (a) 1., ~~DHS~~ 134.82 (3) (b) 2., ~~DHS~~ 134.83 (5) (g), ~~DHS~~ 134.84 (3) (c) (title) and (3) (c), and ~~DHS~~ 152.04 (4), relating to the use of inclusive language under 2019 Executive Order 15.

b. In the agency’s analysis for the proposed rule, under the “related statutes or rules” heading, the agency has listed ss. 49.2805 to 49.2897, subchs. IV to VI of ch. 49, and ch. 50, Stats. However, under the “statutes interpreted” heading, the agency has listed “not applicable”. The agency should consider moving the statutes that are under the “related statute or rule” heading to the “statutes interpreted” heading, as those provisions appear to address the subject matters that

are interpreted in the underlying rules, and should identify any other chapters or sections the agency deems appropriate for the proposed rules. [s. 1.01 (2) (c) 2. (intro.), Manual.]

c. The agency could consider further amending s. DHS 5.07 (2) (a) to end in a period rather than a semicolon, and adding an amendment to par. (b) to also end in a period. This would update that section to follow current drafting conventions for subunit series. [s. 1.11 (3), Manual.] The same opportunity to update to current drafting conventions applies to ss. DHS 103.06 (2) (c) 1. c., 105.36 (2) (a) 2., 106.06 (22) and (23), and 107.06 (3) (d) 2.

d. Also in s. DHS 5.07 (2) (intro.), the current text of the title for the affected provision should be shown. [s. 1.10 (2) (c) 3., Manual.] This comment also applies to ss. DHS 61.10, 61.79 (2) (a), 88.10 (3) (L), 106.02 (10), 106.06 (22), and 134.83 (5) (g).

e. In s. DHS 61.40 (intro.), the current text of the title for the section should be shown. Also, the agency could consider further amending the provision to add a statement that ends in a colon, to introduce and explain the applicability of the subsections. Consider inserting, for example, a statement such as: “A sheltered employment program shall comply with all of the following:”. [s. 1.11 (2), Manual.] Both parts of this comment also apply to s. DHS 61.76 (intro.).

f. In s. DHS 129.08 (5) (a), the final period from the current text of the rule should be shown. This comment also applies to s. DHS 152.04 (4).

g. In s. DHS 106.02 (10), the phrase “rehabilitation act” from the current text of the rule should be shown with a strike-through, as it is being replaced by the underscored, capitalized “Rehabilitation Act”.

h. In s. DHS 129.08 (5) (a), the final period should be shown without underscoring.

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

Within the text of the proposed rule, the agency refers to several federal laws that it does not list in the analysis for the proposed rule. The agency could consider including the following federal laws in its list of related federal statutes and regulations: Title VI of the Civil Rights Act, Title IX of the Civil Rights Act, and the Rehabilitation Act of 1973.