



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 02-119

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 October 2002.]

1. Statutory Authority

a. The note following the first paragraph of s. Accy 9.02 appears to conflict with s. 442.087 (2), Stats. It appears that the note would allow the department to renew a license after January 1, 2005, for a firm submitting a “late” application for the biennial renewal period commencing on January 1, 2004, even if the firm has no plans ever to undergo a peer review. This appears to conflict with s. 442.087 (2), Stats., which states: “After January 1, 2005, the department may not renew the license of a firm” unless the firm undergoes a peer review at least once every three years. Moreover, notes may not include substantive requirements and are not part of the substantive law created by rule. The applicability provision, if retained, should be included in the text of the rule. [See s. 1.09, Manual.]

b. Section Accy 9.02 appears to conflict with s. 442.087 (1) and (2), Stats. The latter states that peer review means a process for reviewing “members of a firm who are responsible for attest services provided by the firm *or who sign or authorize another individual to sign accounting reports or financial statements on behalf of the firm.*” (Emphasis added.) Section Accy 9.02 exempts a firm from peer review requirements if it does not offer or perform attest services. As a result, a firm that did not offer or perform attest services, but that did have members who sign or authorize another individual to sign accounting reports or financial statements on behalf of the firm, appears to be exempt from peer review requirements. Such a result appears to conflict with the language of s. 442.087 (1) and (2), Stats.

2. Form, Style and Placement in Administrative Code

a. In the definitions in s. Accy 9.01 (2) to (3) and (5) to (8), “means” should be used instead of “refers to.” [See s. 1.01 (7) (c), Manual.]

b. In the definitions in s. Accy 9.01 (5) to (7), “American institute of certified public accountants” should be capitalized as follows: “American Institute of Certified Public Accountants.” [See s. 1.01 (4), Manual.]

c. In s. Accy 9.01 (8) (intro.), the phrase “expressing an opinion” should be replaced by the phrase “expressing any of the following opinions.” [See also s. Accy 9.05 (intro.).]

d. In s. Accy 9.02, the notation “(1)” should be inserted after the section title. [See s. 1.03 (3), Manual.]

e. In s. Accy 9.04, the word “reviewers” in the title should be changed to “review programs” to correspond to “review programs” in the following sentence and s. Accy 9.01 (1).

f. The first sentence of s. Accy 9.05 appears to state the conditions under which “a person” can request approval to be a “program.” The sentence should read: “A person seeking approval as a reviewer under a board-approved review program shall submit”

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

a. In s. Accy 9.02 (2), the cross-reference should read: “s. 442.001 (1), Stats.”

b. Section Accy 9.03 (2) refers to “s. Accy 9.02 (8) (a).” The correct reference appears to be “s. Accy 9.01 (8) (a).”

c. Section Accy 9.06 incorporates by reference the attached “Standards for Performing and Reporting on Peer Reviews.” According to s. 227.21 (2) (b), Stats., the Revisor and the Attorney General must consent to incorporation by reference only under certain circumstances. Have these been met? The last sentence of the analysis gives an Internet site where these standards are available, but that information should be included in the rule, or in a note to the rule, according to the second sentence of s. 227.21 (2) (b), Stats.

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

a. The last paragraph of the analysis includes the sentence: “An applicant is licensed to practice as a CPA in this state and have undergone at least one peer review.” The sentence appears to be missing some words and is grammatically incorrect.

b. In s. Accy 9.02, the first sentence in what should be numbered as sub. (1) would be clearer if a comma were inserted after the first occurrence of the word “board”; if the phrase “approved by” were inserted before the phrase “a board that regulates”; and if a comma were inserted after the word “state.”

c. The first sentence in s. Accy 9.06 mentions “report reviews” in addition to system reviews and engagement reviews. The latter two reviews are defined under s. Accy 9.01, but

report reviews are not. Are the terms “system reviews,” “engagement reviews,” and “report reviews” terms of art that need no definitions? Are they sufficiently described in Appendix A to ch. Accy 9? If the answer to either of these two questions is “yes” then definitions of the terms probably are not necessary. However, if definitions are necessary or helpful, all of the terms should be defined.