



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 03-046

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.]

2. Form, Style and Placement in Administrative Code

- a. The treatment clause to SECTION 1 should read: “SECTION. 1 Comm 108.03 (23) to (25) are renumbered Comm 108.03 (24) to (26).” A similar change is needed in SECTION 3.
- b. In the introductory clause to the rule and the treatment clause in SECTION 9, parentheses should be placed around “title”. See s. 1.05 (3) (a), Manual.
- c. In the second item in the first column of Table 108.06-1, “~~grant~~” should be changed to “grant”.
- d. SECTIONS 7 and 10 of the rule should be rewritten so that only the affected units of the existing rule are set forth.
- e. In s. Comm 108.15 (1), “~~and~~” should precede “full-time equivalent jobs”; sub. (2) should begin with “The”.
- f. The treatment of s. Comm 108.24 (2) (f) does not correctly reflect the text of the current rule.

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

- a. The analysis cites s. 560.04, Stats., as statutory authority for the rule. Can this citation be more specific?
- b. In s. Comm 108.07 (6) (b), “par.” should be inserted before “(a)”.

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

a. The relating clause states that the rule relates to the deployment of “rapid response funds”. However, there are no specific funds in either the rule or the statutes regarding community development block grants that are designated as “rapid response funds”. The only use of “rapid response” in ch. 560, Stats., is in s. 560.147, Stats., which is not enumerated in the rule’s analysis as a statute interpreted by the rule or a statute authorizing promulgation. The use of this term in the relating clause may cause confusion.

b. The analysis of the proposed rule should be expanded to identify and explain all of the significant changes made by the rule-making order. Although the analysis states that the rule will allow the Department of Commerce to respond to changing economic conditions more quickly, it does not explain the actual changes to the rule that are expected to have that effect.

The analysis also fails to identify or discuss several significant provisions in the rule that appear to be unrelated to the purpose of the rule put forth in the analysis. For example, the analysis should explain the purpose of s. Comm 108.14 (1) (i) which is amended to require businesses to provide all matching funds, while under the current rule, local government contributions can be used for matching funds. It should also explain the impact of the change to s. Comm 108.14 (1) (j) 1., which allows funds to be provided as grants, while under the current rule they may be awarded only as loans. It should also explain why s. Comm 108.15 deletes a requirement that a business receiving a loan under the economic development program execute an agreement to repay the loan. All other substantive changes should also be identified and explained.

c. It appears that the “criteria” referred to in s. Comm 108.07 (2) (c), which form part of the newly created definition of “rapid response” in s. Comm 108.03 (27), are substantive in nature and therefore should not be incorporated in the definition. [See 1.01 (7) (b), Manual.] In addition, the phrase “similar activities” is somewhat vague.

d. It appears there may be inconsistency in the use of the terms “business” and “person” throughout the rule. For example, s. Comm 108.07 (2) (b) places limits on the amount that may be borrowed by a business under the economic development program, while in s. Comm 108.14, also relating to the economic development program, “business” is changed to “person” in several locations.

e. Section Comm 108.15 (1) should specify the consequences of a person failing to meet the job creation or retention requirements set forth in the agreement executed with the department under that section.

f. The last phrase newly added to s. Comm 108.15 (2) appears to be incomplete.