



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 07-007

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 January 2005.]

2. Form, Style and Placement in Administrative Code

a. The proposed rule appears to relate to the dwelling contractor-restricted certification in addition to the dwelling contractor certification. Should the proposed rule amend additional rules in order to remove the words “financial responsibility” from the phrase “dwelling contractor financial responsibility-restricted” in the administrative code? As drafted, the proposed rule only removes the words “financial responsibility” from the phrase “dwelling contractor financial responsibility.” For example, the proposed rules do not remove the words from the restricted certification in the tables in ss. Comm. 5.02 or 5.06.

b. Section Comm 5.315 (2) (c) 2. a., uses the phrase “at any time between April 11 and April 14, 2006.” If the department’s intent is to refer to April 11, 12, 13, and 14, the phrase “from April 11 to April 14, 2006” should be used. [See ss. 227.27 (1) and 990.001 (14), Stats.]

c. In s. Comm 5.315 (2) (c) 2. b., the phrase “effective date of the rule, (revisor to insert date)” should be replaced by the phrase “effective date of this section...[revisor inserts date].”

d. In s. Comm. 20.09 (2) (b) 2., the department should delete the phrase “except as provided under s. 101.654 (1) (b), Stats.” The phrase is superfluous since it is also contained in s. Comm. 20.09 (5) (c). The reference to sub. (5) (c) 1. and 2. should be changed to sub. (5) (c).

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

a. In the analysis, the statutes interpreted section should refer to s. 101.654, Stats., rather than s. 101.645, Stats.

b. In the analysis, the statutory authority section should refer to s. 101.654, Stats, rather than s. 101.645, Stats.

c. In the analysis, it is suggested that the department clarify that s. 101.654 (1m) (a), Stats., as enacted by 2005 Wisconsin Act 200, is the source of statutory authority that empowers the department to promulgate rules establishing educational obligations for contractors.

d. Section Comm 5.31 (3) (a) 1. refers to “workers compensation requirements and unemployment compensation requirements.” Appropriate statutory cross-references should be included in this provision.

e. In s. Comm 5.315 (2) (c) 2. c., the cross-reference “subpar. a.” should be replaced by the phrase “this subdivision to subpar. a.”

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

a. In the rule preface section describing rules in adjacent states, the phrase “there is not licensing or certification” in the second paragraph should be replaced by the phrase “there is no licensing or certification requirement.”

b. The department proposes to create a new, separate certification called the dwelling contractor qualifier. Since the dwelling contractor qualifier relates to continuing education requirements, should the title of the certification reflect that relationship? For example, should the department consider the addition of the phrase “continuing education” to the title?

c. In s. Comm. 5.10 (1) (a) 13., the phrase “is responsible for” should be replaced by the phrase “has done.” Subdivisions c. and d. should begin with the word “Been.”

d. Following ss. Comm. 5.31 (1) or (5), 5.315 (2) or (3), 20.09 (2) (b) or (5) (c), or all of the above, it is suggested that the department insert a note that offers practical examples clarifying the grandfather clauses of the proposed rules and the timeline when existing and new contractors must obtain the dwelling contractor qualifier certification.

e. Section Comm 5.315 (3) (b) 2. allows the department to waive continuing education requirements. The rule should clarify whether the waiver eliminates the education requirement in one year or whether a requirement is accumulated in following renewal periods.

f. In s. Comm 20.09 (2), the note following par. (b) and the material in subd. 3. are not consistent.