



## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 16-078

#### 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 December 2014.]**

#### 2. Form, Style and Placement in Administrative Code

- a. In the introductory clause for the proposed rule and in various treatment clauses, revise each reference to a “Note” to enclose the reference in parentheses (as “(Note)”). [s. 1.09 (2), Manual.]
- b. A reference to the treatment in SECTION 1 of the proposed rule should be added to the introductory clause.
- c. In the rule summary, should the heading titled “Statement on quality of agency data” be included under the “Summary of factual data and analytical methodologies” heading of the rule summary instead of as a standalone heading?
- d. In s. DHS 157.03 (84m) and (Note), review and correct the text that is shown to accurately reflect the current rule and Note, and to underscore the new material that is to be inserted. [s. 1.06 (1) (a), Manual.]
- e. SECTION 3 of the proposed rule includes multiple subunits affected by the same treatment, but SECTION 2 includes an intervening subunit affected by a different treatment. SECTION 3 should be broken up into two separate SECTIONS, with one SECTION placed both before and after the intervening treatment to s. DHS 157.03 (84m) and (Note). [s. 1.04 (2) (a) 4., Manual.]
- f. In s. DHS 157.03 (198), the text for the introductory material should be removed, as it does not appear to be amended by the proposed rule. The specific subunits that are affected should be listed in the treatment clause. [ss. 1.03 (3) (Example) (Note) and 1.04 (1) (b) 2., Manual.]

g. Also in SECTION 4 of the proposed rule, s. DHS 157.03 (198) (b) should be treated in a separate SECTION to repeal and recreate that provision. Separate SECTIONS should be placed before and after that SECTION for the different types of treatment, as noted above. [s. 1.06 (1) (b), Manual.]

h. Section DHS 157.03 (221m) (Note) appears to include a substantive provision on the applicability of the provision. Is the applicability adequately stated elsewhere? Review other Notes in the proposed rule for similar substantive provisions. [s. 1.09 (1), Manual.]

i. Consider removing SECTION 8 of the proposed rule. The renumbering appears to be unnecessary, because there is space for future insertions even with the creation of the additional subsection in the previous SECTION. [s. 1.03 (5), Manual.]

j. Consider removing SECTION 12 of the proposed rule. Renumbering to replace a repealed provision can lead to confusion and is unnecessary. [s. 1.03 (5) (a), Manual.]

k. The underlining of “SECTION 15” can be removed. Also, the underlining of the final period in the rule text should be removed.

l. The underlining of “SECTION 24” can be removed.

m. In SECTION 31, the underlining of number “2” can be removed.

n. The treatment clause for SECTION 32 of the proposed rule should not be underlined, and the underlining of the reference to the affected rule section that is shown in the text can be removed.

o. In SECTION 34, the underlining of the references to the affected rule section that is shown in the text can be removed.

p. In SECTION 39 of the proposed rule, the text of the Note to s. DHS 157.22 (5) (d) 1. should either be removed or any amendments should be shown with underscoring and strike-throughs. [ss. 1.04 (1) (b) 2. and 1.06, Manual.]

q. In the treatment clause for SECTION 40 of the proposed rule, a reference to “(intro.)” should be inserted after “(1) (b)”. [s. 1.03 (3), Manual.]

r. The treatment in SECTIONS 45 and 46 should be reorganized to be treated in numerical order. Also, consider inserting new designations for the renumbering rather than re-using the numbering from the moved and repealed units. For example, the introductory material could be renumbered as “(ag)”, and “(a)” could be renumbered as “(ar)”. [ss. 1.03 (5) and 1.04 (1) (a), Manual.]

s. In both s. DHS 157.61 (7) (a) 2. b. and (8) (a) 1. b., remove the insertion of “s” in “ss.”. The cited rule sections are listed in the disjunctive (“or”), and are therefore treated as each being singular.

t. In s. DHS 157.78 (8), if only the title is being amended, then only the title needs to be shown. The text of the rule section should be removed. [ss. 1.04 (1) (b) 2. and 1.05 (3) (a), Manual.]

u. In SECTION 69 of the proposed rule, if only the introductory material is being amended, then only that text should be shown and the treatment clause for the SECTION should be adjusted to identify the specific treated material. If the other material is to be amended, that should be shown with underscoring and strike-throughs. [ss. 1.04 (1) (b) 2. and 1.06 (1) (a), Manual.]

v. In SECTION 73 of the proposed rule, the text of the Note to s. DHS 157.83 (3) (b) 2. should either be removed or any amendments should be shown with underscoring and strike-throughs. [ss. 1.04 (1) (b) 2. and 1.06, Manual.]

w. Consider removing the renumbering of s. DHS 157.85 (14) (gm) (intro.). The renumbering is unnecessary, because there is space for future insertions even with the creation of the additional paragraph in the following SECTION. [s. 1.03 (5), Manual.]

x. In s. DHS 157.92 (2) (b), the text for the introductory material should be removed, as it does not appear to be amended by the proposed rule. The specific subunits that are affected should be listed in the treatment clause. Also, subd. 3. should be treated in a separate SECTION of the proposed rule, for the creation of that subdivision. [ss. 1.03 (3) (Example) (Note), 1.04 (1) (b) 2., and 1.06 (1) (b) Manual.]

y. In s. DHS 157.93 (4) (b), the text for subd. 3. should be removed, as it does not appear to be amended by the proposed rule. Also, subd. 4 should be treated in a separate SECTION of the proposed rule, for the repeal of that subdivision.

z. In SECTION 96 of the proposed rule, the subchapter title should be centered and written in solid capital letters. [s. 1.05, Manual.] Also in that SECTION:

- (1) Review and revise section titles to be written in bold print with an initial capital letter.
- (2) Review and revise subdivision titles to be enclosed in quotation marks.
- (3) Review whether titles are used in a consistent manner within each rule section. For example, in s. DHS 157.102 (1), the paragraph units should have titles, because the lower subdivision units have titles.

aa. The introductory clause that enumerates the rule sections treated by the proposed rule should be updated as needed to reflect any treatment revisions made in accordance with these comments.

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

The rule summary's comparison with rules in adjacent states refers to federal regulations under both Titles 10 and 49, CFR. However, the section for the summary of, and comparison with, federal regulations lists only Title 10, CFR. Should Title 49, CFR, be added to that section?

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

a. Consider reviewing ch. DHS 157 for the use of slashed alternatives and replacing that phrasing with the alternative that is intended for the context. For example, s. DHS 157.61 (7) (a) 2. b. uses the slashed alternative "and/or" in two instances; it appears that in both instances the word "or" may be the appropriate word. [s. 1.01 (9) (a), Manual.]

b. In s. DHS 157.93 (6) (am), a period should be inserted at the end of the sentence.