



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 18-019

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.]

1. Statutory Authority

- a. The explanation of statutes interpreted as chs. 93, 94, 97, 98, 126, and 168, Stats., is overly broad. The department should cite to the specific statutes interpreted by the proposed rule.
- b. SECTION 42 repeals chs. ATPC 163, 164, 165, and 167, which relate to various tax credits. The plain language analysis does not explain these changes and the department has not included any reference to these changes in its explanation of statutory authority.

2. Form, Style and Placement in Administrative Code

- a. Throughout the rule, the department has changed numbers by striking through part of a number and replacing the stricken material with underscored numbers. For example, in SECTION 12, the department has changed 12th edition to 15th edition as follows: “~~12~~⁵th edition.” Instead, the change should be indicated as “~~12~~⁵th edition”. Likewise, in SECTION 13, the department changed 2003 to 2016 as follows “~~2003~~2016”. This amendment should be indicated as “~~2003~~2016”. The department should revise the rule throughout to strike the full number changed and replace the stricken number with the new, underscored number in its entirety. [s. 1.06 (2), Manual.]
- b. In the relating clause, s. ATPC 91.03 (L) is listed as a rule provision that the proposed rule amends. The proposed rule repeals this rule section. The relating clause should be revised to reflect the correct treatment.

c. The treatment clause of SECTION 3 of the proposed rule should be modified to specify that this SECTION also amends s. ATCP 40.04 (4) (b) and (c). (The treatment is accurately described in the relating clause.)

d. In SECTION 21 of the proposed rule, it appears “Subpart” should be amended to read “Subparts” as a consequence of other amendments in the SECTION.

e. In SECTIONS 23, 25, 26, 27, and 28, the department has specified that various chapters of the administrative code are “amended to replace all instances of ~~permit~~ to license and ~~permits~~ to licenses.” When amending a current rule provision, language to be removed is stricken through and new material to be inserted is underscored. [s. 1.06 (1), Manual.] These changes must be made within the text of each rule provision affected. [See also, s. 1.04 (2) (a) 3., Manual. When a number of rule sections are affected in their entirety by the same treatment but are not consecutively numbered, those sections may not be included in a single SECTION of the rule-making order.]

f. In SECTION 29, “chs.” should be amended to read “ch.”.

g. In SECTION 37, the introductory clause does not refer to par. (i). The introductory clause should be amended to correct that omission. Additionally, no amendment of the existing par. (e) is indicated in the proposed rule. Was an amendment to this provision omitted?

h. In SECTION 40, the desired treatment of the phrase “for_per day” should be reviewed. Also in SECTION 40, the department should replace the hyperlink with the text of the rule.

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

a. In SECTION 31 of the proposed rule, the words “but not limited to” should be removed. “Including” means the list is without limitation. Alternatively, the department could replace “including but not limited to” with “such as”, which would also clarify that the items that follow are illustrative examples.

b. In SECTION 39, what does the department mean by “rebuttably presumed”? How, and in what instances, may the presumption be rebutted?