



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

CLEARINGHOUSE RULE 20-002

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. The agency should review and revise the rule caption’s listing of affected provisions to ensure that it accurately enumerates each provision treated by the proposed rule and the nature of treatment.

b. A date should be inserted for the deadline to submit comments on the proposed rule.

c. The treatment of s. Ins 6.20 (3) (b) in SECTION 3 of the proposed rule should be moved to appear sequentially following the treatment of s. Ins 6.20 (3) (am) in SECTION 4 of the proposed rule. The treatment of s. Ins 6.20 (3) (b) could be included with the treatment of s. Ins 6.20 (3) (d) in SECTION 5 of the proposed rule.

d. In the treatment clause for SECTION 10 of the proposed rule, the designation “(intro.)” should be inserted after the identification of par. (a). Also, in the text of par. (a) (intro.), the colon at the end of the provision should be shown without underscoring.

e. In the treatment clause for SECTION 11 of the proposed rule, the word “replaced” should be revised to “recreated”.

f. In the current text of the rule, s. Ins 6.20 (6) has inconsistent use of paragraph titles. For example, pars. (a), (c), and (d) do not have titles, while pars. (b) and (e) to (h) do have titles. The agency should consider using the opportunity of this proposed rule to revise the paragraphs under sub. (6), for consistent use of paragraph titles. Some of the paragraphs are already amended under the proposed rule.

g. In s. Ins 6.20 (6) (b) 3., 4., and 5., the agency has stricken quotation marks on either side of the number “1”. To improve the readability of the proposed rule changes, the agency could consider striking through each instance of the number “1” within the stricken quotation marks and then inserting a “1” in the underscored language that follows the strike-throughs.

h. In SECTION 16 of the proposed rule, the current text of s. Ins 6.20 (6) (c) 3. should be removed as the provision is not amended. If an amendment or other treatment is intended, the provision should be identified in the treatment clause for the SECTION and the text should be shown with a strike-through and underscoring for any revisions.

i. In s. Ins 6.20 (6) (f) (title), the current title has not been transcribed into the rule accurately; “Limitation” should be “Limitations”. The agency should ensure the current text of the rule has been accurately transcribed into the proposed rule.

j. In s. Ins 6.20 (6) (f) (intro.), the colon that is shown with a strike-through should be removed, and the final colon should be shown without underscoring.

k. The treatment clause for SECTION 24 of the proposed rule identifies s. Ins 6.20 (6) (f) 2. as being amended, and the current text of the provision is shown, but there do not appear to be any amendments to the text. The text should either be shown with any intended amendment appearing with a strike-through and underscoring, or the text of the provision should be removed and the treatment clause should be updated to remove this cite.

l. In s. Ins 6.20 (6) (h) 4. b., the use of the internal colon and list without subunit designations is improper. As division into further subunits is also improper, consider revising the provision to remove the phrase “, at a minimum, all of the following:”. Also, the parenthetical phrases should be removed and, instead, should be set apart with commas.

m. In s. Ins 6.20 (6) (h) 4. c., the format for the reference to “subd. par. (h) 4. b.” should be revised to “subpar. b.”.

n. It appears that the initial applicability clause in SECTION 30 of the proposed rule is unnecessary and should be removed, as it does not describe a point in a process at which the rule would first become applicable (such as occurs in licensing procedures). If the date that is listed is intended to be the effective date of the proposed rule, the effective date clause in SECTION 31 of the proposed rule should be revised to state that “This rule takes effect on January 1, 2021.”.

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

a. In s. Ins 6.20 (6) (f) (intro.), the addition of the words “unless otherwise permitted” is unnecessary and confusing. The phrase should either be removed or a citation should be inserted to identify the standards under which the investment may otherwise be permitted. Compare, for example, the citation provided in par. (b) (intro.).

b. In s. Ins 6.20 (6) (g) 2., the agency requires divestment “unless otherwise permitted or required by the commissioner”. The next subunit, subd. 3., likewise requires divestment “unless otherwise permitted by the commissioner”. These provisions appear to grant the agency authority to allow a town mutual insurer to deviate from rules promulgated as part of this rulemaking. Are there provisions in the current or proposed rule that provide guidance with respect to the circumstances under which the commissioner may exempt a town mutual insurer from these

requirements? A citation should be inserted to identify the governing provisions or applicable circumstances under which a deviation would be allowed. If there are no governing standards, the agency should explain its reasoning in allowing individualized determinations in circumstances that appear to have general applicability and would accordingly otherwise require rulemaking.

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

a. Throughout the proposed rule, to be consistent with the style used in other parts of the rule and current drafting conventions, the agency should ensure that the singular form of a word is used when referring to whom a requirement applies. For example, in s. Ins 6.20 (5) (a) (intro.), the word “insurers” should be revised to “an insurer”, and in s. Ins 6.20 (6) (g) (intro.) and 2. and 3., each instance of the phrase “town mutual insurers” should be revised to “a town mutual insurer”. [s. 1.01 (9) (e), Manual.]

b. In s. Ins 6.20 (3) (em), the agency should consider rewriting the definition of “foreign government”. The term “foreign” is used within the definition to define itself, and the use of the word “therein” within the definition is confusing.

c. In s. Ins 6.20 (6) (b) (intro.), a comma could be inserted between “(d)” and “and”.

d. In s. Ins 6.20 (6) (b) 5g. (intro.) and 5r. (intro.), consider inserting a comma after both instances of the word “funds”.

e. In s. Ins 6.20 (6) (b) 5g. e., the sentence appears to be incomplete. It should form a complete sentence when read with the introductory statement in subd. 5g. (intro.), and have a parallel grammatical structure to the other subdivision paragraphs.

f. In s. Ins 6.20 (6) (b) 5g. f., the agency should revise the phrase “this office” to “the commissioner”.

g. In s. Ins 6.20 (6) (e) (intro.), the rule is modified to allow a town mutual insurer to hold certain stock, regardless of when it was acquired. Currently, this stock may only be held if it was held on December 31, 1995. Because this modification appears to eliminate the grandfathered status of these stocks, the agency should consider removing the phrase “grandfathered provision” from the title of this paragraph.

h. Also in s. Ins 6.20 (6) (e) (intro.), is the insertion of the phrase “of any” necessary?

i. In s. Ins 6.20 (6) (f) 6., the sentence structure is not grammatically consistent with the introductory language in par. (f) (intro.). As written, it is difficult to understand the intent of this provision.

j. In s. Ins 6.20 (6) (g) 3., the provision requires a town mutual insurer to divest of any investment that does not meet the identified requirements “at the time of purchase immediately”. This provision is confusing because it suggests an insurer may purchase an investment that it is required to immediately divest itself of. Consider rephrasing this provision to more plainly state the applicable circumstance and the required action, such as in an “If..., then...” format.

k. In s. Ins 6.20 (6) (h) 4. c., the words “or not” following “whether” are unnecessary and should be removed.