



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 22-075

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

1. Statutory Authority

It appears that the agency’s explanation of statutory authority could more specifically cite to ss. 601.42 (1g) (a) and 601.43 (1) (a), Stats. Additionally, it appears that ss. 623.03 and 623.04, Stats., would be more appropriately referenced under “statutory authority” than “statutes interpreted”, while s. 623.02, Stats., would be more appropriately referenced under “statutes interpreted”.

2. Form, Style and Placement in Administrative Code

a. The proposed rule should include an introductory clause prepared in the style described by the Manual. An introductory clause begins with an enumeration of all of the rule provisions treated by the proposed order and the nature of the treatment and is followed by a relating clause that concisely states the subject matter of the proposed order. [s. 1.01 (1), Manual.] For example, “The Commissioner of Insurance proposes an order to amend Ins 50.01 (9) and 50.155 (1), relating to the office’s access to financial compilations produced by independent certified public accountants in the course of examining the financial statements of insurers.”. Note that this relating clause was provided for the hearing notices associated with the proposed rule, though it does not appear to address the treatment relating to the exemption from internal audit function requirements. Also, note that the bold text beginning “Proposed order...” does not accurately reflect the treatments described in the rule text. It should be clarified to state that the agency is amending a rule, not creating or repealing a rule.

b. In the analysis for the proposed rule, the agency should insert a heading and summary for any comments received during a preliminary comment period or public hearing on the statement of scope. [s. 1.01 (2) (a), Manual.]

c. Following the analysis for the proposed rule, consider removing the phrase “The proposed rule changes are:” and instead inserting a heading for “Rule Text”.

d. In SECTION 2, the proposed rule revises existing text in a manner that deviates from several recommendations prescribed by the Manual. Specifically, the introduction to the list should contain “all of the following:”, or equivalent text, to indicate that each of the items in the list are applicable, and the two paragraphs should be separated by a period, not “; and”. [s. 1.11 (2) and (3), Manual.] However, it is somewhat awkward and uncommon to create a list of two items where one item applies to one set of insurers but both items apply to another set of insurers. The agency could restructure s. Ins 50.155 (1) by amending par. (a) to state that an insurer that is not a member of a group of insurers is exempt from the requirements if the insurer has total annual direct written and unaffiliated assumed premiums of less than \$500,000,000. Paragraph (b) could then specify that an insurer that is a member of a group of insurers is exempt from the requirements if the insurer has total annual direct written and unaffiliated assumed premiums of less than \$500,000,000 and the group has total annual direct unaffiliated assumed premiums of less than \$1,000,000,000. Under this structure, s. Ins 50.155 (1) (intro.) could reflect that an insurer is exempt if either of the following conditions are satisfied.

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

a. In SECTION 1, if the agency wishes to clarify that financial compilations are included even if not produced during a full audit, it should use semicolons instead of commas through the existing series of items included in the definition of “work papers”. When a single item of a series is modified by a comma-separated clause, use of semicolons to separate other items enhances the clarity of the series.

b. Also, in SECTION 1, with respect to further revision to s. Ins 50.01 (9), note that the existing phrase “but are not limited to” is unnecessary. [s. 1.07 (3) (b) 2., Manual.]