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CLEARINGHOUSE RULE 19-074

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 following comments apply to the rule caption's listing of affected provisions:

(1) The affected provisions should be grouped in the following sequence: (a) to repeal; (b) to renumber; (c) to amend; and (d) to create. [s. 1.02 (1) (b), Manual.]

(2) In the listing of the subunits created in s. Trans 309.03 (5), the list should appear as follows: "(5) (j) to (t)". [s. 1.01 (9) (d), Manual.]

(3) Prior to the last item in each series and subunit series, the word "and" should be inserted. For example, in the listing of the created provisions, the word "and" should be inserted between "(8)," and "(9)" in the list for s. Trans 309.03, and again between "309.207," and "309.209".

(4) The citation to "subsection III" should be corrected to "subch. III of ch. Trans 309".

b. The provisions defining the terms "GAWR", "GVWR", and "OEM" should be re-arranged in order to be inserted in alphabetical order among the definitions. [ss. 1.01 (7) (a) and 1.03 (5) (b) (Note), Manual.]

c. In the treatment clause for SECTION 12 of the proposed rule, the designation "(intro.)" should be inserted after "Trans 309.03 (3) (b) 1.". [s. 1.03 (3), Manual.] The designation should also be inserted in the rule caption's listing of affected provisions.

d. In the treatment clause for SECTION 15 of the proposed rule, the series of affected provisions can be identified more simply as "Trans 309.03 (5) (j) to (t)". [s. 1.01 (9) (d), Manual.] Also, in this series of new paragraphs, it appears that a designation as par. (L) was skipped. Was this intentional, or should the paragraphs be re-sequenced to include that designation? [s. 1.03 (2) (d), Manual.]

e. In the treatment clause for SECTION 17 of the proposed rule, the second instance of "309.03" should be removed. This same comment applies to other treatment clauses in which a unit designation is repeated, including SECTIONS 8, 24, and 29.

f. In SECTION 19 of the proposed rule, the treatment clause should be revised to state "Trans 309.06 is renumbered to Trans 309.06 (1)". The text of the provision itself should be removed, unless amendments will be made to that material. Also, the rule caption's listing of affected provisions should be updated to reflect this correction in the category of treatment. [s. 1.067, Manual.]

g. In SECTION 30 of the proposed rule, the text of the renumbered provision should be removed, unless amendments will be made to that material. [s. 1.067, Manual.]

h. In s. Trans 309.15 (2) (c), in order to amend the word "light", the word should be shown with a strike-through, and then the underscored word "lights" should be inserted. [s. 1.06 (2), Manual.]

i. In s. Trans 309.19 (2) (b), the date clause should be revised to the following format: "the effective date of this section . . . . [LRB inserts date].". [s. 1.01 (9) (b), Manual.]

j. In the treatment clause for SECTION 40 of the proposed rule, the citation should be corrected to "subch. III of ch. Trans 309". Also, the SECTION should be moved to follow sequentially after the SECTIONS creating ss. Trans 309.205, 309.207, and 309.209.

k. In s. Trans 309.205 (1), are the use of designations as pars. (b) and (g) and (h) skipped intentionally? Or should the paragraphs be re-sequenced to include those designations?

l. In s. Trans 309.209, the subunit designations should be reviewed and revised as appropriate. The provision creates only one subsection, but, when subunits are created, at least two subunits must be created. Also, the material in sub. (1) does not appear to be an introduction to pars. (a) and (b). It appears that the department may have intended to designate pars. (a) and (b) as subs. (2) and (3); if so, that should be corrected accordingly, or revised as otherwise intended.

m. In s. Trans 309.209 (1) (a):

(1) The abbreviation "s." should be inserted after the word "with".

(2) The citation "(2) (m)" should be corrected to "(2m)".

(3) The word "through" should be revised to the word "to".

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

a. In s. Trans 309.02 (12), it appears that the phrase "an ambulance with a" should be inserted before the identified GVWR range.

b. The department should ensure that similarly structured provisions are phrased consistently. For example, in s. Trans 309.02 (13), a Type I-AD ambulance is defined as "an ambulance **with** 14,001 lb GVWR…" (emphasis added), and in s. Trans 309.02 (15) and (16), a Type III ambulance is defined as "an ambulance **of** 10,0001-14,0000 lb…" and a Type III-AD ambulance is defined as "an ambulance **of** 14,001 lb GVWR…" (emphasis added). Whether the department uses "ambulance with" or "ambulance of", it should use the same phrase consistently.

c. In s. Trans 309.02 (12), (13), and (16), a comma is shown after each instance of the word "means". These commas should be removed.

d. The abbreviation "lb" is used within a number of provisions, but is not a defined term. The proposed rule should be revised to create a definition for the abbreviation. [s. 1.01 (8), Manual.]

e. In the text of the proposed rule, the department uses the acronyms "GVWR" and "GAWR", and does not use the full terms spelled out. Therefore, both acronyms should be the defined terms. For example, GVWR could be defined as follows: "'GVWR' means gross vehicle weight rating. A vehicle's gross vehicle weight rating is the combination of the vehicle's curb weight and total usable payload.".

f. In s. Trans 309.02 (18), the term "Original Equipment Manufacturer" should not be capitalized, as it is not a proper name. [s. 1.01 (4), Manual.]

g. The purpose in creating s. Trans 309.03 (1g) is unclear. The provision specifies that an ambulance service provider based out of state but operating in Wisconsin "shall have their home state's most current inspection on file with the department". But it also specifies that this type of provider must also comply with "this chapter", and, within this chapter, s. Trans 309.03 (1) prohibits any person from using a motor vehicle for the purpose of providing ambulance services unless the vehicle has been inspected and approved by the department for use as an ambulance in this state. Is it the department's intention that an ambulance service provider based out of state but operating in Wisconsin both file a copy of the home state's most recent inspection with the department and also have any ambulance it operates in Wisconsin inspected and approved by the department?

h. Also in s. Trans 309.03 (1g), the proposed rule provides that an ambulance service provider based out of state but operating in Wisconsin must comply with all Wisconsin motor vehicle legal requirements "including ch. Trans 305, s. 347 Stats., and this chapter". If the department's intent is that an out-of-state provider comply with all applicable Wisconsin law, it is unnecessary to also enumerate examples of the laws a provider must comply with. If the department determines it is necessary to retain these examples, it should correct the reference to "s. 347, Stats.". If the department intends the reference to be to ch. 347, Stats., the abbreviation "s." should be revised to "ch.". If the department intends to reference a specific statute within ch. 347, Stats., it should cite to that specific statute.

i. The revisions to s. Trans 309.03 (3) (a) in SECTION 11 of the proposed rule appear to be incomplete and should be revised as appropriate. As relevant to this comment, this section provides that "the 'OUT OF SERVICE' sticker displayed shall be re-inspected by and shall have

the sticker removed by an employee of the division of state patrol...". Did the department intend to specify that an ambulance with an OUT OF SERVICE sticker display must be re-inspected?

j. In s. Trans 309.08 (3) and (4), consider revising the phrasing to refer to "an" ambulance service provider, in the singular, for grammatical consistency with sub. (1) and to conform with current drafting conventions. [s. 1.01 (9) (e), Manual.] Also, in sub. (3), the phrase "original equipment manufacturers or" should be removed, in order to use the defined term "OEM".

k. In ss. Trans 309.10 and 309.11, the identification of the various types of ambulances should be hyphenated to parallel the hyphenation in the definitions. For example, Type I-AD and Type III-AD.

l. In s. Trans 309.14 (2), it appears that the phrase "ambulances interiors" should be revised to "ambulance's interior".

m. In s. Trans 309.15 (2) (g), the second sentence is not a complete sentence and should be revised.

n. In s. Trans 309.18 (1), the revisions are awkwardly phrased and should be revised. For example, in the first sentence, consider moving the inserted phrase "in the cab of the ambulance" to appear after the phrase "mounted radio". Likewise, in the second sentence, consider re-ordering the phrasing to state the requirement more clearly, such as starting with the phrase "In the rear compartment of the ambulance there shall be…".

o. In s. Trans 309.19 (2) (b), the department should insert the word "to" between "equal" and "or". The second-to-last sentence is awkwardly phrased and should be revised; it is not clear what the department intends this sentence to authorize.

p. In s. Trans 309.19 (2) (c), should the word "provider" be inserted after the word "service"? That would appear to be a consistent use of the phrase "service provider".

q. In s. Trans 309.205 (1) (intro.), consider revising the phrasing to refer to "an" ambulance, in the singular, for grammatical consistency with sub. (2) and to conform with current drafting conventions. [s. 1.01 (9) (e), Manual.]

r. In s. Trans 309.205 (1) (a), it is not clear what the department is prescribing. The department should consider revising this paragraph for clarity.

s. In s. Trans 309.207 (4), the word "provides" should be revised to "providers".