



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 04-058

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

2. Form, Style and Placement in Administrative Code

a. The conventional drafting style should be followed where possible. In SECTION 23, s. Comm 47.025 (2) should be repealed and recreated, and in the following SECTION, s. Comm 47.025 (3) to (5) should be repealed.

b. Since s. Comm 47.115 (3) is not being recreated, SECTION 27 should be divided into two SECTIONS -- one that repeals s. Comm 47.115 (3) and one that creates s. Comm 47.115 (note).

c. It is unclear what is being done in SECTIONS 32 and 33. It appears that current par. (a) will become a subd. 3. in the new par. (a). However, there does not appear to be a sub. 1. or 2. in that new paragraph. Also, the new par. (a) does not end in a colon and lead into subd. 3.

d. The repeal and recreation in SECTION 39 should be limited to s. Comm 47.30 (2) (h) to (k). The creation of s. 47.30 (2) (L) to (s) should be done in a separate Section.

e. In s. Comm 47.325 (title), “**Customary**” and “**Costs**” should be lowercase. [See s. 1.05 (2) (b), Manual.]

f. In s. Comm 47.54 (6), the Latin term “ex parte” should be avoided, as should “thereof.” [See s. 1.01 (1) and (9) (c), Manual.] For example, par. (a) could be rewritten along the following lines: “(a) No party or agent of a party may communicate, or knowingly cause a communication, with the arbitrator outside the presence of the other parties without informing

the other parties in advance of the communication.” Similar changes should be made throughout the subsection.

- g. “Department” should not be capitalized in s. Comm 47.623 (2) or 47.70 (4) (b).
- h. In s. Comm 47.69 (1) (b), “par.” should replace “par”.

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

a. A specific cross-reference, rather than a cross-reference to ch. Comm 5, should be provided in s. Comm 47.12 (1) (k).

b. The penalty in s. Comm 47.42 (3) (b) 2. (as renumbered) corresponds with the statutory penalty in s. 101.143 (10) (b), Stats. The statute designates the penalty for violating this statute as a Class G felony. The penalty for a Class G felony is established in s. 939.50 (3) (g), Stats., as a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both. Is there a reason for the different penalty in the rule?

c. The statutes designate the amount at issue as provided in s. Comm 47.54 (1) (a). The statute designates \$100,000 or less, rather than “less than \$100,000,” as established by the rule.

d. The statement regarding other definitions in s. Comm 47.54 (3) (a) 1. is unnecessary. If it is important to call attention to these definitions, that information could be provided in a note.

e. In s. Comm 47.54 (3) (a) 2., the reference to computation of time as provided in s. 990.001, Stats., is unnecessary. The provisions of s. 990.001, Stats., are made applicable to rules by s. 227.27, Stats. If this information is important, it should be provided in a note.

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

- a. There is a surplus hyphen in s. Comm 5.805 (5) (b).
- b. In s. Comm 47.67 (2), should “subsequent” replace “successive”?