



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 06-043

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 January 2005.]

2. Form, Style and Placement in Administrative Code

a. The preface to the rule notes the following with respect to the rule’s effect on small business: “All businesses will have the same effect. There is no differentiation between small business and large business.” The fact that there may be no differentiation is not relevant to the analysis. Sections 227.114 and 227.14 (2) (a) 6., Stats., are intended to direct an agency to consider a rule’s impact on small business and, if possible, to consider methods by which that impact may be lessened. This policy applies regardless of whether businesses that are not small businesses are similarly affected.

b. In the treatment clause in SECTION 13, “Trans 327.06(a)” should be “Trans 327.09 (6) (a).”

c. The treatment clauses of SECTIONS 8 and 9 should be combined as follows:

SECTION 8. Trans 327.05 (5) and (6) are renumbered Trans 327.05 (3) and (4) and Trans 327.05 (4) (b) 1. and 2., as renumbered, are amended to read:

Also, for proper drafting form, in the text in SECTION 8, at the beginning of the amended “(b) 2.”, delete the “(b).”

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

The additional language in s. Trans 327.03 (2) is not as clear as it could be. One possible format for redrafting is as follows:

Trans 327.03 (2) (a) Title 49, Code of Federal Regulations, Part 391, qualifications of drivers, except:

1. 391.11 (b) (1), and 391.41 (b) (3) if...likely to cause a loss of ability to control or operate a commercial motor vehicle.

2. 391.41 (b) (10), if a driver who does not meet the vision standards provides documentation from a licensed vision specialist that he or she does not have progressive eye disease; that his or her vision in the best eye, corrected or uncorrected, is at least 20/40 (Snellen); and that he or she has a minimum of 70-degree visual field from the center of at least one eye. The documentation must be accompanied by a statement from the specialist indicating that the driver's vision is not likely to cause a loss of ability to control or operate a commercial motor vehicle. A driver may apply for an exception or waiver to drive in intrastate commerce by submitting this information with his or her application.

(b) A driver is not eligible for an exception or waiver under par. (a) if he or she has had any (accidents or moving violations) (NOTE: **specify what types of accidents or moving violations—accidents or moving violations while driving commercial motor vehicles, other types of motor vehicles, or both?**) within the 3 year-period prior to the date of the application. After a driver receives an exception or waiver, his or her noncompliance with any applicable reporting requirements may result in cancellation of the exception or waiver.

This is **just an example** of how this provision can be redrafted for clarity and meaning. The department should review and, if necessary, revise this language to make sure that it is in full accordance with the intent of the department in light of the federal regulations.