



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 07-065

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. A large part of the existing ch. Trans 128 is preserved in the proposed order. It may be more useful to provide the reader with the proposed revisions to ch. Trans 128 instead of just repealing and recreating the whole chapter.

b. In s. Trans 128.01 (2) Note, information should be included instructing the reader how the forms may be obtained at no charge.

c. The inclusion of a reference to the definition of “person” under s. 990.01 (26), Stats., is not necessary. [See s. 227.27, Stats.]

d. The phrase, “as used in the definition of authority” is not necessary in the definition of “state agency.”

e. In s. Trans 128.03 (3), the phrase “to the department under this section” is not necessary and should be deleted.

f. In s. Trans 128.05 (1) (a) and (b), the statutory cross-references should be followed by the notation “, Stats.”.

g. In s. Trans 128.05 (10), the phrase “is responsible for assuring” should be replaced by the phrase “shall assure.”

h. In s. Trans 128.09 (1) (c) 9. Note, the notation “, Stats.” should follow the reference “342.06 (2).”

i. In s. Trans 128.09 (5), the introductory material does not grammatically lead into par. (d). Consequently, the introduction should be renumbered as par. (a); pars. (a) to (c) should be renumbered subs. 1. to 3.; and par. (d) should be renumbered as par. (b).

j. In s. Trans 128.10 (2) (c), the notation “(2)” should be replaced by the phrase “this subsection.”

k. In s. Trans 128.13 (3) (a) 1., the second occurrence of the notation “Trans” is unnecessary and should be deleted.

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

a. The defined term “Unpaid citation or unpaid towing and storage charges associated with the citation” could be reduced to something shorter such as: “unpaid citation or charges” and defined accordingly. Alternatively, the wording of this term should be consistent throughout the rule. Also, the element of this definition that restricts its application to cases in which “the person has not appeared in court” may create unintended restrictions. People can appear in court without taking any action to resolve a case. The action that appears to be the target of this phrase is not only an appearance in court, but also some resolution or at least deferred action with respect to a citation or charge. See also s. Trans 128.05 (1) (b) and other rule sections referring to “appearing” before a court.

b. The acronym “TVRP” is used in various contexts throughout the rule and should be separately defined in s. Trans 128.02 (see, for example, the title of s. Trans 128.04). Other defined terms which include “TVRP” should be reviewed to see if reference to this acronym is necessary after it is separately defined (for example, “TVRP case” and “TVRP suspension number”).

c. The acronym “DMV” should be defined in s. Trans 128.02.

d. Section Trans 128.04 (3) (title) and (a) appear to use the words “persons” and “debtor registrant” for people in the same circumstances. Can these be made consistent? Are there other instances in the rule in which the use of these terms can be more precise? (See, for example, s. Trans 128.04 (4).)

e. It may be helpful to define “notice” as used in s. Trans 128.05 (1) and (2) and elsewhere, or to refer to “notice to suspend or refuse registration” or something similar. It is noted that what the department appears to mean by “notice” can be found in the definition of “suspending authority;” however, this may be hard to find.

f. The phrase “while in possession of” in s. Trans 128.05 (5) (b) should be changed to “while in the possession of” or “while possessed by.”

g. The phrase “any of the following occur” should be added to the end of s. Trans 128.08 (4) (intro.). The phrase “do any of the following” should be added to the end of s. Trans 128.09 (5) (intro.). Similarly, other instances of introductory material in the proposal should include such phrases. [See s. 1.03 (8), Manual.]

h. The address for the Division of Hearings and Appeals in the Right to a Hearing information at the end of s. Trans 128.09 (5) (d) may be interpreted by a lay reader to include the Administrative Code site. Consider beginning this paragraph with: “Pursuant to s. HA 1.04 (1), Wis. Admin. Code,” and deleting the cite at the end of this paragraph.

i. What parties do the department intend to have authorization to give the notice of pending bankruptcy under s. Trans 128.10 (1)? As written, this could include notice from the debtor, the bankruptcy trustee, the debtor’s attorney or others.

j. In s. Trans 128.14 (2), the word “or” should be inserted before the phrase “towing and storage charges” in the first sentence.