



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 12-036

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 November 2011.]

2. Form, Style and Placement in Administrative Code

a. Section 1.02 (2) (a), Manual, sets forth 13 required elements of every rule summary, which must appear in the order in which they are listed in the Manual, using the headings specified. The Manual states that if there is no information under a particular heading, the heading should be included and the rule text should state that there is no information. In this rule summary, the first five headings are correct as written. After “Plain language analysis”, the next two headings should be: “Summary of, and comparison with, existing or proposed federal statutes and regulations” and “Comparison with rules in adjacent states”, each with the relevant material that is now under the heading “Federal and Surrounding State Programs” (which should be deleted). The next three headings should be: “Summary of factual data and analytical methodologies”, “Analysis and supporting documents used to determine effect on small business or in preparation of an economic impact analysis”, and “Effect on small business”. These are missing entirely from the rule. The headings “Fiscal Impact”, “Business Impact”, and “Environmental Impact”, should be deleted and the material moved into other appropriate headings. “Agency contact information” should be its own heading, followed by “Place where comments are to be submitted and deadline for submission”.

b. The discussion of federal law and the laws of surrounding states indicates how text messaging is treated, but does not mention how those laws address caller identification.

c. Immediately before the rule text, the title “Text of Rule” should be inserted.

d. The renumbering of existing rule sections and smaller subunits should be avoided if possible. In SECTION 1, rather than renumbering s. ATCP 127.02 (1) and (2), the new definitions should be created as follows:

SECTION 1. ATCP 127.02 (1g) and (1r) are created to read:

ATCP 127.02 (1g) "Caller identification information" means....

ATCP 127.02 (1r) "Caller identification service" means....

The material in SECTION 2 should be deleted and the remaining SECTIONS should be renumbered accordingly. [s. 1.03 (5) (a) and (b), Manual.]

e. In what is now numbered SECTION 6, the phrase "AND INITIAL APPLICABILITY" should be deleted from the title, as the SECTION contains only an effective date provision, and not an initial applicability provision.

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

a. In the Plain language analysis, on line 4 under Background, the word "to" should be inserted after "quarterly fee".

b. In s. ATCP 127.14 (16), what constitutes "misleading" and "inaccurate" caller identification information? For example, is it misleading for the caller identification information to read, "Unknown" or "California number"? Is the intent to require the telephone solicitor's telephone number to display on the caller identification information? The department should clarify what is meant by those terms.

c. Regarding the definition of "text message" in s. ATCP 127.80 (12):

- (1) "Short message service" appears to be integral to the meaning of "text message" and could also be defined. The acronym "SMS" should be part of the definition and may then be used in place of the full phrase, eliminating the need to say "short message service message".
- (2) The meaning of the clause "whether the message is initiated as a short message service message, electronic mail message, or similar electronic communication" is unclear. Are the listed items the various ways in which a text message may be *sent* ("initiated")? If so, it appears that the phrase "as a SMS message, electronic mail message, or similar electronic communication" should be inserted after "sent" on the first line.