



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 17-070

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.]

1. Statutory Authority

Consider whether to revise s. Trans 10.05 to identify, within the rule, the program standards with which a rail transit agency must comply. In that section, the proposed rule states that the department shall adopt a written “program standard”, which shall identify the processes and procedures that must be complied with by a rail transit agency. However, if the department’s future written program standard meets the definition of a “rule”, the department will then need to promulgate the standard as a rule. Subject to certain exemptions, the statutes define a “rule” to include a regulation, standard, statement of policy, or order of general application that governs the procedure of an agency. [s. 227.01 (13), Stats.] If a policy meets the definition of a “rule”, and is used by an agency to govern its enforcement and administration of a statute, then a rule, rather than a written program standard, must be properly promulgated. [s. 227.10 (1), Stats.]

2. Form, Style and Placement in Administrative Code

a. Consider removing s. Trans 10.02 (1) and instead integrating its material into s. Trans 10.01 (1), relating to statutory authority.

b. Consider removing s. Trans 10.02 (2) and (3). The material in sub. (2) appears to be redundant with s. Trans 10.04 (1). The material in sub. (3) appears to be redundant with s. Trans 10.04 (2) (b). Renumber the following sections accordingly, as removing s. Trans 10.02 (1) to (3) will effectively eliminate s. Trans 10.02.

c. Consider removing the acronyms that are not proper nouns from the rule text, for readability. [s. 1.01 (8), Manual.] Acronyms like “CAP” and “SSO” should be removed from the definitions in s. Trans 10.03, and should instead be written out as entire words throughout the rule text. The acronym “RTA” could be removed, but a definition for “rail transit agency” should still remain in s. Trans 10.03 to retain the clarifying point that a “rail transit agency” includes any person who provides services on a rail fixed guideway transportation system.

d. The definition for “SSPP” should be removed entirely from the rule because the acronym “SSPP” is not used anywhere in the rule text. If it were to be used, the phrase should be written out, for readability.

e. Consider modifying the introductory material in s. Trans 10.04 (2) (intro.) to “the department shall do all of the following:”. [s. 1.03 (3), Manual.]

f. The sections of the rule text that follow the introductory material in s. Trans 10.04 (2) (intro.) are difficult to read, and the grammatical structure should be adjusted to logically follow the “all of the following” language. For example, s. Trans 10.04 (2) (a) could be changed to “Remain financially and legally independent...”. [s. 1.03 (3), Manual.]

g. The introductory material in s. Trans 10.04 (2) (a) (intro.) should be revised to include the phrase “by doing all of the following”, or a similar phrase, in order to identify how the following subunits work with the introduction. The grammatical structure of subs. 1. and 2. should also be modified to logically follow the introductory material. [s. 1.03 (3), Manual.]

h. Section Trans 10.04 (2) (b) appears to be conceptually different from the list created under sub. (2). Consider renumbering sub. (2) (b) as sub. (3) and adjusting the numbering of material in s. Trans 10.04 accordingly.

i. Consider modifying the introductory material in s. Trans 10.04 (2) (c) to include the phrase “does any of the following” to specify that an individual who fits into any of the categories described in subs. 1. to 3. may not be employed by the department. [s. 1.03 (3), Manual.]

j. The introductory material in s. Trans 10.04 (3) (intro.) should be revised to include the phrase “by doing all of the following”, or a similar phrase, in order to identify how the following subunits work with the introduction. The grammatical structure of pars. (a) to (f) should also be modified to logically follow the introductory material. [s. 1.03 (3), Manual.]

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

The definition for “rail fixed guideway public transportation system” under s. Trans 10.03 (8) is not used anywhere in the rule text other than by reference in the definition for “rail fixed guideway transportation system” under sub. (9). However, the reference to “rail fixed guideway public transportation system” within sub. (9) is confusing and refers to s. Trans 10.02 (6), which does not exist in the rule text. Consider using only one of these definitions for clarity.

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

The last sentence of the introductory paragraph under the plain language analysis section should include the word “to” between “state” and “establish”.