



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-118

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.]

2. Form, Style and Placement in Administrative Code

a. In the rule caption’s listing of affected provisions, it is not necessary to repeat the source designation “SPS” after the first listing in each category of treatment, and it is not necessary to repeat a superior designation when listing multiple affected subunits. For example, the listing of repealed provisions could begin as follows: “SPS 305.003 (64) and (Note), (31) (Note), and (42) (Note), 305.10 (1) (b) 2. (Note), 305.125 (2) (a) (Note) and (3) and (Note),...”.

b. In the rule summary, references to chapters of the SPS code should consistently include the abbreviation “ch.” or “chs.”.

c. The department should review the entire rule for plural terms and replace with the use of singular terms. [s. 1.01 (9) (e), Manual.]

d. In the treatment clause for SECTION 1 of the proposed rule, sub. (64) and (Note) should not be listed first, but rather at the end, following sub. (42) (Note). Additionally, it is not clear why the department is repealing the definition found in sub. (64), for “rental unit”, and its (Note); this should be reviewed and corrected, if necessary.

e. SECTION 3 of the proposed rule should be separated into two SECTIONS: first to repeal s. SPS 305.10 (1) (b) 2. (Note); and second, to repeal s. SPS 305.125 (2) (a) (Note). Subunits of one rule provision may be treated together in one SECTION, but may not be combined with subunits from a different rule provision. [s. 1.04 (2) (a) 4., Manual.]

f. SECTION 5 of the proposed rule should be divided into five SECTIONS to separately treat the repealed provisions under ss. SPS 305.31, 305.32, 305.323, 305.325, and 305.327.

g. SECTION 34 of the proposed rule is creating a new section in its entirety, s. SPS 318.1018. As such, the treatment clause does not need to specify that a “Note” is being created within the new section.

h. In s. SPS 318.1701 (2) (intro.), it appears that the colon should be shown without a strike-through and the final period should be shown with a strike-through.

i. Two new definitions are created in s. SPS 318.1701 (2) (b) and (c), for “Rated speed, down” and “Rated speed, up”. Both definitions include a list of two items. However, the introductory language in each provision does not specify how the subunits apply. The material in both provisions should be revised to include introductory statements to the subunits, containing a phrase such as “all of the following”. The statements should also form a complete sentence when read with the subunits. [s. 1.03 (3), Manual.]

j. In s. SPS 318.1705 (3) (e) (Note), the abbreviation “chs.” should be inserted before the reference to “SPS 361 to SPS 366”.

k. In s. SPS 318.1802 (4) (a) and (b), when amending the citations “2.1.6.1” and “2.1.6.2”, the entire citation should be shown with a strike-through, followed by the entire new citation underlined. For example, the citation “2.1.6.1” should be shown with a strike-through and “2.1.7.1” should be shown with underscoring.

l. In the treatment clause for SECTION 113 of the proposed rule, although it is clear from the numbering of the individual sections, a bracketed phrase could be inserted to indicate that the created subchapter should follow the last current section. For example, “Subchapter VI of chapter SPS 318 [follows SPS 318.1810] is created to read:”.

m. In s. SPS 318.4200 (4), the provision includes an insert for the effective date of the rule, which could be revised to include the ellipsis, “...”. [s. 1.01 (9) (b), Manual.]

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

a. The department should review its usage of commas throughout the proposed rule, including the following:

- (1) In s. SPS 305.991 (1) (a) (intro.), the phrase “test, remove or dismantle” should be rewritten to read “test, remove, or dismantle”. Similarly, in par. (c), the phrase “testing, removal or dismantling” should be rewritten to read “testing, removal, or dismantling”.
- (2) In s. SPS 318.1702 (10) (b) 3. b., the phrase “the location of the disconnects including room number” should be rewritten to contain a comma before the word “including”. The phrase should also be rewritten to use singular terms.
- (3) In s. SPS 318.17086:
 - (a) In sub. (2) (c) 1., (d) 1., and (g) 1., it is unclear whether each instance of the phrase “machine room or control room or space” means “machine room,

control room, or space” or whether it means “machine room, control room, or control space”. For a comparison, the latter phrase is used at the beginning of each of those provisions. The department should review the intent of this phrase and revise accordingly.

(b) In sub. (2) (c) 3., (d) 3., and (g) 3., in each instance of the phrase “the controller, or the front of the controller”, the comma should be deleted.

b. The proposed rule repeals s. SPS 318.1003 (4), which has language regarding city, village, and town (municipal) authority. In the absence of this provision, it is unclear what authority a municipality may have. The department should consider specifying this in the rule.

c. In s. SPS 318.1004 (12) (m), the phrasing is grammatically incorrect. It appears that the phrase “has the meaning given ‘first aid’”, should have the word “to” or “for” after the word “given”.

d. In s. SPS 318.1007 (2) (c) 3. b. (Note), the phrasing is grammatically confusing. In particular, the phrase “that is considered” is awkwardly placed. Consider rewriting the provision in the active voice to improve readability. For example, the provision could state: “If the scope of work for an escalator includes a replacement of the majority of internal parts, the department considers the work to be a new installation even if the majority of the truss is retained.”.

e. In s. SPS 318.1018 (3), the phrase “within 30 days of the conclusion” should be revised to “within 30 days after the conclusion” to be consistent with how this concept is phrased elsewhere in the administrative code.

f. In s. SPS 318.1705 (3) (cg) and (cw), is the phrase “if of openwork” correct? Should it be rephrased to “if the enclosure is openwork”?

g. In s. SPS 318.17086 (2) (a) 1., the phrasing is grammatically confusing. Consider rewriting the provision in the singular form and making any other revisions to improve readability.

h. In s. SPS 318.170811 (5) (a) 3., it appears that the use of the word “and” is intended to mean “or” in the phrase “elevators, dumbwaiters, and material lifts”. This phrase also should be rewritten in the singular tense. The department should review the intent of this provision and revise accordingly.

i. In s. SPS 318.1802 (9), the phrasing as amended is grammatically incorrect. It is unclear why the phrase “at least 2 cycles”, which is grammatically correct and consistent with proper drafting style, was amended to read “2 cycles minimum”. The department should review the intent of this revision and consider retaining the current language.

j. In ss. SPS 318.4205 (2) and (3), 318.4206 (2), and 318.4208 (1) and (2), the term “competent person” or “competent persons” is used, but the proposed rule does not explain what this means or who determines competency. The department should review the intent of this term and revise for purposes of clarity.