

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 95-118

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 October 1994.]

2. Form, Style and Placement in Administrative Code

a. Introductory material should always end with a colon and lead into the subunits that follow. [See s. 1.03 (8), Manual.] Since s. OCT 5.04 (4) (intro.) is not drafted in this manner, it is suggested that it be renumbered par. (a) and that current pars. (a) and (b) be renumbered pars. (b) and (c), respectively.

b. The treatment clause in SECTION 1 of the rule is sufficient to repeal s. OCT 5.04 (5) (d). Accordingly, the colon should be replaced by a period and the remainder of the SECTION should be deleted.

c. SECTIONS of a rule should be placed in order according to the numerical order of the decimal-numbered provisions of the text of the rule. [See s. 1.04 (1), Manual.] For example, the creation of s. OCT 5.02 (7) should precede the amending of s. OCT 5.03 (1) (b). Accordingly, SECTIONS 1, 8 and 9 of the rule are out of order.

d. Because s. OCT 5.04 (5) treats rates for nonferrous recyclables and other materials differently, it would be helpful to users of the rule if the rates for nonferrous recyclables were treated in a separate subsection.

e. If the office placed its address in notes rather than in the text of ss. OCT 5.07 (2) (b) and 5.10 (2), it would be possible to change it in the future without going through the rule-making process.

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

a. Section OCT 5.03 (1) (b) provides that other tariff changes may become effective on less than 10 days notice upon a showing of good cause as contemplated by 49 C.F.R. s. 1312.2. However, although 49 C.F.R. s. 1312.2 appears to relate to applications for special tariff authority, it does not appear that it contemplates or specifies good cause criteria. It would be helpful to identify better the good cause to which the rule refers.

b. Section OCT 5.04 (4) refers to the “evidentiary guidelines of the interstate commerce commission.” It would be helpful to users of the rule if a note were included identifying where those guidelines are found or where a copy may be obtained.

c. It would be helpful if a note could be included with the rule indicating where the various interstate commerce commission guidelines and orders identified in s. OCT 5.04 (5) (intro.) can be located or obtained.

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

a. In s. OCT 5.03 (1) (d), the term “pars.” should be inserted after the phrase “provisions of.” In addition, while the rule authorizes a railroad to file a petition, it does not appear to contemplate the office granting such a petition. It seems that the addition of a sentence similar to the following would help clarify the rule: “The office may grant a petition under this paragraph if it finds good cause for doing so.” It may also be helpful to clarify what qualifies as “good cause” for purposes of par. (d).

b. In the last sentence of the first page of the fiscal estimate, it appears that a word is missing after the word “merely.”