



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 07-113

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.]

1. Statutory Authority

Section TA 1.13 (1) to (3) interprets information found in s. 73.01 (5) (a), Stats. Generally, s. TA 1.13 modifies the statutory requirement that a filing fee must be received at the time a petition is filed. The commission should more fully explain the rationale for amending the rule in a manner that appears to conflict with the plain language of the statute; there should be more than a citation to an unpublished case without precedential value.

2. Form, Style and Placement in Administrative Code

- a. The citation of related statutes and rules contains two references to s. 341.45, Stats.
- b. The rule analysis contains several references to s. TA 1.30. However, the section does not exist in the current administrative code.
- c. Amendments to the titles of chapters and subchapters should occur sequentially throughout the rule. Chapter and subchapter titles are written in solid capital letters. Language to be removed should be stricken-through and material to be inserted should be underscored. [See ss. 1.05 (2) (a) and (3) (a) and 1.06 (1), Manual.]
- d. In s. TA 1.01 (1), the first underscored material should follow the phrase “~~They should be.~~” The entire rule should be reviewed for the correct format. [See s. 1.06 (1), Manual.] In sub. (4), the word “shall” should be replaced by the word “does.”

e. Section TA 1.15 (1) appears to be amended through the removal of the words “of revenue.” The words should be stricken-through. [See s. 1.06 (1), Manual.] Section TA 1.15 (3) and (4) are amended and should be included in the treatment clause. Section TA 1.15 (title) and (2m) are not amended and should not be included in SECTION 10.

f. Generally, when a section of the proposed rule modifies or creates a note, the introductory and treatment clauses of the rule should refer to the note. For example: “TA 1.15 (5) and Note are created....”

g. In s. TA 1.35 (2), “advises” should be replaced by “advise advises.” [See s. 1.06 (2), Manual.]

h. SECTION 34 of the proposed rule should be deleted since no action is taken on s. TA 1.59.

i. In SECTION 35 of the proposed rule, it is unnecessary to use strike-throughs when repealing an entire rule unit. The statement of repeal in the treatment clause is sufficient [s. 1.06 (1), Manual.]

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

a. In the rule preface analysis of SECTION 18, the citation “73.01 (b)” is incorrect. See, also, “73.0 (1) (b)” in s. TA 1.001 Note; “227.07 (4)” in s. TA 1.33 Note; and “71.12 (3)” in s. TA 1.51 Note.

b. In ss. TA 1.23 and 1.29, the reference to “these rules” should be specific. [See s. 1.07 (1) (a), Manual.] In s. Tax 1.29, the reference to “ch. 73, ch. 227” should be “chs. 73 or 227, Stats.,”.

c. In s. TA 1.35, specific references to statutes should remain in the text of the rule.

d. In s. TA 1.53, the reference to s. 227.45 (1) to (7), Stats., is superfluous since subs. (1) to (7) describe s. 227.45, Stats., in its entirety.

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

a. In the rule preface analysis of SECTION 2, the word “a” should be inserted before the word “consolidated.”

b. In s. TA 1.001 (6), the references to Department of Revenue and Department of Transportation should not use capital letters. [See s. 1.01 (4), Manual.]

c. In s. TA 1.01 (1), “s.” should be placed before “TA 1.57.” [See s. 1.07 (2), Manual.]

d. In s. TA 1.05, is the reference to central standard time consistent with the observance of daylight saving time? A reference to central time or the central time zone may be more appropriate. The text of this provision would more appropriately be placed in s. TA 1.001 as a definition of the term “business hours.”

e. In s. TA 1.13 (1), the phrase “that is not a legal holiday” is superfluous since the definition of “working day” already excludes certain holidays.

f. In s. TA 1.17, a space should be removed between the letters “t” and “i” of the word “participant.”

g. In s. TA 1.19, the phrase “of revenue” is unnecessary, since “department” is a defined term, and should be stricken through.

h. In s. TA 1.21, “s.” should be placed before “TA 1.19.” [See s. 1.07 (2), Manual.]

i. In s. TA 1.31 (5), “participant(s)” should be replaced by “participants.” [See ss. 227.27 (1) and 990.001 (1), Stats.]

j. In s. TA 1.39, the phrase “has the discretion to” should be replaced by the word “may.”

k. In s. TA 1.57 (4), “s.” should be placed before “TA 1.15 (2) (a).” [See s. 1.07 (2), Manual.]

l. In s. TA 1.57 (5), the slashed alternative “and/or” should be replaced by the word “or.”

m. Generally, the rule should be reviewed for appropriate and consistent use of defined terms including “parties” and “participants.” For example, in s. TA 1.21, would someone other than a party file an amendment to a petition, answer or reply? Should s. TA 1.34 (2) refer to participants rather than parties?