



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Pam Shannon
Clearinghouse Director

Scott Grosz and Jessica Karls-Ruplinger
Clearinghouse Assistant Directors

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 11-043

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 September 2008.]

1. Statutory Authority

Two of the statutes the department cites, ss. 85.16 (1) and 227.11, Stats., appear to provide authority for this rule. [The ch. 227, Stats., citation should read s. 227.11 (2) (a).] However, the department also cites s. 343.02 (1), Stats., as authority. Section 343.02 (1), Stats., only explicitly authorizes the department to promulgate rules relating to the administration and enforcement of ch. 343, Stats. The department’s analysis states that the rule interprets ss. 344.01 (2) (c), 344.15 (1), and 344.33 (2) (a) to (c), Stats., which are all located within ch. 344, Stats. The department should explain why s. 343.02 (1), Stats., is cited as authority to interpret provisions of ch. 344, Stats. It appears that the department should cite s. 344.66, Stats., which directs the department to promulgate rules to implement and administer subch. VI of ch. 344, Stats., which relates to mandatory liability insurance.

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

a. The first paragraph of the plain language analysis is sufficient to comply with the requirement for an analysis. “The purpose of the summary of the rule is to provide an understandable and objective description of the effect of the rule. The summary is not intended to be an exhaustive discussion of the rule, but should contain sufficient detail to enable the reader to understand the content of the rule and the changes made, if any, in existing rules.” [Section 1.02 (2) (c), Manual.] Paragraphs 2 through 5 go beyond the scope of this requirement.

If the department believes the information in these paragraphs is necessary to understand the anticipated effect on small businesses, these paragraphs would more appropriately be included in that section. Alternatively, if the department believes the economic impact discussed in these paragraphs applies to more than just small businesses, this analysis might be included in the fiscal estimate instead.

b. Under the heading, “Analysis and supporting documentation used to determine effect on small businesses,” the department wrote only the following: “The Department anticipates that this regulatory change will have a fiscal effect on small business.” This sentence states the department’s conclusion, but it does not describe the analysis and supporting documentation used to reach this conclusion as required by s. 227.14 (2) (a) 6., Stats.

c. The rule summary contains the following heading, “Anticipated costs incurred by private sector.” Neither s. 227.14, Stats., nor the Manual requires the rule analysis to include a distinct section addressing a rule’s impact on the private sector. The department should limit headings in the rule analysis to those listed in the Manual. [s. 1.02 (2) (a), Manual.]

Section 227.14 (4) (b) 3., Stats., specifies that the *fiscal estimate* should include anticipated costs to the private sector if the department determines a rule will have a significant fiscal effect on the private sector. The department has included this information in the fiscal estimate, so its inclusion in the rule analysis is unnecessary.