



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 12-034

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 November 2011.]

2. Form, Style and Placement in Administrative Code

a. If the agency has not done so, it should review the following requirements that apply to proposed rules that affect small business and determine which, if any, are applicable to the proposed rule:

- (1) Section 227.114, Stats., requires an agency to take certain action if a proposed rule *may have an effect* on small business. If the proposed rule may have an effect on small business, the agency should insert the phrase “and affecting small business” at the end of the relating clause and explain in the analysis the effect on small business and the analysis and supporting documents used to determine the effect on small business under s. 227.114, Stats. The agency should also comply with any other requirements in s. 227.114, Stats. [s. 1.02 (1) (c) and (2) (a) 9. and 10., Manual.]
- (2) If the proposed rule *will have an effect* on small business, the agency must prepare an initial regulatory flexibility analysis. [s. 1.02 (6), Manual, and s. 227.17 (3) (f), Stats.]
- (3) If the proposed rule *may have an economic impact* on small business, the agency must submit the proposed rule to the Small Business Regulatory Review Board on the same day that the rule is submitted to the Rules Clearinghouse. [s. 1.02 (6), Manual, and s. 227.14 (2g), Stats.]

b. In the analysis of the proposed rule, the “Comparison with rules in adjacent states” references payday lenders when discussing Minnesota law, which appears to be an incorrect reference. Also in the discussion of Minnesota law, it is unclear whether or not Minnesota has rules relating to the retail value of motor vehicles for title loans.

c. The title of ch. DFI-Bkg 78 should follow the format prescribed in s. 1.05 (2) (a), Manual.

d. In s. DFI-Bkg 78.02, the agency should create another subsection and define “division” in that subsection, perhaps by referencing s. 138.16 (1) (a), Stats. However, if no additional subsection is created, “In this chapter: (1)” should be replaced with “In this chapter,”. [ss. 1.01 (7) and 1.03 (1), Manual.]

e. In s. DFI-Bkg 78.03 (1) (b), “NADA” should be spelled out. [s. 1.01 (8), Manual.]

f. In s. DFI-Bkg 78.03 (2), “all of” should be inserted before “the following”. [s. 1.03 (3), Manual.]

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

a. In s. DFI-Bkg 78.02, “s. 138.16 (b), stats.” should be replaced with “s. 138.16 (1) (b), Stats.” In addition, “stats.” in s. DFI-Bkg 78.01 should be capitalized. [s. 1.07 (2), Manual.]

b. In the fiscal estimate and economic impact analysis, “Chapter 76, Title Loans” should be replaced with “Chapter DFI-Bkg 78, Title Loans”. [s. 1.07 (2), Manual.]

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

In s. DFI-Bkg 78.04, it appears that “by the licensed lender” should be inserted after “retained.”