



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 20-020

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 summary’s listing of statutory authority, the citation to s. 227.10 (1), Stats., should be removed, as that provision governs administrative rulemaking procedures and does not identify a subject matter that is administered by the agency. [s. 1.02 (2m), Manual.]

b. In the rule caption’s enumeration of provisions treated, make the following changes:

- (1) Group the provisions in the following order: to repeal; to renumber; to renumber and amend; to amend; to repeal and recreate; and to create. [s. 1.02 (1) (b), Manual.]
- (2) Remove the repeated section and subunit designations. For example, the repealed provisions should be listed as “Trans 313.01 (note), 313.03 (14), (19), and (25), 313.04 (5) (e) 1., 313.10 (6) (b) (note), and 313.11”.
- (3) Remove the reference to s. Trans 313.01 (1) (a), because there is no corresponding treatment of that provision in the proposed rule.
- (4) Move the listing of s. Trans 313.03 (24) from the created provisions to the amended provisions, as reflected in the treatment clause for SECTION 23 of the proposed rule.
- (5) Insert a listing for the creation of s. Trans 313.04 (1) (b), as shown in SECTION 30 of the proposed rule.

(6) Place a period after the subdivision designation for each of the following provisions:

(a) Trans 313.04 (2) (b) 3., 4., 5., 5. (note), and 6.

(b) Trans 313.04 (5) (d) 2m., 3m., and 8.

(c) Trans 313.04 (5) (e) 3. (note) and 4.

(d) Trans 313.10 (1) (b) 1. and (note).

(7) Correct the listing of s. Trans “13.04 (5) (f)” to “313.04 (5) (f)”.

c. A relating clause that briefly identifies the subject matter of the proposed rule should be inserted in the rule caption following the enumeration of treated provisions. For example, “relating to breath alcohol ignition interlock devices”. [s. 1.02 (1) (a), Manual.]

d. Throughout the proposed rule, where a title is amended or created, the font style used for the title should follow the format indicated by s. 1.05 (2), Manual. For example, a paragraph title uses an initial capital letter and italics, not solid capital letters. See, for example, SECTION 64 of the proposed rule.

e. Several SECTIONS of the proposed rule could be combined. When two or more subunits of the same rule section are affected by the same treatment, and any intervening subunits are unaffected, they may be included in the same SECTION of the proposed rule. [s. 1.04 (2) (a) 4., Manual.] This is true also for notes. Thus the following SECTIONS could be combined: 6 to 9; 12 and 13; 26 and 27; 48 and 49; 64 and 65; 73 and 74; 83 and 84; 92 and 93; and 129 and 130.

f. In s. Trans 313.03 (7), the word “Calibration” should be shown without bold font.

g. Also in s. Trans 313.03 (7), the first strike-through, first underscoring, and second strike-through should be revised to strike-through the contiguous stricken material in its entirety and then insert the new matter at the end of the stricken material. In other words, the text should appear as “~~processes which~~ process”, rather than “~~processes process~~ which”. Also, the final period should be shown without underscoring. [s. 1.06 (1) (a), Manual.]

h. Section Trans 313.03 (8) changes the defined phrase “chief of the chemical test section” to “chief of the chemical testing section”. However, the two instances in which that phrase is used in the current rule are revised in the proposed rule to refer only to the “chemical testing section”, without reference to the chief of that section. Accordingly, the defined phrase should likewise be revised to remove the reference to the chief of that section and define the term “chemical testing section” instead.

i. In s. Trans 313.03 (16g), the department should consider modifying the definition of “minimum sample acceptance criteria”. As written, it appears to describe the **sample** rather than the **criteria**. Also, by stating in the definition that a minimum sample acceptance criteria is one that “meets” certain standards, the definition partially duplicates the new definition of “passing breath sample” in SECTION 14 of the proposed rule. Based on how the department described its intent in the rule summary, the department could consider a definition of “minimum sample acceptance criteria” along the following lines: “means the criteria, such as volume, flow,

temperature, humidity, or chemistry, established by the manufacturer for detection of whether a given breath sample had been provided by a human being”.

j. In SECTION 13 of the proposed rule, the treatment clause and the rule text do not match. The treatment clause indicates that a note is created in s. Trans 313.03 (16m), but the text code caption in SECTION 13, as well as the rule caption’s listing of affected provisions, shows a note created in s. Trans 313.03 (16g). It appears that the designation in the treatment clause reflects the department’s intent and that the designation shown in the text code caption and rule caption should be corrected.

k. In s. Trans 313.03 (17), the first strike-through, first underscoring, second strike-through, and second underscoring should be revised to strike-through the contiguous stricken material in its entirety and then insert the new matter at the end of the stricken material. In other words, the text should be shown as “feature of a condition in which the”, rather than “feature condition of a in which the”. [s. 1.06 (1) (a), Manual.]

l. In s. Trans 313.03 (26m), the first word in both pars. (a) and (b) should be capitalized.

m. In SECTION 28 of the proposed rule, is the department attempting to repeal pars. (a) to (c) of s. Trans 313.03 (27)? If so, the SECTION should be separated into two SECTIONS: first, to renumber and amend s. Trans 313.03 (27) (intro.) to Trans 313.03 (27); and, second, to repeal s. Trans 313.03 (27) (a) to (c).

n. Also in s. Trans 313.03 (27), the amended definition of “violation reset” uses the term “device user”. That term is not defined or used elsewhere in ch. Trans 313. It seems to have a plain meaning and perhaps does not need its own definition. However, if the defined term “customer” is a suitable synonym for “device user”, the department could use the existing defined term instead.

o. In the treatment clause for SECTION 29 of the proposed rule, the correct form is as follows: “Trans 313.04 (1) is renumbered Trans 313.04 (1) (a) and amended to read:”. The rule caption’s listing of affected provisions should also be revised to include this provision; it does not currently contain an entry for s. Trans 313.04 (1).

p. In the treatment clauses for both SECTIONS 31 and 32 of the proposed rule, the designation “(intro.)” should be inserted. The rule caption’s listing of affected provisions should also be updated to reflect the specific designations.

q. In s. Trans 313.04 (2) (b) (intro.), the first strike-through, first underscoring, and second strike-through should be revised to strike-through the contiguous stricken material in its entirety and then insert the new matter at the end of the stricken material. In other words, the text should be shown as “An application for certification shall The applicant shall”, rather than “An The applicant shall application for certification shall”. [s. 1.06 (1) (a), Manual.]

r. In s. Trans 313.04 (2) (b) 2., the comma after “removal” should be underscored because it is being inserted.

s. In s. Trans 313.04 (2) (b) 3., the final period should be shown without underscoring.

t. In the treatment clause for SECTION 36 of the proposed rule, a period should be inserted after the subdivision designation “5”.

u. In SECTION 42 of the proposed rule, in order to align with the designation given in the treatment clause for the SECTION, the code caption at the beginning of the text of the rule should be corrected from subdivision designation “3.” to “12.”.

v. In s. Trans 313.04 (2) (b) 17., the catchall provision that requires an applicant to provide “any other information” required by the department should be moved to appear as the final subdivision after all other specific requirements are listed.

w. In SECTIONS 50 and 124 of the proposed rule, the provisions each refer to requirements “of ch. Trans 313”. Because each is an internal cross-reference, the proposed rule should refer to requirements “of this chapter”. [s. 1.07 (2), Manual.]

x. In s. Trans 313.04 (3), the final period should be shown without underscoring.

y. In SECTION 59 of the proposed rule, a new introduction is being added to s. Trans 313.04 (5). Thus, the treatment clause should read as follows: “Trans 313.04 (5) (title) is renumbered Trans 313.04 (5) (intro.) and amended to read:”. The rule caption’s listing of affected provisions should be similarly modified to reflect the treatment to renumber and amend.

z. In s. Trans 313.04 (5) (a), the abbreviation “, WI” should be inserted after “Madison”. Also, consider deleting the information on where to find the model specification and instead create a note for that information.

aa. In s. Trans 313.04 (5) (bm) (intro.), the department should revise the phrase “include these features:” to “include all of the following features:”.

bb. In s. Trans 313.04 (5) (c), the stricken-through word “A” should precede the insertion of the new title.

cc. In s. Trans 313.04 (5) (cs) 2., the stricken-through word “a” should be removed.

dd. In the treatment clause for SECTION 68 of the proposed rule, the designation “(intro.)” should be inserted. The rule caption’s listing of affected provisions should also be updated to reflect the specific designation.

ee. In the treatment clause for SECTION 69 of the proposed rule, a period should be inserted after the subdivision designation “2m”.

ff. In SECTION 75 of the proposed rule, the only change is the insertion of a title. The treatment clause for SECTION 75 should read as follows: “Trans 313.04 (5) (e) (title) is created to read:”. The text of SECTION 75 should read in its entirety as follows, without underscoring: “Trans 313.04 (5) (e) *Information provided to customer.*”. [See s. 1.05 (2) (d) and (3) (a) (second example), Manual.] The rule caption’s listing of affected provisions should also be updated to reflect the revised type of treatment.

gg. In the treatment clause for SECTION 76 of the proposed rule, a period should be inserted after the subdivision designation “1”.

hh. In SECTION 78 of the proposed rule, is the department attempting to repeal subd. pars. a. to c. of s. Trans 313.04 (5) (e) 3.? If so, the SECTION should be separated into two SECTIONS: first, to renumber and amend s. Trans 313.04 (5) (e) 3. (intro.) to Trans 313.04 (5) (e) 3.; and,

second, to repeal s. Trans 313.04 (5) (e) 3. a. to c. Also, the stricken colon should be shown contiguously with the stricken material from the current text.

ii. In s. Trans 313.04 (5) (h) (note), the two cross-references to other paragraphs that are also within s. Trans 313.04 (5) should be revised to refer only to the paragraph. For example, “in accordance with par. (i)”. [s. 1.07 (2) (Table), Manual.]

jj. In s. Trans 313.04 (5) (L), the paragraph designation should be shown as a capital “L”. [s. 1.03 (2) (d), Manual.]

kk. In s. Trans 313.04 (5) (m), the cross-reference to “par. (6)” should be corrected to “sub. (6)”.

ll. In s. Trans 313.04 (5) (n) 3., the stricken-through comma should be removed.

mm. In s. Trans 313.04 (6) (title), the errant underscore between “(6)” and “IGNITION” should be removed.

nn. In s. Trans 313.04 (6) (f) (intro.), 1., and 2., the acronym “GPS” is used in four instances. The department should either spell out the term in each instance, or add the acronym to the definitions in s. Trans 313.03. [s. 1.01 (8), Manual.]

oo. In SECTION 92 of the proposed, undesignated text follows s. Trans 313.04 (6) (f) 2. To avoid this, the department could change “(f)” to “(f) 1.”, “1.” to “a.”, and “2.” to “b.”, and could designate the undesignated text as “2.”. [See generally s. 1.03 (1) (Example), Manual.]

pp. In s. Trans 313.04 (6) (g), the cross-reference to “subd. (b) 8.” should be corrected to “par. (b) 8.”.

qq. In the treatment clause for SECTION 95 of the proposed rule, the subsection designation “(1)” should be inserted. The rule caption’s listing of affected provisions should also be updated to reflect the specific designation.

rr. In s. Trans 313.07 (3), the period and phrase “. This request” should be shown with a strike-through before the underscored material.

ss. In s. Trans 313.08, a section title should be inserted to appear before the subsection designation and title.

tt. In s. Trans 313.08 (1), the department should consider revising or relocating par. (e) in light of the following questions:

- (1) Most of sub. (1) addresses procedures to be followed when a device is modified. Paragraph (e), however, appears to address repairs generally, whether a device has been modified or not. Is that the intent?
- (2) Subsection (1) imposes requirements only on a manufacturer (as indicated by the introductory language). The second sentence of par. (e), however, imposes a requirement on a manufacturer-authorized device repair facility. Is there a more fitting location elsewhere in the proposed rule for this requirement?

(3) The second sentence of par. (e) is the only provision in sub. (1) that establishes a condition on device approval. Should that condition be moved to a provision addressing device approval, such as s. Trans 313.04 (5)?

uu. In the treatment clause for SECTION 103 of the proposed rule, the designation “(intro.)” should be inserted. The rule caption’s listing of affected provisions should also be updated to reflect the specific designation.

vv. In the treatment clause for SECTION 105 of the proposed rule, a period should be inserted after the subdivision designation “1”, and the period after “(note)” should be removed. In the text, the code caption “Trans 313.10 (1) (b) (note)” should be changed to “Trans 313.10 (1) (b) 1. (note)” to reflect the subdivision designation.

ww. In s. Trans 313.10 (7), the final period should be shown without underscoring.

xx. In the treatment clause for SECTION 120 of the proposed rule, the correct form is as follows: “Trans 313.10 (9) is renumbered Trans 313.10 (9) (a).”. In addition, the text of the newly renumbered portion of the rule should not be shown, as there do not appear to be any amendments. [See s. 1.067 (first example), Manual.]

yy. In s. Trans 313.10 (11), the subsection title should not be underscored because it is part of a newly created rule provision. [s. 1.055 (2), Manual.]

zz. In s. Trans 313.105 (5), consider separating the subsection into subunits for easier readability.

aaa. In the treatment clause for SECTION 127 of the proposed rule, the designation “(intro.)” should be inserted. The rule caption’s listing of affected provisions should also be updated to reflect the specific designation.

bbb. In addition to making other changes, SECTION 127 of the proposed rule repeals a note. The repeal should be shown in a separate rulemaking SECTION and be added to the enumeration of provisions treated and in the proper sequentially numbered rule section. [s. 1.09 (1), Manual.] The text of the note that is repealed should not be shown. [s. 1.09 (2) (b), Manual.]

ccc. In the treatment clause for SECTION 128 of the proposed rule, the correct form is as follows: “Trans 313.13 (2) is renumbered Trans 313.13 (2) (a) and amended to read:”. The rule caption’s listing of affected provisions should also be updated to reflect the revised treatment clause. In the text code caption, the designation “(a)” should be shown without underscoring.

ddd. In s. Trans 313.13 (2) (b), the errant underscore between the code caption designation “(b)” and the word “All” should be removed.

eee. In s. Trans 313.13 (2) (b) (note), the acronyms “IID” and “OWI” are used for the first time. The department should either spell out the terms, or add the acronyms to the definitions in s. Trans 313.03. [s. 1.01 (8), Manual.]

fff. In SECTION 133 of the proposed rule, the text of s. Trans 313.14 (2) should be removed as the treatment clause indicates that only sub. (1) is repealed and recreated, and the text of sub. (2) does not appear to be amended.

ggg. In SECTION 137 of the proposed rule, is the note that follows s. Trans 313.16 (5) misplaced? It discusses the department's response to "any proposed communication". However, sub. (5) does not mention departmental communications.

hhh. The department should consider adding an initial applicability provision for the proposed rule to make it clear whether the new rules apply to a pending application when the rule takes effect. For example, the rule could specify that the provisions apply to an application that is submitted on or after the effective date of the rule. [s. 1.02 (3m), Manual.]

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

In SECTION 31 of the proposed rule, a note should be inserted to indicate how the form referenced in s. Trans 313.04 (2) (a) (intro.) may be obtained. The same comment applies to the forms referenced in s. Trans 313.04 (2) (b) 14. and 17. [s. 1.09 (3), Manual.]

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

a. In the rule summary, the department should proofread the plain language analysis section. There are a number of grammatical errors. For example:

- (1) On page 8, in the first full paragraph, the word "to" should be inserted between "order" and "prevent".
- (2) On page 8, in the last paragraph, "more quickly that a device" should be "more quickly than a device".
- (3) On page 9, the use of quotation marks around defined terms should be uniform. In the second full paragraph, "manufacturer" should appear in quotation marks, and a closed quotation mark should be added for "service provider". In the last paragraph, "calibration" should appear in quotation marks.

b. Throughout the proposed rule, "days" are referred to variously as "days", "calendar days", "working days", and "business days". These terms should be examined for consistency and accuracy. For instance, is there a difference between a "business day" in SECTION 107 and a "working day" in SECTION 116? Also, does the insertion of "calendar" before "day" in a few places, such as in SECTION 98, suggest that an unadorned "day" elsewhere is something other than a calendar day?

c. Throughout the proposed rule, the department should review and revise the references to "Wisconsin" for consistency. The proposed rule includes the following formulations:

- (1) A reference to "in the state of Wisconsin". [e.g., SECTIONS 59 and 101.]
- (2) A reference to "in Wisconsin". [e.g., SECTIONS 42 and 101.]
- (3) A reference to "in this state". [e.g., SECTIONS 45 and 107.]
- (4) A reference to "in this State". [e.g., SECTION 124.]

d. Throughout the proposed rule, the department should examine references to service centers to ensure accuracy and eliminate redundancy. The term "service center" is defined in

SECTION 21 as including both a “fixed, permanent service center” and a “mobile service center”. In light of that definition, the following provisions of the proposed rule should be examined:

- (1) In SECTION 95, s. Trans 313.07 (1) (i) should be modified so that the reference to “a service center” is instead to a “fixed, permanent service center”. Without that modification, a mobile service center operator would have to notify the department every time the mobile service center changed location, which does not appear to be the department’s intent.
- (2) In SECTION 101, the department should clarify when “service center” actually means “fixed, permanent service center” in s. Trans 313.09 (2). For instance, in the first sentence it appears that the “service center sites” should probably be “fixed, permanent service center sites”. (Also, the second sentence of s. Trans 313.09 (2) contains an incorrect reference to a “mobile center” that should be changed to “mobile service center” unless it is otherwise addressed as a result of these comments.)
- (3) SECTIONS 106 and 121 need not refer to service centers **and** mobile service centers because the former includes the latter.
- (4) In SECTION 123, the department should consider whether s. Trans. 313.10 (11) (a) is necessary.

e. The proposed rule retains the current code definition of “device” in s. Trans 313.03 (12). In addition to using that established term, the proposed rule also uses the new terms “handset” and “vehicle module” throughout. Are those items part of a device? If so, should that be specified in the proposed rule?

f. In s. Trans 313.01, a comma should be inserted after the reference to “940.25 (1d)”.

g. In s. Trans 313.03 (9), the definition of “circumvention” is amended by adding a new sentence. To achieve noun-verb agreement in that sentence, the word “disconnecting” could be revised to the phrase “disconnection of”. Likewise, in s. Trans 313.03 (24), the definition of “tampering” is amended by adding a similar new sentence. To achieve noun-verb agreement in that sentence, the phrase “disconnection of” could be revised to the word “disconnecting”.

h. In s. Trans 313.03 (22m), the second sentence refers to both plural “centers” and singular “center”. These should be harmonized. Generally, the singular is preferred. [s. 1.01 (9) (e), Manual.]

i. In s. Trans 313.04 (1) (b), does the term “successor owner” cover all of the contingencies contemplated by that paragraph? Would “new person” be a more universal term?

j. Sections Trans 313.04 (2) (b) 8., 313.10 (3) (e) (note), and 313.16 (4) each use the term “approved manufacturer-authorized repair facility”. Section Trans 313.105 (6) (intro.) uses the term “manufacturer-authorized device repair facility”. Section Trans 313.08 (1) (e) uses both terms. The department should consider using these terms uniformly. If “approved manufacturer-authorized device repair facility” is the correct term, the proposed rule should specify who grants approval and on what basis.

k. In s. Trans 313.04 (2) (b) 10., the department should consider changing “A list of other jurisdictions” to the singular “A list of any other jurisdiction”, because s. 340.01 (41m), Stats., defines the singular term “other jurisdiction”. Also, in the second sentence, the department should replace “that state” with “that jurisdiction” because non-state jurisdictions, like territories, possessions, and Canadian provinces, are included in the cross-referenced definition in s. 340.01 (41m), Stats.

l. In s. Trans 313.04 (2) (b) 11., should “other jurisdictions” be changed to the singular “other jurisdiction” and be cross-referenced to the definition of “other jurisdiction” in s. 340.01 (41m), Stats.?

m. In s. Trans 313.04 (2) (b) 12., either the word “and” or “or”, depending on which applicability is intended, should be inserted between the references to ss. 180.1501 and 183.1004, Stats.

n. In s. Trans 313.04 (2) (b) 16., the provision requires an applicant to submit “all relevant documents relating to selecting authorized service providers”. Will an applicant understand what is meant by “relevant” documents? The department should list the documents with specificity or add a cross-reference to identify where the relevant documents are listed.

o. In s. Trans 313.04 (4) (d), there appears to be a missing word or words after “computer or”.

p. In s. Trans 313.04 (4) (e), the inclusion of “nor evaluated” may be redundant. If an application may not be placed in the evaluation queue for six months, can it be evaluated in the meantime? If not, “nor evaluated” may have no effect and can be omitted. However, if the department retains “nor evaluated”, that phrase should be modified so that it refers back to the device instead of to the application, as follows: “nor may the device be evaluated”.

q. In s. Trans 313.04 (5) (b), the department could consider revising the word “thereafter” to more modern, plain language. [s. 1.01 (9) (c), Manual.]

r. In s. Trans 313.04 (5) (bm), the department should ensure that subs. 1., 2., and 3. interact as intended. For instance, subd. 2. refers to a “two-minute retest under subd. 1.” but subd. 1. does not mention a two-minute retest. Also, subd. 3. refers to a “retest sample” and subd. 1. refers to a “confirmation retest”. Are those different kinds of retests?

s. In s. Trans 313.04 (5) (d) 3m., the department could consider changing “date and time” to “the date and time” in order to achieve consistency of language with the other subdivisions of in par. (d).

t. In s. Trans 313.04 (5) (dm) (intro). and 1. to 3., the department should consider rephrasing the introductory statement and subunits so that each subunit may form a complete sentence when read with the introduction, using a parallel grammatical structure for each subunit. [s. 1.03 (3), Manual.]

u. In s. Trans 313.04 (5) (e) 3. (note), the phrase “for the definition of ‘violation reset’” should be inserted before or after the cross-reference.

v. Section Trans 313.04 (5) (g) requires a device to use an “alcohol-specific quantification sensor”. Will an applicant understand what is meant by “alcohol-specific”?

w. In s. Trans 313.04 (5) (n) (intro.), the phrase “all of” should be inserted before the phrase “the following”. Also, the phrasing in subd. 2. should be revised to form a grammatical sentence with the introductory statement.

x. In SECTION 92 of the proposed rule, par. (f) of s. Trans 313.04 (6) regulates access to GPS or location data, but par. (g) allows sharing of just location data. Should it also allow sharing of GPS data? If not, will a manufacturer or vendor understand how to distinguish GPS data from location data?

y. In s. Trans 313.04 (6) (h), the third sentence appears to contain a procedure to waive pars. (b) to (e). To aid clarity, each of those paragraphs could include the modifier “except as provided in par. (h)”.

z. The department could consider removing the note created in SECTION 93 of the proposed rule for s. Trans 313.04 (6). A reference to the requirements in s. 110.10, Stats., is updated elsewhere in the proposed rule, in s. Trans 313.01, and it is not clear that simply identifying that provision in the note, without explanation, provides any additional assistance to a reader. The same comment applies to SECTION 96 of the proposed rule.

aa. In s. Trans 313.07 (1) (e), the department should consider replacing the word “violation” with a suitable synonym. The definition of “violation” in s. Trans 313.03 (26m) does not seem apt for the usage in this provision.

bb. In s. Trans 313.07 (4), the department could consider replacing “person that applied for approval under s. Trans 313.04” with the defined term “applicant”, if that comports with the department’s intended meaning.

cc. In s. Trans 313.08 (1) (a), the first sentence refers to a modification or alteration of a device. The second sentence refers only to a modification of a device. Should the second sentence refer also to an alteration?

dd. In s. Trans 313.10 (2), the department may wish to clarify which, if any, requirements apply uniquely to a manufacturer, a vendor, or a service provider. For instance, must all three establish a reasonable number of service centers under par. (b) or only a service provider? The department should also review and revise the grammatical structure of the subunits in order to form a complete sentence when read with the introductory statement.

ee. The department may wish to examine the relationship between SECTIONS 112 and 116 of the proposed rule.

- (1) In SECTION 112, the proposed rule retains the current code requirement of s. Trans 313.10 (4) (d) that a customer present a copy of the certification of installation as a condition for obtaining a license. But the proposed rule makes it optional, not mandatory, for a service provider to provide a certificate to the customer. Should the proposed rule address how a customer is to proceed with licensure if the service provider does not present a certificate? Alternatively, should the proposed rule omit the customer requirement in sub. (4) (d) given that the proposed rule also requires that proof of installation be transmitted directly to the department under s. Trans 313.10 (6) (b) as amended by SECTION 116?

- (2) SECTION 112 addresses installation or removal by a **service provider**, whereas SECTION 116 addresses installation or removal by a **service provider, vendor, or manufacturer**. Should the two sections contain parallel treatment?

ff. In s. Trans 313.10 (11) (a) (note), the department should review and consider revising the phrase “of special import”. Is this intended to convey a particular legal requirement? Why are the referenced provisions more important than others? Does this mean that other provisions will not be enforced, but the referenced provisions will be?

gg. In SECTION 124 of the proposed rule, the department should review s. Trans 313.105 (4) for clarity. Paragraph (a) establishes the requirements for the contents of warning labels. Paragraph (b) establishes the requirements for the format of warning labels. Paragraph (c) describes the attributes required for a “custom” warning label. Does the department intend that par. (c) operate as an exception to the requirements of par. (b)? For instance, par. (c) states that a custom warning label must contain the language described in par. (a), but it is silent with regard to the format described in par. (b). Alternatively, should the attributes required for a custom warning label in par. (c) also be required for a non-custom warning label in pars. (a) and (b)?

hh. In SECTION 124 of the proposed rule, par. (a) of s. Trans 313.105 (6) requires that certain relevant evidence be retained for 30 days, and par. (c) requires that certain other evidence be retained. Should par. (c) specify a period of retention?

ii. In s. Trans 313.12, insert the word “and” after “violation reset service.”.

jj. In SECTION 133 of the proposed rule, the department should review s. Trans 313.14 (1) for clarity in the following respects:

- (1) Under sub. (1) (intro.), a customer *or* service provider is allowed to remove a device based on certain actions by the customer. Does the department intend for the customer to be able to remove a device based on the customer’s own actions, such as intentionally damaging the device? If not, perhaps sub. (1) (intro.) could begin with “No service provider may remove...”?
- (2) The department should consider adding a cross-reference to s. Trans 313.105 (6) (a) as created by SECTION 124 of the proposed rule. Under s. Trans 313.105 (6) (a), a service provider is required to retain a device if the service provider detects tampering. Retaining the device likely will require removing it from the vehicle. SECTION 133 should be modified to clarify that removal under s. Trans 313.105 (6) (a) is an exception to the prohibition on removal in s. Trans 313.14 (1).

kk. In s. Trans 313.16 (5), the department should address awkward syntax. The phrase “to enter into a lockout mode or need service” could be revised to “entering into a lockout mode or needing service”.

ll. In s. Trans 313.16 (6), the second comma is misplaced. It should appear after the word “of” instead of after the word “authorization”.