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CLEARINGHOUSE RULE 99-157

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 September 1998.]

2. Form, Style and Placement in Administrative Code

a. In s. HFS 175.03 (2), it may be helpful to list in paragraphs the conditions which lead to food being considered adulterated. If this is not changed, the word “or” in the fifth line should be deleted.

b. Generally, the rule is drafted in the passive voice. Where possible, use the active voice.

c. Several parts of the rule, such as s. HFS 175.09, provide references to Department of Commerce administrative rules followed by a phrase “as administered by the Wisconsin Department of Commerce.” That phrase should be deleted wherever it appears. The rule should be followed as promulgated, not as administered by the Department of Commerce.

d. In s. HFS 175.13 (5) (c) and (h), delete the phrase “but not limited to”; it is unnecessary.

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

a. In the Note to s. HFS 175.08 (4) (b), the Note purports to s. 145.245 (4), Stats. However, the quote is not a verbatim statement of the statute. If a statute is quoted, it should be done verbatim.

- b. In s. HFS 175.11 (2), the notation “ch.” should be replaced by the notation “s.”
- c. In s. HFS 175.19 (4), the statutory cross-reference should read “ss. 66.124 and 254.69 (2) (g), Stats.”

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

a. The Note to s. HFS 175.01 states that the department “strongly recommends” that each camp owner or operator implement a comprehensive system of criminal background checks for certain camp staff members. The department should review s. 50.065, Stats., to determine whether, in fact, the camp owner is required to make criminal background checks. Arguably, the camp owner or camp is an “entity” and a camper is a “client” under this section of the statutes. In its report to the Legislature, the department should analyze the applicability of this section of the statutes to recreational and educational camps.

b. In s. HFS 175.03 (5), the phrase “which is operated” should be inserted before the phrase “for a planned program.”

c. In s. HFS 175.03 (8), the word “gelfilte” should be replaced by the word “gefilte.”

d. The definition of family camping program in s. HFS 175.03 (14), implies that the child must attend a family camping program with an adult with whom the child resides. If a child may also attend with an adult with whom the child does not reside, this definition should be rephrased accordingly.

e. In s. HFS 175.03 (20), insert the word “the” between the words “whether” and “tenant.”

f. In s. HFS 175.03 (25), replace the word “deposition” with the word “deposit.”

g. In s. HFS 175.03 (29), second to the last sentence, delete the word “as” and insert a comma after the word “only.”

h. In s. HFS 175.05 (2) (b), when does the “permit renewal period” occur?

i. In s. HFS 175.07 (1) (b), the phrase “upon request” at the end of the fourth sentence is repetitive and should be deleted.

j. In s. HFS 175.08 (4) (b), use the terminology that is used in s. 145.245 (4), Stats., (“failing private sewage system”) instead of “failed on-site private waste disposal system.”

k. In s. HFS 175.11 (4) (a) 1., what constitutes an “approved source” from which food may be served at outdoor food service? This should be clarified. [See, also, sub. (4) (c).]

l. In s. HFS 175.11 (4) (a) 2., the term “potentially hazardous” should be defined.

m. In s. HFS 175.12 (2) (d), new camps and new buildings are referred to. This is a vague reference and should be clarified by specifying the beginning date for the application of this provision.

n. In s. HFS 175.13 (5) (d) 3., the requirement should be that a designated check-in and check-out system, rather than a check-out system only, should be used.

o. In s. HFS 175.13 (5) (e), the term “water activity director” should be “water activities director” as it is used in other parts of the rule.

p. In s. HFS 175.13 (5) (i), rephrase as follows: “The camp operator or water activities director shall designate a separate area for each water activity.”

q. In s. HFS 175.14 (5) (a), (b) and (c), it appears that an exception should be made for par. (e), which implies that a camp operator is not required to provide health services staff when permanent facilities are used for more than three nights by members of the camp operator’s organization or by an organized group from outside the camp operator’s organization.

r. In s. HFS 175.14 (7) (b), the items listed should be separated by semicolons rather than commas.

s. In s. HFS 175.14 (7) (d), should the phrase “public health officials” be replaced by the phrase “department or agent”?

t. In s. HFS 175.16 (3), it appears that the word “horizontally” should be inserted after the second occurrence of the word “feet.” Also, in the third sentence of sub. (4), it appears that the word “that” should be replaced by the word “than.”