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CLEARINGHOUSE RULE 95-021

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 October 1994.]

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

a. Section HSS 159.21 (4) (a) and (b) refer to the model accreditation plan. If this is the plan defined in s. HSS 159.02 (22), then the phrase “model accreditation plan” should be replaced by the phrase “model plan” or s. HSS 159.03 (22) should define the term “model accreditation plan.” If the two terms are not equivalent, then s. HSS 159.21 (4) (a) and (b) should include a cross-reference that will describe or define the term “model accreditation plan.”

b. In Appendix A under the description of initial training for project designers, the citation in par. (c) may contain a typographical error. Should the citation be 29 C.F.R. s. 1925.58 as represented in the current edition of the Administrative Code?

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

a. As drafted, s. HSS 159.03 (31g) (intro.) is unclear. How are SSSD activities related to minor “fiber release episodes”? Would it be accurate to say that an SSSD is a controlled and intentional disturbance of small amounts of ACM caused by activities including those listed in the rule? The definition of an SSSD activity should be clarified.

b. It is not clear from s. HSS 159.03 (31g) (g) what a “single glove bag” is.

c. The last sentence of s. HSS 159.03 (31g) (j) appears to be a substantive provision of the rule and, accordingly, should not be placed in a definition. [See s. 1.01 (7) (b), Manual.]

d. Section HSS 159.10 (1) (b) is drafted rather awkwardly. The provision would be more clear if it were redrafted in substantially the following form: “Except for a person certified under s. HSS ____, no person may act to control or abate a major fiber release episode beyond what is required for immediate stabilization of the major fiber release episode.”

e. In s. HSS 159.10 (2) (e), are the references to work that is “small-scale short duration” and a “small-scale job” references to SSSD activities as defined in the rule? If so, consistent terminology should be used. In addition, what is a “large-scale removal”? Is a large-scale removal related to a major fiber release episode? Finally, what does the last sentence relate to? It would appear that the last sentence is misplaced.

f. The first sentence of s. HSS 159.11 (1) should be rewritten to provide the following: “To be eligible for certification under this subchapter a person shall....”

g. In s. HSS 159.11 (6) (c) 4., it appears that the word “card” should be inserted between the word “certification” and the word “by.”

h. In s. HSS 159.11 (6) (c) 6., and other parts of the rule, the term “training provider” is used. However, s. HSS 159.03 (32) defines the term “trainer.” Is a training provider a trainer? If so, consistent terminology should be employed throughout the rule. If they are different, the clarity of the rule would be enhanced by providing a definition of a “training provider.”

i. In s. HSS 159.11 (6) (c) 8. (intro.), the phrase “The person provided” should be inserted before the word “False” and the phrase “was provided” should be deleted.

j. In s. HSS 159.11 (6) (d), the word “It” in the second sentence should be replaced by the phrase “The card” or “The certification card.” In addition, to whom does the card belong?

k. In s. HSS 159.12 (1), the phrase “and distinct” in the last sentence is redundant and should be deleted.

l. In SECTION 15 of the rule, the phrase “contingently approved or fully approved training course” is used repeatedly. This phrase could be simplified by referring to the section of the rule in which the training courses are approved. For example, the phrase could be rewritten “a training course approved under sub. (2) (a) or (b).”

m. In s. HSS 159.21 (4), the phrase “shall have completed” should be rewritten “shall complete.” What is a “train-the-trainer” course? Perhaps a more complete cross-reference to the model accreditation plan would better identify what a train-the-trainer course is. In addition, the phrase “shall also have successfully completed” should be rewritten “shall also complete.” Finally, must the train-the-trainer course be completed successfully?

n. In s. HSS 159.21 (6), the phrases “he or she” and “him or her” in the first sentence should be replaced by the phrase “the guest lecturer.” Must the references submitted be personal or professional, or both? Finally, the phrase “that documentation” in the second sentence should be replaced by the phrase “the documentation required under this subsection.”

o. In the second sentence of s. 159.22 (1), the word “made” should be inserted between the words “be” and “at.” Also, what constitutes an emergency for purposes of the subsection?

p. Because Appendix A is a substantive provision of the rule, it should be reviewed to ensure that it comports more closely with drafting rules identified in the Manual. For example, the “/” which appears in many of the subunit titles should be replaced where possible by commas or appropriate conjunctions. Also, the term “employee” should be spelled “employe” throughout the Appendix. Acronyms that appear in the Appendix and that have not been defined in the rule should be defined.

q. In Appendix A, under the initial training for asbestos management planners, the word “exists” should be replaced by the word “exist” in par. (f).

r. In the appendix under the initial training for asbestos workers, the word “compliment” should be replaced by the word “complement” in the introductory paragraph.

s. In the appendix, under “qualifications,” the department should ensure that additional qualifications and experience are placed in the Wisconsin Administrative Code to the extent that they meet the definition of “rule” in s. 227.01 (13), Stats.

t. In the appendix, under the required experience for instructors, the word “a” should be replaced by the word “an.” Also, the phrase “5 years preceding the effective date of this chapter” will become less meaningful and more difficult to meet as time goes on. Would it be more appropriate to use a phrase such as “5 years preceding an application for approval”?

u. In the appendix, in the second numbered paragraph relating to training provider recordkeeping requirements, the third sentence as written is an incomplete sentence.