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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 97-082

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.]

1. Statutory Authority

Although the amendments to s. Adm 1.06 appear to provide more flexibility to the department and the Capitol police to procure identification tags with or without numbering, it is noted that s. 16.843 (4), Stats., requires the state protective service to procure numbered identification tags. Thus, while the rule may no longer require numbered tags, the statutes still do. Accordingly, the necessity of this rule change should be reviewed.

2. Form, Style and Placement in Administrative Code

a. The analysis mentions that the rule proposes changes to “improve operations related to parking.” The analysis would be more useful if it identified what those changes were.

b. In SECTION 1 of the rule, the chapter number and title should not be shown.

c. The treatment clause in SECTION 4 of the rule should reflect that s. Adm 1.03 (2) (c) is being renumbered s. Adm 1.03 (2) (b). Doing so would obviate the need to strike through and underscore the paragraph letters. In addition, in the substantive portion of SECTION 4 of the rule, “Adm” and the rule section and subsection numbers should be identified immediately before the modifications. This last comment also applies to SECTIONS 5, 6, 7 and 8 of the rule.

d. In current s. Adm 1.05 (2), it is noted that the word “identification” is misspelled. The proposed rule spells the word correctly, but the correction should be noted as an

amendment. In addition, to match the current administrative code provision, the term “s.” should be inserted before the statutory citation to s. 343.51, Stats.

e. The treatment clause of SECTION 7 of the rule and its substantive provision should reflect that par. (b) (intro.) is being amended.

f. Because the entirety of s. Adm 1.05 (8) is being created by the rule, and that fact is made clear in the treatment clause, the text of that provision should not be underscored. [See s. 1.06 (1), Manual.]

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

a. The fiscal estimate attached to the rule notes that the rule is promulgated, in part, to address changes in 1995 Wisconsin Act 174. The analysis to the rule does not mention Act 174, however. It seems that it should.

b. In s. Adm 1.05 (2), it would be helpful to include a cross-reference to the statutory authority under which the parking fee schedule is created--s. 16.843 (2), Stats.

c. Section Adm 1.05 (2) refers to an employee’s disability “. . . shown by a physician’s statement indicating that the employee is disabled according to those standards established in s. 341.14, Stats.” However, the statute cited also allows disabilities to be certified by an advanced practice nurse, a physician assistant, a chiropractor or a Christian Science practitioner.

d. It would appear that s. Adm 1.09 should specifically refer to the withdrawal of parking privileges under s. Adm 1.05 (8), as created by the rule, and should contain an appropriate cross-reference thereto. Also, the reference to “these rules” should be changed to “this chapter.”

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

a. In s. Adm 1.01, the beginning of the second sentence is amended. However, under the current rule, the word “security” is capitalized. The deletion of the capitalization should be noted with a proper amendment.

b. In the treatment clause of SECTION 2 of the rule, the amendment to sub. (2) should reflect that it is an amendment to sub. (2) (intro.).

c. In s. Adm 1.03 (1) (a), the phrase “shall not” should be changed to “~~shall~~ may not.” [See s. 1.01 (2), Manual.] [This change should also be made in s. Adm 1.09.] In addition, to simplify and clarify the last portion of the paragraph, the phrase “the person is” could be inserted before the word “exempt” and the phrase “from being licensed” could be inserted after the word “exempt.” Making this change would facilitate the deletion of all the material after the statutory citation. A similar change could be made to clarify and simplify par. (b). In that paragraph, the phrase “the vehicle is” could be added before the word “exempt” and the phrase “from being registered” could be added after the word “exempt.” This would facilitate the deletion of all the material after the statutory citation.

d. The period at the end of s. Adm 1.05 (4) should not be underscored.

e. In s. Adm 1.05 (8), it is not clear who the “subscriber” is. Is it the individual parker or the agency that has been allocated parking spaces, or both? The rule should be clarified. In addition, the word “their” should be made singular to correspond to the term “subscriber.”

f. In s. Adm 1.09, the phrase “maintains the discretion to” should be replaced by the word “may.” Also, “in whole or in part” should be deleted.

g. For purposes of clarity, the phrase “in the Wisconsin administrative register” should be added after the word “publication” in the effective date provision of the rule.