



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 14-062

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.]

1. Statutory Authority

The agency cites ss. 23.33 (9) and 350.12 (4), Stats., as providing statutory authority for the proposed rule. However, those sections do not appear to grant explicit authority to the agency to promulgate rules relating to law enforcement aids for snowmobile and all terrain/utility terrain vehicle enforcement. If the agency does not have explicit authority to promulgate rules relating to such aids and if the agency considers the rule necessary to effectuate the purpose of ss. 23.33 (9) and 350.12 (4), Stats., the agency should cite to s. 227.11 (2) (a), Stats., as statutory authority. [s. 1.02 (2m), Manual.]

2. Form, Style and Placement in Administrative Code

a. The introductory clause should be carefully reviewed to ensure that it accurately reflects the sections treated in the proposed rule. [s. 1.02 (1), Manual.] For example, “NR 50.12 (3) (d) 7.” should be replaced with “NR 50.12 (3) (e) 7.”.

b. In various provisions throughout the rule, underscoring is missing for text added to amended provisions. For example, underscoring is missing in ss. NR 50.03 (8), 50.12 (3) (d) (intro.) and 2. to 4., and 50.13 (4) (d) 4. For guidance and examples relating to the formatting of amended provisions, see s. 1.06, Manual.

c. Various amended provisions should be revised to ensure that inserted material follows all stricken material within a given phrase. [See s. 1.06, Manual.] For example, such revisions should be made in ss. NR 50.12 (3) (d) (intro.) and 1. and 50.13 (3) and (4) (d) (intro.).

d. In the treatment clause for SECTION 2, the commas following “(intro.)” and “4.” should be removed; the word “and” should be inserted after “(intro.)”; and the second “(3)” should be removed.

e. Section NR 50.12 (3) (d) (intro.) should be rewritten as introductory material that follows the guidelines in s. 1.03 (3), Manual. This comment also applies to ss. NR 50.125 (2) (d) (intro.) and 50.13 (4) (d) (intro.).

f. As an alternative to SECTION 4, the agency might consider renumbering s. NR 64.15 as s. NR 50.125 and amending it, rather than creating s. NR 50.125 in SECTION 4 and repealing s. NR 64.15 in SECTION 9.

g. The numbering throughout s. NR 50.125 should be revised to ensure that paragraph and subdivision provisions are grouped appropriately. For example, s. NR 50.125 (2) (d) should be numbered s. NR 50.125 (3), and s. NR 50.125 (2) (d) 1. to 5. should be numbered s. NR 50.125 (3) (a) to (e). In addition, s. NR 50.125 (2) (e) to (g) should be numbered s. NR 50.125 (4) to (6), with corresponding changes made to the numbering of s. NR 50.125 (2) (g) 1. to 8.

h. Throughout s. NR 50.125, titles should be used consistently. For example, if titles are used for a paragraph, titles should be used for all paragraphs within the same subsection. In addition, no units may be given titles unless the immediately higher units also have titles. For example, if titles are used for paragraphs, the subsection containing those paragraphs must also have a title. Lastly, subdivision titles are written with an initial capital letter and enclosed in single quotation marks. [s. 1.05 (1) and (2) (e), Manual.]

i. In the treatment clause for SECTION 5, the commas following “(c)” and both instances of “(intro.)” should be removed, and the word “and” should be inserted after the first “(intro.)”, after “(3),” and after “(c)”.

j. In s. NR 50.13 (1m) (a) (intro.), “all of” should be inserted before “the following guidelines”. [s. 1.03 (3), Manual.]

k. SECTIONS X, Y, and Z appear to be template provisions. It appears that SECTION X should be removed and SECTIONS Y and Z should be revised and incorporated as numbered sections in the rule.

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

In s. NR 50.13 (4) (d) 6., it appears that “Form 8700-61” should be replaced with “Form 8700-330”.

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

a. In ss. NR 50.12 and 50.125, should “local unit of government” be replaced with “county”?

b. In s. NR 50.12 (3) (d) 4., the word “whose” should be replaced with the phrase “for which the”. This comment also applies to ss. NR 50.125 (2) (d) 4. and 50.13 (4) (d) 4.

c. Section NR 50.12 (3) (d) 4. should be rewritten to more clearly outline the issue of depreciation and capital equipment. For example, what is the depreciation calculation if the cost

of new equipment or repairs is less than \$2,500? What is “new” equipment; is it equipment purchased after the effective date of the rule? Does the \$2,500 threshold in the last sentence apply to \$2,500 in repairs or to repairs on a \$2,500 piece of equipment? This comment also applies to ss. NR 50.125 (2) (d) 4. and 50.13 (4) (d) 4.

d. Section NR 50.12 (3) (e) 8. could be reworded to provide greater clarity. For example, it could be revised to read: “Administrative time that exceeds 30 percent of the total number of hours claimed on form 8700-61 is not eligible for reimbursement. Hours claimed for teaching snowmobile safety education courses do not count as administrative time for purposes of this subdivision.”. A similar comment also applies to ss. NR 50.125 (2) (g) 8. and 50.13 (6).

e. In s. NR 50.125 (title), the parenthetical reference to the statutory chapter is odd. Consider replacing that reference with a one- to three-word description of the subject matter of the chapter. If the parenthetical reference is retained, “ch.” should be replaced with “s.”.

f. Throughout s. NR 50.125, heavy reliance on passive verb tense construction hampers clarity. Consider revising the section to make clear which entities are required to take specified actions.

g. In s. NR 50.125 (2) (c), “daily logs (form 8700-89)” should be replaced with “daily logs in form 8700-89” to avoid using parentheses. [s. 1.01 (6), Manual.] This comment also applies to s. NR 50.13 (4) (c).

h. The meaning of the last sentence in s. NR 50.125 (2) (d) is unclear. Will the agency have discretion to process a claim after June 1?

i. Review the last sentence in s. NR 50.125 (2) (g) 1., and add text to the sentence to clarify its meaning. In addition, in that subdivision, the text relating to arrests and written warnings is awkward; consider revising this text to clarify its meaning. This comment also applies to s. NR 50.13 (1m) (a) (intro.).

j. In s. NR 50.125 (2) (g) 3., the phrase “are submitting” should be replaced with the word “submit”.

k. Section NR 50.125 (2) (g) 5. should be reworded. It does not make sense for “costs” to be “eligible for officers”.

l. Throughout s. NR 50.13, references to the Bureau of Law Enforcement should be revised to be in a consistent style.