



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-055

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.]

1. Statutory Authority

The proposed rule meets the standard that is required to submit a petition under s. 227.26 (4), Stats., for expedited repeal of an unauthorized rule. An “unauthorized rule” is a rule for which an agency lacks the authority to promulgate the rule due to the repeal or amendment of the law that previously authorized its promulgation.

In this case, the department’s rulemaking authority was removed by the repeal of s. 88.15, 2005-06 Stats., in 2007 Wisconsin Act 20.

2. Form, Style and Placement in Administrative Code

a. The rule summary’s listing of statutory authority should be revised to cite the specific statutory provision that granted rulemaking authority for the original rule. The citation to s. 227.26 (4), Stats., should be removed. That provision establishes the expedited repeal process. It does not remove or confer rulemaking authority for the subject matter addressed in the proposed rule. [s. 1.02 (2m) (a), Manual.]

b. Because s. ATCP 48.60 is the only section in subch. IX of ch. ATCP 48, the department may want to consider repealing the subchapter.