



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit Kelley
Clearinghouse Assistant Director

Anne Sappenfield
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-063

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In this case, the department’s rulemaking authority was repealed by the repeal of s. 941.26 (4) (i) 2. and (j) 2., 2011-12 Stats., in 2013 Wisconsin Act 77. In addition, the department’s rulemaking authority was expressly prohibited by the creation of s. 941.26 (4) (m), Stats.

2. Form, Style and Placement in Administrative Code

The department should consider use of a relating clause in the rulemaking order’s introductory clause, by replacing “which formerly established” with “relating to”. [s. 1.02 (1), Manual.]