

ORDER OF THE WISCONSIN ETHICS COMMISSION
CR 17-037

The Wisconsin Ethics Commission proposes an order to repeal ch. ETH 25, related to Ethics Commission forms.

RULE SUMMARY

1. Statutes interpreted: s. 19.48(2), Stats.

2. Statutory authority: There is no specific statutory authority for an administrative rule prescribing forms, but the Ethics Commission has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19.

s. 11.1304(17), Stats.:

11.1304 Duties of the ethics commission. The commission shall:
(17) Promulgate rules to administer this chapter.

s. 19.48(1), Stats.:

19.48 Duties of the ethics commission. The commission shall:
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

227.11 Extent to which chapter confers rule-making authority.

(2) Rule-making authority is expressly conferred on an agency as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

Furthermore, the forms enumerated in ch. ETH 25 are not required to be created via rule as their content is prescribed by other rule or statute as indicated on the bottom of each form.

3. Explanation of agency authority: The Ethics Commission is required to prescribe and make available forms for use under Chapter 11, subchapter III of Chapter 13, and subchapter III of Chapter 19.

4. Related statute(s) or rule(s): N/A.

5. Plain language analysis: This rule repeals the listing of campaign finance and ethics forms currently in the administrative code. The Ethics Commission will continue to prescribe and make available the forms necessary to administer Chapter 11, subchapter III of Chapter 13, and subchapter III of Chapter 19.

6. Summary of, and comparison with, existing or proposed federal regulations: The Federal Election Commission has the duty to prescribe rules, regulations and forms to carry out provisions of the Federal Election Campaign Act. 52 U.S.C. § 30111. There is no existing or proposed regulation that is intended to address the prescription of specific forms.

7. Comparison with similar rules in adjacent states:

Illinois: The State Board of Elections publishes official forms but no statute, administrative rule, or code prescribes such forms. ILL. ADMIN. CODE tit. 26 § 100.20.

Iowa: Requires the Iowa Ethics and Campaign Finance Disclosure Board make all necessary forms available but no statute, administrative rule, or code prescribes such forms. IOWA CODE § 68.201.

Michigan: Designated forms are determined at the discretion of the Secretary of State which oversees campaign finance disclosure and lobbying activities, but no statute, administrative rule, or code prescribes such forms. MICH. COMP. LAWS § 169.218.

Minnesota: Requires reports and statements to be submitted on electronic forms provided by the Campaign and Public Disclosure Board, unless a waiver for paper forms has been approved. There is no statute, administrative rule or code which prescribes such forms. MINN. R. 4501.0500 (2006).

8. Summary of factual data and analytical methodologies: N/A

9. Analysis and supporting documentation used to determine effect on small businesses: N/A

10. Effect on small business: N/A

11. Agency contact person:

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12. Place where comments are to be submitted and deadline for submission:

Written comments on the proposed rule will be accepted and receive consideration if they are received by June 6, 2017. Written comments should be addressed by mail to: David Buerger, P.O. Box 7984, Madison, WI 53707-7984; or by email to: eth.rulecomments@wi.gov.

Fiscal Estimate: The creation of this rule does not affect business.

Initial Regulatory Flexibility Analysis: The creation of this rule has no fiscal effect.

TEXT OF RULE

SECTION 1. Chapter ETH 25 is repealed.

SECTION 2. EFFECTIVE DATE.

This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2), Stats.