



Wisconsin Legislative Council

RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 21-037

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Council Staff and the Legislative Reference Bureau, dated November 2020.]

2. Form, Style and Placement in Administrative Code

a. The proposed Uniform Standards will not be finalized until approximately October 2022 and will not be in effect until January 1, 2023. Therefore, it is difficult to know the economic impact of the standards, and public comment or analysis is of diminished usefulness until the standards are finalized. Does the department anticipate revising the Fiscal Estimate and Economic Impact Analysis after the Uniform Standards are finalized?

b. Generally, related to comment 2. a., above, what is the department’s expectation regarding the next steps in the rulemaking process? Its plain language analysis indicates the proposed rule will be submitted to the Attorney General after the Uniform Standards are finalized, but does not speak to other steps in the rulemaking process. As discussed in s. 1.14 (5), Manual, prospective incorporation by reference should be avoided, as it raises questions of improper delegation of authority. As such, it would appear the department should also plan to delay submission of the proposed rule to the Governor and Legislature until after the Uniform Standards are finalized, as those entities would not be considering the “final” version of the proposed rule prior to that time.

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

a. In the comparison with other states, consider changing the parentheses surrounding “68 Ill. Adm. Code 1455” and “Minnesota Statutes, Section 82B.021, Subdivision 26” to brackets in order to be consistent with other citations.

b. The Fiscal Estimate and Economic Impact Analysis states that it is anticipated that the Uniform Standards will be finalized in October 2021; it appears this is an error and the correct date is October 2022.