



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Anne Sappenfield
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 19-139

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 does not appear to meet 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 that an agency lacks the authority to promulgate due to the repeal or amendment of the law that previously authorized its promulgation.” [s. 227.26 (4) (a), Stats.] The agency’s explanation of the proposed rule states that the provision the rule would repeal “lacks an enabling State statute” and indicates there was no prior statutory authority for the rule. The standard required to submit a petition for expedited repeal requires that a rule that was previously authorized is no longer authorized due to a change in the law.

2. Form, Style and Placement in Administrative Code

A petition for expedited repeal of an unauthorized rule should contain an introductory clause that enumerates the rule provisions treated and a relating clause concisely stating the subject matter of the proposed order. [s. 1.02 (1), Manual.]