



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-042

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 repeal of s. 287.25, 2009-10 Stats., in 2011 Wisconsin Act 32, removed the department’s statutory authority for the waste reduction and recycling demonstration grant program. The proposed rule removes the administrative rule chapter which the department utilized to administer this program.

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, s. 287.25, 2009-10 Stats. The citations to ss. 227.26 (4) and 227.29 (1) (a), Stats., should be removed. Those provisions establish the expedited repeal process and require an annual report by each agency of unauthorized rules, respectively. They do not remove or confer rulemaking authority for the subject matter addressed in the proposed rule. Also, it appears that the references to ss. 287.23 and 287.24, Stats., are not necessary because these provisions do not affect the department’s statutory authority to promulgate ch. NR 548.

b. In the rule summary’s description of related statutes or rules, it appears that ch. NR 186 should be added.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the rule summary's listing of statutes interpreted, it may be helpful to insert "2009-10" before "Stats."

b. In the rule summary's listing of statutes interpreted, the department cites 2011 Wisconsin Act 32. Due to the comprehensive nature of that law, the department may want to cite SEC. 2982 of that law in particular.