



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 19-062

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 removed by SECTION 46 of 1995 Wisconsin Act 440, which renumbered s. 175.45 (8), 1993-94 Stats., to s. 301.45 (8), Stats., and amended that statute to require the Department of Corrections, rather than the Department of Justice, to promulgate rules necessary to carry out the duties under the section.

2. Form, Style and Placement in Administrative Code

a. In the rule caption’s introduction to the “proposed order”, the phrase “which formerly established” should be revised to the phrase “relating to”. [s. 1.02 (1) (a) and (Example), Manual.]

b. In the rule summary, a heading and entry should be inserted for the listing of any related statutes or rules. [ss. 227.14 (2) (a) 1. and 227.26 (4) (b) 1., Stats.]

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

a. In the rule summary’s explanation of agency authority, a period should be inserted at the end of the text.

b. In the third sentence of the rule summary's plain language analysis, the word "statue" should be revised to the word "statute".