

WISCONSIN ELECTIONS COMMISSION

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COMMISSIONERS

BEVERLY R. GILL
JULIE M. GLANCEY
ANN S. JACOBS
JODI JENSEN
VACANCY

MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

Report From Agency

August 31, 2017

Mr. Patrick Fuller
Assembly Chief Clerk
Atth: Kay Inabet
17 West Main St., Room 401
Madison, WI 53703

Mr. Jeff Renk
Senate Chief Clerk
Attn: Jeff Beighley
Room B20 Southeast
State Capitol
Madison, WI 53703

Hand Delivered Via Clearinghouse Rule Jacket and Via Email

Re: **Notice of Administrative Rule in Final Form**
Clearinghouse Rule 17-043
EL Chapter 6, relating to Procedure

Dear Mr. Fuller and Mr. Renk:

Please note that EL Chapter 6 (Clearinghouse Rule 17-043), relating to Procedure is in final draft form and is being submitted to your offices in accordance with the requirements of Wis. Stat. § 227.19 (2) and (3) for referral to the appropriate committees. The appropriate notice of this submission will be made to the Legislative Reference Bureau and the Administrative Rules Clearinghouse.

Enclosed please find, in triplicate, the Notice and Report of the Wisconsin Elections Commission with the required attachments for this rule.

If you have any questions, please feel free to contact me at (608) 267-0953 or nathan.judnic@wi.gov.

Regards,

WISCONSIN ELECTIONS COMMISSION

Nathan W. Judnic, Legal Counsel

Enclosures

REPORT OF THE WISCONSIN ELECTIONS COMMISSION

CLEARINGHOUSE RULE 17-043

WIS. ADM. CODE EL CH. 6

The Wisconsin Elections Commission proposes an order to repeal EL 6.03, 6.04 (2) (Note), and 6.05; to amend EL 6.02 (1) and (2) and 6.04 (title), (2), (3), (4), (5) and (6); and to create EL 6.4 (1) (ag) and (ar), relating to procedure. This report is filed with the following information and attached documents pursuant to Wis. Stat. § 227.19 (3).

A. Proposed rule. The proposed rule in final form as approved by the Governor's Office pursuant to Wis. Stat. § 227.185 is attached to this report.

B. Rule summary.

ANALYSIS PREPARED BY WISCONSIN ELECTIONS COMMISSION:

1. **Statutes interpreted:** ss. 5.05(1), 5.05(2m)(c)2.a., 5.06(1), 8.10(5), 8.10(6), 8.15(5)(a), 8.15(8), 8.20(6), 8.20(8)(a), 8.21, 9.01, 9.10, Stats.
2. **Statutory authority:** ss. 5.05(1)(f), 227.11(2)(a), Stats.; 2015 Wisconsin Act 118, Section 266 (6).
3. **Explanation of agency authority:** 2015 Wisconsin Act 118, Section 266 (6) directed all current rules of the Government Accountability Board to transfer to the Elections Commission or the Ethics Commission and shall be effective on the date of the transfer, and remain in effect until the Commissions amend or repeal the rules. As a successor agency to the Government Accountability Board, the Elections Commission has the responsibility for the administration of election laws and other law relating to elections and election campaigns, other than laws relating to campaign financing. s. 5.05 (1), Stats. Pursuant to such responsibility, the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” s. 5.05(1)(f), Stats. The Elections Commission “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[.]” s. 227.11 (2) (a), Stats.
4. **Related statute(s) or rule(s):** Wisconsin Statutes s. 5.05(1)(f) provides the Commission the authority to implement rules which outline the procedures and standards the Commission uses when accepting complaint filings from the public under Wisconsin Statutes Ch. 5. Wisconsin Statutes s. 5.05(1)(f) provides the Commission the authority to implement rules which outline the procedures and standards the Commission uses when accepting ballot access filings and other

election related filings from candidates and the public under Wisconsin Statutes Chs. 8 and 9.

5. **Plain language analysis:** This rule amends and repeals sections of EL Ch. 6 which no longer apply to the Wisconsin Elections Commission after the transition from the Government Accountability Board. This rule also amends sections of EL Ch. 6 to update the procedures and standards for filing documents electronically with the Commission.
6. **Summary of, and comparison with, existing or proposed federal regulations:** The Commission is unaware of any existing or proposed federal regulation that is applicable to this proposed rule.
7. **Comparison with rules in adjacent states:**

Iowa: The filing of certain election related documents can be accomplished by facsimile or email, if original documents are received by prescribed deadlines. Certain filings, including verified complaints must be submitted in hard copy with the appropriate filing officer.

Minnesota: Filing officers may accept only original hard-copy election petitions and recall petitions offered for filing, which is consistent with the amendments to the Wisconsin rules.

Illinois: The filing of complaints and filing of other documents with the Illinois State Board of Elections is accomplished by hard copy filing. The Illinois administrative code definition of filing does not include an option for filing documents by email or other electronic means.

Michigan: Consistent with the amendments to Wisconsin rules, certain election related document can only be filed in hard-copy like affidavits of candidacy and petitions.

8. **Summary of factual data and analytical methodologies:** Adoption of this rule was not predicated on any factual data or analytical methodologies. As part of the transition from the Government Accountability Board to the Wisconsin Elections Commission, the plan called for transferring GAB Ch. 6 in its entirety to the Wisconsin Elections Commission and rename it EL Ch. 6. Upon transfer, portions of the rule that no longer applied to the Wisconsin Elections Commission were to be removed.
9. **Analysis and supporting documentation used to determine effect on small businesses:** The Wisconsin Elections Commission does not anticipate that the changes to EL Ch. 6 will have an impact on small businesses. The proposed changes are limited to Wisconsin Elections Commission staff procedures and how candidates and the general public can comply with those procedures when filing complaints or ballot

access documents. These procedures are wholly unrelated to small businesses and will have no impact.

10. **Effect on small business:** The creation of this rule does not affect small business.
11. **Agency contact person:** Nathan W. Judnic, Legal Counsel, Wisconsin Elections Commission, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984; Phone 267-0953; nathan.judnic@wisconsin.gov
12. **Submission of written comments:** Comments may be submitted by mail or email to the above contact or to the Wisconsin Elections Commission generally, 212 E. Washington Ave., 3rd Floor, P.O. Box 7984, Madison, WI 53701-7984; or sent by email to elections@wi.gov. Comments may also be submitted to the Wisconsin Elections Commission using the Wisconsin Administrative Rules website at: <http://adminrules.wisconsin.gov>.

Comments on this rule were accepted until close of business on June 25, 2017. The Commission received no comments on this rule.

13. **Public hearing:** The proposed rule was published under the 30-day notice procedure in s. 227.16 (2) (e). The proposed rule will be adopted without public hearing, unless a petition is received by the agency, within 30 days after publication of the notice, signed by one of the following:
 - (a) Twenty-five natural persons who will be affected by the rule.
 - (b) A municipality that will be affected by the rule.
 - (c) An association that is representative of a farm, labor, business or professional group that will be affected by the rule.

The Commission received no petitions related to this rule and therefore no public hearing was conducted.

C. Reference to applicable forms. None.

D. The fiscal estimate. The fiscal estimate and economic impact analysis for this rule is attached to this report.

E. Any statement, suggested changes, or other material submitted to the agency by the SBRRB. None.

F. Economic impact analysis. The fiscal estimate and economic impact analysis for this rule is attached to this report.

- G. Any revised economic impact analysis prepared by the agency.** None.
- H. Any report prepared by DOA for a proposed rule with \$20,000,000 or more in implementation and compliance costs.** None.
- I. Energy impact report.** None.
- J. Rules Clearinghouse Report.** The Rules Clearinghouse Report for this rule is attached to this report.
- K. Detailed statement explaining the basis and purpose of the proposed rule, including how the proposed rule advances relevant statutory goals or purposes.**

The proposed rule removes and amends portions of EL Chapter 6 which no longer apply to the Wisconsin Elections Commission following the transition from the Government Accountability Board. The proposed rule also amends sections of EL Chapter 6 to update the procedures and standards for filing certain documents electronically with the Wisconsin Elections Commission.

- L. Summary of public comments to the proposed rule and the agency's response to those comments, and an explanation of any modification made in the proposed rule as a result of public comments or testimony received at a public hearing.** No public comments were received on this rule. No public hearing was conducted for this rule pursuant to the 30-day notice procedure in s. 227.16 (2) (e).
- M. List of the persons who appeared or registered for or against the proposed rule at a public hearing.** None.
- N. Changes to rule summary or fiscal estimate.** None.
- O. Response to Rules Clearinghouse Report.** The Wisconsin Elections Commission accepted the recommendations of the Rules Clearinghouse Report in whole.
- P. For a proposed rule that will have an effect on small businesses, a final regulatory flexibility analysis that contains the information in s. 227.19(3)(e).** None.
- Q. Changes made due any energy impact report submitted.** None.
- R. Report from DOA for rules affecting housing in the state.** None.
- S. Response to any report prepared by SBRRB.** None.

Date submitted: August 31, 2017

ORDER ADOPTING RULE
Wisconsin Elections Commission

The Wisconsin Elections Commission proposes an order to repeal EL 6.03, 6.04(1)(c), 6.04(2) (Note), and EL 6.05; to amend EL 6.02(1), EL 6.02(2), EL 6.04 (title), EL 6.04(2), EL 6.04(3), EL 6.04(4), EL 6.04(5) and EL 6.04(6); to create 6.04(1)(am), relating to procedure.

ANALYSIS PREPARED BY WISCONSIN ELECTIONS COMMISSION:

1. **Statutes interpreted:** ss. 5.05(1), 5.05(2m)(c)2.a., 5.06(1), 8.10(5), 8.10(6), 8.15(5)(a), 8.15(8), 8.20(6), 8.20(8)(a), 8.21, 9.01, 9.10, Stats.
2. **Statutory authority:** ss. 5.05(1)(f), 227.11(2)(a), Stats.; 2015 Wisconsin Act 118, Section 266 (6).
3. **Explanation of agency authority:** 2015 Wisconsin Act 118, Section 266 (6) directed all current rules of the Government Accountability Board to transfer to the Elections Commission or the Ethics Commission and shall be effective on the date of the transfer, and remain in effect until the Commissions amend or repeal the rules. As a successor agency to the Government Accountability Board, the Elections Commission has the responsibility for the administration of election laws and other law relating to elections and election campaigns, other than laws relating to campaign financing. s. 5.05 (1), Stats. Pursuant to such responsibility, the Elections Commission may “[p]romulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns, other than campaign financing, or ensuring their proper administration.” s. 5.05(1)(f), Stats. The Elections Commission “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[.]” s. 227.11 (2) (a), Stats.
4. **Related statute(s) or rule(s):** Wisconsin Statutes s. 5.05(1)(f) provides the Commission the authority to implement rules which outline the procedures and standards the Commission uses when accepting complaint filings from the public under Wisconsin Statutes Ch. 5. Wisconsin Statutes s. 5.05(1)(f) provides the Commission the authority to implement rules which outline the procedures and standards the Commission uses when accepting ballot access filings and other election related filings from candidates and the public under Wisconsin Statutes Chs. 8 and 9.
5. **Plain language analysis:** This rule amends and repeals sections of EL Ch. 6 which no longer apply to the Wisconsin Elections Commission after the transition from the Government Accountability Board. This rule also amends

sections of EL Ch. 6 to update the procedures and standards for filing documents electronically with the Commission.

- 6. Summary of, and comparison with, existing or proposed federal regulations:** The Commission is unaware of any existing or proposed federal regulation that is applicable to this proposed rule.

- 7. Comparison with rules in adjacent states:**

Iowa: The filing of certain election related documents can be accomplished by facsimile or email, if original documents are received by prescribed deadlines. Certain filings, including verified complaints must be submitted in hard copy with the appropriate filing officer.

Minnesota: Filing officers may accept only original hard-copy election petitions and recall petitions offered for filing, which is consistent with the amendments to the Wisconsin rules.

Illinois: The filing of complaints and filing of other documents with the Illinois State Board of Elections is accomplished by hard copy filing. The Illinois administrative code definition of filing does not include an option for filing documents by email or other electronic means.

Michigan: Consistent with the amendments to Wisconsin rules, certain election related document can only be filed in hard-copy like affidavits of candidacy and petitions.

- 8. Summary of factual data and analytical methodologies:** Adoption of this rule was not predicated on any factual data or analytical methodologies. As part of the transition from the Government Accountability Board to the Wisconsin Elections Commission, the plan called for transferring GAB Ch. 6 in its entirety to the Wisconsin Elections Commission and rename it EL Ch. 6. Upon transfer, portions of the rule that no longer applied to the Wisconsin Elections Commission were to be removed.
- 9. Analysis and supporting documentation used to determine effect on small businesses:** The Wisconsin Elections Commission does not anticipate that the changes to EL Ch. 6 will have an impact on small businesses. The proposed changes are limited to Wisconsin Elections Commission staff procedures and how candidates and the general public can comply with those procedures when filing complaints or ballot access documents. These procedures are wholly unrelated to small businesses and will have no impact.
- 10. Effect on small business:** The creation of this rule does not affect small business.

11. **Agency contact person:** Nathan W. Judnic, Legal Counsel, Wisconsin Elections Commission, 212 E. Washington Avenue, 3rd Floor, P.O. Box 7984, Madison, Wisconsin 53707-7984; Phone 267-0953; nathan.judnic@wisconsin.gov

12. **Submission of written comments:** Comments may be submitted by mail or email to the above contact or to the Wisconsin Elections Commission generally, 212 E. Washington Ave., 3rd Floor, P.O. Box 7984, Madison, WI 53701-7984; or sent by email to elections@wi.gov. Comments may also be submitted to the Wisconsin Elections Commission using the Wisconsin Administrative Rules website at: <http://adminrules.wisconsin.gov>.

Comments on this rule will be accepted until close of business on June 25, 2017.

13. **Public hearing:** The proposed rule will be published under the 30-day notice procedure in s. 227.16 (2) (e). The proposed rule will be adopted without public hearing, unless a petition is received by the agency, within 30 days after publication of the notice, signed by one of the following:

- (a) Twenty-five natural persons who will be affected by the rule.
- (b) A municipality that will be affected by the rule.
- (c) An association that is representative of a farm, labor, business or professional group that will be affected by the rule.

TEXT OF FINAL RULE:

SECTION 1. EL 6.02 is amended to read:

EL 6.02 Registration statement sufficiency. (1) Any registration filed with a filing officer under ~~ss. 11.0501, 11.0502, and 11.0503~~ chs. 8 and 9, Stats., which is insufficient as to essential form, information or attestations shall be rejected by such officer and shall be promptly returned if possible to the proposed registrant indicating the nature of the insufficiency. ~~The proposed registrant shall be informed that the attempted registration is not effective.~~ The filing officer shall inform the proposed registrant that the attempted registration is not effective.

(2) Any registration statement filed with a filing officer under ~~ss. 11.0501, 11.0502, and 11.0503~~ chs. 8 and 9, Stats., which is insufficient or incomplete in some manner but substantially complies with law shall be accepted by such officer who shall then promptly notify the registrant indicating the nature of the incompleteness or insufficiency. The registrant shall then have 15 days from the date of such notice to rectify the problem. If the incompleteness or insufficiency is not rectified by the registrant within 15 days from the date of the notice, the registration lapses and is not effective. The filing officer shall inform the registrant that the registration has lapsed and is not effective.

SECTION 2. EL 6.03 is repealed.

SECTION 3. EL 6.04 (title) is amended to read:

EL 6.04 Filing documents by facsimile ~~(FAX)~~ or email process.

SECTION 4. EL 6.04 (1) (am) is created to read:

EL 6.04 (1) (am) “Email process” means the electronic transmission of a duplicate copy of a signed original document.

SECTION 5. EL 6.04 (1) (c) is repealed.

SECTION 6. EL 6.04 (2) is amended to read:

EL 6.04 (2) ~~Nomination papers, recall petitions, and those campaign finance reports provided in ss. 11.0103, 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, 11.0904, and 11.1001 Stats., other election related petitions under s. 8.40, Stats. may not be filed with the filing officer by facsimile process or email process. Nomination papers, and recall petitions and other election related petitions under s. 8.40, Stats. shall not be considered filed with the filing officer until the signed original of each nomination paper, and each recall petition, or other election related petition under s. 8.40, Stats. are received in the offices of the filing officer. Sworn complaints filed under ss. 5.05 (2m) and 5.06 and declarations of candidacy filed under ss. 8.10 (5) and 8.20 (8), Stats., may be filed with the filing officer by facsimile or email process. Campaign finance reports which are provided in ss. 11.0103, 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, 11.0904, and 11.1001, Stats., and which are delivered by the U.S. mails are considered filed with the filing officer when the report is postmarked. Campaign finance reports which are provided in ss. 11.0103, 11.0204, 11.0304, 11.0404, 11.0504, 11.0604, 11.0704, 11.0804, 11.0904, and 11.1001, Stats., and which are not delivered by the U.S. mails, are considered filed with the filing officer when received in the filing officer's offices.~~

SECTION 7. EL 6.04 (2) (Note) is repealed.

SECTION 8. EL 6.04 (3) (intro.), (3) (a), (4), (5), and (6) are amended to read:

EL 6.04 (3) (intro.) Except as provided in sub. (2), where the Wisconsin ~~Statutes~~ statutes or rules of the elections commission require that a document be filed no later than a date certain, that document shall be considered timely filed if both: of the following occur:

(3) (a) A duplicate copy of the document is received by the filing officer, in its offices, by facsimile process or by email process, no later than the day and hour at which the document is required to be filed ~~and.~~

(4) Any document which is filed by facsimile process or by email process under this rule shall be considered received at the time of transmission as recorded and entered by the receiving equipment by the filing officer's staff when the facsimile copy or email copy is delivered to the filing officer's offices.

(5) If, for any reason, transmission of a document is not received at the filing officer's offices, whether because of a failure in the receiving system of the filing officer or because of a failure in the transmitting system of the person attempting to file or for any other reason, a document shall not be considered received or filed until a facsimile copy or email copy is delivered to and received at the filing officer's offices and the signed original is received at the filing officer's offices with a postmark not later than the filing deadline.

(6) The burden of establishing that a document has been received by facsimile process or by email process at the offices of the filing officer shall be upon the person who, or the committee or group which, is required to file the document.

SECTION 9. EL 6.05 is repealed.

SECTION 10. 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, Stats.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

X Original Updated Corrected

2. Administrative Rule Chapter, Title and Number

EL Chapter 6, Procedure

3. Subject

Rule repeals and amends sections of EL Ch. 6 which no longer apply to the Wisconsin Elections Commission after the transition from the Government Accountability Board. The rule is amended to update procedures for the filing of documents electronically by email with the Wisconsin Elections Commission.

4. Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

5. Chapter 20, Stats. Appropriations Affected

6. Fiscal Effect of Implementing the Rule

X No Fiscal Effect Increase Existing Revenues Increase Costs
 Indeterminate Decrease Existing Revenues Could Absorb Within Agency's Budget
 Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

State's Economy Specific Businesses/Sectors
 Local Government Units Public Utility Rate Payers
 Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes X No

9. Policy Problem Addressed by the Rule

Removes portions of this rule that no longer apply to the Wisconsin Elections Commission. Updates rule to allow individuals to file certain documents electronically by email to keep up with modern technology and practices.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

None

11. Identify the local governmental units that participated in the development of this EIA.

None

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

None

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Removes parts of the rule that no longer apply to the Wisconsin Elections Commission. Allows certain documents to be filed electronically by email with the Wisconsin Elections Commission. Failure to remove provisions no longer applicable to the Wisconsin Elections Commission could confuse voters, candidates, elected officials and the general public.

14. Long Range Implications of Implementing the Rule

Removes parts of a rule that no longer apply to the Wisconsin Elections Commission, and therefore will remove potential confusion by those affected by the rule. Allows certain documents to be filed electronically by email with the Wisconsin Elections Commission.

15. Compare With Approaches Being Used by Federal Government

None

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

Iowa: The filing of certain election related documents can be accomplished by facsimile or email, if original documents are received by prescribed deadlines. Certain filings, including verified complaints must be submitted in hard copy with the appropriate filing officer.

Minnesota: Filing officers may accept only original hard-copy election petitions and recall petitions offered for filing, which is consistent with the amendments to the Wisconsin rules.

Illinois: The filing of complaints and filing of other documents with the Illinois State Board of Elections is accomplished by hard copy filing. The Illinois administrative code definition of filing does not include an option for filing documents by email or other electronic means.

Michigan: Consistent with the amendments to Wisconsin rules, certain election related document can only be filed in hard-copy like affidavits of candidacy and petitions.

17. Contact Name

Nathan W. Judnic

18. Contact Phone Number

608-267-0953

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES
Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

N/A

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

N/A

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

N/A

5. Describe the Rule's Enforcement Provisions

N/A

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No



WISCONSIN LEGISLATIVE COUNCIL
RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Margit S. Kelley
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE **17-043**

AN ORDER to repeal EL 6.03, 6.04 (2) (Note), and 6.05; to amend EL 6.02 (1) and (2) and 6.04 (title), (2), (3), (4), (5) and (6); and to create EL 6.04 (1) (ag) and (ar), relating to procedure.

Submitted by ELECTIONS COMMISSION

06-01-2017 RECEIVED BY LEGISLATIVE COUNCIL.

06-22-2017 REPORT SENT TO AGENCY.

SG:KBO

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]
Comment Attached YES NO
2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]
Comment Attached YES NO
3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]
Comment Attached YES NO
4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]
Comment Attached YES NO
5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]
Comment Attached YES NO
6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]
Comment Attached YES NO
7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]
Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Scott Grosz
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Margit Kelley
Clearinghouse Assistant Director

Jessica Karls-Ruplinger
Legislative Council Deputy Director

CLEARINGHOUSE RULE 17-043

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 statutory authority section cites to ss. 5.05 (2m) (c) 2.a. and 5.06 (1), Stats., which relate to filing complaints with the Elections Commission alleging violations of election chapters or complaints against election officials. The section also cites to ss. 8.10 (5) and 8.20 (8), Stats., which relate to declarations of candidacy. Chapter EL 6, Wis. Adm. Code, as amended by the proposed rule, does not use the term "complaint" or "declaration", but does refer to "other election related petitions". Is the phrase "other elected related petitions" meant to include complaints filed with the Commission and declarations of candidacy? If so, this should be clarified in the proposed rule.

2. Form, Style and Placement in Administrative Code

a. In SECTION 4 of the proposed rule, s. EL 6.04 (1) is amended to add definitions of "email" and "email process". It seems unnecessary to have separate definitions. Similarly, the existing definition of "FAX" could be eliminated since the term is defined to have the same meaning as "facsimile process" and only appears in the title of the section.

b. Since s. EL 6.04 (3) (a) is already amended in SECTION 7 of the proposed rule, the text in s. EL 6.04 (3) (intro.) and (a) should also be amended to conform to current drafting convention to read:

EL 6.04 (3) (intro.) Except as provided in sub. (2) , where the Wisconsin statutes or rules of the elections commission require that a document be filed no later than

a date certain, that document shall be considered timely filed if both of the following occur:

(3) (a) A duplicate copy of the document is received by the filing officer, in its offices, by facsimile process or by email process, no later than the day and hours at which the document is required to be filed a-Rd, _

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

SECTION 1 of the proposed rule amends s. EL 6.02 (1) to replace campaign finance chapter cross-references and replace them with a reference to "chs. 8, 9, Stats.". There should be an "and" between the chapters, rather than a comma.

WISCONSIN ELECTIONS COMMISSION

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COMMISSIONERS

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VACANCY

MARK L. THOMSEN, CHAIR

ADMINISTRATOR MICHAEL HAAS

To: Legislative Reference Bureau

From: Wisconsin Elections Commission

NOTICE

This notice is to inform you that a rule in final draft form was submitted to the chief clerks of the State Senate and State Assembly on August 31, 2017.

Clearinghouse Rule 17-043 has been submitted to repeal EL 6.03, 6.04 (2) (Note), and 6.05; to amend EL 6.02 (1) and (2) and 6.04 (title), (2), (3), (4), (5) and (6); and to create EL 6.04 (1) (ag) and (ar), relating to procedure. The submission of the rule in final draft form also includes the legislative report and attachments and the Legislative Council's staff report. The Governor's Office approved this rule in final draft form on August 28, 2017.

Dated August 31, 2017

WISCONSIN ELECTIONS COMMISSION

A handwritten signature in black ink, appearing to read 'Nathan W. Judnic'.

Nathan W. Judnic
Legal Counsel

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