

WISCONSIN ETHICS COMMISSION
Proposed Rule Making Order

INTRODUCTORY CLAUSE

The Wisconsin Ethics Commission proposes a rule to repeal WIS. ADMIN. CODE ETH 1.855 (3), and to amend WIS. ADMIN. CODE ETH 1.20 (3), 1.20 (4), 1.25, 1.39 (1) (b), 1.56 (2), 1.60 (1) (a), 1.60 (1) (c), 1.60 (2), 1.70 (2), 1.70 (3), and 1.85 (3), to reflect the changes of 2015 Wisconsin Act 117; related to campaign finance.

RULE SUMMARY

A. **Statutes interpreted:** Chapter 11, Stats.

B. **Statutory authority:** The Wisconsin Ethics Commission is specifically directed to promulgate rules to administer Chapter 11 pursuant to s. 11.1304 (17), Stats.

11.1304 Duties of the ethics commission. The commission shall:
(17) Promulgate rules to administer this chapter.

The Commission also has general authority for the promulgation of rules to carry out the requirements of Chapters 11, 13, and 19.

s. 19.48(1), Stats.:

19.48 Duties of the ethics commission. The commission shall:
(1) Promulgate rules necessary to carry out ch. 11, subch. III of ch. 13, and this subchapter.

s. 227.11(2)(a), Stats.:

227.11 Extent to which chapter confers rule-making authority.
(2) Rule-making authority is expressly conferred on an agency as follows:
(a) Each agency 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, but a rule is not valid if the rule exceeds the bounds of correct interpretation.

Explanation of agency authority: The Ethics Commission is required to promulgate rules to administer Chapter 11, Stats.

The Government Accountability Board previously reviewed the provisions of Wis. Admin. Code ETH 1 as required by 2015 Wisconsin Act 117. In that review, the Board noted several provisions that were inconsistent with the new law, but it did not address other statutory and administrative references within ETH 1 that needed to be updated to harmonize the language with the newly created Chapter 11 or current administrative procedures before it was

dissolved. This proposed rule would update provisions that currently contain references to the prior version of Chapter 11. The Ethics Commission previously sought to modify other inconsistent provisions in CR 19-035, which is currently pending review in the Legislature.

In review of Clearinghouse Rule 19-035, the Legislative Council Rules Clearinghouse report recommended the Ethics Commission should review the entire chapter to ensure consistency between the rule and Chapter 11 as re-created by 2015 Wisconsin Act 117. As such a review would require a broader statement of scope than initially proposed, rather than amending the scope of CR 19-035, the Ethics Commission proposes a new rule to amend those provisions of Wis. Admin. Code ETH 1 that contain outdated language (e.g., “personal campaign committee” instead of “candidate committee”) or are otherwise not consistent with Chapter 11 as re-created by 2015 Wisconsin Act 117 (e.g., removing references to collecting the place of employment of a contributor) that were not previously identified as needing further revision. The Wisconsin Ethics Commission has tentatively identified the following provisions to be re-examined: Wis. Admin. Code ETH 1.20 (3), 1.20 (4), 1.25, 1.39 (1) (b), 1.56 (2), 1.60 (1) (a), 1.60 (1) (c), 1.60 (2), 1.70 (2), 1.70 (3), 1.85 (3), and 1.855 (3).

C. Related statute(s) or rule(s): CR 19-035.

D. Plain language analysis: The rule repeals or amends several provisions of ETH 1 to eliminate or modify references to statutory provisions or terms that were repealed or replaced under the new campaign finance law created by 2015 Act 117.

E. Summary of, and comparison with, existing or proposed federal regulations: N/A.

F. Comparison with similar rules in adjacent states: N/A.

G. Summary of factual data and analytical methodologies: N/A

H. Analysis and supporting documentation used to determine effect on small businesses:
N/A

I. Effect on small business: N/A

J. Agency contact person:

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K. Place where comments are to be submitted and deadline for submission:

Written comments on the proposed rule will be accepted and receive consideration if they are received by June 15, 2020. Written comments should be addressed by mail to: David Buerger, P.O. Box 7125, Madison, WI 53707-7125; or by email to: eth.rulecomments@wi.gov.

Fiscal Estimate: The creation of this rule does not affect business.

Initial Regulatory Flexibility Analysis: The creation of this rule has no fiscal effect.

TEXT OF RULE

See attached.