



---

---

## 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 16-043

#### 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

a. In SECTION 2 of the proposed rule, the substance of the proposed rule provision appears to exempt the agency from future formal rule-making relating to the adjustment of contract thresholds, and in its place, allow for changes to the thresholds merely by publication in the Administrative Register. If so, what authority does the agency cite for this exemption?

b. Generally, s. 227.10 (1), Stats., requires an agency to promulgate as a rule each statement of general policy and each interpretation of a statute which it specifically adopts to govern its enforcement or administration of a statute and s. 227.10 (2), Stats., prohibits an agency from promulgating a rule which conflicts with state law. Further, the agency’s general authority in s. 103.005 (1), Stats., directs the agency to adopt rules relative to the exercise of its powers. Absent a specific statutory exemption from the rule-making process, it could be asserted that SECTION 2 of the proposed rule creates an exemption from future rule-making that would be in conflict with the above statutes.

#### 2. Form, Style and Placement in Administrative Code

In SECTION 3 of the proposed rule, the renumbering of the Note to s. DWD 293.01 uses an inaccurate citation. Does the agency intend to renumber s. DWD 293.01 (Note) as s. DWD 293.01 (1) (Note)?

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

It may benefit the understanding of the reader of the proposed rule to show the math used to derive the new figures under SECTIONS 4 and 5, in the analysis. For example, the third paragraph in the plain language analysis could demonstrate that the new thresholds are the result of the relationship between the existing thresholds and the increases in construction costs from both December 2009-2011 ( $\$16,000 \times 1.0615 = \$16,984$ ) and December 2011-13 ( $\$16,984 \times 1.054 = \$17,901$  or  $\$18,000$ ).