



## WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

### Glossary of Rule Promulgation Documents

Throughout the process for promulgation of administrative rules, various documents and reports must be prepared by entities such as the agency promulgating the proposed rule, the Governor, the Legislative Council Rules Clearinghouse, and, in some cases, other entities such as the Department of Administration (DOA). Some documents are required only when certain conditions arise.

This Information Memorandum provides a glossary of those documents and reports. Generally, the glossary is organized in the chronological order in which the documents are created during the rule-making process.

**Scope Statement:** Prepared by an agency that plans to promulgate a rule, this statement outlines the agency's objectives, related policies, statutory authority, and development time, and describes entities that may be affected by the proposed rule. Prior to working on the proposed rule, the scope statement must be approved by the Governor, published in the Administrative Register, and approved by the agency head. [s. 227.135, Stats.]

**Revised Scope Statement:** An agency must issue a revised scope statement if, after approval, the scope of the proposed rule changes in any meaningful or measurable way. [s. 227.135 (4), Stats.]

**Gubernatorial Scope Statement Approval:** This approval documents the Governor's approval of an agency's scope statement or revised scope statement. [s. 227.135, Stats.]

**Fiscal Estimate and Economic Impact Analysis (EIA):** These documents, currently prepared by an agency on a combined form prescribed by DOA, analyze the revenues and costs associated with a proposed rule, including economic effects of the rule on various public and private sector entities. Preparation of the EIA requires an agency to contact and consult with affected entities, provide comparison to policy approaches used by other states and by the federal government, and analyze alternative policies, including not promulgating the proposed rule. The fiscal estimate and EIA are prepared prior to submission of the proposed rule to the Legislative Council Rules Clearinghouse. [ss. 227.137 and 227.14 (4), Stats.]

**Revised Fiscal Estimate and Economic Impact Analysis:** If a proposed rule is modified so that the economic impact of the rule is significantly changed, an agency must prepare a revised fiscal estimate and EIA. [ss. 227.137 (4) and 227.14 (4) (d), Stats.]

**DOA Report on Rules Affecting Housing:** Prepared by DOA, this report must be completed if a proposed rule directly or substantially affects the development, construction,

cost or availability of housing. When applicable, the report must be completed prior to submission of the proposed rule to the Legislative Council Rules Clearinghouse. [s. 227.115 (2), Stats.]

**DOA Economic Impact Analysis:** For a proposed rule with an estimated economic impact of more than \$20 million in implementation and compliance costs that are expected to be passed along to businesses, local governments, or individuals, DOA must review the proposed rule and issue a report before the rule may be submitted for legislative review. [s. 227.137 (6), Stats.]

**Plain Language Analysis:** For each proposed rule, the agency must include as a preface a plain language analysis of the rule that summarizes the rule, describes the statutory authority for the rule, compares the rule to similar rules in neighboring states, describes the development of the rule, and contains contact and hearing information relating to the rule. This analysis must be prepared prior to submission of the proposed rule to the Legislative Council Rules Clearinghouse. [s. 227.14 (2), Stats.]

**Board of Veterans Affairs Report:** For rules proposed by the Department of Veterans Affairs, a report containing comments and opinion may be prepared by the Board of Veterans Affairs. If prepared, the report must be included in the submission of the proposed rule to the Legislative Council Rules Clearinghouse. [ss. 45.03 (2m) and s. 227.14 (2) (a) 6m., Stats.]

**Notice of Submittal to Legislative Council Staff:** When an agency submits a proposed rule to the Legislative Council Rules Clearinghouse, the agency must also prepare a notice of submittal and send the notice to the Legislative Reference Bureau (LRB) for publication in the Administrative Register. The notice must include a description of the subject matter of the rule, information on any public hearing relating to the rule, and information regarding the scope statement related to the proposed rule. [s. 227.14 (4g), Stats.]

**Small Business Regulatory Review Board (SBRRB) Report:** If a proposed rule may have an economic impact on small business, it must be submitted to the SBRRB. The SBRRB may prepare a report on any suggested rule changes and submit that report to the Legislative Council staff. [s. 227.14 (2g), Stats.]

**Legislative Council Report to Agency:** For each proposed rule submitted by an agency to the Legislative Council Rules Clearinghouse, the Clearinghouse prepares a report to the agency that, as applicable, comments on the rule's form, content, clarity, statutory authority, and other items. This report is completed within 20 working days following receipt of a proposed rule by the Clearinghouse. [s. 227.15 (2), Stats.]

**Agency Public Hearing Notice:** If a public hearing is required on a proposed rule, the agency must send notice to the LRB for publication in the Administrative Register and to the Secretary of DOA. The notice must be published at least 10 days prior to the date set for the hearing. [s. 227.17, Stats.]

**Initial Regulatory Flexibility Analysis:** If a proposed rule will have an effect on small business, the agency must prepare an initial regulatory flexibility analysis for inclusion in the agency public hearing notice. The initial regulatory flexibility analysis must include a description of the types of small businesses that will be affected by the rule, and a brief description of procedures and skills necessary for compliance with the rule. [s. 227.17 (3) (f), Stats.]

**Energy Availability Impact Report:** Prepared by the Public Service Commission (PSC) upon request of certain legislative officers, this report provides a determination of a proposed rule's effect on the cost or reliability of electricity generation, transmission, or distribution, or of fuels used in generating electricity. The report must be requested by the Legislature not later than 30 days after the agency's public hearing on the proposed rule, and must be completed by PSC within 30 days after the request. An agency that receives a report must consider the report before submitting the proposed rule for legislative review. [s. 227.117, Stats.]

**Notice of Gubernatorial Approval:** After a proposed rule is in final draft form, the rule must be approved by the Governor before submission for Legislative review. If a rule is approved, the Governor must provide the agency with written notice of that approval. [s. 227.185, Stats.]

**Notice to Legislature:** When an agency submits a proposed rule for Legislative review, it must also prepare a notice of submission to accompany the rule during review. This notice is referred to the appropriate legislative committees and submitted to the LRB for publication in the Administrative Register. [s. 227.19 (2), Stats.]

**Report to Legislature:** When an agency submits a proposed rule for Legislative review, it must prepare a report to the Legislature that summarizes the substance of the rule, the procedural history of its development, and the agency response to applicable reports filed by various entities during the rule-making process. This report accompanies the final draft rule text and notice to the Legislature and is referred to the appropriate legislative committees. [s. 227.19 (3), Stats.]

**Final Regulatory Flexibility Analysis:** Included in the report to the Legislature, the final regulatory flexibility analysis is prepared by the agency to summarize the action during the rule-making in relation to impact on small business, issues raised by small business, and compliance costs by small business. The requirement for this analysis may be waived by the SBRRB if it determines that the rule will not have a significant economic impact on a substantial number of small businesses. [s. 227.19 (3) (e), Stats.]

**Certified Copy of Final Rule:** Filed by an agency with LRB for publication, a certified copy of a final rule creates a presumption that the rule was duly promulgated by the agency, the proposed rule was made available for public inspection, rule-making procedures were complied with, and the text is the text as promulgated by the agency. [s. 227.20 (3), Stats.]

This memorandum is not a policy statement of the Joint Legislative Council or its staff.

This memorandum was prepared by Scott Grosz, Principal Attorney, and Margit Kelley, Senior Staff Attorney, on September 19, 2016.

---

---

WISCONSIN LEGISLATIVE COUNCIL

One East Main Street, Suite 401 • P.O. Box 2536 • Madison, WI 53701-2536

Telephone: (608) 266-1304 • Fax: (608) 266-3830

Email: [leg.council@legis.wisconsin.gov](mailto:leg.council@legis.wisconsin.gov)

<http://www.legis.wisconsin.gov/lc>