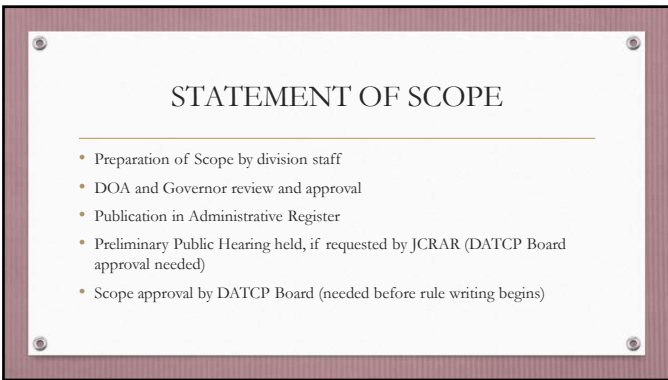
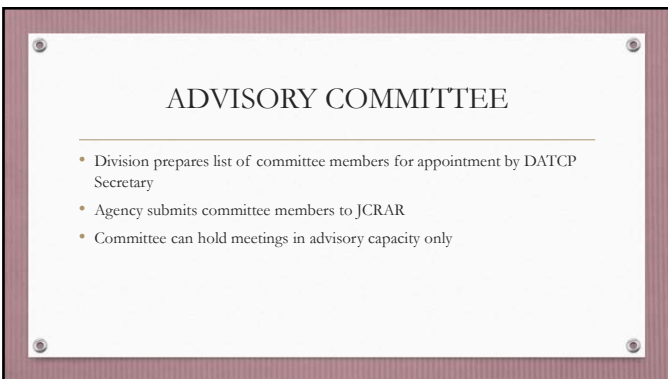




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DRAFT RULE

- Initial drafting of rule by division staff
- Preparation of Economic Impact Analysis by division staff
- Preparation of Regulatory Flexibility Analysis by division staff
- DATCP Board approval
- 20-day Legislative Council Rules Clearinghouse review
- Public hearing held

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FINAL RULE

- Division finalizes Rule, EIA and Regulatory Flexibility Analysis
- DATCP Board approves final rule documents
- Governor approves final rule documents

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LEGISLATIVE REVIEW

- Agency submits final rule to Legislature for review
- Final rule submittal published in Wisconsin Administrative Register
- Final Rule referred to standing committee for 30 day passive review
- 30-day JCRAR passive review
- Opportunities for legislative objection or questions

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RULE PROMULGATION

- Agency submits final certified rule documents for publication in the Wisconsin Administrative Register
- Final rule effective on the first day of the month following publication or on date given in rule

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TIMELINE

- Scope Statement - 1-3 months
- 30 month clock begins when Scope Statement is published in the Wisconsin Administrative Register
- Draft rule and board approval, Clearinghouse review, public hearing, final rule and board approval, and Governor approval must be completed with the 30 month time period.
- Legislative review – at least 2 months
- Final promulgation – 1-2 months

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LEGISLATIVE CHANGES

- Act 21 – Effective June 8, 2011
 - Agency now needs explicit authority to implement or enforce any standard, requirement or threshold
 - Statement of legislative intent or purpose does not confer rulemaking authority on the agency
 - Statute describing agency's general powers or duties does not confer rulemaking authority
 - State employee may not perform any activity in connection with drafting the rule until Governor and DATCP Board approval
 - If an agency changes the scope in a meaningful or measurable way, start over
 - Prepare EIA before submitting to Clearinghouse Review. If proposed rule changes, revise EIA
 - Notice of hearing on proposed rule must include economic impact analysis
 - Governor approves final draft of proposed rules
- Legislative committee review, extends to next legislative session if received after the final general-business floor period
- After Committee Review, any objection goes to JCRAR. JCRAR 30-day passive review

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- Act 39 – Effective August 4, 2017
 - Scope statement expiration
 - Submission of proposed rules to legislature
 - Treatment of existing scope statements
- Act 57 – Effective September 1, 2017
 - DOA review of Scope Statement
 - Preliminary comment and hearing on Scope Statement
 - EIA determination of implementation and compliance costs
 - Prohibition on promulgation of high-cost rules
 - Independent EIA
 - Indefinite objection
 - Governor approval and notice to JCRAR
- Act 68 – Effective November 29, 2017
 - Reviews of and reports on bills and proposed administrative rules that affect housing

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- Act 108 – Effective December 2, 2017
 - Definition of “unauthorized rule”
 - Expedited process for repealing unauthorized rule
 - Agency review of existing rules – biennial JCRAR report
 - Retrospective EIAs for existing rules
- Act 369 – Effective December 16, 2018
 - JCRAR may suspend a rule, Wis. Stat. s. 227.26
 - An agency must notify JCRAR of the membership of any committee
 - An agency may not seek deference in any proceeding based on the agency’s interpretation of law
- 2020 Attorney General Opinion
- 2021 Wisconsin Supreme Court Opinions

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QUESTIONS?

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