



**STATE OF WISCONSIN**  
Department of Safety and Professional Services  
1400 East Washington Avenue  
Madison WI 53703

Mail to:  
PO Box 8368  
Madison WI 53708-8368

E-mail: [dsps@wisconsin.gov](mailto:dsps@wisconsin.gov)  
Web: <http://dsps.wi.gov>  
Phone: 608-266-2112

**Governor Scott Walker      Secretary Dave Ross**

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**POWTS ADVISORY CODE COUNCIL MEETING**  
**Room 121A, 1400 East Washington Avenue, Madison**  
**Contact: Sandy Cleveland (608) 266-0797**  
**November 12, 2015**

*The following agenda describes the issues that the Council plans to consider at the meeting. At the time of the meeting, items may be removed from the agenda. Please consult the resulting meeting minutes for a description of the recommendations of the Council.*

**AGENDA**

**9:00 A.M.**

**CALL TO ORDER – ROLL CALL**

- A. Adoption of Agenda (1)**
- B. Welcome and Introduction**
- C. Department Update**
- D. Explanation and Election of Officers**
- E. Presentations**
  - 1) Dan Smith
    - a. Administrative Rules Process **(2-20)**
  - 2) Video Presentation
    - a. Ethics and Open Meetings
- F. Public Comments**
- G. Future Business**
  - 1) Consider Future Meeting Dates
  - 2) Camping Units **(21-22)**
- H. Adjournment**

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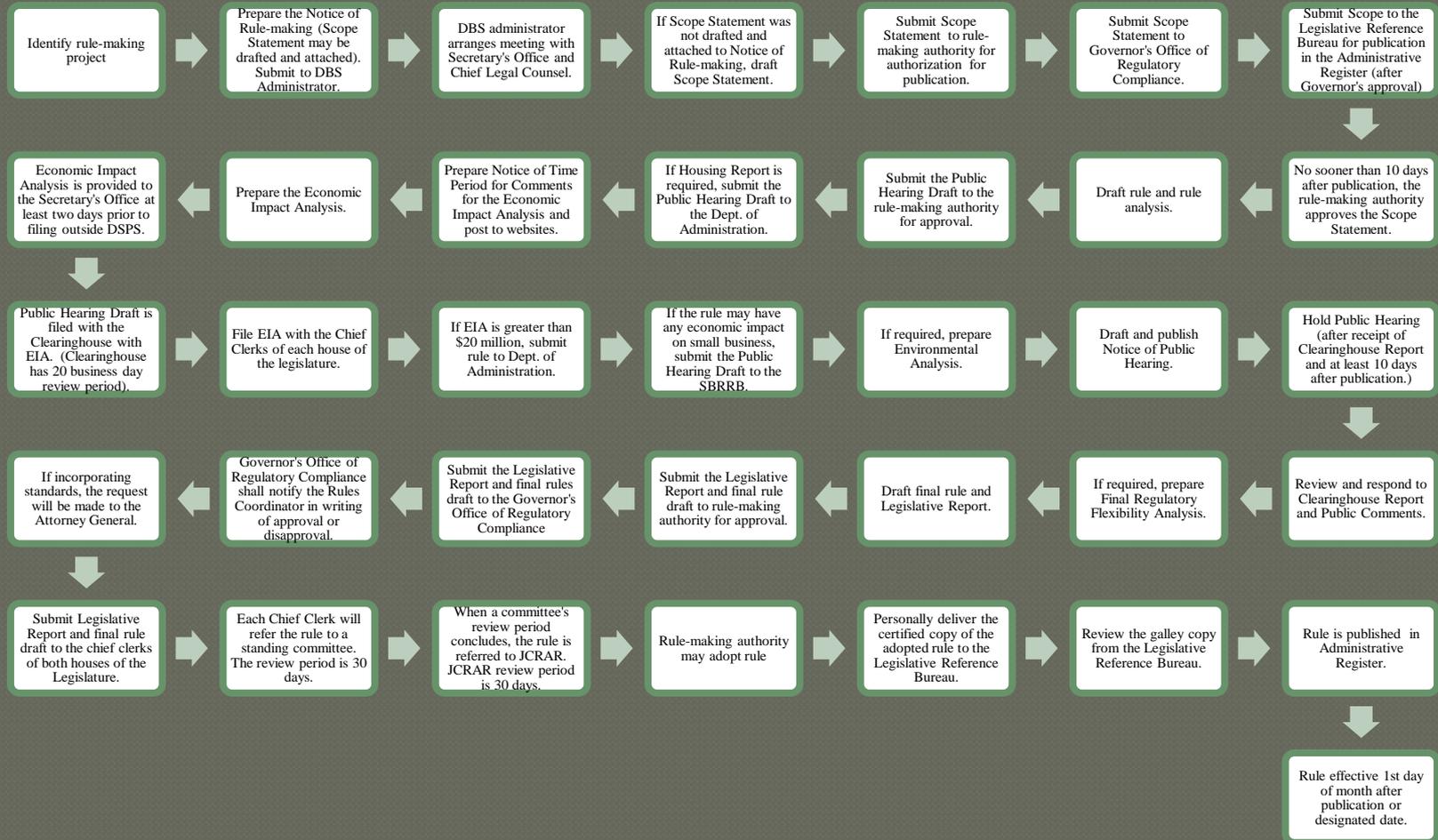
# Adoption of Administrative Rules

# Some Basics

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- There must be statutory authority to create a rule
- DSPS authority found in Chapters 440-480, 101
- Rule writing steps laid out in Chapter 227 sub II and Executive Order 50
- Process can take 1-2 years to complete.

# It's Complicated



# 2011 Act 21& EO#50

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- New Limitations on agency rulemaking authority
- All authority for administrative rulemaking is conferred by statute.

# Act 21 & EO #50 cont.

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- Executive Order 50
- A requirement for written approval by GORC (Governor's Office of Regulatory Compliance) of agency scope statements & final draft rules both in emergency & permanent forms.
- An agency may not impose any standard, requirement, or threshold, in a rule or as a license condition, unless the standard, requirement, or threshold is explicitly required or explicitly permitted by statute or by another properly promulgated rule.

# Act 21 & EO #50 cont.

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- An agency may not find rulemaking authority in a legislative statement of intent, purpose, findings, or policy, or in a statutory provision describing the agency's *general* powers or duties. The agency is limited to rulemaking authority that is explicitly conferred by the Legislature.
- With respect to a specific standard, requirement, or threshold, an agency may not promulgate a rule that is more restrictive than a statute.

# Executive Order 61

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- ◉ Work with Small Business Regulatory Review Board to identify and modify existing rules hindering job creation and small business growth
- ◉ Rules should reduce their burden on job creators while continuing to comply with the intent of the statutes that created them
- ◉ Work to identify strategies that will increase compliance with existing rules

# What is a Scope Statement?

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- Sets forth information about the agency's intended rulemaking, including the objective of the proposed rule, the statutory authority for the rule, and a description of all entities that may be affected by the rule.
- Scope statements must be prepared for both proposed permanent rules and emergency rules.

# Statement of Scope

- 1.) Board motion initiated
- 2.) Write Scope and have Chair, Liaison or Secretary sign.
  - Sets broad parameters
- 3.) Send to Governor for approval.
  - Cannot begin rule writing until Governor approval

# What is an Administrative Rule?

- According to WI Legis. Council:
  - A regulation, standard, policy statement, or order of general application promulgated by a state agency.
    - To make specific, implement, or interpret provisions of statutes that are enforced or administered by the agency.
    - To establish procedures for the agency to follow in administering its programs.

# Examining Board or Advisory Council/Committee

- ◉ **Examining Board or Advisory Council/ Committee work on rule revisions.**
  - **May involve one or multiple meetings.**
  - **May involve talking with professional associations or affected license holders.**
  - **Looking at national standards.**
  - **Researching other states' best practices.**

# Economic Impact Analysis

- Purpose is to gather input from affected stakeholders.
  - Individuals
  - Businesses
  - Local Units of Government
- No or minimal economic impact: at least 14 calendar days
- Moderate economic impact: at least 30 calendar days
- Significant economic impact: at least 60 calendar days

# Public Hearing and Clearinghouse Review

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- After completing the Economic Impact Analysis we do two things simultaneously.
- 1.) Send out a public hearing notice.
- 2.) Send the rule to the Legislative Clearinghouse.

# Legislative Clearinghouse Review

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- ◉ Do a legal analysis of rule
- ◉ Do we have statutory authority for the rule?
- ◉ Is the rule written in the correct format?
- ◉ Check for spelling, grammar etc.

# Public Hearing

- Anyone can attend and speak on the rule.
- Notices of public hearing are put on DSPS website calendar.
- Not a time for debate.
- Purpose is to give affected citizens the opportunity to voice their thoughts.

# Gubernatorial Review

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- Governor reviews rule and may approve, reject or ask for modifications before the rule can move to the next step.

# Legislative Review

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## Two Parts

- 1.) 30 day passive review by “standing committee”.
- 2.) 30 day passive review by the Joint Committee for the Review of Administrative Rules(JCRAR).

**Both committees may object to the rule in part or in whole.**

# Adoption

- If JCRAR does not object to the rule we proceed forward with adopting the rule.
  - Board Chair or Secretary sign the final rule
  - Publish in the Administrative Registry
- All together the process can take 1-2 years to complete. (Could be more if larger update with many Board, Committee/ Council meetings)

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Questions?

# State of Wisconsin



2015 Senate Bill 94

Date of enactment: **July 1, 2015**  
Date of publication\*: **July 2, 2015**

## 2015 WISCONSIN ACT 49

AN ACT *to renumber and amend* 145.02 (2); *to amend* 101.63 (1) (intro.) and 101.82 (1); and *to create* 145.02 (2) (b) of the statutes; **relating to:** standards for the construction and inspection of camping units; for installing, repairing, and maintaining electrical wiring in camping units; and for plumbing in camping units; providing an exemption from emergency rule procedures; and granting rule-making authority.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 101.63 (1) (intro.) of the statutes is amended to read:

101.63 (1) (intro.) Adopt rules which establish standards for the construction and inspection of one- and 2-family dwellings and components thereof. The rules shall include separate standards, established in consultation with the dwelling code council, that apply only to the construction and inspection of camping units that are set in a fixed location in a campground for which a permit is issued under s. 254.47, that contain a sleeping place, and that are used for seasonal overnight camping. Where feasible, the standards used shall be those nationally recognized and shall apply to the dwelling and to its electrical, heating, ventilating, air conditioning and other systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be adopted which has not taken into account the conservation of energy in construction and maintenance of dwellings and the costs of specific code provisions to home buyers in relationship to the benefits derived from the provisions. Rules promulgated under this subsection do not apply to a bed and breakfast establishment, as defined under s. 254.61 (1), except that the rules apply to all of the following:

**SECTION 2.** 101.82 (1) of the statutes is amended to read:

101.82 (1) Promulgate by rule a state electrical wiring code that establishes standards for installing, repairing, and maintaining electrical wiring. The rules shall include separate standards, established in consultation with the dwelling code council, that apply only to electrical wiring in camping units that are set in a fixed location in a campground for which a permit is issued under s. 254.47, that contain a sleeping place, and that are used for seasonal overnight camping. Where feasible, the rules shall reflect nationally recognized standards.

**SECTION 3.** 145.02 (2) of the statutes is renumbered 145.02 (2) (a) and amended to read:

145.02 (2) (a) The department shall have general supervision of all such plumbing and shall after public hearing prescribe and publish and enforce reasonable standards therefor which shall be uniform and of statewide concern so far as practicable. Any employee designated by the department may act for the department in holding such the public hearing required under this subsection. To the extent that the historic building code applies to the subject matter of these standards, the standards do not apply to a qualified historic building if the owner elects to be subject to s. 101.121.

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

**SECTION 4.** 145.02 (2) (b) of the statutes is created to read:

145.02 (2) (b) The department shall promulgate rules that establish separate plumbing standards applicable only to camping units that are set in a fixed location in a campground for which a permit is issued under s. 254.47, that contain a sleeping place, and that are used for seasonal overnight camping. If the department has appointed one or more committees under s. 227.13 to advise the department on rule making with respect to private on-site wastewater treatment systems or other plumbing systems, the department shall promulgate the rules required under this paragraph in consultation with those committees.

**SECTION 5. Nonstatutory provisions.**

(1) The department of safety and professional services shall use the procedure under section 227.24 of the statutes to promulgate the rules under sections 101.63 (1)

(intro.), 101.82 (1), and 145.02 (2) (b) of the statutes, as affected by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection remain in effect until July 1, 2018, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department of safety and professional services is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection. Notwithstanding section 227.24 (1) (e) 1d. and 1g. of the statutes, the department of safety and professional services is not required to prepare a statement of the scope of the rules promulgated under this subsection or present the rules to the governor for approval.