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## CORRESPONDENCE MEMORANDUM

**DATE:** October 18, 2012  
**TO:** Group Insurance Board  
**FROM:** David H. Nispel, General Counsel  
Steve Hurley, Office of Policy, Privacy and Compliance  
**SUBJECT:** Status of Proposed Administrative Rules

**This memo is for informational purposes only. No Board action is required.**

This memorandum presents a status report of administrative rules in the process of development. Once a rule is in final draft form, it is brought to the Group Insurance Board (GIB) for approval.

We have added a new section to this memorandum that will provide updates on the administrative rule process. In 2011 and 2012, legislation was enacted and executive orders were issued that significantly changed the process. This new section, which will appear as the final section of each edition of the memorandum, will feature one or more of the changes to the rule making process. This particular memorandum will provide an overview of those changes and highlight the change involving the economic impact analysis for an administrative rule.

Currently, there are two rules of interest to the GIB:

- I. **Status: Scope Statement was published in the Wisconsin Administrative Register on August 14, 2012. Staff are drafting the rule.**
  - SS 059-12, Technical Rule relating to making technical updates on existing ETF rules and making other minor substantive changes, including allowing employers more flexibility in the deadlines for submitting monthly reports to ETF and changing an existing rule regarding local public employers health insurance to comply with 2011 Wisconsin Act 133.

Board	Mtg Date	Item #
GIB	11.13.12	7D

Reviewed and approved by Lisa Ellinger, Administrator, Division of Insurance Services.

Signature

10/25/12  
Date

**II. Status: Because most sections of this rule can be implemented without going through the rule making process, this rule will be replaced by a new one that solely focuses on matters that must be addressed by administrative rule. Staff are working on a Statement of Scope at this time.**

- CR 11-045, Internal Revenue Code (IRC) compliance rule relating to clarifying how ETF administers provisions of the IRC, including §§ 415 (b), 415 (c) and 401 (a) (17) as provided in § 40.03 (2) (t), Wis. Stats

**III. Updates on Administrative Rule Process**

**General Information**

2011 Wisconsin Act 21 and 2011 Wisconsin Act 32 made major changes to the administrative rule making process. Those changes relate to agency rule making authority, approval by the Governor of scope statements and final draft rules, treatment of emergency rules, preparation of economic impact analyses, referral of rules to the Joint Committee for Review of Administrative Rules (JCRAR), and detailed rule promulgation instructions to agencies.

Executive Order #50 (Guidelines for Promulgation of Administrative Rules) sets forth additional requirements and provides rule promulgation instructions to agencies. The Order also establishes an Office of Regulatory Compliance in the Governor's office.

**Economic Impact Analysis**

This new process requires an economic impact analysis (EIA) for every proposed rule prior to being submitted to the Rules Clearinghouse for review. This requirement does not apply to emergency rules. The numerous requirements of the EIA are set forth in the Acts Executive Order #50. Here is a brief overview of requirements:

The analysis must include information on the economic effect of the proposed rule on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole. In preparing the analysis, the agency must solicit information and advice from businesses, associations representing businesses, local governmental units, and individuals that may be affected by the proposed rule and must prepare the analysis in coordination with local governmental units that may be affected by the proposed rule. The solicitation of information and advice is conducted by posting the draft rule on the agency's website and the state's administrative rule website and providing a comment period.

After soliciting information and advice from the affected parties, the agency prepares the EIA. The analysis must include all of the following:

1. An analysis and quantification of the policy problem that the proposed rule is intended to address, including comparisons with the approaches used by the federal government and by neighboring states to address that policy problem and, if the approach chosen by the agency to address that policy problem is different from those approaches, a statement as to why the agency chose a different approach.
2. An analysis and detailed quantification of the economic impact of the proposed rule, including the implementation and compliance costs that are reasonably expected to be incurred by or passed along to the businesses, local governmental units, and individuals that may be affected by the proposed rule.
3. An analysis of the actual and quantifiable benefits of the proposed rule, including an assessment of how effective the proposed rule will be in addressing the policy problem that the rule is intended to address.
4. An analysis of alternatives to the proposed rule, including the alternative of not promulgating the proposed rule.
5. A determination made in consultation with the businesses, local governmental units, and individuals that may be affected by the proposed rule as to whether the proposed rule would adversely affect in a material way the economy, a sector of the economy, productivity, jobs, or the overall economic competitiveness of the state.

When the agency submits the economic impact analysis to the Rules Clearinghouse, the agency must also submit the analysis to DOA, to the Governor, and to the Chief Clerks of each house of the Legislature for further distribution within the Legislature.

We will be available at the November 13, 2012, Board meeting to answer questions.