

**17A.4A Regulatory analysis.**

1. An agency shall issue a regulatory analysis of a proposed rule that complies with subsection 2, paragraph “a”, if, within thirty-two days after the published notice of proposed rule adoption, a written request for the analysis is submitted to the agency by the administrative rules review committee or the administrative rules coordinator. An agency shall issue a regulatory analysis of a proposed rule that complies with subsection 2, paragraph “b”, if the rule would have a substantial impact on small business and if, within thirty-two days after the published notice of proposed rule adoption, a written request for analysis is submitted to the agency by the administrative rules review committee, the administrative rules coordinator, at least twenty-five persons signing that request who each qualify as a small business or by an organization representing at least twenty-five such persons. If a rule has been adopted without prior notice and an opportunity for public participation in reliance upon section 17A.4, subsection 3, the written request for an analysis that complies with subsection 2, paragraph “a” or “b”, may be made within seventy days of publication of the rule.

2. a. Except to the extent that a written request for a regulatory analysis expressly waives one or more of the following, the regulatory analysis must contain all of the following:

(1) A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

(2) A description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons, including a description of the nature and amount of all of the different kinds of costs that would be incurred in complying with the proposed rule.

(3) The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

(4) A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

(5) A determination of whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule.

(6) A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

b. In the case of a rule that would have a substantial impact on small business, the regulatory analysis must contain a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rule on small business:

(1) Establish less stringent compliance or reporting requirements in the rule for small business.

(2) Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small business.

(3) Consolidate or simplify the rule’s compliance or reporting requirements for small business.

(4) Establish performance standards to replace design or operational standards in the rule for small business.

(5) Exempt small business from any or all requirements of the rule.

c. The agency shall reduce the impact of a proposed rule that would have a substantial impact on small business by using a method discussed in paragraph “b” if the agency finds that the method is legal and feasible in meeting the statutory objectives which are the basis of the proposed rule.

3. Each regulatory analysis must include quantifications of the data to the extent practicable and must take account of both short-term and long-term consequences.

4. Upon receipt by an agency of a timely request for a regulatory analysis, the agency shall extend the period specified in this chapter for each of the following until at least twenty days after publication in the administrative bulletin of a concise summary of the regulatory analysis:

a. The end of the period during which persons may make written submissions on the proposed rule.

b. The end of the period during which an oral proceeding may be requested.

c. The date of any required oral proceeding on the proposed rule.

5. In the case of a rule adopted without prior notice and an opportunity for public participation in reliance upon section 17A.4, subsection 3, the summary must be published within seventy days of the request.

6. The published summary of the regulatory analysis must also indicate where persons may obtain copies of the full text of the regulatory analysis and where, when, and how persons may present their views on the proposed rule and demand an oral proceeding thereon if one is not already provided. Agencies shall make available to the public, to the maximum extent feasible, the published summary and the full text of the regulatory analysis described in this subsection in an electronic format, including, but not limited to, access to the documents through the internet.

7. If the agency has made a good faith effort to comply with the requirements of subsections 1 through 3, the rule may not be invalidated on the ground that the contents of the regulatory analysis are insufficient or inaccurate.

8. a. For the purpose of this section, “*small business*” means any entity including but not limited to an individual, partnership, corporation, joint venture, association, or cooperative, to which all of the following apply:

(1) It is not an affiliate or subsidiary of an entity dominant in its field of operation.

(2) It has either twenty or fewer full-time equivalent positions or less than one million dollars in annual gross revenues in the preceding fiscal year.

b. For purposes of this definition, “*dominant in its field of operation*” means having more than twenty full-time equivalent positions and more than one million dollars in annual gross revenues, and “*affiliate or subsidiary of an entity dominant in its field of operation*” means an entity which is at least twenty percent owned by an entity dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of an entity dominant in that field of operation.

98 Acts, ch 1202, §10, 46; 2008 Acts, ch 1031, §81

Referred to in §17A.33