The Reg Map
Informal Rulemaking

Step One
Initiating Events

Step Two
Determination Whether a Rule Is Needed

Step Three
Preparation of Proposed Rule

Step Four
Publication of Proposed Rule

Step Five
Administrative Procedure Act Provisions

Step Six
Public Comments

Step Seven
Preparation of Final Rule, Interim Final Rule, or Direct Final Rule

Step Eight
OMB Review of Final Rule, Interim Final Rule, or Direct Final Rule

Step Nine
Publication of Final Rule, Interim Final Rule, or Direct Final Rule

Using The Reg Map

The Reg Map is based on general requirements. In some cases, more stringent or less stringent requirements are imposed by statutory provisions that are agency specific or subject matter specific. Also, in some cases more stringent requirements are imposed by agency policy.

In a typical case, a rulemaking action would proceed from step one through step nine with a proposed rule and a final rule.

However, if a rulemaking action is exempt from the proposed rulemaking procedures under the Administrative Procedure Act provisions (explained under step three) or under other statutory authority, an agency may:

- promulgate a final rule omitting steps three through six, or
- promulgate an interim final rule omitting steps three through six, but providing a comment period and a final rule after step nine.

Also, if an agency determines that a rule likely would not generate adverse comment, the agency may promulgate a direct final rule, omitting steps three through six, but with a duty to withdraw the rule if the agency receives adverse comments within the period specified by the agency.

Experts in drafting rulemaking documents and preparing supporting analyses use the Reg Map.

Visit us at www.regsupport.com
Also, check out www.CommentWorks.com for faster, cheaper, and better way to respond to public comments on proposed rules.

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Administrative Procedure Act Provisions

- Under the Administrative Procedure Act provisions that are included as part of the Freedom of Information Act at 5 U.S.C. 552, agencies are required to publish in the Federal Register:
  - Substantive rules of general applicability
  - Interim rules
  - Statements of general policy
  - Rule of procedure
  - Information about forms
  - Information concerning agency organization and methods of operation

Administrative Procedure Act Provisions

- Under the Administrative Procedure Act provisions at 5 U.S.C. 553, rules are promulgated with a notice of proposal, a comment period, and a final rule.

Administrative Procedure Act Provisions


Specific Analyses for Steps Three and Seven

- Regulatory Planning and Review (E.O. 12866)
  - Would the rule have a $10 million annual impact, raise new issues, and/or have other significant impacts?
  - Yes
  - Prepare economic impact analysis.

- Regulatory Flexibility Act (5 U.S.C. 601-612)
  - Is a notice of proposed rulemaking required by law?
  - Yes
  - Would the rule have a significant economic impact on a substantial number of small entities?
  - Yes
  - Prepare regulatory flexibility analysis.

- Paperwork Reduction Act (44 U.S.C. 3501-3520)
  - Does the rule contain a "collection of information"? (including, disclosure, or recordkeeping?)
  - Yes
  - Prepare information collection clearance package for OMB review and approval, and prepare request for public comments.

  - Does the rulemaking process include a proposed rule?
  - Yes
  - Is the rule a discretionary rule that has federalism implications and imposes substantial unfunded compliance costs on State and local governments?
  - Yes
  - Prepare federalism summary impact statement.
  - Is the rule a discretionary rule that has federalism implications and imposes substantial unfunded compliance costs on Indian tribal governments?
  - Yes
  - Prepare federalism summary impact statement.

- Indian Tribal Governments (E.O. 13175)
  - Is the rule a discretionary rule that has tribal implications and imposes substantial unfunded compliance costs on Indian tribal governments?
  - Yes
  - Prepare tribal summary impact statement.

- National Environmental Policy Act (42 U.S.C. 4321-4347)
  - Is the rule categorically excluded from review?
  - No
  - Does the rule contain a "collection of information"? (including, disclosure, or recordkeeping?)
  - Yes
  - Prepare information collection clearance package for OMB review and approval, and prepare request for public comments.

- National Technology Transfer and Advancement Act (15 U.S.C. 272 note)
  - Does the rule contain provisions for which the use of voluntary standards is applicable?
  - Yes
  - Adopt voluntary consensus standards or explain why not.

- Governmental Actions and Interference with Constitutionally Protected Property Rights (E.O. 12630)
  - Does the rule regulate private property use for the protection of public health or safety?
  - Yes
  - Prepare takings analysis.

- Protection of Children from Environmental Health Risks and Safety Risks (E.O. 13045)
  - Is the rulemaking action a "significant energy action"?
  - Yes
  - Prepare statement of energy effects.

Agendas for Rules Under Development or Review

Unified Regulatory Agenda
The Unified Regulatory Agenda provides information concerning agency rules under development or review.

The Unified Regulatory Agenda is published in the Unified Regulatory Agenda in the spring and fall of each year.

Regulatory Plan
The Regulatory Plan provides information concerning the most important significant regulatory actions that the agency is planning to take.

The Regulatory Plan is published in the Unified Regulatory Agenda in the fall of each year.

Regulatory Flexibility Agenda
The Regulatory Flexibility Agenda provides information concerning any rule that an agency expects to prepare or promulgate that is likely to have a significant economic impact on a substantial number of small entities.

Agency regulatory flexibility agendas are published as part of the Unified Regulatory Agenda in the spring and fall of each year.