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Department of the Interior

Departmental Manual

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Series: Administrative Procedure

Part 318: Federal Register Documents

Chapter 2: Regulatory Planning

Originating Office: Executive Secretariat and Office of Regulatory Affairs

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2.1 What does this chapter do? This chapter tells you how to plan rulemaking activities as required by Executive Order 12866 and Department policy.

2.2 What terms do I need to know?

Executive Order 12866 (E.O. 12866) - This Order, titled "Regulatory Planning and Review," was published September 30, 1993. It requires you to follow a planning procedure for each rule that you publish. It is available at <http://www.ios.doi.gov/nrl/RegWeb/Eo12866.htm>.

OMB regulatory report - The OMB regulatory report is a list of upcoming rules that we periodically send to OMB as required by E.O. 12866.

Regulatory action alert form - A form that describes a rulemaking, possible controversy or sensitivity, and the anticipated publication date. It also provides other information designed to allow other bureaus/offices to decide if they want to participate in the development of the rule.

Regulatory Plan - The Regulatory Plan is a statement of regulatory policies and priorities that identifies the "most important significant rules" ("significant rules" are those rules that OMB chooses to review under E.O. 12866) to be published in the next fiscal year. The Regulatory Plan is published with the October semiannual agenda.

SBREFA - Refers to the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 et seq.)

Semiannual agenda - The semiannual agenda is a list of rulemaking actions scheduled for review or development in the coming 12-month period. It is published in the Federal Register in April and October each year.

We or us - Refers to the Office of Regulatory Affairs (ORA).

2.3 What planning must I do if I want to publish a rule? You must take all of these planning steps:

- A. Prepare a regulatory alert form;
- B. Obtain a Regulation Identifier Number (RIN) from us;
- C. Include the rule in the semiannual agenda;
- D. Include the rule on the periodic OMB regulatory report.
- E. In developing schedule milestones and assessing the resources needed for the rulemaking, take into consideration that analysis, consultation, and input will be necessary to meet the requirements of SBREFA, Unfunded Mandates Reform Act, and E.O. 12866.

2.4 What is the purpose of the alert form? We circulate the alert form to all bureau regulatory contacts, who in turn distribute it internally to interested parties. The alert form notifies interested parties that a rulemaking will occur so that they can participate in the development of the rule if appropriate. Illustration 1 to this Chapter is a sample alert form.

2.5 When do I complete the alert form? Complete an alert form as soon as you decide to begin a rulemaking. Indicate on the form whether you recommend a meeting with other bureaus/offices to solicit input in the rule's development. Send the completed form to your regulatory contact, who will send it to us. We encourage you to send the form electronically.

2.6 What will we do with the alert form? We will distribute the alert form to the regulatory contacts in each bureau and office. If there is a need for a meeting, we will schedule it.

2.7 What will happen if we convene a meeting on the rule? The meeting will identify major issues that cross bureau jurisdictional lines and attempt to reach consensus on how the rule should be developed.

- A. If the involved parties reach a consensus regarding what the rule will cover, the regulation must reflect that consensus.

B. If the parties cannot reach a consensus, we will work with the appropriate staff to resolve any outstanding issues.

C. If a bureau does not request or participate in a meeting, it may forfeit its right to object to that rule.

2.8 How is the semiannual agenda prepared? We will provide specific instructions and forms for submitting data when we request the data, which will occur every 6 months. You must announce and schedule each of your rulemaking actions in the agenda. You must submit agenda data to your regulatory contact, who will submit the bureau's agenda to us.

2.9 How is the Regulatory Plan prepared? E.O. 12866 requires the Department to submit an annual Regulatory Plan identifying the "most important significant rules" to be published in the next fiscal year. The Regulatory Plan is published with the October semiannual agenda. We will provide specific instructions and forms when we request the data for the Plan.

2.10 How is the OMB regulatory report prepared? We will periodically ask you to send us a synopsis of each of the rules that you expect to publish in a given period. We will ask you to indicate which rules on the list you feel are significant under E.O. 12866 or major under SBREFA.

A. OMB will review this list and agree or disagree with our assessment of whether a rule is significant. We will inform you of OMB's decision on each rule.

B. Under E.O. 12866, you must send to OMB for review each proposed and final rule that OMB considers significant.

Illustration 1 to Chapter 2

U.S. DEPARTMENT OF THE INTERIOR

REGULATORY ACTION ALERT

Title:	RIN:	
Type (check one): ANPRM NPRM Final Other	CFR citation:	
Bureau:	Contact:	Phone:
Anticipated publication date:		

What problem will this rulemaking address? Describe the authority and need for the rule and why rulemaking is preferable to non-rulemaking alternatives.	
Is the rule expected to be controversial? Yes No. Explain.	
Explain potential importance/interest to industry, interest groups, and/or specific states/regions, and list potentially interested organizations.	
Check all that <i>might</i> apply:	
Appropriate for negotiated rulemaking	Significant effect on small entities (Reg. Flex. Act)
Economically significant (E.O. 12866)	Unfunded mandate of \$100 million or more (2 U.S.C. 1501)
Otherwise significant (E.O. 12866)	"Takings implications" assessment (E.O. 12630)
Major (5 U.S.C. 801 et seq.; Congressional review)	Federalism assessment (E.O. 12612)
Information collections requiring OMB approval (Paperwork Reduction Act). If collections already have OMB approval give: Approval number Expiration date	
Other potentially affected Interior Bureaus/Offices:	
Other potentially affected Federal/State agencies:	
Describe steps you are taking to consult with affected Bureaus, agencies, or other interested organizations.	

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