

REGULATORY INFORMATION SERVICE CENTER

INSTRUCTIONS FOR REPORTING REGULATORY ACTIONS IN THE UNIFIED AGENDA

WHAT INFORMATION SHOULD AGENCIES INCLUDE IN THE UNIFIED AGENDA?

Agency regulatory agendas should describe all regulations under development or review during the 12 months following publication. This includes, at a minimum, any plans to publish or otherwise implement an Advance Notice of Proposed Rulemaking, a Notice of Proposed Rulemaking, or a Final Rule. Agencies may include any plans to conduct a review pursuant to 5 U.S.C. 610(c) or section 5 of Executive Order (E.O.) 12866.

An agency need not include in its regulatory agenda those rulemaking actions that are excluded by section 3(d) of E.O. 12866 or by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget. In particular, agencies need not include routine regulations and those that relate to internal agency management.

If an agenda entry describes an amendment or a review of an existing regulation, the information provided about the effects of the regulatory action should apply to the current activity and not to the underlying regulation.

REGULATION IDENTIFIER NUMBER (RIN)

For each of its regulations under development, an agency should obtain a Regulation Identifier Number (RIN). This number will be used to track regulations in the Unified Agenda. The same RIN is used at every stage of the rulemaking proceeding. You will also need a RIN when you submit a regulation to OMB for review. Do not request RINs for activities that are not related to specific rulemaking proceedings such as advisory committee meetings.

TITLE OF REGULATION

Use a brief description that will inform readers of the subject of the regulation. Avoid titles like "Revision of Section 286," which do not communicate the subject matter. Also, avoid mentioning in the title specific stages in the rulemaking process. For example, a title like "Hazard Communication" is preferable to "Proposed Rule on Hazard Communication," because you can use the same title throughout the entire rulemaking proceeding.

REGULATORY FLEXIBILITY ACT SECTION 610 REVIEW. If the regulatory action is a planned or current review of an existing regulation under section 610(c) of the Regulatory Flexibility Act, specify Section 610 Review, Completion of a Section 610 Review, or Rulemaking Resulting From a Section 610 Review.

REGULATORY PLAN

If you are entering data for a fall edition, indicate whether each action is a Regulatory Plan entry. For a spring edition, new entries have the answer "No" and repeating entries have the same answer as in the previous fall's edition.

PRIORITY

For each entry, select one of the five categories to indicate its priority. The priority of each Regulatory Plan entry must be either Economically Significant or Other Significant. Also, actions designated as "major" should have a priority of Economically Significant or Other Significant.

ECONOMICALLY SIGNIFICANT

A rulemaking action that will have an annual effect on the economy of \$100 million or more or will adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities. All Economically Significant rulemaking actions should appear in an agency's regulatory plan.

OTHER SIGNIFICANT

A rulemaking action that is not Economically Significant that the agency anticipates will be reviewed under E.O. 12866. Also, a rulemaking that is not Economically Significant and will not be reviewed under E.O. 12866, but is considered important by the agency and a priority of the agency head. These rules may be included in the agency's regulatory plan.

SUBSTANTIVE, NONSIGNIFICANT

A rulemaking action that has substantive impact but the magnitude of the impact is less than significant. These rulemaking actions are not Economically Significant, will not be reviewed under E.O. 12866, and are not, at present, an agency priority.

ROUTINE AND FREQUENT

A rulemaking action that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

INFORMATIONAL/ADMINISTRATIVE/OTHER

A rulemaking action that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Agenda to inform the public of the activity.

UNFUNDED MANDATES. Indicate whether this rule is covered under section 202 of the Unfunded Mandates Reform Act (Pub. L. 104-4) because it includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year. If you answer "Yes" to this question, you must indicate which category or categories may be affected.

MAJOR. Indicate whether this rule is considered "major" and therefore subject to the 60-day deferral requirement under 5 U.S.C. 801, enacted by Public Law 104-121, because it has resulted or is likely to result in an annual effect on the economy of \$100 million or more, or meets other criteria specified in that Act.

LEGAL AUTHORITY

Provide the citation(s) of the legal authority for the regulatory action. For statutes, cite the United States Code (U.S.C.) whenever possible. If a law is not yet codified, cite the Public Law number and section, not the Statutes at Large. You may enter the popular name of a law after its U.S.C. or Pub. L. citation (for example: 29 U.S.C. 206(d), Equal Pay Act of 1963). Enter citations using the following formats.

To cite:

42 U.S.C. 1302 and 1395
20 U.S.C. 1411-20
15 U.S.C. 78(c)-(hh)
12 U.S.C. 1701 et seq.
Public Law 91-190, section 203
Executive Order 12866

Write the following:

42 U.S.C. 1302 and 1395
20 U.S.C. 1411 to 1420
15 U.S.C. 78(c) to 78(hh)
12 U.S.C. 1701 et seq.
Pub. L. 91-190, sec. 203
E.O. 12866

If the legal authority is "not yet determined," check the appropriate box. If you choose to list only some of the applicable citations, you may check the box that indicates there are more citations. In this case, the printed Agenda will contain an ellipsis (...) at the end of the list of citations.

CFR CITATION

Provide the citation(s) of the CFR section(s) that will be affected by the regulatory action. Do not cite to the chapter or subchapter and do not include the words "part" or "section" in your citation. Do not combine citations to more than one part or section unless they are numbered consecutively. If you wish to indicate "New" or "Revision," do so in parentheses after the citation.

To cite:

42 CFR parts 121 and 123

13 CFR section 120.2(d)(4)
42 CFR parts 121-135
Revision to 42 CFR 121

Write the following:

42 CFR 121
42 CFR 123
13 CFR 120.2(d)(4)
42 CFR 121 to 135
42 CFR 121 (Revision)

If the CFR citation is "not yet determined" or if there will be no CFR citation, check the appropriate box. If you choose to list only some of the applicable citations, you may check the box that indicates there are more citations. In this case, the printed Agenda will contain an ellipsis (...) at the end of the list of citations.

LEGAL DEADLINE

Indicate if your entry has any legal deadlines and, if so, whether they pertain to an NPRM, Final Action, or some "Other" action. Also indicate whether deadlines are statutory or judicial and give the date of each. For "Other" deadlines and those without specified dates, you must describe the nature of the deadline. You may include other information about legal deadlines under "Overall Description."

ABSTRACT. Briefly summarize the regulatory action. Provide enough information to distinguish it from other similar regulatory actions.

REGULATORY PLAN DESCRIPTIONS

If you are submitting data for a Regulatory Plan entry in a fall edition, you will have access to the following additional fields: Statement of Need, Summary of the Legal Basis, Alternatives, Anticipated Costs and Benefits, and Risks. See the attachments to the OMB guidance memorandum for a discussion of the content of each of these topics. You must enter text for at least the Statement of Need and the Anticipated Costs and Benefits.

TIMETABLE

Give the history and future schedule for agency actions.

NEXT ACTION. For a spring agenda, the next action for an entry is the first step the agency will take in April or later. For a fall agenda, the next action for an entry is the first step in October or later. The timetable of every entry, other than a completed action, must include either a next action with a date or the designation "Next Action Undetermined."

DATES. For past steps in developing the regulation, give the actual date of publication in the *Federal Register* and the citation (FR volume and page number). You do not need to repeat an FR citation for "comment period end" or "final action effective" unless the citation is different from the associated rulemaking action's citation. For future steps, give the anticipated month and year (for example, 06/00/2009). If you know what the next action will be but have no estimated future date for that action, record "00/00/0000" in the date column. Record all dates using 8 digits separated by slashes. If you enter a year, then you must indicate a month as well. Do not enter a date like 00/00/2009.

STAGE. Entries in an agency's agenda are arranged according to the stage of the rulemaking proceeding: Prerule, Proposed Rule, Final Rule, Long-Term, or Completed Action. The stage is determined from the next action.

If the next action is undetermined, 00/00/0000, or will occur more than 12 months after publication of the Agenda, the entry will appear in the Long-Term Actions section of the Agenda.

If the agency has completed its current work on the regulation, you should indicate this in the Timetable by checking the completion box on the line that shows what the agency did to complete its work (for example, Final Action or Withdrawn). Enter the date of that action and the *Federal Register* citation, if any. Note that completion means the agency has terminated the rulemaking proceeding, not merely that it has published a rulemaking document. Completed entries will not appear in subsequent Agendas.

REGULATORY FLEXIBILITY ANALYSIS AND EFFECTS ON SMALL ENTITIES

Indicate if an analysis is required by the Regulatory Flexibility Act because this rulemaking is likely to have a significant economic impact on a substantial number of small entities as defined by the Act (5 U.S.C. 601(6)). "Undetermined" is a permissible response if the action is at the prerule or proposed rule stage. By the final rule stage, the agency should have made a determination. If you check "Yes," also identify the specific entities that may be affected. If the agency is reporting that it has completed an entry by taking some regulatory action (i.e., not withdrawing it), then you must indicate a determination.

OPTIONAL QUESTION. If your answer to the Regulatory Flexibility Analysis question is "No" or "Undetermined," you may choose to indicate whether some impact on small entities is likely. To do this, answer "Yes" or "No" under "Small Entities Affected." If you answer "Yes," also identify the specific entities that may be affected.

EFFECTS ON LEVELS OF GOVERNMENT

Indicate if this action is expected to affect levels of government. If you check "Yes," also identify the specific levels of government that may be affected. "Undetermined" is permissible if the action is at an early stage of the rulemaking process. If the agency is reporting that it has completed the entry by taking some regulatory action (i.e., not withdrawing it), then you must indicate a determination.

FEDERALISM IMPLICATIONS

Indicate if this action has "federalism implications" as defined in Executive Order 13132. This term refers to actions "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government." "Undetermined" is permissible if the action is at the prequel or proposed rule stage. By the final rule stage, the agency should have made a determination. If the agency is reporting that it has completed an entry by taking some regulatory action (i.e., not withdrawing it), then you must indicate a determination. (Independent regulatory agencies are not required to answer this question.)

ENERGY EFFECTS (Optional)

Indicate whether the agency has prepared or plans to prepare a Statement of Energy Effects as required by Executive Order 13211.

INTERNATIONAL IMPACTS

Indicate whether the regulatory action is expected to have international trade and investment effects, or otherwise may be of interest to the Nation's international trading partners.

AGENCY CONTACT

Provide the name, title, address, and telephone number of someone whom the public may contact for further information about this action. You may also enter a fax number, TDD telephone number, and e-mail address, if they are available and you wish to provide them to the public. You may provide information for more than one person.

URLs (Optional)

You may enter the URL of a Web site with more information about a rulemaking. You may also enter the URL of a Web site for public comments on a rulemaking.

ADDITIONAL INFORMATION (Optional)

You may provide additional information about the entry that the agency wants to include in its agenda. Include in this field any information about analyses or procurement that you wish to report.

AGENCY SORT CODES (Optional)

Agencies can assign codes (previously called subject codes) to establish the order in which entries will appear within the five stages printed in the Agenda (Prerule, Proposed Rule, Final Rule, Long-Term, and Completed Actions). Contact RISC if you wish to create a new set of codes for your agency.

COMPLIANCE COST TO THE PUBLIC (Optional)

Estimates should be gross compliance cost, not net cost that includes benefits to the public.

1. Estimate initial (administrative startup and/or capital) cost;
2. Estimate the yearly recurring (annual operating) cost that your regulation could impose; and
3. Record the base year you used to calculate your dollar estimates. Use only numerals for dollar figures; do not separate numbers by commas. You may record a negative cost, a figure preceded by a minus sign (-), to indicate a savings.

AFFECTED SECTORS (Optional)

You may enter codes from the North American Industry Classification System (NAICS) to indicate the industrial sectors that may be most affected, either directly or indirectly, by the action. You may indicate both the sectors that could benefit from the regulation and those that could bear a cost. Contact RISC for instructions if you wish to use NAICS codes.

RELATED RINS (Optional)

You may enter one or more past or current RINs associated with a rulemaking and specify how they are related, for example, merged RINs, split RINs, new activity for previously completed RINs, or duplicate RINs.

RELATED AGENCIES (Optional)

You may enter one or more other agencies participating in the rulemaking. Indicate whether the rule is a joint or common rule.

FOR ADDITIONAL INFORMATION CONTACT: REGULATORY INFORMATION SERVICE CENTER

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