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

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### OMB Review of Proposed Rule

**Administrative Procedure Act Provisions**

- Under the Administrative Procedure Act provisions at 5 U.S.C. 553, only rules and administrative orders that have "significant economic impact" need to be reviewed by the OMB.

**OMB Review Under Executive Order 12866**

- OMB reviews only those rulemaking actions determined to be "significant." Independent agencies are exempt from OMB review.

### 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 significant impacts?  If yes, Prepare economic impact analysis.

**Regulatory Flexibility Act (5 U.S.C. 601-612)**

- Is a notice of proposed rulemaking required by law?  If no, Go to Step Seven. If yes, Prepare regulatory flexibility analysis.

**Paperwork Reduction Act (44 U.S.C. 3501-3520)**

- Does the rule contain a “collection of information” requiring disclosure, reporting, or recordkeeping?  If yes, Prepare information collection clearance package for OMB review and approval, and prepare request for public comments.


- Does the rulemaking include a proposed rule?  If yes, Go to Step Seven. If no, Go to Step Seven.

**Federalism (E.O. 13132)**

- Is the rule a disciplinary rule that has federalism implications and imposes substantial uncommitted direct compliance costs on State and local governments?  If yes, Prepare federalism summary impact statement. If no, Go to Step Seven.

**Indian Tribal Governments (E.O. 13175)**

- Is the rule a disciplinary rule that has tribal implications and imposes substantial uncommitted direct compliance costs on Indian tribal governments?  If yes, Prepare tribal summary impact statement. If no, Go to Step Seven.

**National Environmental Policy Act (42 U.S.C. 4321-4347)**

- Is the rule categorically excluded from review?  If yes, Go to Step Seven. If no, Does the rule constitute a major Federal action that would significantly affect the quality of the human environment?  If yes, Prepare environmental assessment or environmental impact statement, as appropriate. If no, Go to Step Seven.

**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?  If yes, Adopt voluntary consensus standards or explain why not. If no, Go to Step Seven.

**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?  If yes, Prepare takings analysis. If no, Go to Step Seven.

**Protection of Children from Environmental Health Risks and Safety Risks (E.O. 13045)**

- Is the rulemaking a "covered regulatory action"?  If yes, Prepare analysis of the environmental health or safety effects on children. If no, Go to Step Seven.

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### 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 through six, but with a duty to withdraw the rule if the agency receives adverse comments within the period specified by the agency.