

## § 1.7

## 44 CFR Ch. I (10–1–04 Edition)

### § 1.7 Regulations agendas.

(a) The FEMA semi-annual agenda called for by Executive Order 12291 will be part of the Unified Agenda of Federal Regulations published in April and October of each year.

(b) In accordance with 5 U.S.C. 605, the regulatory flexibility agenda required by 5 U.S.C. 602 and the list of rules, if any, to be reviewed pursuant to 5 U.S.C. 610 shall be included in the FEMA semiannual agenda described in paragraph (a) of this section.

(c) The semiannual agenda shall, among other items, include:

(1) A summary of the nature of each major rule being considered, the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any major rule for which the agency has issued a notice of proposed rulemaking.

(2) The name and telephone number of a knowledgeable agency official for each item on the agenda; and

(3) A list of existing regulations to be reviewed under the terms of the Order and a brief discussion of each such regulation.

[46 FR 32584, June 24, 1981, as amended at 49 FR 33878, Aug. 27, 1984]

### § 1.8 Regulations review.

(a) As part of the semiannual agenda described in §1.7 of this part, FEMA will publish in the FEDERAL REGISTER and keep updated a plan for periodic review of existing rules at least within 10 years from date of publication of a rule as final. This includes those that have significant impact on a substantial number of small entities.

(b) The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, including minimizing any significant economic impact of the rules upon a substantial number of small entities.

(c) In reviewing rules FEMA shall consider the following factors:

(1) The continued need for the rule;

(2) The nature, type and number of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule, including need for review of language for clarity;

(4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

### § 1.9 Regulatory impact analyses.

(a) FEMA shall, in connection with any major rule, prepare and consider a Regulatory Impact Analysis. Such analysis may be combined with the Regulatory Flexibility Analysis described in §§1.12(f) and 1.16(c) of this part.

(b) FEMA shall initially determine whether a rule it intends to propose or to issue is a major rule and, if a major rule, shall prepare Regulatory Impact Analyses and transmit them, along with all notices of proposed rulemaking and all final rules, to the Director, Office of Management and Budget, as follows:

(1) If no notice of proposed rulemaking is to be published for a proposed major rule that is not an emergency rule, the agency shall prepare only a final Regulatory Impact Analysis, which shall be transmitted, along with the proposed rule, to the Director, Office of Management and Budget, at least 60 days prior to the publication of the major rule as a final rule;

(2) With respect to all other major rules, FEMA shall prepare a preliminary Regulatory Impact Analysis, which shall be transmitted, along with a notice of proposed rulemaking, to the Director, Office of Management and Budget, at least 60 days prior to the publication of a notice of proposed rulemaking, and a final Regulatory Impact Analysis, which shall be transmitted along with the final rule at least 30 days prior to the publication of the major rule as a final rule;

(3) For all rules other than major rules, FEMA shall, unless an exemption has been granted, submit to the Director, Office of Management and

Budget, at least 10 days prior to publication, every notice of proposed rulemaking and final rule.

(c) To permit each major rule to be analyzed in light of the requirements stated in section 2 of Executive Order 12291, each preliminary and final Regulatory Impact Analysis shall contain the following information:

(1) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits;

(2) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs;

(3) A determination of the potential net benefits of the rule, including an evaluation of effects that cannot be quantified in monetary terms;

(4) A description of alternative approaches that could substantially achieve the same regulatory goal at lower cost, together with an analysis of this potential benefit and costs and a brief explanation of the legal reasons why such alternatives, if proposed, could not be adopted; and

(5) Unless covered by the description required under paragraph (c)(4) of this section, an explanation of any legal reasons why the rule cannot be based on the requirements set forth in section 2 of Executive Order 12291.

### Subpart B—Procedures for Rulemaking

#### § 1.10 Initiation of rulemaking.

Rulemaking may be initiated on the Director's motion or upon motion of an official to whom rulemaking authority has been delegated. Rulemaking may also be initiated on the petition of any interested person in accordance with the provisions of § 1.18. Interested person includes a Federal, State, or local government or government agency.

#### § 1.11 Advance notice of proposed rulemaking.

An Advance Notice of Proposed Rulemaking will be published in the FEDERAL REGISTER and contains:

(a) A description of the proposed new program or program changes, and why they are needed;

(b) A presentation of the major policy issues involved;

(c) A request for comments, both specific and general, on the need for the proposed rule and the provisions that the rule might include;

(d) If appropriate, a list of questions about the proposal which seeks to bring out detailed comments;

(e) If known, an estimate of the reporting or recordkeeping requirements, if any, that the rule would impose; and

(f) The time within which comments may be submitted to the Rules Docket Clerk, Federal Emergency Management Agency, Washington, DC 20472.

[46 FR 32584, June 24, 1981, as amended at 48 FR 44542, Sept. 29, 1983; 49 FR 33879, Aug. 27, 1984]

#### § 1.12 Notice of proposed rulemaking.

Each notice of proposed rulemaking required by statute, executive order, or by § 1.4 will be published in the FEDERAL REGISTER and will include:

(a) The substance or terms of the proposed rule or a description of the subject matter and issues involved.

(b) A statement of how and to what extent interested persons may participate in the proceeding.

(c) Where participation is limited to written comments, a statement of the time within which such comments must be submitted.

(d) A reference to the legal authority under which the proposal is issued.

(e) In a proceeding which has provided Advance Notice of Proposed Rulemaking, an analysis of the principal issues and recommendations raised by the comments, and the manner in which they have been addressed in the proposed rulemaking.

(f)(1) A brief statement setting forth the agency's initial determination whether the proposed rule is a major rule, together with the reasons underlying that determination;

(2) For each proposed major rule, a brief summary of the agency's preliminary Regulatory Impact Analysis; and

(3) The initial regulatory flexibility analysis or a summary thereof as required by the Regulatory Flexibility