
EPA's Regulatory Development Process

June, 2009

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Briefing Outline

- Statistics on the volume of EPA's regulatory output
- The Action Development Process (ADP) at EPA

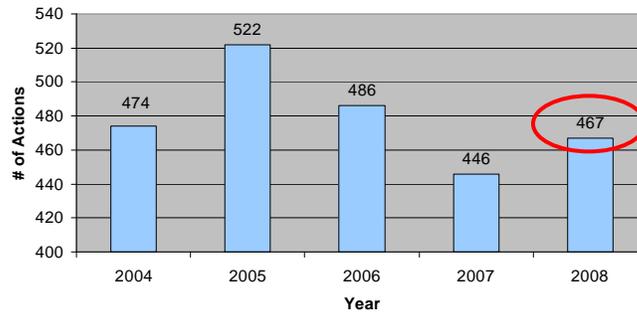
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EPA's Regulatory Production

- Volume -

EPA is 2nd in volume of actions (16% of federal output)

of Final Actions Published that Modify the CFR, by Year

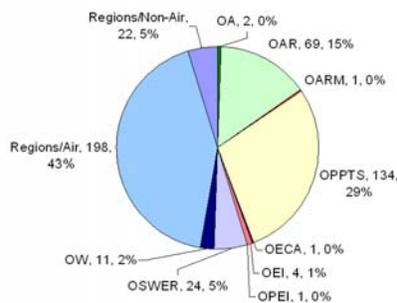


Includes actions such as State Implementation Plans (SIPs), pesticide tolerances, and other routine actions that are not signed by the EPA Administrator.

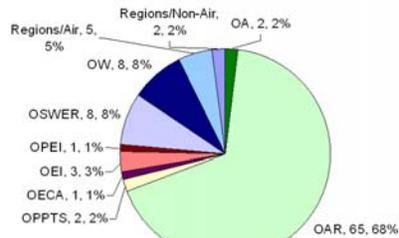
EPA's Regulatory Volume - continued

- A subset of actions receive Administrator signature and cross-agency review
- Largest volume from Air & Radiation (OAR)

2008 Final Actions that Modify the CFR, by Office
(Total: 467 actions)



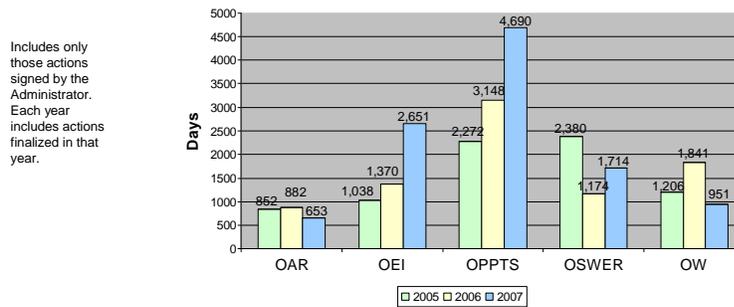
Subset Signed by the Administrator, by Office
(Total: 97 actions)



How long does it take to develop a rule?

- In 2007 – Average of 984 days to finalize actions (2.7 years)
- In 2006 – 1,084 days (3 years)
- Tier 1 & 3 actions move more quickly than Tier 2 actions

Average Days to Finalize a Regulatory Action, by Office (2005 - 2007)



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Estimates of the Total Annual Benefits & Costs of Major Federal Rules

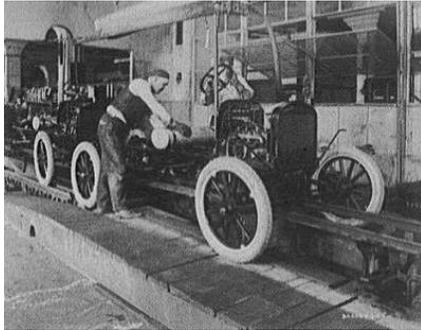
October 1, 1996 – September 20, 2006 (billions of 2001 dollars)

	# of Rules	Benefits	Costs
EPA	40	\$83.2 – 592.6	\$32.2 – 35.1
Health/ Human Services	18	\$20.6 – 32.9	\$3.8 – 4.3
Transportation	15	\$10.4 – 18.1	\$5.0 – 8.8
Agriculture	6	\$0.9 – 1.3	\$1.0 – 1.4
Labor	6	\$1.1 – 4.2	\$0.4 – 0.5
Energy	5	\$4.8 – 5.2	\$3.0 – 3.1
Education	1	\$0.6 – 0.8	\$0.3 – 0.6
Housing / Urban Dev.	1	\$0.2	\$0.2
Justice	1	\$0.3	\$0.1
Total	93	\$122.2 – 655.6	\$46.2 – 53.9

Source: Office of Management and Budget. *Draft 2008 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, pg. 4. See: http://www.whitehouse.gov/omb/info/reg/repol-reports_congress.html.

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The Action Development Process (ADP) – EPA’s Production Line

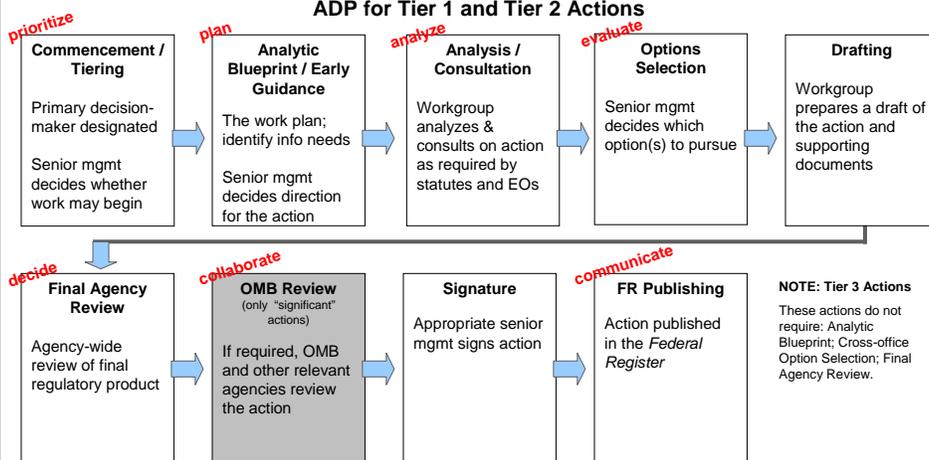


Source: "Assembly." Detroit Publishing Company, 1923 May 7. Touring Turn-of-the-Century America: Photographs from the Detroit Publishing Company, 1880-1920, Library of Congress. See: http://www.americaslibrary.gov/lb/civil/lb_civil_ford_3_e.html

- Prioritize
- Plan
- Analyze
- Evaluate
- Decide
- Collaborate
- Communicate

The ADP

ADP for Tier 1 and Tier 2 Actions



The ADP

- Commencement / Tiering -

prioritize

Commencement / Tiering

Primary decision-maker designated

Senior mgmt decides whether work may begin

- Regulatory Policy Officer (RPO) approves commencement
- OPEI manages the monthly tiering process
 - Tier 1: Administrator's Priorities
 - Active and ongoing involvement by AO
 - Complex, precedent-setting, controversial
 - Formal workgroup w/ core offices
 - Tier 2: Cross-Agency Actions
 - Need extensive cross-media or cross-Agency involvement
 - Formal workgroup w/ core offices
 - Tier 3: Lead Office Delegation
 - Actions of a technical nature or single media
 - No formal cross-Agency workgroup

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The ADP

- Analytic Blueprint / Early Guidance -

plan

Analytic Blueprint / Early Guidance

The work plan

Senior mgmt decides direction for the action

- Outlines plans for:
 - Scientific analysis
 - Economic analysis
 - Legal analysis
 - Implementation, enforcement, & compliance analysis
 - Stakeholder outreach
- Gets workgroup members on the same page
- Solicits early guidance from senior management
- Sets work schedule

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The ADP

- Analysis / Consultation -

analyze

Analysis / Consultation

Workgroup analyzes & consults on action as required by statutes and EOs

- Fills data gaps
- Seeks to understand stakeholder needs and concerns
- Develops options
 - Regulatory or voluntary approach?
 - Uniform standard or market-based approach?
 - Costs/benefits of each
 - Feasibility of each

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The ADP

- Options Selection -

evaluate

Options Selection

Senior mgmt decides which option(s) to pursue

- Presents options to senior management from participating offices
- Managers may:
 - Select an option presented
 - Request additional analysis or data
 - Ask for additional options

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The ADP

- Final Agency Review (FAR) -

decide

Final Agency Review

Agency-wide review of final regulatory product

- Final Agency-wide review of regulatory package:
 - Preamble, including statutory and executive order assessments
 - Regulatory text
 - Supporting analytic/technical documents (e.g., economic analysis)
 - Communication materials
- Meeting is chaired by OPEI
- Each participating office gives their position in writing:
 - Concur
 - Concur with comments
 - Non-concur

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The ADP

- Signature & Publication -

Signature

Appropriate senior mgmt signs action

communicate

FR Publishing

Action published in the *Federal Register*

- Each stage of an action is typically considered complete when the Administrator (or delegate) signs it
- Once signed, the action is published in the *Federal Register*
- Other communication methods, as well:
 - Press release
 - Web posting
 - *Regulatory Agenda*
 - ...future online tools...

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