

Transitioning from Legislation to Regulation: Building Your Regulatory Engagement Strategy

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Action at the critical and opportune moment...

Agenda

- Introduction
- Advocacy – First Principles
- Overview of the Federal Rulemaking Process
- Constructive Engagement – Identify, Cultivate, Educate & Support
- How to Impact the Regulatory Rulemaking Process
- Steps for Effective Regulatory Tracking
- Conclusion

Professional Summary - Overview

- More than 30 years of experience in all aspects of government, regulatory, legislative and public affairs at the international, federal, state, and local levels.
- Majority of the time focused on federal and state lobbying, regulatory agencies and rulemakings, legislation, appropriations, crisis communications, issues management, image enhancement, political action committee (PAC) management and growth, and grassroots and coalition advocacy.
- More than 25 years of experience with non-profit organizations including trade associations, professional societies and chambers of commerce. Almost 20 years of this time has been spent in senior leadership positions including almost 10 years as executive director, managing director or head of office.
- Deep experience in the policymaking around transportation and infrastructure, mobility, logistics, supply chains, trade, manufacturing, packaging, materials and energy.

Professional Summary – Departments, Agencies, IGOs

Department of Labor

- Office of the Secretary
- Occupational Safety and Health Administration

Department of Transportation

- Office of the Secretary
- Federal Highway Administration
- Federal Motor Carrier Safety Administration
- National Highway Traffic Safety Administration
- Federal Aviation Administration

Department of Homeland Security

- Office of the Secretary
- Transportation Security Administration
- Customs and Border Protection
- Federal Emergency Management Agency

Department of Energy

- Office of the Secretary
- Office of Energy Efficiency and Renewable Energy
- Office of Energy
- Office of Fossil Energy
- Office of Nuclear Energy
- Pipeline and Hazardous Materials Safety Administration

Environmental Protection Agency

Federal Energy Regulatory Commission

Nuclear Regulatory Commission

- International experience with EU institutions and the UN System to include specialized agencies like ICAO, IMO, WHO, the World Bank Group, IMF, and related organizations like WCO, WTO, and more regionally focused organizations to include ACD, APEC, ASEAN, SAARC, African Union, ECOWAS, OAS, and ITF (OECD).



Proactive Versus Reactive Approaches to Advocacy

The difference between being proactive and reactive is often the difference between success and failure. Having a proactive business strategy will make your business more flexible, more powerful, and more secure. In advocacy, it allows you more and better opportunities to shape the policy agenda and achieve optimal outcomes.

- Proactive strategies focus on engagement, relationship-building, and creating a more positive operating environment thus preventing a problem before it even happens.
- Reactive strategies focus on monitoring, reporting, and responding.

Overview of the Federal Rulemaking Process

- By delegating authority to administrative agencies to write and enforce regulations that have the force and effect of law, Congress provides federal agencies with considerable power.
- Therefore, to control the process by which agencies create these rules, Congress has enacted procedural statutes, such as the Administrative Procedure Act (APA), that dictate what procedures an agency must follow to establish a final, legally binding rule.

Figure 1. The Rulemaking Process



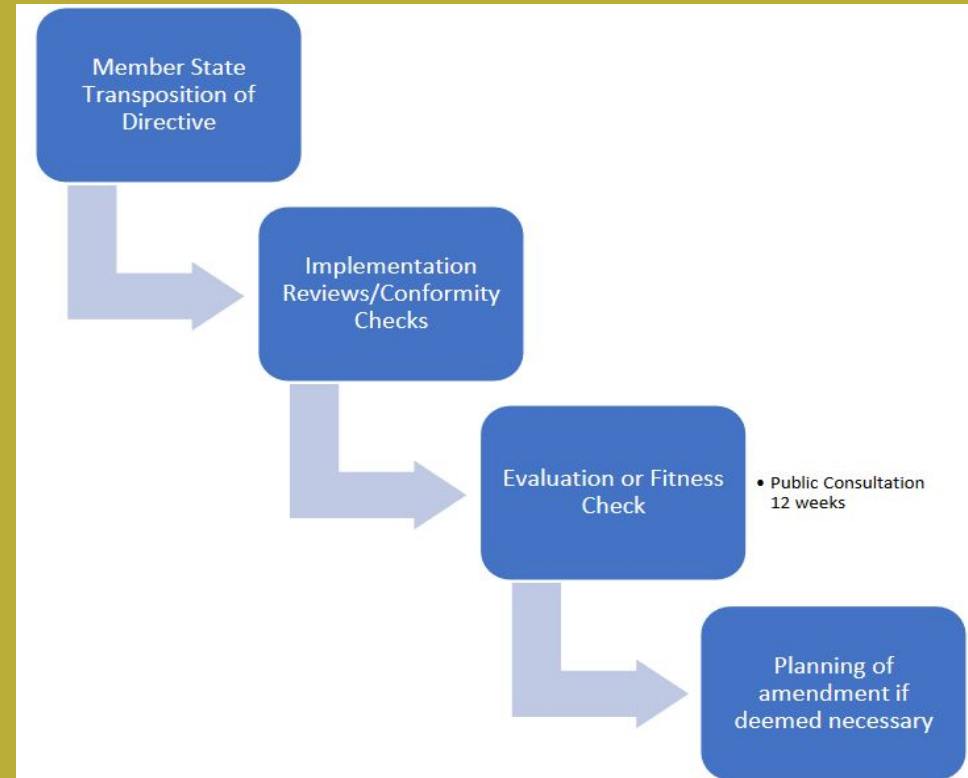
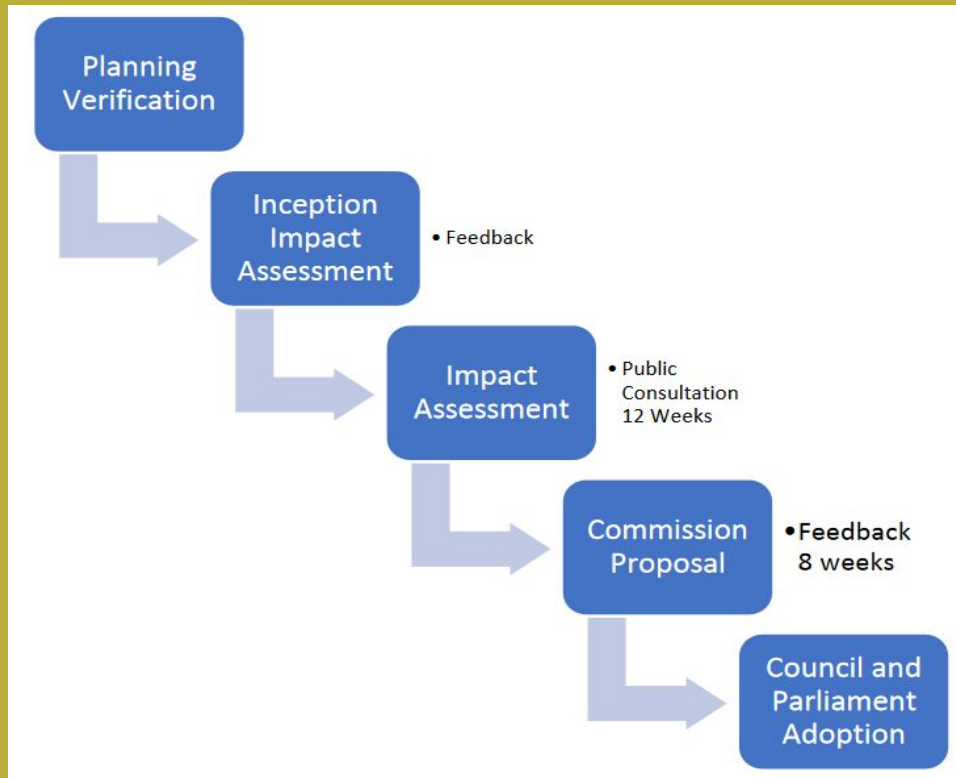
Source: Graphic created by CRS.

APA: Notice and Comment Rulemaking. Unless an agency's authorizing statute provides for different procedures, the APA provides the default practice that all agencies must follow to promulgate rules. These procedures apply whenever an agency creates, amends, or repeals a rule.

Overview of the European Union Rulemaking Process

From preparation of an initiative to adoption by the co-legislator (European Parliament and Council of the European Union) with feedback and consultation opportunities...

...and on to implementation by the EU Member State and review/evaluation.



Components of the Constructive Engagement Approach to Regulators

- (1) Establish an ongoing positive and proactive relationship with your key regulatory departments and agencies.
- (2) Identify the key appointed and career points of contact, but spread your contact relationships widely throughout the building.
- (3) Educate regulators about current realities and future challenges when it comes to your business/industry.
- (4) Explore opportunities for informal and formal partnerships, and stay open to carrying their water on occasion.

How to Impact the Regulatory Rulemaking Process

- (1) Participate in Public Comment Periods
- (2) Pay Attention to the Unified Agenda
- (3) Petition for Rulemaking
- (4) Participate in Public Hearings
- (5) Engage the Legislative Branch
- (6) Be Prepared for Judicial Review
- (7) Bottom Line: Show Up

Steps for Effective Regulatory Tracking

- (1) Set Up Relevant Search Terms
- (2) Set Team Procedures for Categorizing Newly Introduced Regulations
- (3) Build a Regulatory Tracking Repository
- (4) Pair Your Regulatory Tracking with Legislative Tracking

Thank You

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