

§ 1690.201

(f) *Issuance* refers to any rule, regulation, guideline, order, policy directive, procedural directive, legislative proposal, publication, or data collection or recordkeeping instrument. It also includes agency documents as described above, or revisions of such documents, developed pursuant to court order. *Issuance* does not include orders issued to specific parties as a result of adjudicatory-type processes.

(g) *Order* means Executive Order 12067 (Providing for Coordination of Federal Equal Employment Opportunity Programs).

(h) *Public announcement* means the publication of a document in final form in the FEDERAL REGISTER or any other promulgation for general agency or public reference.

(i) *Significant issuance* means any issuance which the public must be afforded an opportunity to comment upon. In determining whether an issuance is significant, the EEOC shall apply the following criteria:

(1) The type and number of individuals, businesses, organizations, employers, labor unions, or State and local governments affected;

(2) The compliance and reporting requirements likely to be involved;

(3) The impact on the identification and elimination of discrimination in employment;

(4) The relationship of the proposed issuance to those of other programs and agencies.

[45 FR 68361, Oct. 14, 1980, as amended at 45 FR 71799, Oct. 30, 1980]

Subpart B—Responsibilities

§ 1690.201 Responsibilities.

(a) The Associate Legal Counsel, Coordination and Guidance Services is responsible for coordinating the consultation and review process with other agencies on any issuances covered by the Order.

(b) All Federal agencies shall advise and offer to consult with the EEOC during the development of any proposed issuances, concerning equal employment opportunity which affect the obligations of employers, labor organizations, employment agencies or other Federal agencies.

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(c) The Equal Employment Opportunity Commission shall advise and offer to consult with the affected Federal agencies during the development of any proposed issuances concerning equal employment opportunity which affect the obligations of employers, labor organizations, employment agencies or other Federal agencies.

[45 FR 68361, Oct. 14, 1980, as amended at 47 FR 46276, Oct. 18, 1982]

Subpart C—Policies and Procedures

§ 1690.301 Notification to EEOC during development of issuances.

(a) Agencies shall notify the Commission whenever they intend to develop a significant issuance or an issuance affecting other agencies so that potential duplication, overlap, or inconsistency with the proposed issuances of other agencies can be identified before substantial agency time and resources have been expended. The requirement for consultation applies whether or not the agency plans to publish the issuance in the FEDERAL REGISTER for public comment.

(b) Whenever an agency of the Federal government (initiating agency) develops a proposed issuance which will require consultation among the affected agencies, a responsible official of that agency or agency component shall initiate consultation by submitting an early draft of the appropriate documents, preferably after review at the first or second supervisory level, to the chair of the EEOC (ATTN: Associate Legal Counsel, Coordination and Guidance Services). The submission shall be made prior to the point that the issuance is deemed final and ready for publication and shall indicate the appropriate office or person responsible for development of the issuance.

(c) EEOC recognizes that subsequent intra-agency clearance activities may change the policies outlined in the issuance and may add or delete items included in prior drafts. Therefore, during this period of policy development, an initiating agency shall not be bound by the contents of drafts which precede the final draft.

(d) Except as provided in §1690.307, in no instance shall there be formal submission to the EEOC or the affected agencies without prior consultation pursuant to section 1-304 of the Order.

(e) Where an agency issuance is related to the internal management or administration of the agency, the issuance is exempt from the consultation process under the Order. The initiating agencies will make the determination of what must be submitted. When the agencies are in doubt, EEOC will determine the extent to which a particular issuance is covered by this exemption.

[45 FR 68361, Oct. 14, 1980, as amended at 47 FR 46276, Oct. 18, 1982]

§ 1690.302 Issuances proposed by EEOC.

Whenever the EEOC proposes to develop a significant issuance or any issuance requiring consultation, the procedure outlined in these regulations, shall also apply, as set forth in section 1-303 of the Order. The EEOC shall advise and consult with other affected agencies whenever it develops an issuance, in the same manner and to the same extent as other agencies are required to do in §1690.301 of this part, and in other sections below.

§ 1690.303 Consultation with affected agencies.

At the start of consultation, the EEOC shall determine which other agencies would be affected by the proposed issuance, and the initiating agency shall consult with such agencies. Initiating agencies shall also consult with other agencies which claim that their internal equal employment opportunity or personnel programs are affected by proposed issuances otherwise directed at external equal employment opportunity efforts. Agencies may consult with any other agencies that they believe would be affected by the issuance. The consultation period shall be determined by the parties. During the consultation period, the EEOC shall seek to resolve any disputes with the initiating agency before publication.

§ 1690.304 Coordination of proposed issuance.

(a) *Procedure for publication of proposed issuance.* (1) If the initiating agency, after consultation with EEOC, proposes to publish the issuance for purposes of receiving comments from the public, it shall confer with EEOC and agree on a mutually agreeable length of time, no less than 15 working days, during which the proposal shall be submitted to all affected Federal agencies pursuant to section 1-304 of the Order. The period of review shall be sufficient to allow all affected agencies reasonable time in which to properly review the proposal.

(2) When an affected agency wishes an extension of the review period, it shall make such request of the initiating agency. If the initiating agency does not grant the request, the affected agency may then make that request of EEOC. EEOC may, at its discretion, grant the additional time requested, whereupon EEOC will inform the initiating agency which shall extend the review period. EEOC shall also inform the initiating agency of the reasons for the extension.

(3) After 15 working days, if the EEOC has not requested an extension of time or otherwise communicated the need for more time to review the proposal, the initiating agency may proceed to publication of the proposed significant issuance for public comment for at least 60 days.

(4) During this public comment period, certain issues may be submitted to employer and employee representatives for comment pursuant to section 2(c) of Executive Order 12044 (Improving Government Regulations) which requires that agencies give the public an early and meaningful opportunity to participate in the development of significant regulations.

(b) *Procedure for publication of final issuance.* After the period for public comment has closed, the initiating agency shall then incorporate the changes it deems appropriate and forward to EEOC for review, a copy of the document as published, a copy of the document as amended, with changes highlighted, any staff analysis, and a list of commentators. EEOC or affected