



Executive Order 12291--Federal regulation

Source: The provisions of Executive Order 12291 of Feb. 17, 1981, appear at 46 FR 13193, 3 CFR, 1981 Comp., p. 127, unless otherwise noted.

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to reduce the burdens of existing and future regulations, increase agency accountability for regulatory actions, provide for presidential oversight of the regulatory process, minimize duplication and conflict of regulations, and insure well-reasoned regulations, it is hereby ordered as follows:

Section 1. Definitions. For the purposes of this Order:

- (a) "Regulation" or "rule" means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency, but does not include:
 - (1) Administrative actions governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code;
 - (2) Regulations issued with respect to a military or foreign affairs function of the United States; or
 - (3) Regulations related to agency organization, management, or personnel.
- (b) "Major rule" means any regulation that is likely to result in:
 - (1) An annual effect on the economy of \$100 million or more;
 - (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
 - (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.
- (c) "Director" means the Director of the Office of Management and Budget.
- (d) "Agency" means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), excluding those agencies specified in 44 U.S.C. 3502(10).
- (e) "Task Force" means the Presidential Task Force on Regulatory Relief.

Sec. 2. General Requirements. In promulgating new regulations, reviewing existing regulations, and developing legislative proposals concerning regulation, all agencies, to the extent permitted by law, shall adhere to the following requirements:

- (a) Administrative decisions shall be based on adequate information concerning the need for and consequences of proposed government action;
- (b) Regulatory action shall not be undertaken unless the potential benefits to society for the regulation outweigh the potential costs to society;
- (c) Regulatory objectives shall be chosen to maximize the net benefits to society;
- (d) Among alternative approaches to any given regulatory objective, the alternative involving the least net cost to society shall be chosen; and
- (e) Agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society, taking into account the condition of the particular industries affected by regulations, the condition of the national economy, and other regulatory actions contemplated for the future.

Sec. 3. Regulatory Impact Analysis and Review.

(a) In order to implement Section 2 of this Order, each agency shall, in connection with every major rule, prepare, and to the extent permitted by law consider, a Regulatory Impact Analysis. Such Analyses may be combined with any Regulatory Flexibility Analyses performed under 5 U.S.C. 603 and 604.

(b) Each agency shall initially determine whether a rule it intends to propose or to issue is a major rule, provided that, the Director, subject to the direction of the Task Force, shall have authority, in accordance with Sections 1(b) and 2 of this Order, to prescribe criteria for making such determinations, to order a rule to be treated as a major rule, and to require any set of related rules to be considered together as a major rule.

(c) Except as provided in Section 8 of this Order, agencies shall prepare Regulatory Impact Analyses of major rules and transmit them, along with all notices of proposed rulemaking and all final rules, to the Director 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 at least 60 days prior to the publication of the major rule as a final rule;

(2) With respect to all other major rules, the agency shall prepare a preliminary Regulatory Impact Analysis, which shall be transmitted, along with a notice of proposed rulemaking, to the Director 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, agencies shall submit to the Director, at least 10 days prior to publication, every notice of proposed rulemaking and final rule.

(d) To permit each proposed major rule to be analyzed in light of the requirements stated in Section 2 of this Order, 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 (4) of this subsection, an explanation of any legal reasons why the rule cannot be based on the requirements set forth in Section 2 of this Order.

(e)(1) The Director, subject to the direction of the Task Force, which shall resolve any issues raised under this Order or ensure that they are presented to the President, is authorized to review any preliminary or final Regulatory Impact Analysis, notice of proposed rulemaking, or final rule based on the requirements of this Order.

(2) The Director shall be deemed to have concluded review unless the Director advises an agency to the contrary under subsection (f) of this Section:

(A) Within 60 days of a submission under subsection (c)(1) or a submission of a preliminary Regulatory Impact Analysis or notice of proposed rulemaking

