

Executive Order 14094—Modernizing Regulatory Review

April 6, 2023

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to modernize the regulatory process to advance policies that promote the public interest and address national priorities, it is hereby ordered as follows:

Section 1. Improving the Effectiveness of the Regulatory Review Process. (a) This order supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). Any provisions of those orders not amended in this order shall remain in effect. This order also further implements the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review).

(b) Section 3(f) of Executive Order 12866 is hereby amended to read as follows:

"(f) "Significant regulatory action" means any regulatory action that is likely to result in a rule that may:

- (1) have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of OIRA for changes in gross domestic product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or tribal governments or communities;
- (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles set forth in this Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case."

Sec. 2. Affirmative Promotion of Inclusive Regulatory Policy and Public Participation. (a) To the extent practicable and consistent with applicable law, regulatory actions should be informed by input from interested or affected communities; State, local, territorial, and Tribal officials and agencies; interested or affected parties in the private sector and other regulated entities; those with expertise in relevant disciplines; and the public as a whole. Opportunities for public participation shall be designed to promote equitable and meaningful participation by a range of interested or affected parties, including underserved communities.

(b) To inform the regulatory planning process, executive departments and agencies (agencies) shall, to the extent practicable and consistent with applicable law:

- (i) clarify opportunities for interested persons to petition for the issuance, amendment, or repeal of a rule under 5 U.S.C. 553(e);
- (ii) endeavor to respond to such petitions efficiently, in light of agency judgments of available resources and priorities; and

(iii) maintain, subject to available resources, a log of such petitions received, and share with the Administrator of the Office of Information and Regulatory Affairs (OIRA), upon request, information on the status of recently resolved and pending petitions.

(c) To inform the development of regulatory agendas and plans, agencies shall endeavor, as practicable and appropriate, to proactively engage interested or affected parties, including members of underserved communities; consumers; workers and labor organizations; program beneficiaries; businesses and regulated entities; those with expertise in relevant disciplines; and other parties that may be interested or affected. These efforts shall incorporate, to the extent consistent with applicable law, best practices for information accessibility and engagement with interested or affected parties, including, as practicable and appropriate, community-based outreach; outreach to organizations that work with interested or affected parties; use of agency field offices; use of alternative platforms and media for engaging the public; and expansion of public capacity for engaging in the rulemaking process.

(d) The Administrator of OIRA, in consultation with relevant agencies, as appropriate, shall consider guidance or tools to modernize the notice-and-comment process, including through technological changes. These reforms may include guidance or tools to address mass comments, computer-generated comments (such as those generated through artificial intelligence), and falsely attributed comments.

(e) Section 6(b)(4) of Executive Order 12866 establishes a process for persons not employed by the executive branch of the Federal Government to request meetings with OIRA officials regarding the substance of regulatory actions under OIRA review. Public trust in the regulatory process depends on protecting regulatory development from the risk or appearance of disparate and undue influence, including in the OIRA review process. In order to reduce this risk or appearance, the Administrator of OIRA shall, to the extent practicable and consistent with applicable law:

(i) Provide information to facilitate the initiation of meeting requests regarding regulatory actions under OIRA review from potential participants not employed by the executive branch of the Federal Government who have not historically requested such meetings, including those from underserved communities; and

(ii) Implement reforms to improve procedures and policies with respect to OIRA's consideration of meeting requests initiated by persons not employed by the executive branch of the Federal Government regarding the substance of regulatory actions under OIRA review to further the efficiency and effectiveness of such meetings. These reforms may include:

(A) efforts to ensure access for meeting requesters who have not historically requested such meetings;

(B) discouraging meeting requests that are duplicative of earlier meetings with OIRA regarding the same regulatory action by the same meeting requesters;

(C) consolidation of meetings by requester, subject matter, or any other consistently applied factors deemed appropriate to improve efficiency and effectiveness; and

(D) disclosure of data in an open, machine-readable, and accessible format that includes the dates and names of individuals involved in all substantive meetings and the subject matter discussed during such meetings, as required by section 6(b)(4)(C)(iii) of Executive Order 12866, so as to better facilitate transparency and analysis.

Sec. 3. Improving Regulatory Analysis. (a) Regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with Executive Order 12866, Executive Order 13563, and the Presidential Memorandum of January 20, 2021 (Modernizing Regulatory Review). Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law.

(b) Within 1 year of the date of this order, the Director of the Office of Management and Budget, through the Administrator of OIRA and in consultation with the Chair of the Council of Economic Advisers and representatives of relevant agencies, shall issue revisions to the Office of Management and Budget's Circular A-4 of September 17, 2003 (Regulatory Analysis), in order to implement the policy set forth in subsection (a) of this section.

Sec. 4. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

JOSEPH R. BIDEN, JR.

The White House,
April 6, 2023.

[Filed with the Office of the Federal Register, 11:15 a.m., April 10, 2023]

NOTE: This Executive order was published in the *Federal Register* on April 11.

Categories: Executive Orders : Regulatory review, modernization efforts.

Subjects: Council of Economic Advisers; Federal regulatory process, modernization efforts; Government accountability and transparency, strengthening efforts; Office of Information and Regulatory Affairs; Office of Management and Budget.

DCPD Number: DCPD202300277.