

APPENDIX I

Executive Order No. 12498 and Presidential Memorandum

EXECUTIVE ORDER NO. 12498 OF JANUARY 4, 1985

Regulatory Planning Process

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to create a coordinated process for developing on an annual basis the Administration's Regulatory Program, establish Administration regulatory priorities, increase the accountability of agency heads for the regulatory actions of their agencies, provide for Presidential oversight of the regulatory process, reduce the burdens of existing and future regulations, minimize duplication and conflict of regulations, and enhance public and Congressional understanding of the Administration's regulatory objectives, it is hereby ordered as follows:

Section 1. *General Requirements.* (a) There is hereby established a regulatory planning process by which the Administration will develop and publish a Regulatory Program for each year. To implement this process, each Executive agency subject to Executive Order No. 12291 shall submit to the Director of the Office of Management and Budget (OMB) each year, starting in 1985, a statement of its regulatory policies, goals, and objectives for the coming year and information concerning all significant regulatory actions under way or planned; however, the Director may exempt from this order such agencies or activities as the Director may deem appropriate in order to achieve the effective implementation of this order.

(b) The head of each Executive agency subject to this Order shall ensure that all regulatory actions are consistent with the goals of the agency and of the Administration, and will be appropriately implemented.

(c) This program is intended to complement the existing regulatory planning and review procedures of agencies and the Executive branch, including the procedures established by Executive Order No. 12291.

(d) To assure consistency with the goals of the Administration, the head of each agency subject to this Order shall adhere to the regulatory principles stated in Section 2 of Executive Order No. 12291, including those elaborated by the regulatory policy guidelines set forth in the August 11, 1983, Report of the Presidential

Task Force on Regulatory Relief, "Reagan Administration Regulatory Achievements."

Sec. 2. *Agency Submission of Draft Regulatory Program.* (a) The head of each agency shall submit to the Director an overview of the agency's regulatory policies, goals, and objectives for the program year and such information concerning all significant regulatory actions of the agency, planned or under way, including actions taken to consider whether to initiate rulemaking; requests for public comment; and the development of documents that may influence, anticipate, or lead to the commencement of rulemaking proceedings at a later date, as the Director deems necessary to develop the Administration's Regulatory Program. This submission shall constitute the agency's draft regulatory program. The draft regulatory program shall be submitted to the Director each year, on a date to be specified by the Director, and shall cover the period from April 1 through March 31 of the following year.

(b) The overview portion of the agency's submission should discuss the agency's broad regulatory purposes, explain how they are consistent with the Administration's regulatory principles, and include a discussion of the significant regulatory actions, as defined by the Director, that it will take. The overview should specifically discuss the significant regulatory actions of the agency to revise or rescind existing rules.

(c) Each agency head shall categorize and describe the regulatory actions described in subsection (a) in such format as the Director shall specify and provide such additional information as the Director may request; however, the Director shall, by Bulletin or Circular, exempt from the requirements of this order any class or category of regulatory action that the Director determines is not necessary to review in order to achieve the effective implementation of the program.

Sec. 3. *Review, Compilation, and Publication of the Administration's Regulatory Program.* (a) In reviewing each agency's draft regulatory program, the Director shall (i) consider the consistency of the draft regulatory

program with the Administration's policies and priorities and the draft regulatory programs submitted by other agencies; and (ii) identify such further regulatory or deregulatory actions as may, in his view, be necessary in order to achieve such consistency. In the event of disagreement over the content of the agency's draft regulatory program, the agency head or the Director may raise issues for further review by the President or by such appropriate Cabinet Council or other forum as the President may designate.

(b) Following the conclusion of the review process established by subsection (a), each agency head shall submit to the Director, by a date to be specified by the Director, the agency's final regulatory plan for compilation and publication as the Administration's Regulatory Program for that year. The Director shall circulate a draft of the Administration's Regulatory Program for agency comment, review, and interagency consideration, if necessary, before publication.

(c) After development of the Administration's Regulatory Program for the year, if the agency head proposes to take a regulatory action subject to the provisions of Section 2 and not previously submitted for review under this process, or if the agency head proposes to take a regulatory action that is materially different from the action described in the agency's final regulatory program, the agency head shall immediately advise the Director and submit the action to the Director for review in such format as the Director may specify. Except in the case of emergency situations, as defined by the Director, or statutory or judicial deadlines, the agency head shall refrain from taking the proposed regulatory action until the review of this submission by the Director is

completed. As to those regulatory actions not also subject to Executive Order No. 12291, the Director shall be deemed to have concluded that the proposal is consistent with the purposes of this Order, unless he notifies the agency head to the contrary within 10 days of its submission. As to those regulatory actions subject to Executive Order No. 12291, the Director's review shall be governed by the provisions of Section 3(e) of the Order.

(d) Absent unusual circumstances, such as new statutory or judicial requirements or unanticipated emergency situations, the Director may, to the extent permitted by law, return for reconsideration any rule submitted for review under Executive Order No. 12291 that would be subject to Section 2 but was not included in the agency's final Regulatory Program for that year, or any other significant regulatory action that is materially different from those described in the Administration's Regulatory Program for that year.

Sec. 4. *Office of Management and Budget.* The Director of the Office of Management and Budget is authorized, to the extent permitted by law, to take such actions as may be necessary to carry out the provisions of this Order.

Sec. 5. *Judicial Review.* This Order is intended only to improve the internal management of the Federal government, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers or any person.

RONALD REAGAN

THE WHITE HOUSE
January 4, 1985

THE WHITE HOUSE
OFFICE OF THE PRESS SECRETARY

January 4, 1985

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

Subject: Development of Administration's Regulatory Program.

With your help and active support, this Administration has substantially reduced the burden and intrusiveness of Federal regulatory programs. In the past three years, we have eliminated many needless rules, revised ill-conceived ones, and held the number of new rules to the minimum necessary. The policies and procedures of Executive Order No. 12291 have imposed long needed discipline on the rulemaking process. As a result, Federal paperwork and the size of the *Federal Register* have declined for four consecutive years—for the first time ever. Our accomplishments so far have been substantial, and we can take pride in them.

Much more can and should be done, however. Regulation has become one of the most important and costly activities of government, yet it is managed far less systematically than direct government spending. Several statutes and Executive Order No. 12291 establish procedures for agency rulemaking, but this is only the final stage of the regulatory process. Developing a government rule often involves years of studies, hearings, and intermediate decisions before even a proposed rule is issued for public comment. Frequently, senior agency officials are involved only after these earlier activities have greatly narrowed the options for final action and precluded effective Administration policy review.

Today, I have signed an Executive Order to establish a regulatory planning process by which we will develop and publish the Administration's Regulatory Program for each year. Under this process, it will be the personal responsibility of the head of each agency to determine—at the beginning of the regulatory process, not at the end—whether a given regulatory venture is consistent with the goals of the Administration and whether agency resources should be committed to it. Each agency head will thus be accountable for the management of the regulatory process, to ensure that policy options are not narrowed prematurely and that each significant regulatory proposal will be considered in relation to others.

To do this, I am requesting each regulatory agency to draft its proposed regulatory policies at the beginning of each year and to set forth a statement of priority regulatory activities, including prerulemaking actions, that constitute the agency's regulatory program for the year. This document should explain how each new activity will carry out the regulatory policies of this Administration and specify the agency's plan for reviewing and revising existing regulatory programs to bring them into accord with Administration policies.

After approval by the head of the agency, the agency's draft regulatory program should be submitted for review by the Office of Management and Budget. This review should focus on consistency with general Administration policy, and with the draft regulatory programs submitted by other agencies. The Office of Management and Budget will circulate a draft of the Administration's Regulatory Program for agency comment, review, and interagency consideration if necessary before the document is put in final form for publication. Issues may be raised for further review by a Cabinet Council or by me or by such other group as I may designate. This review will not interfere with the exercise of authority committed by statute to heads of agencies.

The final regulatory programs of all agencies will be published by the Office of Management and Budget in May as the Administration's Regulatory Program for the twelve-month period beginning April 1, 1985. During the year, this document will be used as a basis for reviews of individual rules under Executive Order No. 12291. At the end of the year, it should be used to assess the agency's performance and to prepare the next year's program.

I am directing the Director of the Office of Management and Budget to implement this regulatory review process immediately and to establish the procedures under which these documents will be submitted to the Director and reviewed. For their first submission, agencies shall submit their draft regulatory program to the Director on the date specified by him. The Director will prepare for my consideration the goals and priorities for all agencies in a manner similar to the identification of significant issues in the fiscal budgetary process.

I am convinced that this process will result in substantial improvements in Federal regulatory policy. It will help ensure that each major step in the process of rule development is consistent with Administration policy. It will enable agency heads to manage agency regulatory actions more effectively, at the same time that it enables the President to hold agency heads more closely accountable for implementing Administration policy.

While ambitious, this program will build on our earlier efforts that have proven successful—the Executive Order No. 12291 review process, the reviews of inherited rules by the Task Force on Regulatory Relief, and the annual “paperwork budget” process.

I am confident that your wholehearted support will make this next stage in our regulatory reform program equally successful.

RONALD REAGAN

APPENDIX II

Executive Order No. 12291

EXECUTIVE ORDER NO. 12291 OF FEBRUARY 17, 1981

Federal Regulation

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 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 under subsection (c)(2);

(B) Within 30 days of the submission of a final Regulatory Impact Analysis and a final rule under subsection (c)(2); and

(C) Within 10 days of the submission of a notice of proposed rulemaking or final rule under subsection (c)(3).

(f)(1) Upon the request of the Director, an agency shall consult with the Director concerning the review of a preliminary Regulatory Impact Analysis or notice of proposed rulemaking under this Order, and shall, subject to Section 8(a)(2) of this Order, refrain from publishing its preliminary Regulatory Impact Analysis or notice of proposed rulemaking until such review is concluded.

(2) Upon receiving notice that the Director intends to submit views with respect to any final Regulatory Impact Analysis or final rule, the agency shall, subject to Section 8(a)(2) of this Order, refrain from publishing its final Regulatory Impact Analysis or final rule until the agency has responded to the Director's views, and incorporated those views and the agency's response in the rulemaking file.

(3) Nothing in this subsection shall be construed as displacing the agencies' responsibilities delegated by law.

(g) For every rule for which an agency publishes a notice of proposed rulemaking, the agency shall include in its notice:

(1) A brief statement setting forth the agency's initial determination whether the proposed rule is a major rule, together with the reasons underlying that determination; and

(2) For each proposed major rule, a brief summary of the agency's preliminary Regulatory Impact Analysis.

(h) Agencies shall make their preliminary and final Regulatory Impact Analyses available to the public.

(i) Agencies shall initiate reviews of currently effective rules in accordance with the purposes of this Order, and perform Regulatory Impact Analyses of currently effective major rules. The Director, subject to the direction of the Task Force, may designate currently effective rules for review in accordance with this Order, and establish schedules for reviews and Analyses under this Order.

Sec. 4. Regulatory Review. Before approving any final major rule, each agency shall:

(a) Make a determination that the regulation is clearly within the authority delegated by law and consistent with congressional intent, and include in the *Federal Register* at the time of promulgation a memorandum of law supporting that determination.

(b) Make a determination that the factual conclusions upon which the rule is based have substantial support in the agency record, viewed as a whole, with full attention to public comments in general and the comments of persons directly affected by the rule in particular.

Sec. 5. *Regulatory Agendas.*

(a) Each agency shall publish, in October and April of each year, an agenda of proposed regulations that the agency has issued or expects to issue, and currently effective rules that are under agency review pursuant to this Order. These agendas may be incorporated with the agendas published under 5 U.S.C. 602, and must contain at the minimum:

(1) A summary of the nature of each major rule being considered, the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any major rule for which the agency has issued a notice of proposed rulemaking;

(2) The name and telephone number of a knowledgeable agency official for each item on the agenda; and

(3) A list of existing regulations to be reviewed under the terms of this Order, and a brief discussion of each such regulation.

(b) The Director, subject to the direction of the Task Force, may, to the extent permitted by law:

(1) Require agencies to provide additional information in an agenda; and

(2) Require publication of the agenda in any form.

Sec. 6. *The Task Force and Office of Management and Budget.*

(a) To the extent permitted by law, the Director shall have authority, subject to the direction of the Task Force, to:

(1) Designate any proposed or existing rule as a major rule in accordance with Section 1(b) of this Order;

(2) Prepare and promulgate uniform standards for the identification of major rules and the development of Regulatory Impact Analyses;

(3) Require an agency to obtain and evaluate, in connection with a regulation, any additional relevant data from any appropriate source;

(4) Waive the requirements of Section 3, 4, or 7 of this Order with respect to any proposed or existing major rule;

(5) Identify duplicative, overlapping and conflicting rules, existing or proposed, and existing or proposed rules that are inconsistent with the policies underlying statutes governing agencies other than the issuing agency or with the purposes of this Order and, in each such case, require appropriate interagency consultation to minimize or eliminate such duplication, overlap, or conflict;

(6) Develop procedures for estimating the annual benefits and costs of agency regulations, on both an aggregate and economic or industrial sector basis, for purposes of compiling a regulatory budget;

(7) In consultation with interested agencies, prepare for consideration by the President recommendations for changes in the agencies' statutes; and

(8) Monitor agency compliance with the requirements of this Order and advise the President with respect to such compliance.

(b) The Director, subject to the direction of the Task Force, is authorized to establish procedures for the performance of all functions vested in the Director by this Order. The Director shall take appropriate steps to coordinate the implementation of the analysis, transmittal, review, and clearance provisions of this Order with the authorities and requirements provided for or imposed upon the Director and agencies under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Paperwork Reduction Plan Act of 1980, 44 U.S.C. 3501 *et seq.*

Sec. 7. *Pending Regulations.*

(a) To the extent necessary to permit reconsideration in accordance with this Order, agencies shall, except as provided in Section 8 of this Order, suspend or postpone the effective dates of all major rules that they have promulgated in final form as of the date of this Order, but that have not yet become effective, excluding:

(1) Major rules that cannot legally be postponed or suspended;

(2) Major rules that, for good cause, ought to become effective as final rules without reconsideration. Agencies shall prepare, in accordance with Section 3 of this Order, a final Regulatory Impact Analysis for each major rule that they suspend or postpone.

(b) Agencies shall report to the Director no later than 15 days prior to the effective date of any rule that the agency has promulgated in final form as of the date of this Order, and that has not yet become effective, and that will not be reconsidered under subsection (a) of this Section:

(1) That the rule is excepted from reconsideration under subsection (a), including a brief statement of the legal or other reasons for that determination; or

(2) That the rule is not a major rule.

(c) The Director, subject to the direction of the Task Force, is authorized, to the extent permitted by law, to:

(1) Require reconsideration, in accordance with this Order, of any major rule that an agency has issued in final form as of the date of this Order and that has not become effective; and

(2) Designate a rule that an agency has issued in final form as of the date of this Order and that has not yet become effective as a major rule in accordance with Section 1(b) of this Order.

(d) Agencies may, in accordance with the Administrative Procedure Act and other applicable statutes, permit major rules that they have issued in final form as of the date of this Order, and that have not yet become effective, to take effect as interim rules

while they are being reconsidered in accordance with this Order, *provided that*, agencies shall report to the Director, no later than 15 days before any such rule is proposed to take effect as an interim rule, that the rule should appropriately take effect as an interim rule while the rule is under reconsideration.

(e) Except as provided in Section 8 of this Order, agencies shall, to the extent permitted by law, refrain from promulgating as a final rule any proposed major rule that has been published or issued as of the date of this Order until a final Regulatory Impact Analysis, in accordance with Section 3 of this Order, has been prepared for the proposed major rule.

(f) Agencies shall report to the Director, no later than 30 days prior to promulgating as a final rule any proposed rule that the agency has published or issued as of the date of this Order and that has not been considered under the terms of this Order:

(1) That the rule cannot legally be considered in accordance with this Order, together with a brief explanation of the legal reasons barring such consideration; or

(2) That the rule is not a major rule, in which case the agency shall submit to the Director a copy of the proposed rule.

(g) The Director, subject to the direction of the Task Force, is authorized, to the extent permitted by law, to:

(1) Require consideration, in accordance with this Order, of any proposed major rule that the agency has published or issued as of the date of this Order, and

(2) Designate a proposed rule that an agency has published or issued as of the date of this Order, as a major rule in accordance with Section 1(b) of this Order.

(h) The Director shall be deemed to have determined that an agency's report to the Director under subsections (b),(d), or (f) of this Section is consistent with the purposes of this Order, unless the Director advises the agency to the contrary:

(1) Within 15 days of its report, in the case of any report under subsections (b) or (d); or

(2) Within 30 days of its report, in the case of any report under subsection (f).

(i) This Section does not supersede the President's Memorandum of January 29, 1981, entitled "postponement of Pending Regulations", which shall remain in effect until March 30, 1981.

(j) In complying with this Section, agencies shall comply with all applicable provisions of the Administrative Procedure Act, and with any other procedural requirements made applicable to the agencies by other statutes.

Sec. 8. *Exemptions.*

(a) The procedures prescribed by this Order shall not apply to:

(1) Any regulation that responds to an emergency situation, *provided that*, any such regulation shall be reported to the Director as soon as is practicable, the agency shall publish in the *Federal Register* a statement of the reasons why it is impracticable for the agency to follow the procedures of this Order with respect to such a rule, and the agency shall prepare and transmit as soon as is practicable a Regulatory Impact Analysis of any such major rule; and

(2) Any regulation for which consideration or reconsideration under the terms of this Order would conflict with deadlines imposed by statute or by judicial order, *provided that*, any such regulation shall be reported to the Director together with a brief explanation of the conflict, the agency shall publish in the *Federal Register* a statement of the reasons why it is impracticable for the agency to follow the procedures of this Order with respect to such a rule, and the agency, in consultation with the Director, shall adhere to the requirements of this Order to the extent permitted by statutory or judicial deadlines.

(b) The Director, subject to the direction of the Task Force, may, in accordance with the purposes of this Order, exempt any class or category regulations from any or all requirements of this Order.

Sec. 9. *Judicial Review.* This Order is intended only to improve the internal management of the Federal government, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers or any person. The determination made by agencies under Section 4 of this Order, and any Regulatory Impact Analyses for any rule, shall be made part of the whole record of agency action in connection with the rule.

Sec. 10. *Revocations.* Executive Orders No. 12044, as amended, and No. 12174 are revoked.

RONALD REAGAN

THE WHITE HOUSE
February 17, 1981

APPENDIX III

Executive Order No. 12291 Annual Report for 1984

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I. INTRODUCTION

This report provides information on the administration of President Reagan's Executive Order No. 12291 for the year ending December 1984. It also presents information on trends in regulatory activity during the Reagan Administration and previous administrations.

Executive Order No. 12291, signed February 17, 1981, established within the Executive Branch a mechanism for improving Federal regulatory policy. The purposes of the Executive Order are to control the growth of

Federal regulation and to ensure that individual regulations are well reasoned, economically sound, and coordinated with the policies of other agencies. In particular, the Order requires that all new regulations, to the extent permitted by law, adhere to the following principles:

- Agencies must base regulations upon adequate information concerning the need for and the consequences of the proposed action.
- Agencies must not issue regulations unless the potential benefits to society outweigh the potential costs to society.

- Of the alternative approaches to a given regulatory objective, an agency must select the alternative involving the least net cost to society.

To ensure compliance with these principles, the President ordered that executive agencies submit all proposed and final regulations to the Office of Management and Budget (OMB) for review before publication.

These policies and procedures are conducted within statutory authorities. The Executive Order guides Federal regulatory officials in exercising the discretion given them by statute.

This discretion is often very broad, may be ambiguous or contradictory, and may only be exercised to the extent permitted by law. Where statutes explicitly exclude economic considerations, they necessarily override any of the Executive Order's policies to the contrary. The Order applies to general policymaking (such as "informal rulemaking" under the Administrative Procedure Act). It does not apply to adjudicatory proceedings.

This is the fourth annual report on the Order's implementation. Section II describes the requirements and procedures of the Order. Section III presents detailed information on the types of rules reviewed and the types of actions taken by OMB in 1984, and compares 1984 data with those of 1981, 1982, and 1983. Section IV examines the nature and extent of regulatory activity since 1977 by analyzing the *Federal Register*.

II. IMPLEMENTATION OF THE EXECUTIVE ORDER

The Office of Information and Regulatory Affairs (OIRA) in OMB oversees agency compliance with Executive Order No. 12291. OIRA seeks to ensure, on a day-to-day basis, that agency regulatory actions reflect the President's regulatory policies as articulated in the Order.

OIRA reviews "major" regulations with special care. These regulations have economic costs of over \$100 million annually, or are projected to have significant effects on employment, inflation, or industry viability. A Regulatory Impact Analysis (RIA) must accompany major regulations at both proposed and final rulemaking stages. An RIA assesses the cost and benefits of the action and its alternatives. OMB may waive the RIA requirements in special cases, for example, in order to expedite publication of an emergency regulation. Agencies must submit to OMB major proposed rules at least 30 days before publication, and major final rules at least 60 days before publication.

Executive agencies must transmit nonmajor regulations to OMB at least 10 days prior to planned publication. Executive Order No. 12291 does not require agencies to prepare RIAs for nonmajor actions, but it does require agencies to ensure that their rules are consistent with the Executive Order's principles to the extent permitted by law. Many agencies perform an initial analysis of the economic impact of nonmajor rules if they believe the rule will have a significant effect, or if it will be useful in assessing the impact.

In January 1985, the President signed Executive Order No. 12498. This Order will further improve the systematic management of regulatory activity started under Executive Order No. 12291 and complemented by the Paperwork Reduction Act. The Order establishes an annual process to develop and publish an Administration Regulatory Program. The purposes of this program are as follows:

- To establish Administration regulatory priorities.
- To increase the accountability of agency heads.
- To provide Presidential oversight of the regulatory process.
- To reduce burdens of existing and future regulations.
- To minimize duplication and conflict of regulations.
- To enhance public and congressional understanding of the Administration's regulatory objectives.

To accomplish these goals, Executive Order No. 12498 requires agencies to submit annually to OMB a statement of regulatory policies and objectives for the coming year, as well as information concerning all significant regulatory actions under way or planned. OMB will review these submissions for consistency with the regulatory policy principles stated in Section 2 of Executive Order No. 12291 and elaborated in the guidelines set forth in the August 11, 1983, Report of the Presidential Task Force on Regulatory Relief. OMB review will also examine the consistency of draft regulatory programs with one another and will identify further regulatory or deregulatory actions that may be necessary to achieve such consistency. The result of this process will be the publication, for congressional and public scrutiny, of the Administration's Regulatory Program in the spring of each year.

OMB's responsibilities under the Executive Orders are closely related to its responsibilities under the Paperwork Reduction Act of 1980. In addition to having complementary goals, the Executive Orders and the Paperwork Reduction Act are related because many regulations mandate paperwork requirements. Regulations impose approximately four-fifths of all Federal paperwork burden, excluding procurement paperwork. The principles of the Paperwork Reduction Act were implemented in OMB's rule, "Controlling Paperwork Burdens on the Public" (5 CFR 1320), published in March 1983.

The Paperwork Reduction Act is designed to minimize and control the collection of information imposed by Federal agencies on individuals, businesses or other private institutions, and State and local governments. It requires that OMB review these information collections and, if they are approved, assign an OMB control number and an expiration date. "Collections of information" include written report forms, applications, questionnaires, reporting or record-keeping requirements, disclosure or labeling requirements, or other methods of obtaining information from the public.

Agencies are required to demonstrate to OMB that an information collection has practical utility, is not duplicative, and is the least burdensome means necessary for the proper performance of the agency's

functions. If an agency fails to justify an information collection adequately, OMB may disapprove it. If an information collection has not been assigned an OMB control number because it has not been reviewed, it has been disapproved, or its clearance has expired, the agency may not continue that collection. Furthermore, unless OMB has approved an information collection, a member of the public is under no obligation to comply with the requirement, and an agency cannot deny that individual a benefit for refusing to provide the information. In 1984, OMB reviewed 4,081 agency requests for information collection clearances, approving 3,831 and disapproving 250.

III. REVIEW OF REGULATIONS

A. Types of Rules Reviewed in 1984

OMB reviewed 2,104 agency rules in 1984 under Executive Order No. 12291. Eight agencies accounted for over 75 percent of the rules reviewed (see Exhibit 1). These agencies were: the Department of Agriculture (480 rules), the Environmental Protection Agency (302 rules), the Department of Transportation (217 rules), the Department of Health and Human Services (198 rules), the Department of the Interior (132 rules), the Department of Housing and Urban Development (108 rules), the Department of Commerce (107 rules), and the Department of Education (104 rules).

Exhibit 2 shows the number of rules reviewed during 1984 by each agency. Rules are classified as either proposed or final, and either major or nonmajor. Of the rules OMB reviewed in 1984, 46.5 percent were proposed and

53.5 percent were final. Major rules constituted 2.8 percent of all rules. Nonmajor final rules were the predominant type of rule reviewed, constituting 52.2 percent of the total of all rules reviewed. The Department of Agriculture had the largest number of major proposed rules (10), followed by the Environmental Protection Agency (7), and the Department of Transportation (5). The Department of Agriculture also had the largest number of major final rules (7), followed by the Department of Transportation (5), and the Small Business Administration (5). Exhibit 3 lists by name all major proposed and final regulations reviewed in 1984.

Exhibit 4 displays changes over the last four years in the types of rules reviewed. The total number of rules OMB reviewed in 1984 declined 15.2 percent from 1983 and 24.9 percent from 1981. The number of proposed rules in 1984 declined 8.3 percent from 1983 and 1.7 percent from 1981. The number of final rules reviewed in 1984 declined 20.5 percent from 1983 and 36.5 percent from 1981. The number of major rules in 1984 decreased 1.6 percent from 1983 and 3.2 percent from 1981. The percent-change comparisons with 1981 activity understate somewhat the decline in rulemaking actions, since the Executive Order review process operated for less than a full year in 1981.

Exhibit 5 shows, by agency, the number of rules reviewed during each of the last four years. Comparing 1984 with 1981 shows that the greatest percentage decline in the total number of rules occurred at the Environmental Protection Agency (-58.9%), the Department of Labor (-57.8%), the Civil Aeronautics Board (-55.8%), and the Department of Energy (-52.8%). The Small Business Administration experienced the largest percentage increase (210.0%), followed by the Department of Health and Human Services (69.2%), the Department of Housing and Urban Development (45.9%), and the Department of Education (35.1%).

EXHIBIT 1.

EXECUTIVE ORDER 12291

TOTAL REVIEWS - BY AGENCY

1984

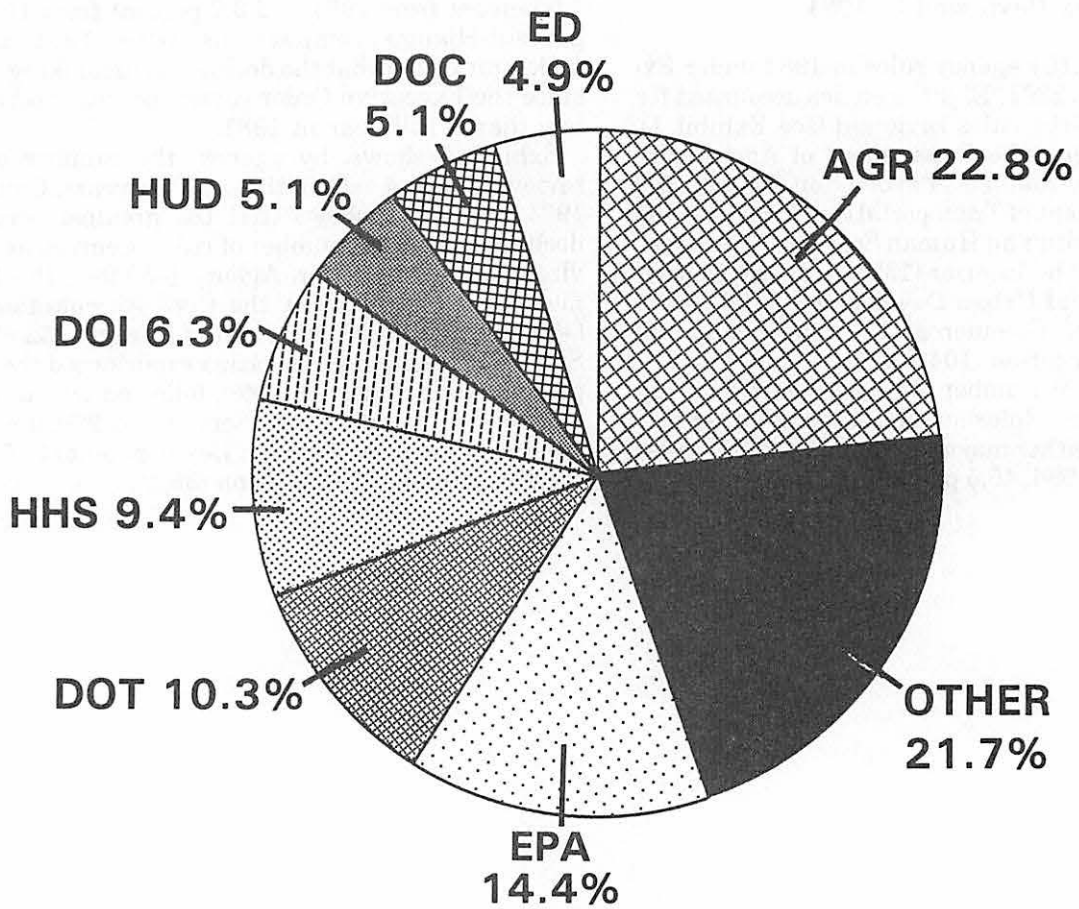


EXHIBIT 2. TYPES OF RULES REVIEWED IN 1984 BY AGENCY

Agency	Total rules	Nonmajor		Major	
		NPRM	Final	NPRM	Final
Agriculture	480	171	292	10	7
Environmental Protection Agency	302	166	129	7	0
Transportation	217	107	100	5	5
Health and Human Services	198	77	118	0	3
Interior	132	56	73	1	2
Housing and Urban Development	108	59	46	0	3
Commerce	107	40	66	1	0
Education	104	60	43	0	1
Veterans Administration	70	32	38	0	0
General Services Administration	62	31	30	0	1
Justice	46	19	27	0	0
Office of Personnel Management	45	22	23	0	0
Treasury	44	20	23	1	0
Labor	35	20	15	0	0
Small Business Administration	31	14	8	4	5
Energy	25	11	13	1	0
Civil Aeronautics Board	23	8	12	2	1
Federal Emergency Management Agency	16	11	5	0	0
National Aeronautics and Space Administration	11	3	8	0	0
Pension Benefit Guaranty Corporation	10	4	6	0	0
Defense	7	3	4	0	0
State	4	0	4	0	0
Navajo Hopi Indian Relocation Commission	4	1	3	0	0
Peace Corps	4	2	2	0	0
Railroad Retirement Board	4	2	2	0	0
Institute of Museum Services	3	1	2	0	0
Panama Canal Commission	3	2	1	0	0
National Science Foundation	2	0	2	0	0
Commission on Civil Rights	1	1	0	0	0
Marine Mammal Commission	1	1	0	0	0
Office of Management & Budget	1	0	1	0	0
Pennsylvania Avenue Development Corp.	1	1	0	0	0
Selective Service System	1	1	0	0	0
Tennessee Valley Authority	1	0	1	0	0
International Development Coop Agency	1	0	1	0	0
Total	2,104	946	1,098	32	28
Percent of total	100.0	45.0	52.2	1.5	1.3

EXHIBIT 3. MAJOR PROPOSED AND FINAL RULES REVIEWED IN 1984

Major Proposed Rules Reviewed

Department of Agriculture:

Proposed Dairy Promotion and Research Order
 Sunflower Crop Insurance Regulations
 Sweet Corn Crop Insurance Regulations
 1984 Rice Program
 1984 Wheat Program
 1985 Upland Cotton Program
 1985 Feed Grain Program
 1985 Rice Program
 1984 Crop Sugar Beets and Sugarcane Loan Rates
 Citrus Canker

Environmental Protection Agency:

National Ambient Air Quality Standards for
 Nitrogen Dioxide
 National Ambient Air Quality Standards for
 Particulate Matter
 Data Requirements for Registration
 Fuels and Fuel Additives Gasoline Lead Content
 Regulations
 Approval and Promulgation of Implementation
 Plans (Fugitive Emissions/Mines Rulemaking)
 Gaseous Emission Regulations for 1987 and Later
 Model Year Light-Duty Vehicles, Light-Duty
 Trucks, and Heavy-Duty Trucks
 Stack Height Regulation

Department of Transportation:

Segregated Ballast, Dedicated Clean Ballast and
 Crude Oil Washing on Tank Vessels
 Truck Size and Weight, Five State Permanent
 Network
 Light-Truck Fuel-Economy Standards for Model
 Years 1984-85
 Occupant Crash Protection, Supplemental Notice
 Light-Truck Fuel-Economy Standards for Model
 Years 1986-87

Small Business Administration:

Small Business Size Standards
 Business and Special-Purpose Loans
 Preferred Lenders Program
 Business Loans, Secondary Market Substantive
 Rules

Civil Aeronautics Board:

Computer Reservation Systems
 Computer Reservation Systems Connecting Points

Department of the Interior:

Migratory Bird Hunting
 Regulations for the 1984-85 Season

Department of Commerce:

Commercial Recovery of Deep Seabed Hard
 Mineral Resources

Department of the Treasury:

Minimum Capital Ratios: Insurance of Directives

Department of Energy:

Commercial and Apartment Conservation Service
 Federal Standby Plan

Major Final Rules Reviewed

Department of Agriculture:

1984 Crop Program for Wheat
 1984 Crop Program for Corn, Sorghum, Barley,
 Oats and Rye
 Dairy Promotion and Research Order
 Price Support and Loan Program for
 1983-85 Sugar Beets and Sugarcane
 Food Stamp Allotments, Standard Deduction and
 Shelter/Dependent Care Deduction Limits
 1984 Crop Sugar Beets and Sugarcane Loan Rates
 1984 Feed Grain Program

Department of Transportation:

Federal Motor Vehicle Standard, Occupant
 Crash Protection
 Truck Size and Weight,
 Five-State Permanent Network
 Driver's Record-of-Duty Status, Reinstatement
 Light-Truck Fuel-Economy Standards for Model
 Years 1985-86
 Urban Mass Transit, Major Capital Investment
 Policy

Small Business Administration:

Small Business Size Standards
 Business and Special-Purpose Loans
 Disaster Loans
 Preferred Lenders Program

Department of Health and Human Services:

Prospective Payments for Medicare Inpatient
 Hospital Services
 Provisional Listing of FD&C Red No. 3 and
 FD&C Yellow No. 5
 Provisional Listing of FD&C Orange No. 17,
 FD&C Red No. 19, and FD&C Red No. 37

Department of Housing and Urban Development:

Rental Rehabilitation Grant Program
 Housing Development Grant Program
 Housing Development Grant Program Preamble

Department of the Interior:

Hunting Migratory Game Birds in Alaska, Puerto
 Rico, and the Virgin Islands for the 1984-85
 Season
 Early Hunting Seasons on Certain Migratory
 Game Birds in the United States for the 1984-85
 Season

Department of Education:
Assistance to States for the Education of
Handicapped Children

Civil Aeronautics Board:
Carrier-Owned Computer Reservation Systems

General Services Administration:
Certificate in Lieu of Lost U.S. Government
Transportation Request

EXHIBIT 4. COMPARISON OF RULES REVIEWED DURING 1981-1984 BY TYPE

Type of Rule	Number in 1981	Number in 1982	Number in 1983	Number in 1984	Percent change 1983-84	Percent change 1981-84
Nonmajor:						
Proposed	971	1,024	1,044	946	-9.4	-2.6
Final	1,735	1,528	1,377	1,098	-20.3	-36.7
Total	2,706	2,552	2,421	2,044	-15.6	-24.5
Major:						
Proposed	24	29	22	32	+45.5	+33.3
Final	38	51	39	28	-28.2	-26.3
Total	62	80	61	60	-1.6	-3.2
All:						
Proposed	995	1,053	1,066	978	-8.3	-1.7
Final	1,773	1,579	1,416	1,126	-20.5	-36.5
E.O. not applicable	35	1	0	0	0.0	-100.0
Total	2,803	2,633	2,482	2,104	-15.2	-24.9

B. Types of Actions Taken on Rules

Of the 2,104 rules reviewed during 1984, OMB found that 78.0 percent were consistent with the principles of the Executive Order as submitted, 15.2 percent were consistent with the Order after minor changes adopted during the review period, 2.7 percent were inconsistent and returned to the agency for reconsideration, and agencies withdrew another 2.5 percent. The remaining 1.7 percent were rules agencies issued under an emergency provision of the Executive Order.

Exhibits 6 through 9 summarize the actions taken on agency rules under Executive Order No. 12291 during 1984. Exhibit 6 shows the number of rules in these categories submitted during 1984 by each agency. Exhibit 7 shows, for the 19 most active rulemaking agencies, the percentage of rules in each category. Exhibit 8 lists by name each of the 57 rules returned for reconsideration in 1984. OMB returns regulations for reconsideration if it finds them to be inconsistent with the

principles of the Executive Order. Exhibit 9 lists by name each of the 52 rules withdrawn during OMB review in 1984. Agencies may withdraw rules during review because they have concluded the rules are inconsistent with the Executive Order or for other reasons. An agency may, for example, wish to incorporate newly acquired information into a rule.

Exhibit 10 compares OMB actions on agency rules during the past four years.

The percent of rules OMB found consistent with the Executive Order declined from 87.3 percent in 1981, to 78.0 percent in 1984. At the same time, the percent of rules OMB found consistent after minor changes increased from 4.9 percent in 1981 to 15.2 percent in 1984. The percent of rules that OMB returned for reconsideration or that agencies withdrew remained fairly constant through 1983, but increased in 1984 to 2.7% and 2.5%, respectively. The percent of rules issued by agencies under emergency, statutory, or judicial deadlines remained virtually constant between 1981 and 1984.

EXHIBIT 5. COMPARISON OF RULES REVIEWED DURING 1981-1984 BY AGENCY¹

Agency	Number in 1981	Number in 1982	Number in 1983	Number in 1984	Percent change 1983-84	Percent change 1981-84
Agriculture	657	692	551	480	-12.9	-26.9
Environmental Protection Agency	734	340	268	302	+12.7	-58.9
Transportation	285	225	225	217	+3.6	-23.9
Health and Human Services	117	272	294	198	-32.7	+69.2
Interior	147	248	240	132	-45.0	-10.2
Housing and Urban Development	74	130	111	108	-2.7	+45.9
Commerce	162	147	121	107	-11.6	-34.0
Education	77	52	50	104	+108.0	+35.1
Veterans Administration	69	70	69	70	+1.4	+1.4
General Services Administration	56	62	85	62	-27.1	+10.7
Justice	53	51	72	46	-36.1	-13.2
Office of Personnel Management	38	49	65	45	-30.8	+18.4
Treasury	34	33	53	44	-17.0	+29.4
Labor	83	49	49	35	-28.6	-57.8
Small Business Administration	10	16	20	31	+55.0	+210.0
Energy	53	49	34	25	-26.5	-52.8
Civil Aeronautics Board	52	52	53	23	-56.6	-55.8
Federal Emergency Management Agency	16	6	29	16	-44.8	0.0
National Aeronautics and Space Administration	10	11	13	11	-15.4	+10.0

¹Only the most active rule-producing agencies in 1984 are included in this table. Agencies are ordered by number of rules submitted in 1984.

EXHIBIT 6. TYPES OF OMB ACTIONS TAKEN ON AGENCY RULES IN 1984

Agency	Total regulations	Consistent without change	Consistent with change	Withdrawn by agency	Returned for reconsider- ation	Emergency	Statutory or judicial deadline
USDA ¹	480	432	31	7	7	2	1
EPA	302	225	63	9	4	1	0
DOT	217	164	45	6	0	1	1
HHS	198	147	34	3	13	0	1
DOI	132	109	16	2	4	0	1
HUD	108	70	31	6	1	0	0
DOC	107	64	15	2	5	12	9
ED	104	54	39	9	2	0	0
VA	70	57	5	2	5	1	0
GSA	62	57	2	0	3	0	0
DOJ	46	43	2	0	0	0	1
OPM	45	42	1	1	1	0	0
Treasury	44	36	5	2	0	0	1
DOL	35	13	17	2	2	0	1
SBA	31	25	3	0	3	0	0
DOE	25	21	4	0	0	0	0
CAB	23	19	0	0	2	2	0
FEMA	16	13	1	0	2	0	0
NASA	11	11	0	0	1	0	0
PBGC	10	9	1	0	0	0	0
DOD	7	5	1	0	1	0	0
Navaho Hopi Indian Relocation Commission	4	2	1	1	0	0	0
State	4	4	0	0	0	0	0
Peace Corps	4	3	1	0	0	0	0
Railroad Retirement Board	4	3	1	0	0	0	0
Institute of Museum Services	3	3	0	0	0	0	0
Panama Canal Commission	3	3	0	0	0	0	0
NSF	2	2	0	0	0	0	0
AID	1	1	0	0	0	0	0
Commission on Civil Rights	1	1	0	0	0	0	0
Marine Mammal Commission	1	1	0	0	0	0	0
OMB	1	1	0	0	0	0	0
PADC	1	0	0	0	1	0	0
Selective Service System	1	1	0	0	0	0	0
TVA	1	1	0	0	0	0	0
Total	2,104	1,641	319	52	57	19	16
Percent of total	100.0	78.0	15.2	2.5	2.7	0.9	0.8

¹One rule was sent improperly and returned.

EXHIBIT 7. TYPES OF OMB ACTIONS TAKEN ON AGENCY RULES IN 1984 BY PERCENTAGE

Agency	Regulations	Percent					
		Consistent without change	Consistent with change	Withdrawn by Agency	Returned for reconsideration	Emergency	Statutory or judicial deadline
Agriculture	480	90.0	6.5	1.5	1.5	0.4	0.2
Environmental Protection Agency	302	74.5	20.9	3.0	1.3	0.3	0.0
Transportation	217	75.6	20.7	2.8	0.0	0.5	0.5
Health and Human Services	198	74.2	17.2	1.5	6.6	0.0	0.5
Interior	132	82.6	12.1	1.5	3.0	0.0	0.8
Housing and Urban Development	108	64.8	28.7	5.6	0.9	0.0	0.0
Commerce	107	59.8	14.0	1.9	4.7	11.2	8.4
Education	104	51.9	37.5	8.7	1.9	0.0	0.0
Veterans Administration	70	81.4	7.1	2.9	7.1	1.4	0.0
General Services Administration	62	91.9	3.2	0.0	4.8	0.0	0.0
Justice	46	93.5	4.3	0.0	0.0	0.0	2.2
Office of Personnel Management	45	93.3	2.2	2.2	2.2	0.0	0.0
Treasury	44	81.8	11.4	4.5	0.0	0.0	2.3
Labor	35	37.1	48.6	5.7	5.7	0.0	2.9
Small Business Administration	31	80.6	9.7	0.0	9.7	0.0	0.0
Energy	25	84.0	16.0	0.0	0.0	0.0	0.0
Civil Aeronautics Board	23	82.6	0.0	0.0	8.7	8.7	0.0
Federal Emergency Management Administration	16	81.3	6.3	0.0	12.5	0.0	0.0
National Aeronautics and Space Administration	11	90.9	0.0	0.0	9.1	0.0	0.0

EXHIBIT 8. REGULATIONS RETURNED TO AGENCIES FOR RECONSIDERATION IN 1984

Agency/Title of regulation	Type of rule	Date received	Date returned
Department of Health and Human Services:			
Common or Usual Names for Nonstandard Foods, Diluted Fruit or Vegetable Juice Beverages	NPRM	1/10/84	2/29/84
Common or Usual Names for Nonstandard Foods, Diluted Fruit or Vegetable Juice Beverages, Proposed Extension of Effective Date	NPRM	1/10/84	2/29/84
Collection of Information Requirements under the Paperwork Reduction Act	Final	2/27/84	3/8/84
Collection of Information Requirements under the Paperwork Reduction Act, OMB Control Numbers	Final	3/7/84	4/6/84
OMB Control Numbers for Approved Information Collection Requirements Imposed by the Social Security Administration	Final	3/19/84	3/29/84
Confirmation and Amendment of Interim Final Regulations	Final	2/13/84	4/20/84
Limitation of Reasonable Charges for Services in Hospital Outpatient Setting	Final	2/13/84	4/20/84
Federal Old-Age Survivors, and Disability Insurance, Coverage of Employees of State and Local Governments	NPRM	1/12/84	6/1/84
Disability Hearings at the Reconsideration Level	Final	5/3/84	6/1/84
Foster Care Maintenance Payments Adoption Assistance	NPRM	4/4/84	6/1/84
Delay of Single Reimbursement Limit for Skilled Nursing Facilities	Final	7/19/83	8/3/84
Schedule for Limits on Skilled Nursing Facilities Inpatient Routine Service Costs for Cost Reporting on or After January 1, 1984	NPRM	11/7/83	8/3/84
Grant Appeals Board Subpoenas	NPRM	7/12/84	10/12/84
United States Department of Agriculture:			
SCS Policy and Procedures for Protecting Archeological and Historic Properties	Final	5/24/83	1/6/84
Rewrite of 7 CFS Part 210	NPRM	11/23/83	3/15/84
Food Distribution	NPRM	12/27/83	3/15/84
Alaska Thrifty Food Plan	NPRM	8/3/83	2/15/84
Implementation of Coordinated Financial Statements	Final	7/12/84	8/24/84
Emergency Assistance for Victims of Disaster	Final	2/7/84	9/14/84
Definition and Standards of Identity or Composition of Cooked Poultry Sausages	NPRM	11/28/83	1/16/84
Department of Commerce:			
Fisheries Obligation Guarantee Program	Final	4/4/84	5/16/84
Bluefish Fishery	NPRM	7/12/84	9/14/84
Foreign Trade Statistics Regulations	NPRM	8/13/84	8/23/84
Fishermen's Contingency Fund	NPRM	9/19/84	10/16/84
Commercial Recovery of Deep Seabed Hard Mineral Resources	NPRM	12/7/83	10/18/84
Veterans Administration:			
Informed Consent	Final	12/5/83	1/14/84
Veterans Education—Report of State Approving Agency Activities	Final	2/9/84	5/16/84
Loan Guarantee—Amendments to the Condominium Regulations	Final	4/9/84	5/16/84

EXHIBIT 8. REGULATIONS RETURNED TO AGENCIES FOR RECONSIDERATION IN 1984—Continued

Agency/Title of regulation	Type of rule	Date received	Date returned
Veterans Education Foreign Medical Training	NPRM	3/7/84	7/13/84
Waiver of Overpayments	NPRM	8/30/84	9/9/84
Environmental Protection Agency:			
Standards of Performance for New Stationary Sources: Petroleum Dry Cleaners	Final	12/21/83	3/8/84
Ohio VOC Regulations	NPRM	2/6/84	6/27/84
NSPS for Polymer Manufacturing Industry	NPRM	5/3/84	7/12/84
National Primary Drinking Water Regulations	NRPM	2/9/84	5/9/84
Department of the Interior:			
Nondiscrimination in Offshore Activities	NPRM	12/5/83	1/6/84
Coal Management—Procedure for Certification of Bidding Rights	NPRM	8/12/83	2/20/84
Lease and Coal Land Exchanges, Alluvial Valley Floors	NRPM	11/28/83	2/22/84
Academic Standards and Dormitory Criteria for Education of Indian Children	Final	9/25/84	11/6/84
General Services Administration:			
Federal Advisory Committee Management	Final	12/28/83	4/19/84
Expunction of Records and Documents to Requests for Amendment Made Under the Privacy Act	Final	1/27/84	9/14/84
Delegation of Multi-Year Contracting Authority for Small Telephone Systems	Final	8/1/84	9/21/84
Small Business Administration:			
Pollution Control	NPRM	2/2/84	2/15/84
Business and Special-Purpose Loans	NPRM	1/24/84	2/1/84
Pollution Control	Final	5/24/84	6/3/84
Department of Education:			
Removal of Architectural Barriers to the Handicapped	NPRM	3/2/84	4/10/84
Awards to Former Department Employees or to the Employers	Final	10/26/83	4/9/84
Department of Labor:			
Occupational Exposure to Toxic Substances in Laboratories	NPRM	11/15/83	3/28/84
Concrete and Masonry Construction	NPRM	4/2/84	6/21/84
Civil Aeronautics Board:			
Domestic Baggage Liability	Final	12/29/83	1/6/84
Reporting Requirements for Small Certificated Air Carriers	Final	11/6/84	11/16/84
Federal Emergency Management Agency:			
Federal Crime Insurance Program	NPRM	3/5/84	3/15/84
Performance of Commercial Activities	NPRM	12/12/83	3/15/84
Department of Housing and Urban Development:			
Community Development Block Grants: States Program	NPRM	9/4/84	9/14/84
Office of Personnel Management:			
Reemployment Rights—Senate Committee on Appropriations	Final	3/5/84	3/15/84
National Aeronautics and Space Administration:			
Insurance and Indemnification of NASA Space Vehicle Users	Final	12/16/83	3/16/84
Department of Defense:			
Navigation Locks and Approach Channels, Columbia and Snake Rivers	Final	8/13/84	10/9/84
Pennsylvania Avenue Development Corporation:			
Policy and Procedures to Facilitate the Retention of Displaced Businesses and Residents in the Pennsylvania Avenue Development Area	NPRM	10/26/83	8/1/84

EXHIBIT 9. REGULATIONS WITHDRAWN BY AGENCIES IN 1984

Agency/Title of regulation	Type of rule	Date received	Date withdrawn
Environmental Protection Agency:			
NSPS for Polymer Manufacturing Industry	NPRM	11/3/83	1/3/84
NSPS for Industrial-Commercial Steam-Generating Units	NPRM	12/19/83	1/11/84
NSPS for Industrial-Commercial Institutional Steam-Generating Units: Fossil Fuel Fired and Non-Fossil Fuel	NPRM	12/19/83	1/12/84
Reporting and Recordkeeping Requirement Associated with NSPS for Volatile Organic Liquid Storage	NPRM	8/26/83	1/3/84
Partial Approval of 1982 SIP Revision for Memphis Area	NPRM	2/29/84	3/2/84
Nevada SIP Revision, Clark County	Final	2/29/84	3/2/84
NPR—Disapproval of Olin Corporation	NPRM	4/26/84	5/2/84
National Emission Standards for Inorganic Arsenic Emissions from Copper Smelters Processing 0.7 Percent or Greater Arsenic Content	NPRM	2/3/84	8/13/84
Department of Education:			
Equal Access to Justice	Final	9/23/83	1/31/84
Secretary's Discretionary Program	NPRM	2/2/84	2/7/84
Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to the Severely Handicapped	NPRM	2/15/84	3/2/84
Guaranteed Student Loan Program	NPRM	11/15/83	1/27/84
Secretary's Initiative to Improve the Quality of ECLA Projects	NPRM	2/6/84	3/9/84
College Housing Program	NPRM	3/16/84	3/26/84
School Assistance in Areas Affected by Federal Activity	NPRM	3/13/84	3/23/84

EXHIBIT 9. REGULATIONS WITHDRAWN BY AGENCIES IN 1984—Continued

Agency/Title of regulation	Type of rule	Date received	Date withdrawn
Salary Offset for Department of Education Employees to Recover Overpayments of Pay or Allowances	NPRM	6/11/84	7/25/84
National Direct Student Loan Program	NPRM	8/7/84	9/26/84
Department of Transportation:			
Qualification of Drivers of Motor Vehicles, Drugs	Final	4/26/83	2/1/84
Hazardous Waste Manifest: Shipping Papers	Final	7/7/83	2/27/84
Classification of Detonating Cord and Packaging of Detonators	NPRM	2/21/84	3/29/84
Documentation of Vessels	NPRM	3/23/84	4/2/84
Motor Carrier Safety Assistance Program, Program Implementation	Final	7/16/84	7/26/84
Exemption Operations Involving Retail Fertilizer Distribution to Farms	NPRM	4/13/84	11/15/84
Department of Housing and Urban Development:			
Annual Contributions for Operating Subsidy—Performance Funding System, Determination of Operating Subsidy	NPRM	10/4/83	1/19/84
Housing Development Grant Program Preamble	NPRM	5/2/84	5/8/84
Housing Development Grant Program Implementing Section 303 of the Housing and Urban Rural Recovery Act of 1983	Final	5/3/84	5/8/84
Single Family and Condominium Mortgage Insurance, Changes to Loan-to-Value Limitation for Modestly Priced Homes	Final	5/18/84	5/28/84
Fair Market Rent Schedules for Existing Housing and Moderate Rehabilitation	NPRM	3/20/84	6/6/84
Rehabilitation Loan Program Interest Rates, Risk Premiums and Application Fees	NPRM	7/20/84	7/26/84
Department of Agriculture:			
Importation of Poultry Hatching Eggs	NPRM	12/30/83	1/6/84
Account Servicing Policies	Final	1/18/83	4/9/84
Farmland Protection Policy	Final	5/25/84	6/19/84
Animals Destroyed Because of Tuberculosis	NPRM	6/27/84	7/7/84
Child Care Food Program—Audit Requirements and the Use of Audit Foods	Final	11/7/84	11/26/84
Section 502 Rural Housing Loan Policies, Procedures and Authorizations	NPRM	5/17/84	12/5/84
Food Stamp Program: Fiscal Year 1985/86 Research, Demonstration, and Education Projects	NPRM	10/5/84	11/28/84
Department of Health and Human Services:			
New Animal Drug Requirements for Medicated Free-Choice Feed	NPRM	7/16/84	7/16/84
Home Health Services Program	NPRM	7/12/84	8/8/84
Provisional Listing of FD&C Red No. 3 and FD&C Yellow No. 5 and FD&C Yellow No. 6	Final	11/21/84	11/30/84
Department of the Interior:			
Implementation of the Federal Oil and Gas Royalty Management Act of 1982	Final	9/28/84	10/5/84
Procedures for Contracting with Indians Under the Buy Indian Act	NPRM	8/28/84	10/15/84
Department of Commerce:			
Watch Duty-Exemption Program	Final	4/2/84	4/10/84
Public Works and Development Facilities Program—Specific Types of Projects (Tourism and Recreation)	Final	11/27/84	11/29/84
Veterans Administration:			
Dependents' Education, Processing Time No Longer a Factor in Determining Delimiting Dates	NPRM	9/18/84	9/28/84
Veterans Education, Equal Opportunity Laws	NPRM	10/22/84	11/1/84
Department of the Treasury:			
Collection of Large Dollar Value Receipts	NPRM	3/21/84	8/9/84
12 CFS Part 8—Assessment of Fees	Final	12/17/84	12/18/84
Department of Labor:			
Proposed Plan Assets Regulation	NPRM	5/26/83	1/31/84
Alternative Method of Compliance with, and an Exemption from the Updated Summary Plan Description Requirements Under ERISA	Final	5/23/84	6/2/84
Office of Personnel Management:			
Unearned Leave Indebtedness	NPRM	12/19/83	8/27/84
Navajo Hopi Indian Relocation Commission:			
Commission Operations and Relocation Procedures, Eligibility	Final	2/23/84	3/22/84

EXHIBIT 10. TYPES OF OMB ACTIONS TAKEN ON AGENCY RULES—COMPARISON 1981-1984¹

Action taken	Percentage in				Percentage change	
	1981	1982	1983	1984	1983-84	1981-84
Consistent without change.....	87.3	84.1	82.3	78.0	-4.3	-9.3
Consistent with change.....	4.9	10.3	12.7	15.2	2.5	10.3
Total consistent.....	92.2	94.4	95.0	93.2
Withdrawn by agency.....	1.8	1.2	1.6	2.5	0.9	0.7
Returned for reconsideration.....	1.6	2.1	1.3	2.7	1.4	1.1
Sent improperly or exempt.....	3.1	0.9	0.0	0.0	0.0	-3.1
Emergency, statutory or judicial deadline....	1.4	1.4	2.0	1.7	-0.3	0.3

¹Percentages may not add to 100.0 percent due to rounding.

C. Exemptions

Executive Order No. 12291 gives the Director of OMB the authority to exempt classes of regulations from any or all of the requirements of the Order. The exemptions granted by OMB fall into four broad categories: (1) rules that are essentially nonregulatory; (2) rules that delegate regulatory authority to States; (3) rules that affect largely or entirely individual firms or other entities and that do not involve broader policy issues; and (4) rules for which a delay of even a few days could impose substantial costs and that are unlikely to involve significant policy issues.

OMB has granted a total of 29 exemptions (some covering more than one of the categories above) to eight agencies since the Executive Order went into effect in 1981. Exhibit 11 lists the exemptions. Most of the exemptions occurred during the initial years of the operation of the Executive Order. In each case, OMB determined that the exempted regulations, as a class, were consistent with the goals and requirements of the Executive Order. OMB continues to review all "major" rules, as defined by the Executive Order, regardless of class exemptions. OMB may request that agencies submit specific rules within an exempt class and may withdraw exemptions at any time.

EXHIBIT 11. AGENCY RULES EXEMPTED FROM REVIEW PROCEDURES

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service—Special Nutrition Program Notices that revise reimbursement rates and eligibility criteria for the School Lunch, Child Care Food, and other nutrition programs.

Food and Nutrition Service—Food Stamp Program Notices that set eligibility criteria and deduction policies.

Agricultural Marketing Service—Regulations that establish voluntary standards for grading the quality of food.

Animal and Plant Health Inspection Service—Rules and Notices concerning quarantine actions and related measures to prevent the spread of animal and plant pests and diseases.

Animal and Plant Health Inspection Service—Rules affirming actions taken on an emergency basis if no adverse comments were received.

Rural Electrification Administration—Rules concerning standards and specifications for construction and materials.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration—Fishery Management Plan actions that set restrictions on fishing seasons, catch size, and fishing gear.

DEPARTMENT OF ENERGY

Power Marketing Administrations—Regulations issued by various power administrations relating to the sale of electrical power that they produce or market.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining—Actions to approve, or conditionally approve, State regulatory mining actions or amendments to such actions.

Office of Surface Mining—Approval of State mining reclamation plans or amendments.

Office of Surface Mining—Cooperative agreements between OSM and States.

United States Fish and Wildlife Service—Certain parts of the annual migratory bird hunting regulations.

DEPARTMENT OF TRANSPORTATION

All Offices of DOT—Amendments that postpone the compliance dates of regulations already in effect.

Coast Guard—Regatta regulations, safety zone regulations, and security zone regulations.

Coast Guard—Anchorage, drawbridge operations, and inland waterways navigation regulations.

Coast Guard—Regulations specifying amount of separation required between cargoes containing incompatible chemicals.

Federal Aviation Administration—Standard instrument approach procedure regulations, en route altitude regulations, routine air space actions, and airworthiness directives.

National Highway Traffic Safety Administration—Federal Motor Vehicle Safety Standard 109 table of tire sizes.

DEPARTMENT OF THE TREASURY

Internal Revenue Service, Bureau of Alcohol, Tobacco and Firearms, and Customs Service—Revenue rulings and procedures, Customs decisions, legal determinations, and other similar ruling documents. Major legislative regulations are covered fully.

ENVIRONMENTAL PROTECTION AGENCY

Office of Pesticides and Toxic Substances—Actions regarding pesticide tolerances, temporary tolerances, tolerance exemptions and food additives regulations, except those that make an existing tolerance more stringent.

Office of Pesticides and Toxic Substances—Unconditional approvals of TSCA Section 5 test marketing exemptions, and of experimental use permits under FIFRA.

Office of Pesticides and Toxic Substances—Decision documents defining and establishing registration standards; decision documents and termination decisions for the PAR process; and data call-in requests made under sec. 3(c)(2)(B) of FIFRA.

Office of Air, Noise and Radiation—Rules that unconditionally approve revisions to State Implementation Plans.

Office of Air, Noise, and Radiation—Unconditional approvals of equivalent methods for ambient air quality monitoring, and of NSPS, NESHAPS, and PSD delega-

tions to States; approvals of carbon monoxide and nitrogen oxide waivers; area designations of air quality planning purposes; and deletions from the NSPS source categories list.

Office of Water—Unconditional approval of State Water Standards.

Office of Water—Unconditional approval of State underground injection control programs; delegations of NPDES authority to States; deletions from the 307(a) list of toxic pollutants; and suspensions of Toxic Testing Requirements under NPDES.

Office of Solid Waste and Emergency Response—Unconditional approvals of State authorization under RCRA, of State solid waste management plans, and of hazardous waste delisting petitions under RCRA.

PENSION BENEFIT GUARANTY CORPORATION

Interest Rates—Changes in interest rates on late premium payments and delinquent employer liability payments under sections 6601 and 6621 of the Internal Revenue Code, as amended by the Tax Equity and Fiscal Responsibility Act of 1982.

GOVERNMENTWIDE

Office of Federal Procurement Policy—All regulations, except those concerning acquisition of automatic data processing and telecommunications equipment; those implementing and supplementing Federal Acquisition Regulation Subparts 15.6 (Source Selection) and 32.5 (Progress Payments Based on Costs); and those implementing and supplementing the Competition in Contracting Act of 1984 (P.L. 98-3691), The Defense Procurement Reform Act of 1984 (Title XII, P.L. 98-525), and the Small Business and Federal Procurement Competition Enforcement Act of 1984 (P.L. 98-577).

IV. TRENDS IN REGULATORY ACTIVITY

Because there are no precise or agreed-upon measures of regulatory activity, we cannot measure exactly the effect Executive Order No. 12291 has had on regulatory activity. It is useful, however, to compare the number of pages and the number of total rule documents (final rule documents plus proposed rule documents) published in the *Federal Register* during different time periods.

Exhibit 12 shows the number of pages published in the *Federal Register* from its inception in 1936 through 1984. From 1936 to 1960, there was little variation in the number of pages published in the *Register*. From 1960 to 1970, there was some growth in the size of the *Register*, but from 1970 to 1980, growth was explosive. Only since Executive Order No. 12291 was issued has this growth been reversed. The size of the *Register* has decreased in each year of this Administration—the first time in the history of the *Register* that it declined in size

for more than two consecutive years. In 1984, the *Register* was 41.4 percent shorter than in 1980.

Exhibit 13 graphs by month the number of pages published in the *Federal Register* during the Carter and Reagan Administrations (47 months of the first Reagan Administration through December 1984). During the Carter Administration, the number of pages published fluctuated considerably, but by 1980 had increased by 52.5 percent over the number in 1976. In contrast, from 1980 to 1984, the Reagan Administration has decreased the size of the *Register* by 41.4 percent.

Exhibit 14 depicts the total number of proposed rule and final rule documents published in the Carter and Reagan Administrations. The Carter Administration published 16.3 percent more rule documents in 1980 than in 1976, while the Reagan Administration reduced the number of rule documents by almost 35 percent between 1981 and 1984.

Exhibits 15, 16, and 17 provide various measures of regulatory activity during the Reagan Administration.

EXHIBIT 12.

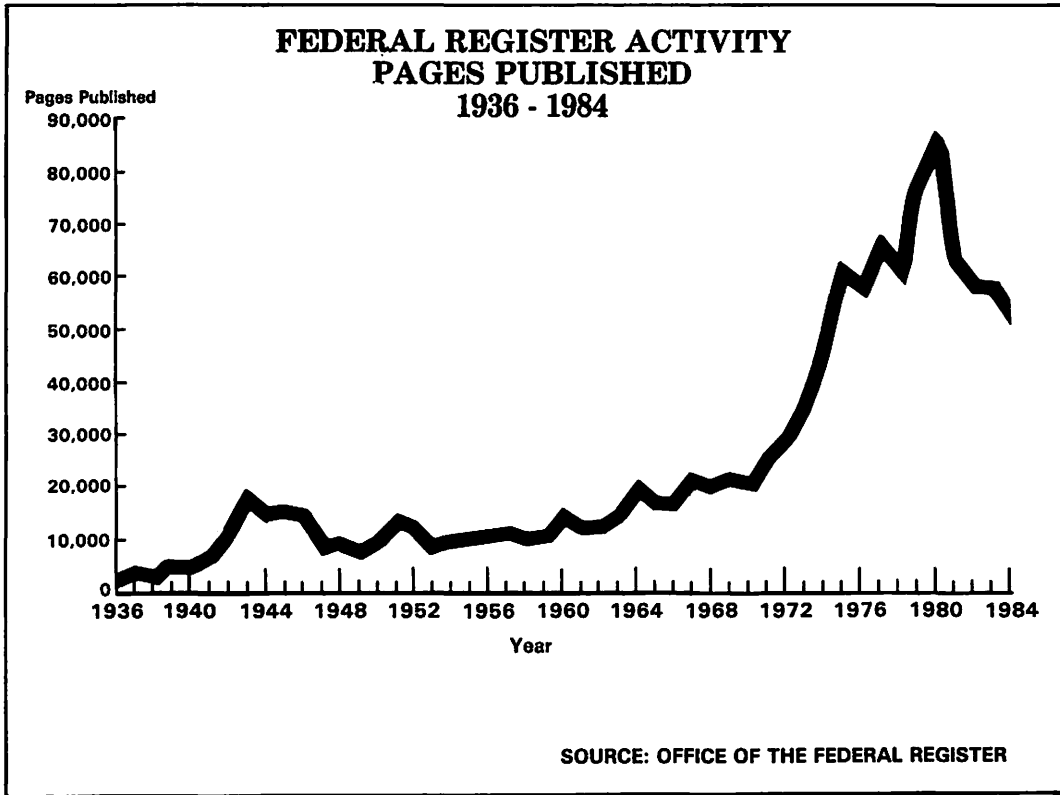


EXHIBIT 13.

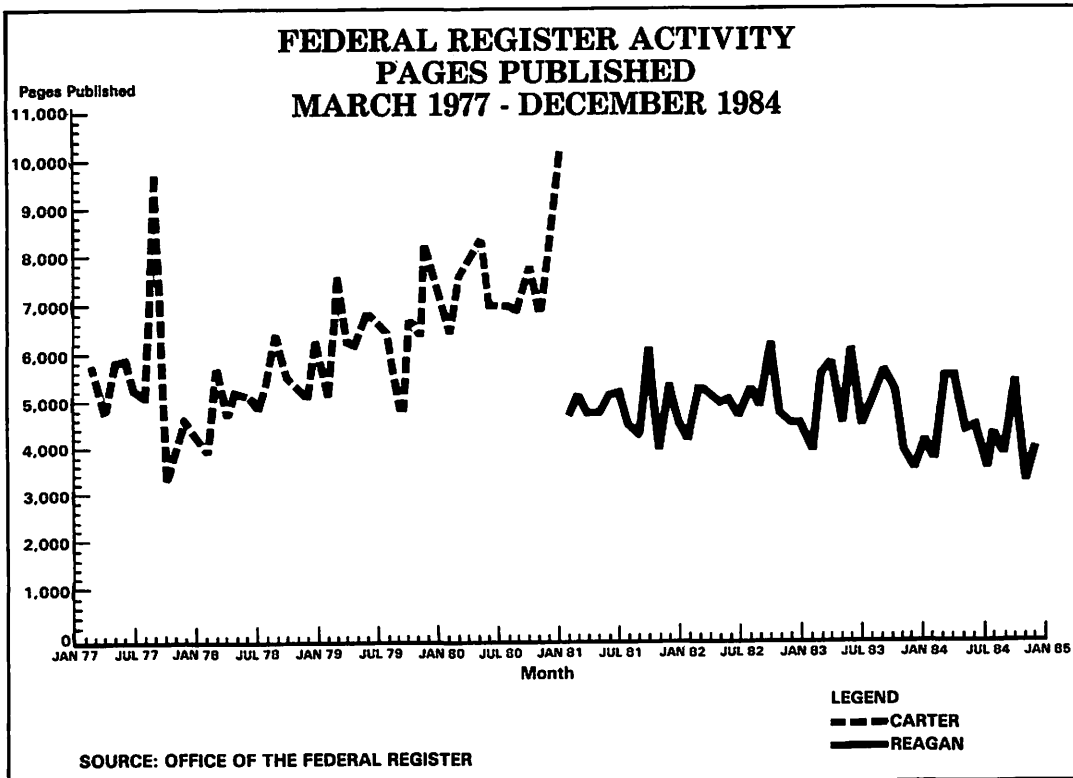


EXHIBIT 14.

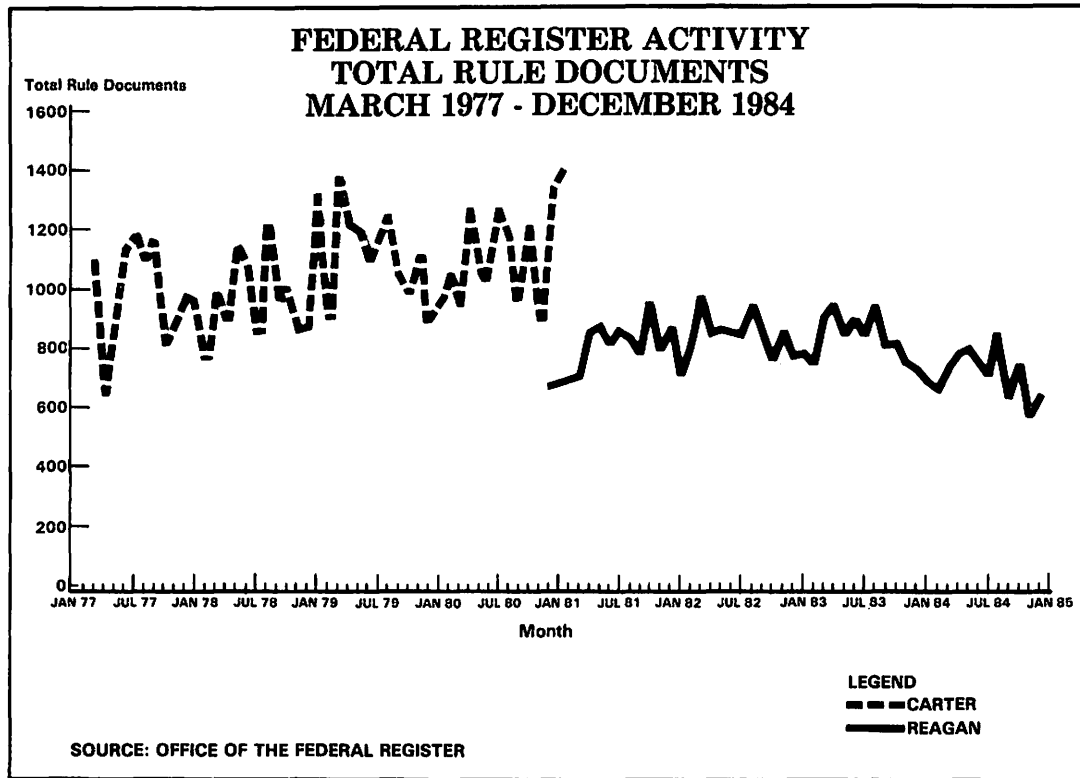


EXHIBIT 15. COMPARISON OF PAGES AND DOCUMENTS PUBLISHED IN THE *FEDERAL REGISTER* 1980-1984

	1980	1981	1982	1983	1984
Total Pages Published	87,012	63,554	58,494	57,704	50,998
Avg. Pages Per Month	7,435	5,848	4,736	4,862	4,550
Percent Change Year to Year	n.a.	-27.0%	-8.0%	-1.4%	-11.6%
Percent Change From 1980	n.a.	-27.0%	-32.8%	-33.7%	-41.4%
Proposed Rules Documents	5,347	3,862	3,729	3,906	3,350
Avg. Documents Per Month	441	344	303	343	286
Percent Change Year to Year	n.a.	-27.8%	-3.4%	+4.7%	-14.2%
Percent Change From 1980	n.a.	-27.8%	-30.3%	-26.9%	-37.3%
Final Rules Documents	7,745	6,401	6,288	6,049	5,155
Avg. Documents Per Month	619	553	527	497	449
Percent Change Year to Year	n.a.	-17.4%	-1.8%	-3.8%	-14.8%
Percent Change From 1980	n.a.	-17.4%	-18.8%	-21.9%	-33.4%

EXHIBIT 16. ANALYSIS OF FINAL RULES DOCUMENTS PUBLISHED IN THE *FEDERAL REGISTER* 1982-1984

	1982		1983			1984		
	Final Rules	Percent of Total	Final Rules	Percent of Total	Percent Change	Final Rules	Percent of Total	Percent Change
New Requirements	294	4.7%	248	4.1%	-15.6%	260	5.0%	4.8%
Revisions to Existing Requirements	1,530	24.3%	1,430	23.6%	-6.5%	1,350	26.2%	-5.6%
Elimination of Existing Requirements	299	4.8%	217	3.6%	-27.4%	162	3.1%	-25.3%
All Other	4,165	66.2%	4,154	68.7%	-0.3%	3,383	65.6%	-18.6%
Total	6,288	100.0%	6,049	100.0%	-3.8%	5,155	100.0%	-14.8%

**EXHIBIT 17. FINAL RULES DOCUMENTS BY AGENCY PUBLISHED IN THE FEDERAL REGISTER
1982-1984**

Agency	1982		1983		1984	
	Number of Documents	Percent of Total	Number of Documents	Percent of Total	Number of Documents	Percent of Total
USDA	674	10.7	638	10.5	684	12.9
DOC	205	3.2	213	3.5	202	3.8
DOD	111	1.8	109	1.8	102	1.9
ED	36	0.6	25	0.4	35	0.7
DOE	52	0.8	37	0.6	27	0.5
HHS	561	8.9	573	9.5	422	8.0
HUD	124	2.0	128	2.1	141	2.7
DOI	477	7.5	461	7.6	320	6.0
DOJ	102	1.6	159	2.6	113	2.1
DOL	63	1.0	63	1.0	56	1.1
STATE	15	0.2	8	0.1	7	0.1
DOT	908	14.4	865	14.3	748	14.1
TREAS	180	2.8	244	4.0	247	4.7
EPA	805	12.7	605	10.0	624	11.8
EEOC	7	0.1	16	0.3	14	0.3
FEMA	398	6.3	261	4.3	91	1.7
GSA	80	1.3	95	1.6	74	1.4
ITC	4	0.1	7	0.1	4	0.1
NASA	18	0.3	20	0.3	15	0.3
OMB	1	.0	2	.0	1	.0
OPM	25	0.4	43	0.7	38	0.7
PBGC	19	0.3	9	0.1	21	0.4
SBA	26	0.4	26	0.4	39	0.7
USPS	32	0.5	49	0.8	48	0.9
VA	54	0.9	53	0.9	54	1.0
CAB	91	1.4	112	1.8	47	0.9
CFTC	19	0.3	51	0.8	38	0.7
CPSC	25	0.4	22	0.4	30	0.6
FCC	393	6.2	359	5.9	405	7.7
FDIC	17	0.3	24	0.4	20	0.4
FEC	1	.0	19	0.3	9	0.2
FERC	120	1.9	156	2.6	139	2.6
FHLBB	53	0.8	41	0.7	32	0.6
FMC	26	0.4	19	0.3	43	0.8
FRS	75	1.2	66	1.1	37	0.7
FTC	80	1.3	116	1.9	82	1.6
ICC	127	2.0	103	1.7	53	1.0
NCUA	29	0.5	13	0.2	20	0.4
NRC	51	0.8	55	0.9	42	0.8
SEC	84	1.3	65	1.1	54	1.0
Other	155	2.5	126	2.1	112	2.1
*Total	6,323	100.0	6,056	100.0	5,290	100.0

*Totals may include final rules issued jointly by two or more agencies.