Regulatory Program of the United States Government

April 1, 1985 - March 31, 1986

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

TABLE OF CONTENTS

THE REGULATORY MESSAGE OF THE PRESIDENT

TO THE CONGRESS OF THE UNITED STATES:

The publication of *The Regulatory Program of the United States Government* marks a major milestone in our continuing effort to make government more accountable to the American people and more responsive to their needs. This document presents, for the first time, a comprehensive program of regulatory policy to be carried out over the coming year.

Regulations are a feature of almost every government program. Though many regulations accomplish worthwhile ends, we should not forget the huge hidden costs they entail. The Federal government mandates tens of billions of dollars of expenditures every year—dollars paid for by the people but not included in any of the Federal budget accounts, not appropriated by the Congress, and not constrained by any spending limits.

Before 1980, these regulatory expenditures had grown out of control. More pages were published in the *Federal Register* in 1980 than during the entire period between 1936 and 1945—the first 10 years of the Register. Paperwork burdens had grown such that by 1980, almost two billion hours were expended annually by businesses and individuals to satisfy the Federal government. Estimates are that Federal government regulations imposed costs of over $100 billion annually by 1980, adding significantly to the burden imposed on the economy by excessive Federal spending. It has become essential that tools be developed to plan the rational evolution of Federal regulatory requirements.

In 1981, I issued Executive Order No. 12291 setting forth my regulatory principles and, under the Paperwork Reduction Act, my Administration mounted an attack to reduce the paperwork burden. These efforts have helped to reverse the trend of more intrusive and burdensome Federal regulations and paperwork. But more was needed.

The Regulatory Program is a critical step in this process. In order to see that the laws are faithfully executed, and that the policies of this Administration are reflected in the regulations issued under those laws, I issued Executive Order No. 12498 initiating this Regulatory Program. The Program covers the decisions that are within the scope of discretion afforded to the executive agencies by law, and describes the underlying policies and priorities that will influence those decisions.

To set goals and priorities for different programs, government officials must choose the right regulatory tools and identify legitimate needs for regulation as opposed to those that merely benefit special interests. Because some complex regulations take years to develop, involving studies, surveys, and the identification and selection of regulatory options, it is important that senior Federal officials be able to review regulatory options early in the rulemaking process and plan regulatory actions over a longer time horizon. It is also important that they examine and reexamine the nearly 200 volumes of existing regulations to see what regulations need to be modified or have outlived their usefulness.

This year's Regulatory Program is the first in an annual series that will document the efforts of my Administration to manage Federal regulatory programs. This should lead to an increased level of predictability, consistency, accountability, and rationality in Federal regulatory activity.

The objectives of the Regulatory Program are 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.

All of this cannot be accomplished simply by publishing a book. This Regulatory Program is the end product of a long process of agencies planning their regulatory activities: gathering and reviewing information, evaluating past progress and program effectiveness, and setting goals and priorities. The publication of the Regulatory Program for 1985 is, however, only the first step in this annual planning process. The next step is for each agency to implement its part of this first Program, as planned and on schedule.

My goal remains to have a government that regulates only where necessary and as efficiently and fairly as possible.

RONALD REAGAN

THE WHITE HOUSE
August 1985

THE REGULATORY PROGRAM IN BRIEF

THE REGULATORY PROGRAM IN BRIEF

INTRODUCTION

The *Regulatory Program of the United States Government* is the first annual publication of the Administration's regulatory policies, goals, and priorities. The effort to develop this program was initiated by President Reagan on January 4, 1985, when he signed Executive Order No. 12498. Although this first Regulatory Program is being published after the beginning of the Program Year to which it pertains, in succeeding years the Regulatory Program will appear in April and will cover the 12 months beginning on April 1.[1]

In addition to the "Regulatory Message of the President," the Program consists of the "Regulatory Program in Brief" and the "Regulatory Program by Agency."

The "Regulatory Program in Brief" contains a discussion of many of the President's regulatory principles and highlights several significant regulatory activities of the agencies. The "Regulatory Program by Agency" describes in much greater detail all of the "Significant Regulatory Actions" (SRAs) of the 17 agencies included in the Program in this first year.[2] It includes the agency head's overview of the broad regulatory goals, objectives, and purposes of each agency for the forthcoming year, followed by a description of each "Significant Regulatory Action" upon which the agency plans important actions during the Program Year.

As the President said in his Regulatory Message:

> "Regulations are a feature of almost every government program. Though many regulations accomplish worthwhile ends, we should not forget the huge hidden costs they entail. The Federal Government mandates tens of billions of dollars of expenditures every year—dollars paid for by the people but not included in any of the Federal budget accounts, not appropriated by Congress, and not constrained by any spending limits."

Perhaps it should not be surprising, therefore, that the number of pages of regulations in the *Code of Federal Regulations* has nearly doubled in each of the last two decades; it now fills 20 feet of bookshelf space. Regulation adds significantly to the burden imposed on the economy by excessive Federal spending.

Regulations and spending are the primary means by which the Federal Government accomplishes its goals, and both redirect substantial private resources for public purposes. For many years, Administrations have recognized the complexity of budgetary, legislative, and regulatory decisions, and have established formal review procedures to coordinate, and review on behalf of the Executive, Federal agency activities. The statutory foundation of a unified Federal budget was enacted in the Budget and Accounting Act of 1921, which allowed the President and the Congress to establish priorities for the countless demands on Federal spending. In 1935, President Roosevelt created a clearance process for the testimony of Administration witnesses and for the

[1]In addition to the Regulatory Program, the Executive Office of the President publishes a semiannual *Unified Agenda of Federal Regulations,* as required by the Regulatory Flexibility Act (5 U.S.C. 602). The Program and the Agenda differ in several ways. The Unified Agenda includes more regulatory actions because it covers almost every Federal agency and includes an exhaustive list of all rulemakings for each. This year's Regulatory Program covers only 17 of the major Federal regulatory agencies, and includes only the most significant of all the regulatory actions that each agency plans to undertake. The Regulatory Program, however, describes each more thoroughly than the Unified Agenda. Furthermore, the Unified Agenda includes only rulemakings for which a notice of proposed rulemaking or publication of a final rule is planned. The Regulatory Program includes important prerulemaking actions, i.e., studies, policy statements, hearings, advance notices of proposed rulemakings, and other agency activities that may lead to significant regulatory actions in future years. The Unified Agenda generally does not include prerulemaking activities.

More importantly, the Unified Agenda is simply a compilation, prepared by each agency, of possible rulemaking activities, often without policy level review and without review by or approval of the Executive Office of the President. As a result, actions listed in the Unified Agenda frequently do not occur when and as described and often do not express the regulatory priorities of the agency head and the President. The Regulatory Program, on the other hand, is a policy document and a management tool that sets forth the priorities of the agency head and of the President regarding the Significant Regulatory Actions (SRAs) that will be conducted during the next year. The description of these SRAs, and the agency overviews in the part of this publication entitled the "Regulatory Program by Agency," and the "Regulatory Message of the President," set forth for the first time those priorities on an Administration-wide basis.

In 1986, the Regulatory Program and the Unified Agenda will be made more compatible, their publication dates will be coordinated, and their preparation will be integrated as thoroughly as possible to make them more useful to the public and easier for the agencies to produce.

[2]The seventeen agencies are the Departments of Agriculture, Commerce, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, and the Treasury; Environmental Protection Agency; Equal Employment Opportunity Commission; General Services Administration; Office of Personnel Management; Small Business Administration; and Veterans Administration.

rendering of all Executive views on legislation before Congress to ensure that the executive branch took a consistent position—and a position consistent with the view of the President—on legislative proposals. In 1942, Congress enacted, and President Roosevelt signed into law, the Federal Reports Act (since superceded by the Paperwork Reduction Act of 1980), requiring the Bureau of the Budget to approve all paperwork requests before they were imposed upon the public.

Regulatory matters, of course, are increasingly intertwined with budgetary, legislative, and paperwork issues. But they have grown to be such an important and expensive component of Federal activity that each of the last four Presidents has established programs to review them more closely. Each of these programs has placed greater analytic demand upon agencies before completing rulemaking and entailed more executive office oversight of the rulemaking agencies. In February, 1981, President Reagan issued Executive Order No. 12291, which established his regulatory principles[3] and required each agency covered by the Order to submit drafts of proposed and final rules and drafts of regulatory analyses to the Office of Management and Budget (OMB) for review for consistency with the President's principles before issuance. The procedures and principles of the Order have had a profound and positive effect upon the quality of agency rulemaking.

Until now, however, there has been no process comparable to the fiscal budget to set priorities for developing and imposing Federal regulations. Previous efforts to adjust the President's oversight responsibilities to the explosive growth of regulatory agencies in the modern administrative state have been relatively reactive in that action is initiated, developed, and pursued by the rulemaking agencies, and only then reviewed, if subject to an Executive Order, to ensure that those regulations are consistent, to the fullest extent permitted by law, with the policies of the Chief Executive. Scores of different government offices have the authority to issue regulation after regulation, each having the force of law, but too often they have issued those regulations without sufficient coordination with the Chief Executive or with other interested executive agencies. The inevitable result has been to add duplication, conflict, and waste to the legitimate burdens imposed by regulation. This Regulatory Program is an effort to extend into the sprawling world of regulation the lessons learned from centralized coordination of executive budgetary, legislative, and other processes.

The basic goals of each regulatory agency are, of course, embodied in the statutes enacted by Congress and signed by the President. These statutes usually require executive agencies to make numerous decisions about how to achieve these goals, what considerations to take into account, and what weight to give to competing facts and objectives. Statutes can provide more or less discretion to the President and the heads of executive departments and agencies, however.

Some recent statutes include very specific requirements for regulations, including deadlines, prescriptions of what regulatory agencies must and must not take into account, and even the technology required to achieve a particular end. Although it is desirable for Congress to be fairly specific about its goals for a statutory program, an undue degree of specificity can "freeze" a judgment made at one time into a time when the circumstances or scientific information about them have changed. Too much detail—especially about the means to be used by

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[3]Executive Order No. 12291 provides in section 2 that; "to the extent permitted by law,

"(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."

Also, in section 1 of Executive Order No. 12498, the President reaffirmed the following guidelines for rulemaking agencies set forth in the August 11, 1983, Report of the Presidential Task Force on Regulatory Relief, "Reagan Administration Regulatory Achievements."

"1. Regulations should be issued only on evidence that their potential benefits exceed their potential costs. Regulatory objectives, and the methods for achieving those objectives, should be chosen to maximize the net benefits to society.
"2. Regulation of prices and production in competitive markets should be avoided. Entry into private markets should be regulated only where necessary to protect health or safety or to manage public resources efficiently.
"3. Federal regulations should not prescribe uniform quality standards for private goods or services, except where these products are needlessly unsafe or product variations are wasteful, and voluntary private standards have failed to correct the problem.
"4. Regulations that seek to reduce health or safety risks should be based upon scientific risk-assessment procedures, and should address risks that are real and significant rather than hypothetical or remote.
"5. Health, safety, and environmental regulations should address ends rather than means.
"6. Licensing and permitting decisions and reviews of new products should be made swiftly and should be based on standards that are clearly defined in advance.
"7. Qualifications for receiving government licenses should be the minimum necessary. Where there are more qualified applicants than available licenses, the licenses should be allocated by auction or random lottery rather than by administrative procedures.
"8. Where regulations create private rights or obligations, unrestricted exchange of these rights or obligations should be encouraged.
"9. Federal regulations should not preempt State laws or regulations, except to guarantee rights or national citizenship or to avoid significant burdens on interstate commerce.
"10. Regulations establishing terms or conditions of Federal grants, contracts, or financial assistance should be limited to the minimum necessary to achieving the purposes for which the funds were authorized and appropriated."

the agency in pursuing statutory goals—does not facilitate the setting of priorities or the coordination of regulatory objectives among the many regulatory activities of an agency or between agencies. A recent survey by EPA found that the Agency faced more than 300 separate legislated deadlines for regulatory actions. The National Highway Traffic Safety Administration, the Department of Education, and others are also subject to numerous statutory deadlines for issuing regulations. This proliferation of deadlines can vastly complicate the management and priority-setting tasks that the agencies face.

Even worse, however, deadlines can frustrate reasoned decision making. In some recent instances, statutes have also provided highly detailed and onerous consequences if a regulation is not in place by a specific date. But, if the deadline is not realistic or if unforeseen delays are encountered, or if sufficient data are simply not available in time, the agency, and those who are subject to its jurisdiction, are left with undesirable choices and costly consequences. Deadlines too often reflect a view that there are simple and fixed solutions to the complex and dynamic problems our statutes are intended to address. But if deadlines result in hasty rulemaking decisions, their effect can be endless rounds of litigation that delay action more than they accelerate it, wasting both public and private resources, and undermining public confidence in our governing institutions. Statutory deadlines may also subtly alter the standards of judicial review by concentrating attention on the timing and procedures, instead of the factual bases, of the rules.

The executive agencies will, of course, work to meet the specifications and deadlines of existing law, and the planning they have done for this Regulatory Program will aid them in doing so. But in the long run, good regulation requires wise legislation. In order to achieve the goals and purposes adopted by the Congress, the executive agencies must be given sufficient authority and discretion to establish priorities and to fashion regulations that are responsive to those goals in the most effective and efficient way.

Because not every authority granted to executive officers by Congress could or should be used by executive officers to the maximum extent possible, and because discretion is provided by statute so that executive officers can change regulations in order to adjust them to current circumstances, the executive must make choices as to what authorities will be used, to what extent, and for what purposes. On a government-wide basis, the executive establishes and explains its spending priorities in the annual fiscal budget. Now, under Executive Order No. 12498, the Executive will establish and explain its regulatory priorities, and like the fiscal budget, will review them again next year.

To acknowledge the authority and responsibility of the President and his appointees to establish priorities is not to say, of course, that all priorities are, can, or should be established in this fashion. Congress establishes the basic regulatory priorities for execution by executive officers. Unless other actions by the Congress or the judiciary provide otherwise, these priorities are not discretionary with the Executive. Neither Executive Order No. 12291 nor Executive Order No. 12498 can supercede a statutory requirement. But most statutes do not establish the relative priorities of regulatory programs within or across agencies.

The publication of an annual Regulatory Program by the Executive should permit Congress and the American people to understand more fully the Executive's choices and its priorities—to understand more fully how it intends to exercise the discretion that Congress has provided to it by statute. These are not easy choices and they are not going to be made any easier by their annual publication and such debates that may ensue over them. But they will be better choices as a result of this program, the planning it requires, and the debate it engenders.

The government's regulatory apparatus can be better managed. It is possible to state regulatory policies at a broad level of generality and to fashion rules that will help determine when to regulate and when not to, how to regulate effectively and efficiently, how much to regulate, which agency of government should regulate where authorities overlap, and when the Federal Government should allow the States or the private sector to address a problem.

As the President stated in his Regulatory Message:

> "This year's Regulatory Program is the first in an annual series that will document the efforts of my Administration to manage Federal regulatory programs. This should lead to an increased level of predictability, consistency, accountability, and rationality in Federal regulatory activity."

IMPLEMENTATION OF THE PROGRAM

Pursuant to Executive Order No. 12498 and the implementing procedures (OMB Bulletin No. 85-9), agency heads are responsible for implementing a regulatory planning process for their agencies, setting goals and priorities, applying the Administration's policies to programs, ensuring that their actions are consistent with all relevant statutes, and implementing their plans on schedule. The Regulatory Program describes some of the choices, issues, objectives, and goals the agency must face in the exercise of their regulatory responsibilities. All of the issues discussed in the Program call for administrative decisions.

Agency decisions concerning particular proposed or final rules will be made pursuant to the requirements of the Administrative Procedure Act (APA) and other applicable laws. The APA requires that agency rulemaking decisions be made on the basis of the factual record compiled by the agency. By stating early in the regulatory process, often prior to rulemaking, the general policy considerations and the critical factual issues that the agency head believes will be important in his or her decision, the Regulatory Program should increase the public's opportunity to provide meaningful comments during the rulemaking process.

To comment on a Significant Regulatory Action (SRA), send your comments to the agency considering or conducting it. Your comments will be considered during any public comment period that follows the publication of a Notice of Proposed Rulemaking (NPRM) or Advanced Notice of Proposed Rulemaking (ANPRM). You can usually find out when an NPRM or ANPRM is planned by consulting the "Regulatory Program by Agency" or by contacting the person listed there.

Under Executive Order No. 12498, the Office of Management and Budget provides procedures for assembling the Regulatory Program, coordinates the process, and identifies conflicts among agencies or with the Administration's policies. OMB will review regulations submitted under Executive Order No. 12291 for consistency with the Program.

If you wish to comment on the Regulatory Program please send your comment to Douglas H. Ginsburg, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. If your comments address a particular SRA, however, you must send them to the relevant agency in order for it to consider them.

THREE PRINCIPAL FUNCTIONS OF REGULATIONS

Federal regulations serve a variety of functions, and generalizations concerning them can be so abstract that their implications may be difficult to discern. Nonetheless, by sorting regulatory programs according to the functions they serve, similar programs at different agencies can be analyzed and compared and general principles can be established.

One of the most important regulatory functions is the protection of public health and safety and the environment. The Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor regulate to these ends. The Food and Drug Administration of the Department of Health and Human Services and various elements of the Departments of Agriculture and Transportation also issue regulations to protect public health and safety and the environment. The intended benefits of these programs include improved health and longevity and a cleaner environment. The costs often take the form of higher costs to producers and higher prices to consumers for goods and services of all types. Virtually every production activity is affected in some way by Federal health, safety, and environmental regulations.

A second function of regulation is the direct control of commerce and trade, i.e., traditional "economic" regulation. This involves regulating entry, prices, production, or other aspects of business and industry—not for safety reasons, but for economic reasons. For the most part, the United States relies on free enterprise and competition in the marketplace to determine prices and production levels, although we use some generic (not industry-specific) regulation to encourage competition. Antitrust regulation is a good example; patent and trademark regulation is another. Generally, economic regulation of specific industries is justified, however, only where unregulated competition is not appropriate. For example, the local "public utility" industries—electricity, gas, and telephone service—are natural monopolies, and they have traditionally been regulated as such by the states. Other industries, especially in interstate transportation and communications, have long been regulated at the Federal level—usually by independent regulatory commissions. Economic regulation of these and other industries was intended, in theory, to replicate the effect of competition on prices and output; but, in practice, it has too often had the opposite effect of perpetuating monopoly pricing and inadequate service. Careful analysis and caution are needed, therefore, before one determines that imperfect regulation of a particular industry will be more efficient than imperfect competition in delivering goods and services to the public.

A third function of Federal regulation is the proper management and control of Federal funds and Federal property. Every recipient of a Federal grant or loan is familiar with the paperwork and regulations that accompany it, and every Federal employee is familiar with the extensive regulations of the Office of Personnel Management. As another example, upon entering national parks, visitors are advised of the applicable Interior Department regulations. Federal aid to State and local governments is subject to regulation, as are the procurement and the disposal of Federal property. Almost every agency in the government has regulations that serve these and other management functions. For the most part, the Administration focuses its efforts on ensuring that these management-oriented regulations enable the business of government to proceed smoothly and properly.

In the remaining chapters of the "Regulatory Program in Brief," the various regulatory offices of the covered agencies are divided into 11 categories, grouped according to these three major functions. These functional categories, which are similar (although not identical) to those in the fiscal budget, allow comparison of similar programs in different agencies. The classification of some offices is necessarily somewhat arbitrary, since many regulatory offices engage in a range of activities that span two or even all three functions, but each has been classified here in the single area that best reflects the primary functions of the agency's regulations included in the Regulatory Program. For example, the National Oceanic and Atmospheric Administration of the Department of Commerce issues some regulations designed to protect the environment, others ensure the economically efficient operation of marine fisheries, and still others that pertain to the management of Federal grant funds. It thus straddles all three of the broad groups of functional categories in this chapter, but is treated here as an economic regulatory agency.

PROTECTION OF HEALTH, SAFETY, AND THE ENVIRONMENT

Many of the Significant Regulatory Actions in this Regulatory Program are intended to protect the environment and the public's health and safety. This is an important governmental function because the marketplace does not always achieve the optimal degree of safety and environmental protection. Many private decisions made in our society would not take into account all the social costs of pollution and other potential risks to society, absent regulation to require or provide an incentive for them to do so. The marketplace, which normally allocates resources efficiently to their most valued uses, will not necessarily take into account all the social costs of pollution and other potential risks to society.

When such a situation exists and Federal regulatory activity is necessary, such activity must avoid wherever possible disrupting the efficient operation of the market. It should cause firms to internalize the costs of pollution damages, workplace hazards, transportation accidents, and other risks. Since several different agencies may be involved, interagency coordination is a first step toward making these regulations more efficient.

Coordination can be accomplished in many ways. The most obvious is to make sure that the left hand knows what the right is doing, in order to avoid conflicting and overlapping regulation. More sophisticated coordination involves defining priorities and setting standard procedures and consistent measures by which to evaluate regulations.

Many of the programs described in this section are designed to regulate similar markets. For example, the Food and Drug Administration and the Food Safety and Inspection Service of the Department of Agriculture both try to ensure that the food we eat is safe. Both the Environmental Protection Agency and the Occupational Safety and Health Administration regulate exposure to potentially hazardous chemicals, outside of and in the workplace, respectively. Even those health and safety programs that do not regulate similar markets share a common goal of reducing risks to society through improved safety, health, and environmental quality. Coordination among all these programs is essential in order to avoid conflicting efforts, eliminate both gaps and duplications in protection, and create consistent standards.

One way to rationalize regulatory activities within and between agencies is by defining a standard measure by which regulations should be developed and evaluated. The President's first regulatory policy guideline sets forth such a measure. It states that:

> "Regulations should be issued only on evidence that their potential benefits exceed their potential costs. Regulatory objectives, and the methods for achieving those objectives, should be chosen to maximize the net benefits to society."

Benefits can take many forms, including reduced health risks, improved worker safety, or improved public welfare. Agencies should examine a range of possibilities in order to select the regulatory option that provides the greatest net benefits.

In accordance with this principle, Executive Order No. 12291 requires agencies, where permitted by law, to examine the costs and benefits of all proposed regulations. Under that Executive Order, OMB is responsible for ensuring that agencies support proposed regulations by analyses showing that the benefits of the action exceed their costs. Even when a statute prohibits deciding a regulatory issue on a cost-benefit basis, it still makes sense to understand what the costs and the expected risk reduction of a regulation will be. In this way, the most "cost-effective" means of risk reduction can be selected, and the fact that its costs outweigh its benefits can be brought to the attention of Congress and the public.

Whether the final criterion for regulating is a careful balancing of costs and benefits or a more subjective assessment of costs and risks, thoughtful analysis is necessary. The fourth regulatory policy guideline states that "Regulations that seek to reduce health or safety risks should be based upon scientific risk-assessment procedures, and should address risks that are real and significant, rather than hypothetical or remote."

Agencies are improving their ability to estimate costs and analyze potential risks to society. Risk analysis entails detailed studies of the possible effects of chemicals on humans, likely pathways of exposure, and the probability of health or safety effects caused by exposure to chemicals, transportation accidents, or workplace accidents. Comparable standards of analysis and cost-versus-benefit tradeoffs should be used by all agencies in order to ensure that the government's efforts to reduce risk are addressing the most significant and the most manageable risks.

Cost-benefit principles are important not only in deciding when to regulate, but in determining how to regulate. The fifth regulatory policy guideline states that "Health, safety, and environmental regulations should address ends rather than means." In other words, a regulation should focus on the goals to be achieved rather than on the specific technology or means used to achieve those goals.

Setting performance standards in regulations is more efficient than specifying technological solutions because they provide industry with the incentive to be innovative in finding the most cost-effective solutions to meet the regulatory objectives. In the past, many agencies set technology-based standards, but this Administration is moving toward increased use of performance standards. For example, OSHA is currently reviewing many of its existing safety regulations with performance-based requirements in mind, and EPA is considering whether to set performance rather than design standards for tanks that store petroleum and other hazardous products.

Knowing where the greatest risks can be reduced at the lowest costs can help the government to identify priorities and to guide agencies toward more effective regulation. In most cases, this can be done under existing authority. For example, OSHA is establishing priorities in part to improve the cost-effectiveness of its programs. This year OSHA plans a concentrated effort to develop asbestos and benzene regulations and to deal with other toxic substances found in many workplaces.

The following pages take a closer look at the programs and agencies concerned with the protection of health, safety, and the environment. These regulatory programs are divided into the following four categories: (1) product licensing and inspection, (2) pollution control, (3) workplace safety and health, and (4) transportation safety. A much more detailed explanation of the specific Significant Regulatory Actions planned by the agencies in the Program this year are set forth in the "Regulatory Program by Agency" portion of this document.

PRODUCT LICENSING AND INSPECTION

United States Department of Agriculture (USDA)
Animal and Plant Health Inspection Service
Food Safety and Inspection Service
Department of Health and Human Services (HHS)
Food and Drug Administration
Environmental Protection Agency (EPA)
Office of Pesticide Programs
Office of Toxic Substances

This category includes programs that review, approve, or inspect products for safety before they can be marketed. While these programs provide important safeguards for public health, they can also be very expensive and can become barriers to competition, innovation, and productivity growth.

There are many opportunities to improve interagency coordination of product licensing and inspection. An important Administration initiative in this category is to develop a rational structure for regulatory oversight of novel biotechnology applications. A Cabinet Council working group chaired by the Office of Science and Technology Policy is coordinating among FDA, USDA, and EPA to develop a comprehensive and consistent framework for regulating biotechnology. Most products of genetic engineering will be subject to review by one agency or another before their commercial use or application. Redundant reviews and gaps in coverage will be avoided, as the agencies cooperate to draw clear jurisdictional boundaries. The work group also meets to ensure consistency in risk assessments and risk management.

As another example of activity in this category, agencies are sharing information on occupational exposure to chemicals. The Office of Toxic Substances at EPA collects large amounts of data on chemical toxicity, much of which is useful for assessing possible risks in the workplace. EPA is working with OSHA to develop referral procedures (as required by section 9 of the Toxic Substance Control Act) so that OSHA will be promptly notified of any hazards that may fall within its jurisdiction. EPA may also make referrals to the Consumer Product Safety Commission and to other agencies that may have the authority to reduce risks from hazardous chemicals.

POLLUTION CONTROL

Environmental Protection Agency (EPA)
Office of Air and Radiation
Office of Water
Office of Solid Waste and Emergency Response
Department of the Interior (DOI)
Office of Surface Mining

These programs set standards for limiting pollution or for cleaning up environmental contamination. Coordination among programs that reduce pollution is important because the effect of stricter pollution control in one medium, such as air, is often to increase pollution in another medium, such as solid waste or water. This coordination can be substantially assisted if all programs, to the extent permitted by law, apply consistent cost-benefit techniques and, where possible, rely on market mechanisms, such as tradable pollution rights, to achieve desired environmental goals. In general, pollution control regulations can be better coordinated and more efficient if they are implemented with performance standards that allow those who are regulated to devise the most efficient way to meet those standards, which may differ from industry to industry.

For example, EPA is developing a generic approach for identifying and setting standards for hazardous air pollutants under section 112 of the Clean Air Act. This approach determines whether the threat posed by the substance is substantial enough to warrant national regulation, and whether the likely benefits of regulation outweigh the likely costs. In addition, this approach considers whether these substances are better regulated under other provisions of the Clean Air Act, under other statutory authorities administered by EPA, or by State and local governments. EPA is also studying the use of market mechanisms as a means of controlling pollution. This approach sets mandatory goals for the reduction of pollution and allows the marketplace to determine the most efficient means of achieving environmental improvements.

The safe management of hazardous waste is one of EPA's newest challenges. Over the past several years, EPA has established an ambitious program regulating the generation, transport, and disposal of hazardous waste. EPA now faces an even more challenging task in implementing the various—and often prescriptive—requirements of the 1984 Hazardous and Solid Waste Amendments.

There are substantial gains in cost-effectiveness that can be realized by tailoring this program to reflect the varying risks posed by different waste streams and different management facility locations. For example, EPA's Office of Solid Waste is performing a risk analysis for its hazardous waste tank rule, currently under development. This analysis will evaluate the degree to which risks to human health and the environment from hazardous waste storage tanks depend on location (e.g., soil characteristics, proximity of populations, etc.).

SAFETY AND HEALTH IN THE WORKPLACE

Department of Health and Human Services (HHS)
National Institute of Occupational Safety and Health
Department of Labor (DOL)
Occupational Safety and Health Administration
Mine Safety and Health Administration

The Occupational Safety and Health Administration (OSHA) and the Mine Safety and Health Administration (MSHA) have been thoroughly reviewing their existing health and safety regulations, the majority of which was adopted with minimal, if any, assessment of the likely reduction in illnesses, injuries, and fatalities that could be expected or the costs that would be imposed on the private sector. For example, after reviewing the available health data, OSHA tentatively concluded that epidemiological evidence did not support regulation of the levels of cotton dust in nontextile operations, such as knitting, classing, warehousing, and cottonseed processing. OSHA, therefore, proposed to delete these operations from virtually all of the provisions of the 1978 cotton dust regulations and all provisions of the air contaminants regulation at 29 CFR 1910.1000. Similarly, MSHA has proposed an alternative to its existing regulation of gassy mines, which would classify the mines according to the likelihood, nature, and extent of hazard from methane gas; MSHA would correspondingly mandate different compliance programs to meet the particular problems posed by each class of mine.

These agencies have also redesigned existing regulations to focus on ends rather than means. The result, perhaps best exemplified by the OSHA proposed rule for asbestos, will be not only a reduction in the costs of compliance, but also an increase in worker protection. In its asbestos proposal, OSHA was able to propose a lower exposure limit of 0.2 f/cc instead of 0.5 f/cc because a performance standard allowed the flexibility to choose lower cost, and more effective compliance methods. In addition, by using performance standards agencies avoid "freezing" out important technological advances that would lower compliance costs and result in a more healthful and safer work environment. Existing OSHA standards, for example, prohibit the use of sensing devices, which alert mechanical power press operators to hazards. Existing standards require the press operator to use hand controls or a foot pedal. OSHA has proposed to amend this regulation in order to permit the use of such sensing devices, with a corresponding annual net savings of $2 million and a likely reduction in injuries attributed to human error when hand controls are used.

OSHA will focus on developing new health regulations as well as revising, as necessary, existing safety regulations in order to provide compliance flexibility and eliminate outmoded requirements. To this end, OSHA will develop, for example, new proposed regulations for benzene, formaldehyde, and lead in addition to regulations for potential health hazards referred to OSHA by NIOSH or by EPA under section 9 of the Toxic Substances Control Act. OSHA expects to complete rulemakings on such health hazards as cotton dust, asbestos, and ethylene dibromide; and begin a comprehensive review of the safety and health standards for shipyard employment to eliminate the confusion that has been generated by the overlap between general industry and shipyard standards; this effort will yield more effective regulations for the shipyard industry and will likely reduce the cost of complying with irrelevant general industry requirements.

TRANSPORTATION SAFETY

Department of Transportation (DOT)
National Highway Transportation Safety Administration
Federal Aviation Administration
U.S. Coast Guard
Federal Railroad Administration
Bureau of Motor Carrier Safety

Several DOT programs are concerned with ensuring the safety of transportation systems. Transportation safety regulations, like other regulations that seek to reduce health or safety risks, should be based on consistent, scientific risk-assessment procedures.

The Department is moving aggressively in a number of areas to improve transportation safety while taking risk and cost-benefit analyses into account. One area of special importance is the control of alcohol and drug abuse. For example, the Federal Aviation Administration (FAA) recently issued a rule setting maximum blood alcohol levels for crewmembers. The FAA, the Federal Railroad Administration, and the U.S. Coast Guard are considering additional steps to attack the drug and alcohol abuse problems in their areas by such approaches as setting maximum alcohol levels or improving enforcement measures.

Regulatory efforts to improve transportation safety in a number of other areas are also continuing. For example, the FAA, after issuing final rules in the past year to improve the flammability characteristics of seat cushions and require the installation of lavatory smoke detectors and automatic trash receptacle fire extinguishers in airliners, is considering rules in the next year to require the installation of shoulder harnesses in new small aircraft, to improve the flammability characteristics of airline cabin interior materials, and to require airlines to have emergency medical kits onboard. The National Highway Traffic Safety Administration (NHTSA) is considering ways to improve the quality and use of child safety seats and seat belts. NHTSA is also performing long-range analyses in automobile accident prevention and harm reduction to develop information on risks and cost-effective alternatives to address these hazards. More stringent packaging and placarding requirements are also being considered by DOT for the shipment of liquids that are toxic by inhalation, such as the chemical which caused the Bhopal tragedy.

In a continuing effort to eliminate unnecessary or unjustified regulatory burdens, NHTSA recently issued a rule establishing a single standard for the use of child safety seats in motor vehicles and aircraft, thereby simplifying the approval process and eliminating duplicative requirements. The Department is also considering the adoption of performance-oriented packaging standards and simplified classification and communication requirements for the shipment of hazardous materials. This would replace hundreds of pages of regulations with brief, easier-to-use rules.

REGULATION OF MARKETS AND ECONOMIC RELATIONSHIPS

Regulation of economic relationships is warranted only where unregulated competition does not produce satisfactory results *and* regulation can improve the results achieved by the market. Economic regulation of an industry that would perform efficiently in the absence of regulation only raises barriers to competition and prevents consumers from receiving the full benefits of competition.

Lower prices are by no means the only benefit of removing regulatory barriers to competition where there is no natural monopoly or other adequate justification for economic regulation. Increases in competition can lead to a wider range of goods and services and to an acceleration in technological progress. For example, the production of telephone equipment does not have natural monopoly characteristics. When the market for telephone equipment was opened up to greater competition, a wide variety of new telephone equipment soon became available to consumers.

Economic research has shown the efficacy of free competition in most circumstances, and has identified the specific "market failures" in which free competition may perform inadequately. Goals that are generally better achieved through regulation include: maintenance of a sound currency and banking system; consumer protection, where market provision of information is inadequate; establishment of efficient property rights arrangements; management of common property resources; and protection against anticompetitive actions.

The Administration's regulatory policy is to remove regulatory obstacles to the efficient working of competitive markets where there is no market failure, as, for example, in the case of the removal of oil price controls. This principle is embodied in the Administration's second and third regulatory policy guidelines, which proscribe regulation of prices and output in competitive markets and restrict regulation of entry and product quality to a limited number of special circumstances.

Where economic regulation is warranted by the existence of a market failure, the regulation should be designed to correct for the market failure while gaining the maximum benefit from competitive forces. Particularly relevant for this purpose is the Administration's eighth regulatory guideline, to allow unrestricted exchange of any private rights or obligations that may be created by regulation.

Economic regulation of industry is the oldest form of Federal regulatory activity, having originated with the establishment of the Interstate Commerce Commission (ICC) in 1887. A rationale for establishing the ICC was that the existence of a natural monopoly (the railroads) warranted government intervention, a rationale which—where it applies—still finds general acceptance today. Actions to deregulate transportation over the past decade have come about not because the natural monopoly rationale has been rejected, but because it came to be recognized that economic regulation was being applied to transportation modes that never were natural monopolies, such as airlines, trucks, and intercity buses, or that had since been subjected to effective competition from other modes, as railroads have been for much of their traffic. The most recent steps in this development were the passage of the Motor Carrier Act of 1980, the Staggers Rail Act of 1980, the Administration's bill to deregulate intercity buses in 1982, and the closing of the Civil Aeronautics Board on January 1, 1985.

As our experience with transportation regulation shows, the application of natural monopoly-type regulations to situations where natural monopoly does not prevail can be extremely costly to society. We have also learned the unnecessary costs of applying a web of natural monopoly-type regulations to an industry of which only a segment is in fact characterized by natural monopoly. Despite the lack of monopoly power in a large segment of the railroad industry, for example, railroads were for decades enmeshed in a regulatory web so comprehensive that a railroad could not reroute a train around a washed-out bridge without first obtaining specific permission from the ICC. As railroads filed for bankruptcy, and as delays and accidents increased during the 1970s, Congress recognized the inappropriateness of comprehensive natural monopoly regulation for railroads. This recognition culminated in the Staggers Rail Act of 1980, which allowed competitive market forces to determine most railroad rates and services, reserving regulation for those instances in which a railroad exercised monopoly power over a "captive" shipper. The performance of the railroad industry since passage of the Staggers Act has justified the confidence Congress and the President placed in competition. The regulation of oil pipelines is still another example where an industry has been regulated as if it were entirely a natural monopoly, whereas in reality only a segment of the industry fits this description. In 1984, the Department of Justice issued a draft study finding that most oil pipelines operate in competitive markets. When this study is completed, the Administration will propose legislation to deregulate competitive pipelines.

Airlines are another example of an industry that for decades was improperly regulated as though it were a natural monopoly. The results of the Airline Deregulation Act of 1978 demonstrate that deregulating such markets generates substantial operating efficiencies. Airline deregulation has also created enormous benefits for consumers in the form of lower prices and improved service.

Economic regulation has sometimes been used as a device merely to redistribute income to some private groups, at the expense of other private groups and of the productivity of the economy. This Administration considers that to be an inappropriate use of economic regulation. In keeping with this belief, the President ended oil price regulation shortly after he took office. Similarly, the Administration proposed legislation in the 98th Congress to further deregulate natural gas, and intends to pursue total deregulation of the Nation's fuel supply. In the area of automobile fuel economy standards, the Administration intends to continue its policy of promoting fuel conservation consistent with market forces in an era of declining and unregulated petroleum prices.

Most economic regulation of specific industries is carried out by collegial agencies, such as the Interstate Commerce Commission, the Federal Communications Commission, the Federal Reserve Board, and the Securities and Exchange Commission. Although these particular agencies are not subject to Executive Orders 12291 and 12498, many of them have adopted policies consistent with those set forth in the Orders. For example, the FCC has proposed legislation that would authorize it to auction off new radio-frequency assignments. This auction proposal will allocate the Nation's scarce radio-frequency spectrum to its most valuable uses, and will allow consumers to benefit more rapidly from new advances in telecommunications technology.

While the Regulatory Program does not include these collegial agencies, it does include a number of other agencies that regulate either specific industries or labor markets, such as the Agricultural Marketing Service, the Packers and Stockyards Administration, the Comptroller of the Currency, the National Oceanic and Atmospheric Administration, the Employment Standards Administration, and the Office of Pension and Welfare Benefit Programs.

The next few pages look more closely at the specific programs that fall into the category of regulating markets and economic relationships. The discussion is divided into three catagories: (1) economic regulation of specific industries, (2) regulation of wages and employment practices, and (3) international trade.

ECONOMIC REGULATION OF SPECIFIC INDUSTRIES

United States Department of Agriculture (USDA)
Agricultural Marketing Service
Federal Grain Inspection Service
Packers and Stockyards Administration
Department of the Treasury
Office of the Comptroller of the Currency
Department of Commerce (DOC)
National Bureau of Standards
National Oceanic and Atmospheric Administration
Patent and Trademark Office
Department of Energy (DOE)
Economic Regulatory Administration

This category includes programs that regulate specific industries, markets, products, or services for purposes other than health, safety, or environmental protection. It includes regulation of prices, entry, product quantity, or product quality (other than safety) for particular goods or services.

One important objective for this category of regulation is making greater use of market forces in regulations. For example, the Office of the Comptroller of the Currency (OCC) in the Department of the Treasury has measures under consideration to improve the quality and timeliness of financial information disclosed by national banks. Because they were extensively regulated, most banks were exempted from the detailed disclosure requirements that Federal securities laws imposed on other publicly held companies. Now that banks are less regulated, however, there is less justification for this exemption. With better and more timely information, investors and depositors could exert greater financial discipline on national banks. This would permit greater reliance on market forces as the means of preserving the soundness of the banking system.

Although important gains have been made in deregulating the banking industry, numerous artificial barriers to entry remain. These barriers harm consumers because they restrict geographic areas in which banks are permitted to conduct business, limit the services that banks can offer, and prevent nonbank institutions (such as brokerages, retailers, and insurance firms) from offering bank services. The Administration is seeking enactment of legislation to expand the powers that banks can exercise (through bank holding companies) and to remove the restrictions on interstate banking.

The patent system, which vests the holder of a patent with an exclusive right in the patented discovery for a limited time seemingly erects barriers to competition. In reality, however, the patent system *promotes* competition. Without patents there would be insufficient incentive for persons to discover or develop useful innovations because the benefits of the discoveries could be appropriated by others. The prospect of reaping the rewards of a temporary monopoly over one's new discovery provides the necessary incentives for innovation, and thus promotes competition from new technologies.

In 1984, Congress passed important legislation, supported by the Administration, to restore to the patent term of drugs, medical devices, and food and color additives time lost for premarketing review by the Food and Drug Administration. The regulation-induced loss in the useful life of a patent had significantly reduced incentives to develop these new products. During the coming year, the Patent and Trademark Office of the Department of Commerce will promulgate rules to implement this new statute.

When private property rights in a scarce resource are not adequately defined or enforced, markets cannot function efficiently. For example, experience has shown that where people are allowed unregulated access to natural resources but do not have ownership rights in them, the resources can be seriously misused. Since nobody owns the resources, nobody has an incentive to conserve them for future use. This can lead to a "tragedy of the commons," whereby the resource is totally depleted, as with some forests in medieval Europe, as well as some species of game and fish.

One way to remedy this classic market failure is through regulations to control access to the use of scarce resources, as exemplified by the various fishery management regulations promulgated by the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce. In other instances, rather than managing a scarce resource as common property, regulation may serve better to define or enforce private property rights. Thus, for example, Federal communications law and Federal Communications Commission regulations define and enforce property rights in the radio-frequency spectrum. Absent these rules, conflicts and interference caused by competing users of the same frequency could make the radio medium considerably less valuable to society.

REGULATION OF WAGES AND EMPLOYMENT PRACTICES

Department of Labor (DOL)
Employment Standards Administration
Office of Pension and Welfare Benefit Programs
Equal Employment Opportunity Commission (EEOC)

These programs regulate wages, conditions of hiring, or terms of employment. During the Depression of the 1930s, many statutes were enacted with the intent of helping workers by artificially increasing wages or by improving working practices. Whatever their appropriateness in an era of falling wages and declining jobs, it is clear that they should be reexamined after four decades of rising wages and expanding job opportunities. To this end, the Department of Labor has been reviewing regulations prompted by Depression-era conditions to determine whether any have created barriers to competition or unnecessarily restricted labor markets.

One significant regulatory reform of this sort concerned the Davis-Bacon Act. For many years these regulations caused government contractors to follow restrictive work practices and to pay higher than market wages. The new regulations, however, establish the market wage as the minimum wage to be paid and allow work practices more like the prevailing work practices. The effect of these reforms will be to increase job opportunities at the same time that the cost of government contracts is reduced.

A second set of Depression-era regulations that the Department has been reviewing are those restrictions that prevent workers from working at home. Seven types of industrial homework were originally prohibited. Last year the Labor Department rescinded the ban on homework in the knitted outerwear industry and this year it will be reviewing the necessity of the ban for the remaining six: women's apparel, jewelry, buttons and buckles, gloves and mittens, handkerchiefs, and embroideries. The elimination of restrictions on homework would clearly reduce barriers to competition and open up new job opportunities.

Finally, the Department is reviewing regulations that enable employers to exempt certain executive, administrative, and professional employees, and outside salespersons from the Fair Labor Standards Act's (FLSA) overtime and minimum wage requirements. Because these exemptions are based in part on duties tests that have not been updated in many years, the Department is finding it increasingly difficult to apply them fairly in new and evolving industries. Some employers have complained that they are unfairly penalized because of the unique nature of their industries. Revised exemption criteria could reduce restrictions on employment and thereby increase employment opportunities for white collar workers.

INTERNATIONAL TRADE

Department of Commerce (DOC)
International Trade Administration

The Administration's guiding principle regarding international trade is that regulatory impediments to trade should be no greater than necessary to achieve legitimate nontrade objectives, such as national security. With limited exceptions, regulations of executive branch agencies do not directly determine exports and imports. For U.S. industries seeking relief from foreign trade dumping or foreign export subsidies, the procedures for an investigation are established by statute and implemented by regulations of the International Trade Administration (ITA) of the Department of Commerce. If the ITA established that dumping or subsidization of an import is occurring and the International Trade Commission determines that the U.S. industry is being materially injured, the ITA will order the assessment of a duty on the import to offset the effects of these trade practices. ITA is revising its regulations implementing these procedures in order to facilitate their use by industry.

Minimizing regulatory impacts on foreign trade also extends to regulations that are only indirectly related to foreign trade. In particular, regulatory agencies that set product standards for environmental, health and safety, or consumer protection must be vigilant that these standards do not serve as trade barriers by unnecessarily establishing requirements that are more difficult for foreign producers than U.S. producers to meet, thus inhibiting competition in U.S. markets. They must likewise be concerned that U.S. standards not disadvantage U.S. manufacturers seeking opportunities in export markets.

Where U.S. exports must be controlled for national security purposes, overly complex or burdensome review procedures should not be allowed to obstruct exports that do not need to be controlled. To this end, the ITA will thoroughly revise its exports administration regulations to clarify and simplify them and to eliminate unnecessarily burdensome documentation and reporting requirements. ITA will also continue with its efforts to remove restrictions of certain petroleum products that Congress never intended to subject to short supply controls.

MANAGEMENT OF FEDERAL FUNDS AND RESOURCES

This Administration has set a high priority on effective management throughout all government agencies. It has worked to ensure that individual agencies are well-managed, deliver services efficiently, and develop policy consistent with overall Federal objectives. Measures to improve the management of government are especially important in light of the need to reduce the Federal deficit.

To this end, the Administration has initiated the Presidential Management Improvement Program. The President has created two new organizations: the President's Council on Integrity and Efficiency and the President's Council on Management Improvement. In addition, the Office of Management and Budget is continuing development of the Federal management review process. These efforts are described in a separate OMB publication: *Management of the United States Government.*

There are several Federal agencies whose primary function is government administration. These agencies develop regulations to improve the efficiency of government operations: manage the administration of Federal expenditures, financial aid, or revenue collections; establish eligibility standards for Federal assistance; or direct the use of public resources. This category of regulatory programs is intended to adhere to the same general principal referred to in previous chapters: that regulation maximize net benefits to society.

Two of the regulatory policy guidelines apply particularly to Federal funds and resource management. Guideline nine states that "Federal regulations should not preempt State laws or regulations, except to guarantee rights of national citizenship or to avoid significant burdens on interstate commerce." Guideline ten provides direction to Federal agencies that are involved in disbursing funds. It states that, "Regulations establishing terms or conditions of Federal grants, contracts, or financial assistance should be limited to the minimum necessary to achieve the purposes for which the funds were authorized and appropriated."

Through various regulatory reform measures, this Administration has increased the flexibility of State and local governments in using Federal assistance and implementing Federal requirements. The Presidential Task Force on Regulatory Relief emphasized regulatory relief for State and local governments as one of its major goals. The Task Force released a progress report in August 1982 that listed 24 regulatory actions underway to reduce significantly the burden on State and local governments. Those regulatory actions alone saved between $4 and $6 billion in total investment costs, and $2 billion in annually recurring costs. When the Task Force concluded its work in 1983, continuing oversight was transferred to OMB, which has been working with Federal agencies and the States to reduce the regulatory burden further.

In addition, President Reagan issued Executive Order No. 12372, "Intergovernmental Review of Federal Programs," to streamline the financial system for Federal aid. The Order gives States the authority to establish their own procedures for reviewing proposed Federal activities in their jurisdiction and requires Federal agencies to be more responsive to State and local concerns.

The next sections describe the four categories into which agencies and programs that manage Federal funds and resources are divided. These categories are: (1) government administration, (2) targeting and accountability of aid, (3) use and leasing of Federal lands and resources, and (4) revenue collection.

GOVERNMENT ADMINISTRATION

General Services Administration (GSA)
Office of Personnel Management (OPM)
Department of the Treasury
Financial Management Service
Department of State

Although the primary Federal administrative agencies are GSA and OPM, all agencies have important management responsibilities. For example, the Treasury Department's Financial Management Service is responsible for ensuring sound money management by Federal agencies and for providing efffective and efficient delivery systems for payments and collections. Similarly, the principal focus of the Department of State is foreign policy, but most of its rulemaking in this year's plan involve administration and it is therefore included in this category.

This Administration's management effort is designed to ensure that Federal hiring, procurement, and resource management practices respond to agency needs, encourage competition, and eliminate waste, fraud, and abuse. The vast property resources and sheer size of the Federal workforce make effective management critical to the efficient discharge of agency responsibilities. The GSA alone manages 227 million square feet of office space and provides over $4 billion in supplies and services annually for other Federal agencies. The OPM administers rules covering the Federal workforce of 2.2 million.

One initiative of the Administration's management reform program is to permit more effective use of information technology. Therefore, the GSA is reviewing computer acquisition and management regulations in order to improve the governments's computer and communications technology and to reduce the number of expensive and obsolete systems.

The OPM is pursuing initiatives to improve the effectiveness and accountability of the Federal workforce. Performance-based personnel systems will improve productivity; and pay, retirement, and other benefit reforms will reduce costs to the government.

Treasury's Financial Management Service has proposed new regulations to establish mechanisms to govern the timing of billings, collections, and deposits of receipts by Federal agencies. When completed later this year, these regulations will result in an integrated government collection system designed to reduce interest losses on collection float, maintain accurate and timely cash position and account balance data, and facilitate the efficient handling of transactions.

The State Department's proposed regulatory actions are designed to discharge the international obligations of the United States. The Foreign Missions Act Amendments of 1983 requires regulations to combat international terrorism. The Diplomatic Relations Act requires through regulations that drivers who can assert diplomatic immunity must carry automobile liability insurance in the United States. The Department will also issue regulations to discharge United States obligations under the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

TARGETING AND ACCOUNTABILITY OF AID

United States Department of Agriculture (USDA)
- Food and Nutrition Service
- Farmers Home Administration
- Rural Electrification Administration
- Federal Commodity Insurance Corporation
- Commodity Credit Corporation
- Agricultural Stabilization and Conservation Service
- Cooperative State Research Service

Department of Education (DEd)

Department of Health and Human Services (HHS)
- National Institutes of Health
- Health Care Financing Administration
- Social Security Administration

Department of Housing and Urban Development (HUD)

Department of the Interior (DOI)
- Bureau of Indian Affairs

Department of Labor (DOL)
- Employment and Training Administration
- Office of Veterans Employment and Training

Department of Transportation (DOT)
- Federal Highway Administration
- Urban Mass Transit Administration

Small Business Administration (SBA)

Veterans Administration (VA)

The agencies within this category set standards of eligibility or documentation for income maintenance programs, grants, loans, or other transfer programs. The Administration will continue this year to pursue through regulation the elimination of fraud, waste, and abuse in these Federal programs while improving the cost-effectiveness of such regulations. Moreover, Federal agencies will strive to improve the targeting and accountability of Federal aid through eligibility-related and/or program administration regulations.

For example, the current Department of Agriculture regulations in the National School Lunch Program require local school agencies to verify income information on a sample of student applications in their jurisdiction, but State agencies have not strongly enforced this requirement. USDA is therefore issuing new regulations to strengthen these program deficiencies and to monitor progress nationwide.

The Department of Health and Human Services will propose rules concerning both eligibility and program administration to target Aid for Dependent Children (AFDC) benefits better. First, regarding eligibility, HHS has documented that certain non-recurring payments to families in the AFDC program are not included as income in the eligibility determination process. The new rules will allow States to treat these non-recurring payments as income. Second, regarding program administration, current regulations specify criteria that State agencies use to determine whether a household has mismanaged its benefits. The Department has found that these restrictive rules frequently prohibit States from adequately protecting dependent children from their caretaker's mismanagement of an AFDC grant. The new rules will give States more latitude to deal with these types of problems.

The Department of Education will issue new regulations requiring verification of applications for post-secondary students seeking campus-based assistance or guaranteed student loans. Verification of similar application data now is required under the Pell Grants program, but the lack of verification in other programs has caused educational institutions to process forms with large numbers of errors concerning students' financial circumstances, and, as a result, to distribute millions of dollars of student aid to ineligible recipients. These errors reduce the amount of aid available to truly needy students. The Department expects the new verification rule will significantly reduce cases where students receive unwarranted assistance and is likely to increase the targeting of funds to the most needy students.

USE OF LEASING OF FEDERAL LANDS AND RESOURCES

United States Department of Agriculture (USDA)
Forest Service
Department of the Interior (DOI)
Mineral Management Service
Bureau of Land Management
National Park Service
Geological Survey
Bureau of Reclamation

This Administration has a two fold objective concerning the use and leasing of Federal lands and resources: to achieve efficient utilization of these resources and to assure receipt of fair market value.

As an example of the first objective, the Department of the Interior is taking steps to ensure that Federal lands are used efficiently. Currently, it is not possible to recover nonenergy minerals within the U.S. outer continental shelf because leasing requirements have not been established. The Department's Minerals Management Service (MMS) is developing regulations to establish such lease terms and conditions, rents, royalties, and environmental and operational safeguards for nonenergy minerals. The MMS intends to promulgate the minimum requirements necessary to encourage the efficient use and conservation of these resources, to protect the environment, and to recover for the taxpayer the fairmarket value of leased resources. These rules should permit the development of a significant new industry.

Second, the land management agencies are increasing their efforts to obtain adequate payments for the private use of Federal resources. For example, the government grants rights-of-way on Federal lands for various purposes, such as pipelines. The Bureau of Land Management in the Department of the Interior has found that current methods for determining rental value do not consistently recover fair market value, and it is developing new rental fees based on an appraisal of all federally granted rights-of-way. These changes should achieve greater administrative efficiency as well as more accurate rents.

REVENUE COLLECTION

Department of the Treasury
Customs Service
Internal Revenue Service
Bureau of Alcohol, Tobacco, and Firearms

The Department of the Treasury, including the Bureau of Alcohol, Tobacco, and Firearms, the U.S. Customs Service, and the Internal Revenue Service, does not plan to issue any major or significant revenue collecting regulations this year under existing statutes. Its major goal for the year is to reduce paperwork burdens, where possible, without reducing revenue collections, and to continue to implement and interpret recent tax legislation, such as the Tax Reform Act of 1984, the Tax Equity and Fiscal Responsibility Act of 1982, and the Economy Recovery Tax Act of 1981.

The fairness and efficiency of Federal revenue collection needs to be improved. Substantive improvements cannot be achieved, however, within existing laws. Adoption of the Administration's tax reform legislation is a critical step. A tax system that is both simpler and fairer can be administered more efficiently, with a higher degree of public confidence and voluntary compliance.

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

TABLE OF CONTENTS

Exhibits

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.

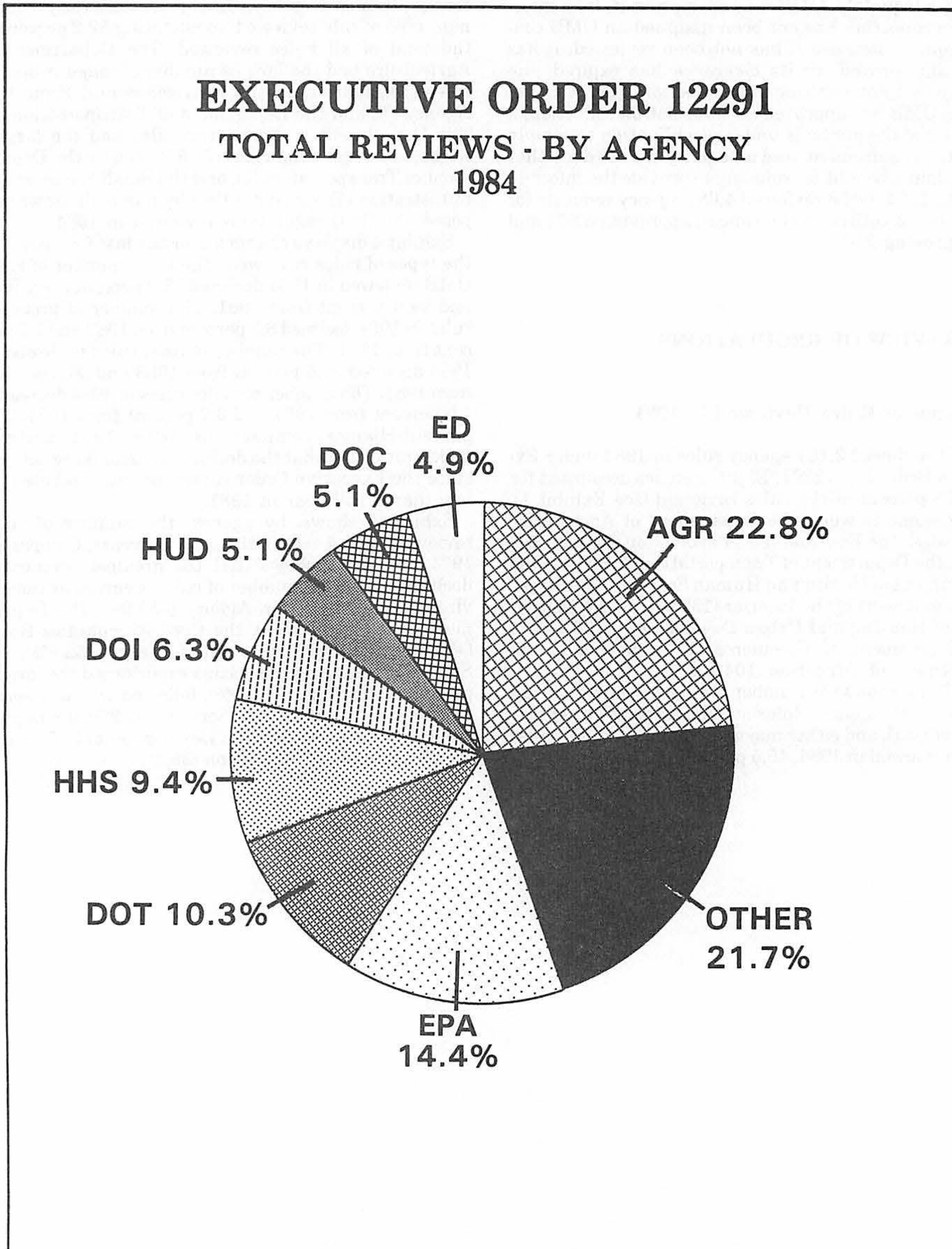
EXECUTIVE ORDER 12291
TOTAL REVIEWS - BY AGENCY
1984
ED 4.9%
DOC 5.1%
AGR 22.8%
HUD 5.1%
DOI 6.3%
HHS 9.4%
DOT 10.3%
OTHER 21.7%
EPA 14.4%

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

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

Civil Aeronautics Board:
Carrier-Owned Computer Reservation Systems

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 AGENCY[1]

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

[1]Only 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

[1]One 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 ECIA 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 1981-1984[1]

Action taken	Percentage in 1981	1982	1983	1984	Percentage change 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

[1]Percentages 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 RPAR 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 delegations 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.

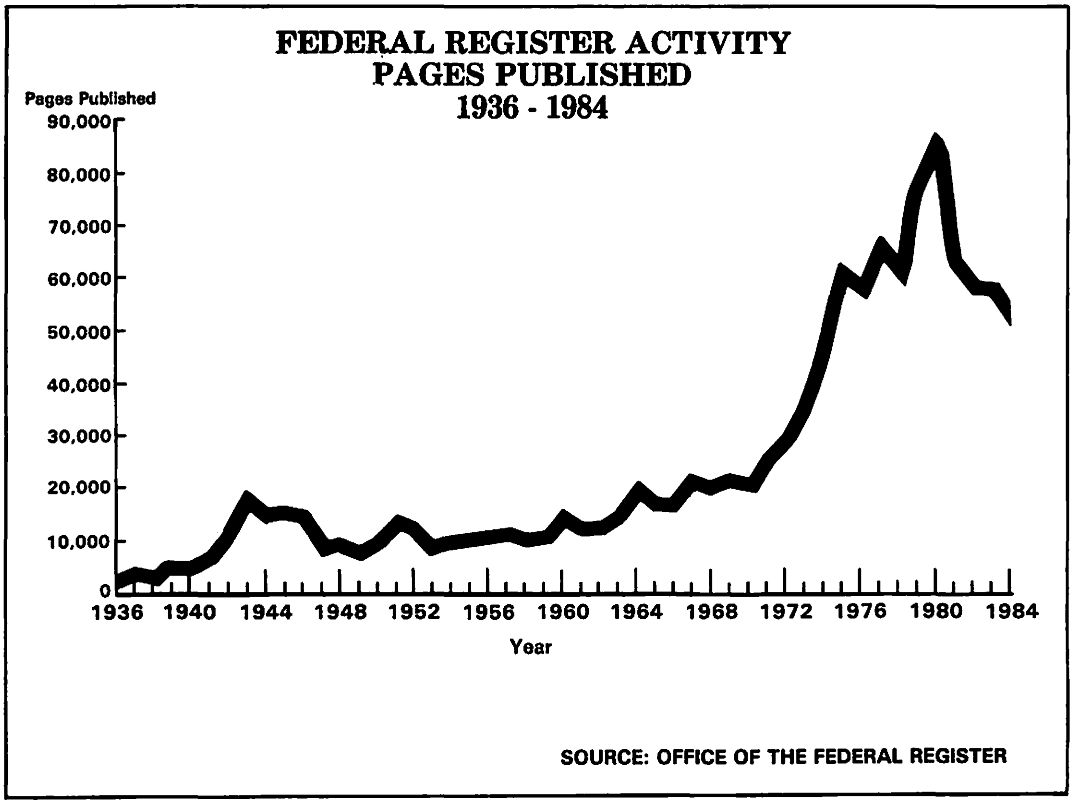

EXHIBIT 13.

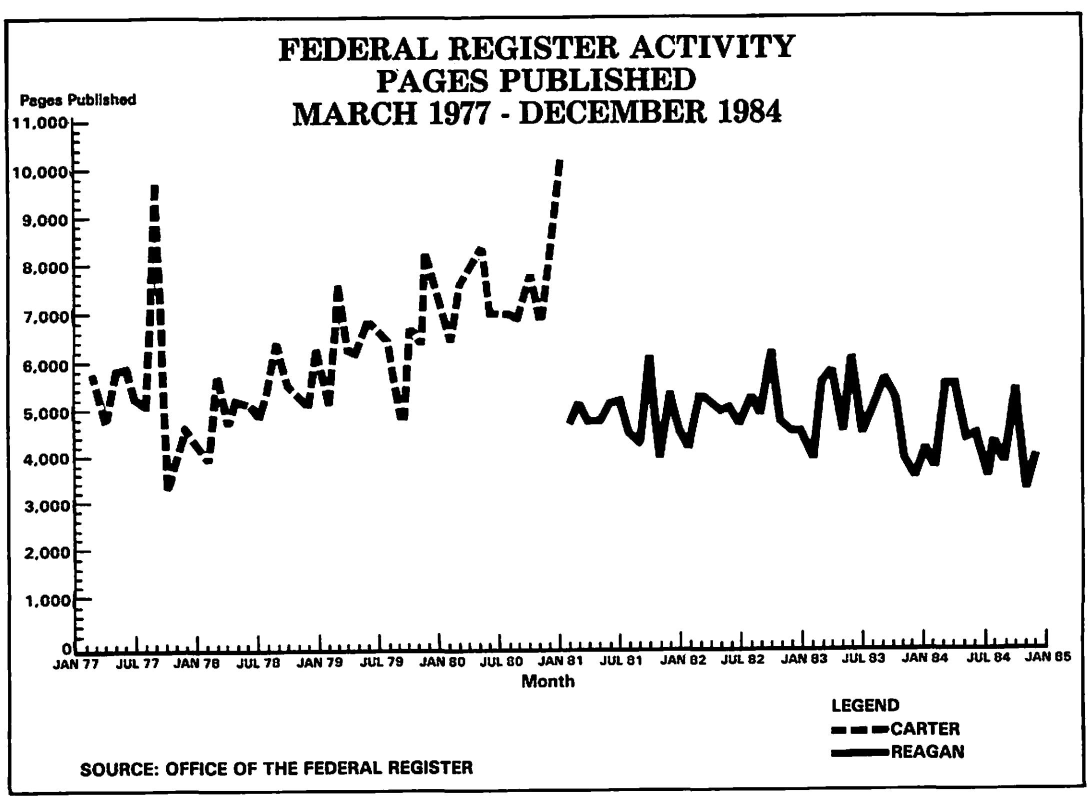

EXHIBIT 14.

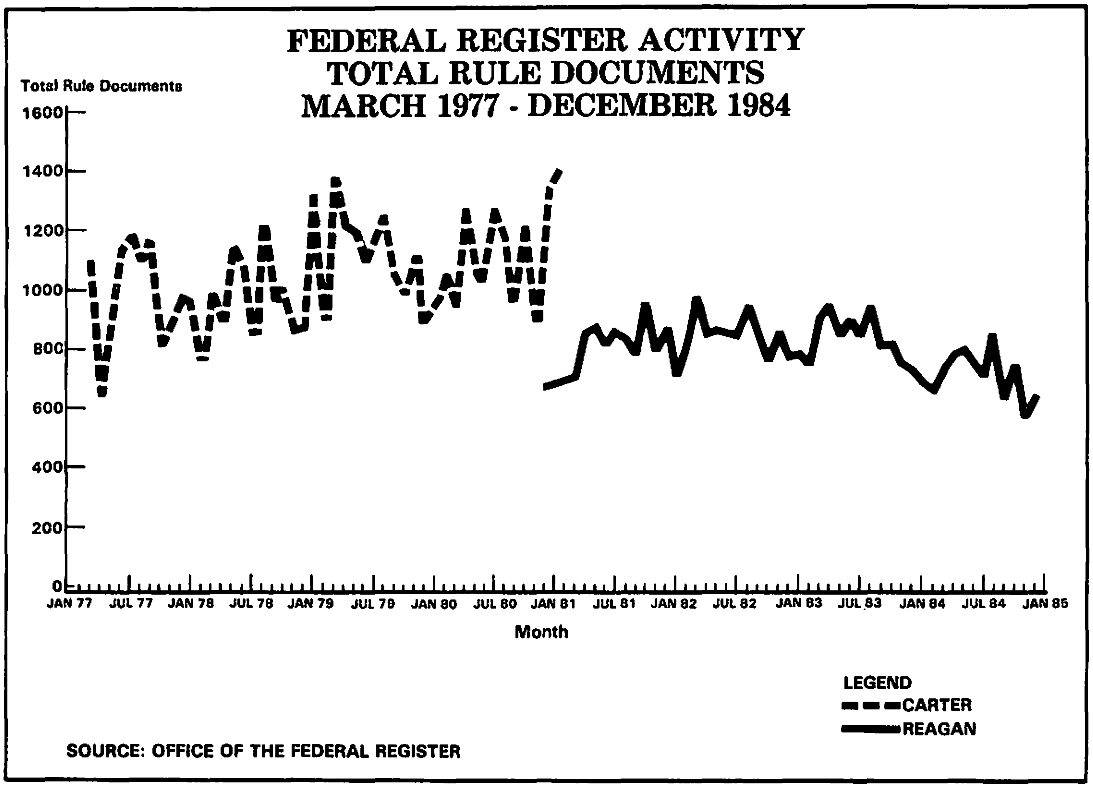

EXHIBIT 15. COMPARISON OF PAGES AND DOCUMENTS PUBLISHED IN THE *FEDERAL REGISTER* 1980-1984

	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 Number of Documents	1982 Percent of Total	1983 Number of Documents	1983 Percent of Total	1984 Number of Documents	1984 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.