



Biden Administration Regulatory Reform Accomplishments

FACT SHEET | OCTOBER 2024

President Joe Biden made reforming the regulatory process a top priority in his administration, setting forth an ambitious agenda in a [Day One memorandum](#). This fact sheet contains an overview of Biden's most significant regulatory reform successes, which are worth keeping and building upon in future administrations. Historically, rulemaking has been biased to favor big corporations and corporate profits at the public's expense. To correct this structural imbalance and ensure federal rules do more to help the public, the administration's directed regulators and federal agencies to:

- Protect scientific integrity, which is essential for developing evidence-based policies and ensuring equity in federal programs, benefits, and services;
- Account for the important and often intangible benefits of regulation for the public that were previously minimized or ignored when developing and updating rules;
- Increase public participation and engagement in the rulemaking process, so that new and updated rules better reflect the needs and concerns of the ordinary people and communities most affected by them;
- Prioritize communicating with and safeguarding the most vulnerable groups and communities over and above corporate lobbyists and executives;
- Reduce paperwork burdens on individuals and families in accessing and remaining eligible for federal benefits and services; and
- Focus on fostering competitive markets and preserving the benefits we receive from the natural world, instead of taking both for granted.

Protecting Scientific Integrity – January 2023

To help federal agencies strengthen, implement, and institutionalize scientific integrity policies and practices, the National Science and Technology Council released [A Framework for Federal Scientific Integrity Policy and Practice](#) in January 2023. Among its recommendations, the framework instructs agencies to:

- Establish, implement, and improve their scientific integrity policies, train the agency workforce, and periodically conduct robust evaluations of procedures;
- Use credible and objective scientific information to make decisions;

- Ensure the timely and free flow of scientific information both internally and with external stakeholders – including by ensuring that clearance procedures do not interfere with either;
- Convey scientific information to the public accurately, clearly, and efficiently;
- Facilitate open discussions and legitimate scientific discourse; and
- Enforce consequences for violating scientific integrity policies and report on violations transparently.

Modernizing Regulatory Review – April 2023

The groundbreaking [Executive Order 14094](#) on Modernizing Regulatory Review ushered in the most important and impactful set of reforms to the regulatory process in decades. The executive order streamlines the OIRA review process to channel the voices of members of the public who benefit from new regulatory protections, not just corporate lobbyists that oppose stronger protections. Specifically, provisions in the executive order:

- Raise the outdated threshold for significant rules from a net economic impact of \$100 million to \$200 million – narrowing the scope of rules that come under OIRA review to those with the broadest impacts;
- Require federal agencies to seek greater input from those who benefit from regulation, with an emphasis on fostering more equitable participation and proactively reaching out to and meeting with underserved communities;
- Direct OIRA to modernize the notice-and-comment process, including by adapting to technological changes that have been used to mislead regulators into weakening, delaying, or blocking public protections;
- Direct OIRA to improve policies and procedures with respect to meeting requests, with an emphasis on ensuring access for groups that historically have not met with the agency, consolidating potentially duplicative meetings, and publicly disclosing the contents of and participants in such meetings; and
- Require regulatory analysis to address distributional impacts and equity, ensuring that rules do more to protect the most vulnerable.

Increasing Public Participation – July 2023

Drawing on feedback from public interest organizations at a series of open government listening sessions in 2022 and 2023, the administration released guidance titled [“Broadening Public Participation and Community Engagement in the Regulatory Process.”](#) Authored by OIRA, the guidance directs federal agencies to make the rulemaking process more accessible to the public, especially members who have not traditionally participated such as underserved communities, people with disabilities, and people with limited English proficiency. The guidance recommends that agencies:

- Plan and prioritize their public participation and engagement activities and publish public engagement plans on their respective websites;
- Determine where to direct resources to maximize the quality of participation and engagement, with an emphasis on reaching underserved communities;

- Prioritize early engagement with underserved communities while agencies are still setting priorities and establishing an overall regulatory program;
- Coordinate and collaborate with other relevant agencies in their public engagement strategies;
- Improve the guidelines for *ex parte* communications – oral and written communications between agencies and members of the public that are not part of the formal notice-and-comment rulemaking process – to ensure they prioritize early engagement, foster transparency, and support proactive outreach;
- Provide additional accommodations for groups that face barriers to participation, especially people with disabilities;
- Train agency staff on effective communications and public outreach;
- Use plain language and widely available document formats that are accessible to the non-expert public and that can be easily understood by affected communities;
- Translate regulatory outreach materials into non-English languages that are relevant to affected communities;
- Provide additional background materials on specific regulatory proposals and agency processes, to foster greater participation from groups that have not previously participated in rulemaking;
- Describe, when possible, how public engagement and community outreach informed and shaped specific regulatory proposals and benefited the public;
- Offer more listening sessions and highlight upcoming opportunities for the public to participate in the year ahead;
- Provide the public with multiple formats for submitting formal comments and informal feedback to regulators;
- Collaborate with community-based organizations, civil society groups, and the agency’s own regional, district, and local offices to broaden public participation;
- Publish blogs, fact sheets, and social media posts to keep the public informed;
- Experiment with new technologies that could enhance public engagement; and
- Use the Unified Agenda of Federal Regulatory Actions, published twice each year in the spring and fall, as an opportunity to communicate with the public about regulatory priorities and activities.

Reducing Paperwork Burdens – July 2023

Using its authority under the Paperwork Reduction Act of 1995, OIRA launched a multi-year initiative to reduce burdens on individuals and families in accessing public benefits and services across the federal government. Its July 2023 report [Tackling the Time Tax](#) advised agencies to:

- Make individuals and families automatically eligible for programs based on their eligibility for other similar or related programs;
- Reduce requirements for additional documentation or paperwork to continue receiving benefits and services;
- Simplify forms, use plain language, eliminate unnecessary questions, and allow online submissions;
- Use data that agencies already have on file to reduce the amount of information requested of individuals or families;

- Partner with community-based organizations to provide information and assistance on how to apply for benefits and services; and
- Provide government services and benefits in additional non-English languages to address local community needs.

Promoting Competition – October 2023

When regulations make markets more competitive, companies improve product quality and reduce prices, offer workers higher wages and better benefits, and develop innovative new products and services. These outcomes boost economic growth and dynamism, and increase standards of living. Recognizing that pro-competition regulations can be an effective tool to promote a healthy, balanced, and prosperous economy, the Biden administration released [“Guidance on Accounting for Competition Effects When Developing and Analyzing Regulatory Actions.”](#) The guidance directs agencies to look into a wide range of factors, including:

- Consider how competitive markets are already, with an eye toward increasing competition when they are not;
- Analyze whether proposed rules would alter the number or range of competitors;
- Evaluate how proposed rules would impact companies’ ability to compete and alter their incentives to compete vigorously; and
- Assess how proposed rules would affect supply chains, labor markets, and consumers.

Modernizing Cost-Benefit Analysis – November 2023

Last updated in 2003, the Biden administration issued a revised [Circular A-4](#) on regulatory analysis with guidance for federal agencies on how to assess the costs and benefits of the rules they issue. These updates will help ensure that regulatory cost-benefit analysis does not weaken regulations that protect the public. In the past, more weight was placed on the costs of regulations to corporations rather than their benefits to the public, which are harder to monetize. The long-overdue changes prioritize the very real but hard-to-quantify regulatory benefits such as less pollution, more lives saved, and increasing equity for minority populations, among others. The changes also place more emphasis on the disproportionate benefits of new regulations to vulnerable, marginalized, fence-line, and front-line communities, as well as regulatory benefits that occur in the future such as with action on the climate crisis.

On the same day, the administration released a revised [Circular A-94](#) regarding “Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs,” last updated in 1992. It provides guidance on conducting cost-benefit and cost-effectiveness analyses, as well as guidance on the discount rates to be used in analyzing federal programs whose benefits and costs are distributed over time. These reforms will lead to regulations that are more protective of the public and not just the least costly to corporations. Among their many updates to cost-benefit analysis, Circulars A-4 and A-94 direct agencies to:

- Include the qualitative benefits of proposed rules that are hard to quantify or monetize, which point in favor of stronger safeguards;

- Use the best available science, historical data, and Indigenous and other local knowledge to ensure rules deliver the most benefits to the public;
- Include social benefits – in other words, the benefits of regulating to protect the public – not just those for private corporations and the federal government;
- Account for the distributional effects of regulation on different groups, communities, locations, and income brackets to ensure that the most vulnerable get the regulatory protections they need;
- Lower the default discount rate – the way analysts calculate the value of regulatory costs and benefits that occur in the future – from 3% to 2%, and update it every three years to reflect the latest market-based data;
- Account for the reality that regulation often encourages investment, rather than falsely assuming it always discourages investment;
- Account for the reality that some regulations function like insurance, helping people the most when times are tough; and
- Account for benefits and costs experienced by U.S. citizens as well as military and diplomatic personnel living or traveling outside our nation’s borders, including but not limited to national security impacts that could affect their lives.

Accounting for Ecosystem Services – February 2024

Ecosystem services are the vast array of direct and indirect benefits humans receive from nature and our environment, such as bees pollinating commercial crops and wetlands shielding inhabited coastlines from storm surges. Historically there has been no way to account for such benefits or the potentially astronomical costs of disrupting them, leading regulatory analysts to literally take them for granted, valuing them at \$0. To ensure that ecosystem services are properly accounted for in regulatory analysis, the Biden administration released [“Guidance for Assessing Changes in Environmental and Ecosystem Services in Benefit-Cost Analysis,”](#) which directs agencies to:

- Determine whether a proposed rule will have a large enough effect on the relevant ecosystem services to warrant an analysis;
- Identify and describe how regulatory alternatives are expected to affect natural, social, and built systems and related ecosystem services;
- Identify and evaluate evidence that supports any linkages between the regulation and likely changes in ecosystem services; and
- Identify the groups of people likely to experience changes in ecosystem services, with an emphasis on underserved communities and distributional inequities.

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