

Biden Revokes Regulatory Reforms

In a brief executive order issued on January 20, 2021, President Joe Biden revoked six executive orders dealing with Executive Branch policy on regulations. All six of these orders were issued by former president, Donald Trump.

It is very telling what the new president discarded.

From Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs:”

It is the policy of the executive branch to be prudent and financially responsible in the expenditure of funds. (Emphasis added.)

. . . the cost of planned regulations [must] be prudently managed and controlled through a budgeting process

From Executive Order 13777, “Enforcing the Regulatory Reform Agenda:”

It is the policy of the United States to alleviate unnecessary regulatory burdens placed on the American people. (Emphasis added.)

Each agency shall establish a Regulatory Reform Task Force . . .

At a minimum, each Regulatory Reform Task Force shall attempt to identify regulations that:

- (i) eliminate jobs, or inhibit job creation;
- (ii) are outdated, unnecessary, or ineffective;
- (iii) impose costs that exceed benefits; . . .

From Executive Order 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents:”

Americans deserve an open and fair regulatory process that imposes **new obligations on the public only when consistent with applicable law** and after an agency follows appropriate procedures. Therefore, it is the policy of the executive branch, to the extent consistent with applicable law, to require that agencies treat guidance documents as non-binding both in law and in practice, except as incorporated into a contract, take public input into account when appropriate in formulating guidance documents, and make guidance documents readily available to the public. Agencies may impose legally binding requirements on the public only through regulations and on parties on a case-by-case basis through adjudications, and only after appropriate process, except as authorized by law or as incorporated into a contract. (Emphasis added.)

From Executive Order 13892, “Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication:”

No person should be subjected to a civil administrative enforcement action or adjudication absent prior public notice of both the enforcing agency's jurisdiction over particular conduct and the legal standards applicable to that conduct. Moreover, the Federal Government should . . . establish predictable outcomes for private conduct.

Guidance documents may not be used to impose new standards of conduct on persons outside the executive branch except as expressly authorized by law or as expressly incorporated into a contract.

. . . any collection of information during the conduct of an investigation (other than those investigations excepted under section 3518 of title 44, United States Code, and section 1320.4 of title 5, Code of Federal Regulations, or civil investigative demands under 18 U.S.C. 1968) must either:

- (i) display a valid control number assigned by the Director of the Office of Management and Budget; or
- (ii) inform the recipient through prominently displayed plain language that no response is legally required.

From Executive Order 13893, “Increasing Government Accountability for Administrative Actions by Reinventing Administrative PAYGO [Pay As You Go]:”

It is the policy of the executive branch to **control Federal spending and restore the Nation’s fiscal security**. This policy includes ensuring that agencies consider the costs of their administrative actions, take steps to offset those costs, and curtail costly administrative actions. (Emphasis added.)

Before an agency may undertake any discretionary administrative action, the head of the agency shall submit the proposed discretionary administrative action to the Director for review. Such submission shall include an **estimate of the budgetary effects** of such action. (Emphasis added.)

In addition, within 90 days of the date of this order, the Director shall **revoke OMB Memorandum M-05-13** [Memorandum for the Heads of Departments And Agencies from Joshua Bolten re Budget Discipline for Agency Administrative Actions, May 23, 2005.] (Emphasis added.)

Revoking these key executive orders speaks volumes as to the new administration’s perspective and policy on regulations. Number 1: Unbridled agency spending without fiscal restraint. Number 2: No accountability to taxpayers. Number 3: Regulation without basis in law. In the ensuing months the Biden/Harris administration has clearly illustrated each one of these to the detriment of American businesses and citizens alike.