



February 10, 2017

Dominic J. Mancini, PhD
Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget
reducingregulation@omb.eop.gov

Re: Reducing Regulation and Controlling Regulatory Costs

Dear Acting Administrator Mancini:

The undersigned organizations appreciate the opportunity to provide comments on the February 2, 2017, interim guidance implementing section two of the Executive Order of January 30, 2017, titled "Reducing Regulation and Controlling Regulatory Costs".

An efficient and effective regulatory system remains critical to enforcing the laws the Congress put in place to safeguard health. These laws, including the Clean Air Act, the Clean Water Act and the Tobacco Control Act, must have regulations in place to ensure that the intentions of Congress to protect the nation's health can be met. Improving the system is a commendable goal, but, unfortunately, the Executive Order misses that mark by a wide margin.

We are concerned that the Executive Order and implementing guidance will force agencies to eliminate regulations simply to meet the requirements of the Executive Order, even if the regulations identified for repeal include ongoing lifesaving public health protections. We are also concerned that the Executive Order will add even more significant delays in the already lengthy regulatory process. The Executive Order may prevent agencies from issuing new protections that will save lives and protect our nation's health because agencies are unable to identify deregulatory actions to fully offset the costs.

For these reasons, which we expand upon below, we request that both the Executive Order and interim guidance be revoked.

Emphasis on Regulation Cost

The Executive Order and the interim guidance document focus only on reducing the estimated cost to industry and others to comply with regulations. Agencies are instructed to fully offset the costs of any new regulatory action, and not to exceed the overall regulatory cap of \$0 for fiscal year 2017. These requirements imply that cost to industry is the only factor agencies should consider when developing a new regulation or identifying a regulation for repeal.

The Executive Order and the interim guidance do not mention or acknowledge the existence of benefits from these regulations.

Our organizations are very troubled that this Executive Order ignores the public health and other benefits that come from federal rulemaking. Many of these regulations would eliminate or greatly reduce on-going costs to human health and society, including premature deaths, medical care, hospital stays, onset of diseases and days missed at work and school. These regulations provide very real, measurable economic benefits to our nation's public health that historically far outweigh the costs.

The Executive Order does not direct agencies to consider these benefits when identifying regulations for repeal. Nor does it expressly recognize statutory requirements that make protection of public health the sole consideration. Likewise, the interim guidance focuses only on cost and does not provide instructions on how agencies should evaluate the merits of a regulation. The guidance document's only reference to a regulation's benefits is one indirect statement: "Agencies should [also] confirm that they will continue to achieve their regulatory objectives after the deregulatory action is undertaken." Neither the Executive Order nor the guidance document encourage agencies to conduct a thoughtful analysis of a regulation's benefits before selecting it for repeal.

Federal regulations provide many important public health benefits. Americans rely on regulations to protect them from the dangers of tobacco, air pollution, and unsafe foods. Regulations also ensure access to healthcare, preserve quality of life, and combat discrimination. Yet, by focusing only on costs, the Executive Order fails to consider any of the very real benefits conferred by regulations. The interim guidance references an OMB Circular to inform how to incorporate these benefits when calculating a regulation's cost, but does not acknowledge that these rules have benefits.

In addition, the Executive Order overlooks that major rules undergo a thorough cost-benefit analysis before they are finalized. Those are required under Executive Order 12866 and Executive Order 13563. Analyses from administrations of both political parties have consistently found far greater economic benefits from federal regulations than compliance costs. For example, a regulatory action that helps improve diet quality or reduces the number of Americans who use tobacco, can save lives, have significant health benefits and reduce medical costs. A regulation that reduces air pollution can prevent asthma attacks, heart attacks, strokes and premature death. Monetized, these benefits outweigh the costs by a factor or more than 30 to 1, or as high as 90 to 1.

In fact, the only mention of "health" and "safety" in the guidance document is strikingly limited. The guidance document allows agencies to qualify for a waiver from the overall offset requirement, but only in the case of an emergency "addressing health, safety, or financial matters." That shows some appreciation for the need to protect the public, but fails to recognize this deregulatory action will remove measures that protect people from on-going, daily risks to their health and safety.

We are concerned that moving to a system that focuses primarily on a regulation's estimated cost to industry will result in the loss of valuable public health protections and lead to an increase in otherwise preventable deaths and diseases. As noted above, agencies may be forced to eliminate regulations simply to comply with the Executive Order or may be prevented from issuing new regulations because they are unable to fully offset the costs.

Delaying the Regulatory Process

We are also concerned that the Executive Order will result in significant delays in putting public health protections in place. Developing regulations is already a time and resource intensive process; regulations take months, if not years, to develop. Requiring agencies to identify two regulations that can be eliminated and that will fully offset the cost of a new regulation will require additional time and expense. Agencies will be required to conduct new cost calculations rather than rely on previously estimated costs from the original Regulatory Impact Analysis; publish the regulations identified for repeal in the Unified Regulatory Agenda; and generate a plan for finalizing the offsetting regulations. These additional steps could delay valuable regulations from being proposed and finalized – and ultimately put Americans' health at risk.

In closing, we reiterate our request that the Administration revoke the Executive Order and implementing guidance. Regulations provide important public health benefits and should not be eliminated solely on the basis of their cost, nor should beneficial regulations be halted or postponed by the arbitrary requirements for offsets or achieving the regulatory cap.

Thank you for consideration of our comments.

Respectfully submitted,

American Heart Association
American Lung Association
American Public Health Association
Campaign for Tobacco-Free Kids