



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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Information Interchange Bulletin No. 026

Regulatory Analysis Requirements

What are regulatory analyses?

Many statutes and presidential directives require agencies to analyze and explain the economic, environmental, social, or other real-world effects of proposed and final rules as part of the rulemaking process.

Requirements vary in their application. Some apply only to specific agencies, programs, or types of rules, while others apply more generally. Some are specific to rulemakings, while others apply to a broader range of agency actions.

Several notable, cross-cutting requirements are described to the right.

What information do regulatory analyses contain?

Although requirements vary, regulatory analyses often explain why regulatory action is needed, how the rule will meet that need, and whom it expects the rule will impact. Regulatory analyses may also attempt to quantify benefits and costs and explain why the proposed regulatory action was selected over alternatives.

How are regulatory analyses conducted?

Processes for conducting regulatory analyses vary. In many cases, the Office of Management and Budget reviews regulatory analyses prepared by agencies. There may also be opportunities for public participation.

Do agencies make regulatory analyses publicly available?

Agencies typically include in a rule's preamble a description of which regulatory analyses it conducted and key findings. Many regulatory analyses are included in rulemaking dockets for public review and comment.

What are some cross-cutting requirements for regulatory analyses?

Although this section presents a sample of cross-cutting regulatory analysis requirements, some only apply to certain agencies or certain types of rules. See the additional resources listed below for more comprehensive summaries of these and other regulatory analysis requirements.

Analyzing Benefits and Costs

Agencies generally must analyze the potential benefits and costs of their rules ([EO 12866](#), [EO 13563](#), [OMB Circular A-4](#)).

Analyzing Environmental and Related Health and Safety Effects

Agencies generally must analyze the environmental effects of their rules ([National Environmental Policy Act](#), see [IIB-012](#)) and their effects on the environment, health, and safety of specific populations, including minority and low-income populations ([EO 12898](#)) and children ([EO 13045](#)).

Analyzing Effects on Small Entities

The [Regulatory Flexibility Act](#) generally requires agencies to analyze the impact of rules on small businesses and certain small nonprofit organizations ([IIB-022](#)).

Analyzing Effects of Information Collections on the Public

When agencies intend to collect information in manner covered by the [Paperwork Reduction Act](#), they must evaluate the need for the collection and analyze the burden it will impose on respondents ([IIB-025](#)). Before electronically collecting personally identifiable information, agencies generally must analyze how the collection, use, sharing, and management of that information will impact personal privacy ([E-Government Act § 208](#)).

Analyzing Effects on Intergovernmental Relations

Several statutes and executive orders require agencies to consider rules' effects on, or consult and coordinate with, state, local, and tribal governments ([EO 13132](#), [EO 13175](#), [Unfunded Mandates Reform Act](#), [Regulatory Flexibility Act](#)).

Analyzing Effects on Family Well-Being

For any rule that "may affect family well-being," agencies generally must analyze how its benefits justify financial and other impacts on families ([PL 105-277 § 654](#)).

Analyzing Effects on Energy Supply, Distribution or Use

For rules likely to have a "significant adverse effect on the supply, distribution, or use of energy," agencies generally must analyze those effects and any reasonable alternatives. ([EO 13211](#)).

Analyzing Effects on Private Property Rights

Agencies generally must analyze the "takings implications" (under the Fifth Amendment) of rules that regulate private property use for the protection of public health or safety ([EO 12630](#)).

Additional Resources

[Rulemaking Requirements from the Executive Office of the President](#), ACUS Admin. Procedure Sourcebook
ACUS Rec. [2012-1](#), *Regulatory Analysis Requirements*
Curtis W. Copeland, [Regulatory Analysis Requirements: A Review and Recommendations for Reform](#) (2012)