

GUIDELINES FOR RECEIPT BY THE TASK FORCE STAFF AND THE
OFFICE OF MANAGEMENT AND BUDGET OF COMMUNICATIONS FROM
THE PUBLIC IN CONNECTION WITH EXECUTIVE ORDER 12291

5-7-81

A major purpose of Executive Order 12291 and a major responsibility of the Presidential Task Force on Regulatory Relief is to ensure, to the extent permitted by law, that regulatory decisions are supported by sound economic analysis. Toward this end, it is essential that important regulatory decisions be based upon records that assist the agency and other interested parties in assessing the economic ramifications of proposed regulations. Under the Executive Order, both the Task Force staff and the staff of the Office of Management and Budget (OMB) will be reviewing factual materials and arguments supporting various views of regulatory proposals. To ensure that this review is accomplished efficiently and to ensure both the fact and impression of fairness in the regulatory process, these guidelines have been developed.

The Department of Justice has advised that, generally speaking, the development of specific procedures under E.O. 12291 regarding communications between the public and the Task Force staff and OMB is not legally required. As a policy matter, however, the Task Force staff and OMB follow certain general guidelines. These guidelines apply to communications by persons outside of the direct decision-making processes within the federal government (hereafter "the public") with the Director of the Office of Management and Budget, his staff, or the staff of the Task Force (hereafter collectively referred to as "the Task Force/OMB staff" or simply "staff") regarding the substance of

any proposed rule for which a Notice of Proposed Rulemaking has been published in the Federal Register. The guidelines that the staff follows are:

(1) The agency, as defined in section 1(d) of the Executive Order, not the Task Force/OMB staff, is the primary forum for receiving factual ~~communications~~ from the public. Therefore, the staff will consider unsolicited ~~communications~~ ^{TO THE EXTENT} only if they are in writing and on their face disclose that a copy and any supporting documentation have been transmitted to the Secretary or head of the enforcing agency. To expedite handling of these ~~communications~~, it would be useful if they included a one-page ~~summary~~ of the source of the rule involved, its anticipated economic impact, and the specific details to which the ~~communication~~ is addressed.

what happens if one fails through the cracks?

(2) On its own initiative or after receiving ~~comments~~ of the type described in paragraph (1), the staff may request information from the public. Parties complying with these requests should transmit copies of such further documentation to the head of the enforcing agency, unless the agency has already received such documentation. (In the case of a solicited response, the staff shall indicate that such material should be transmitted to the agency.)

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(3) Only staff who are involved in formulating substantive views on the merits of the particular rule under discussion shall ~~communicate~~ with the public regarding a proposed rule.

(4) At meetings or telephone conversations with the public regarding a proposed rule, the responsible staff official shall

request the public attendees at the meeting or the public parties to the telephone conversation to transmit to the head of the enforcing agency any facts discussed in the meeting or conversation that are not already in the rulemaking record and that might influence the staff's view of the merits of the regulation in question.

(5) It is anticipated that agencies will place facts received from the staff in the record if they are not already in the record.

(6) After experience under these guidelines has been acquired, they will be reviewed for possible revisions.