



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 26, 2025

M-25-20

MEMORANDUM FOR: REGULATORY POLICY OFFICERS AT EXECUTIVE DEPARTMENTS AND AGENCIES AND MANAGING AND EXECUTIVE DIRECTORS OF CERTAIN AGENCIES AND COMMISSIONS

FROM: Jeffrey B. Clark, Sr., Acting Administrator
Office of Information and Regulatory Affairs

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SUBJECT: Guidance Implementing Section 3 of Executive Order 14192, Titled
"Unleashing Prosperity Through Deregulation"

I. Introduction

This guidance, in the form of Questions and Answers (Q&As), addresses the requirements of Section 3 of [Executive Order \(EO\) 14192](#), titled "Unleashing Prosperity Through Deregulation." It applies to Fiscal Years (FY) 2025 and beyond. Guidance on the requirements of Section 4 will be provided as part of the Fall 2025 Data Call for the *Unified Agenda of Federal Regulatory and Deregulatory Actions*.

II. General Requirements

FY 2025 Requirements

The guidance explains, for purposes of implementing Section 3, the following requirements:

- **10-for-1 Requirement:** "Unless prohibited by law, whenever an executive department or agency . . . publicly proposes for notice and comment or otherwise promulgates a new regulation, it shall identify at least 10 existing regulations to be repealed." Sec. 3(a).
- **Incremental Cost Significantly Less Than Zero Requirement:** "For fiscal year 2025 . . . the heads of all agencies are directed to ensure that the total incremental cost of all new regulations, including repealed regulations, being finalized this year, shall be significantly less than zero, as determined by the Director of the Office of Management and Budget . . . unless otherwise required by law or instructions from the Director." Sec. 3(b).
- **Offsetting Incremental Cost Increases Requirement:** "In furtherance of the requirement of subsection (a) of this section, any new incremental costs associated with

new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” Sec. 3(c).

In general, executive departments or agencies (“agencies”) may comply with those requirements by issuing 10 EO 14192 deregulatory actions (described below) for each EO 14192 regulatory action (described below). The incremental costs associated with EO 14192 regulatory actions must be fully offset by the savings of EO 14192 deregulatory actions.

In addition, agencies planning to issue one or more EO 14192 regulatory actions on or before September 30, 2025, should for each such action:

- **10-Action Elimination Requirement:** Identify 10 existing regulatory actions the agency plans to eliminate or propose for elimination on or before September 30, 2025; and
- **Incremental Cost-Netting Requirement:** Ensure that the total incremental cost of EO 14192 regulatory actions and 14192 deregulatory actions is significantly less than zero as of September 30, 2025.

FY 2026+ Regulatory Cap Requirement: Beginning with FY 2026, Section 4(d) requires the Director of OMB to identify to agencies a total amount of incremental costs (or “regulatory cap” as stated in Section 3) for all EO 14192 deregulatory and EO 14192 regulatory actions finalized during the fiscal year. The total incremental cost imposed by each agency should not exceed the agency’s allowance for that fiscal year, unless required by law or approved by the Director. The total incremental cost allowance may be an increase or reduction in total regulatory cost and will be informed by agencies’ draft submissions for the *Regulatory Plan*.

Please consult with OIRA if you have any particular questions regarding the applicability or interpretation of EO 14192 not addressed in these Q&As.

EO 12866 Continues in Force: Agencies should continue to comply with all applicable laws and requirements. In addition, [EO 12866](#) remains the primary governing EO regarding regulatory planning and review. Accordingly, among other requirements, except where prohibited by law, agencies must continue to assess and consider both the benefits and costs of regulatory actions, including deregulatory actions, when making regulatory decisions, and issue regulations only upon a reasoned determination that benefits justify costs.

III. Definitions

This section provides definitions for terms used in this guidance. The definitions should not necessarily be applied to other sections of EO 14192 that this guidance does not cover. Nor do the definitions replace those used in other EOs or statutes.

Q1. What is an “agency”?

A: Consistent with Section 3(b) of EO 12866, as amended by EO 14215 of February 18, 2025

(Ensuring Accountability for All Agencies), an “agency,” unless otherwise indicated, means any authority of the United States that is an “agency” under 44 U.S.C. 3502(1), including those considered to be independent regulatory agencies as defined in 44 U.S.C. 3502(5). EO 14192 also applies to the Federal Election Commission, but it does not apply to the Board of Governors of the Federal Reserve System or the Federal Open Market Committee in its conduct of monetary policy. EO 14192 applies to the Board of Governors of the Federal Reserve System only in connection with its conduct and authorities directly related to its supervision and regulation of financial institutions. A cabinet department is considered a single agency for purposes of EO 14192 compliance.

Q2. What is an “EO 14192 regulatory action”?

A: An “EO 14192 regulatory action” is:

- (i) A significant regulatory action as defined in Section 3(f) of EO 12866 that has been finalized and that imposes total costs greater than zero; or
- (ii) A significant guidance document, broadly conceived, (*e.g.*, significant interpretive guidance) reviewed by OIRA under the procedures of EO 12866 that has been finalized and that imposes total costs greater than zero.

For example, EO 14192 regulatory actions include negotiated rulemakings that are significant as defined in Section 3(f) of EO 12866, that have been finalized, and that impose total costs greater than zero.

Q3. What is a “significant guidance document”?

A: As defined in [Executive Order 13891](#) of October 9, 2019 (Promoting the Rule of Law Through Improved Agency Guidance Documents), when that order was in effect, a “significant guidance document” means a guidance document that may reasonably be anticipated to:

- (i) Lead to an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- (ii) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (iii) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (iv) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles of EO 12866.

Significant guidance documents often come in a variety of formats and names, including memoranda, policy statements, bulletins, advisories, certain communications to regulated entities and the like.

Significant guidance does not include legal advisory opinions for internal Executive Branch use and not for release (such as Department of Justice Office of Legal Counsel opinions); briefs and other positions taken by agencies in investigations, pre-litigation, litigation, or other enforcement proceedings; speeches; editorials; media interviews; press materials; Congressional correspondence; guidance documents that pertain to a military or foreign affairs function of the United States (other than guidance on procurement or the import or export of non-defense articles and services); warning letters other than “Dear Colleague Letters” (see below); case or investigatory letters responding to complaints involving fact-specific determinations; purely internal agency policies; guidance documents that pertain to the use, operation or control of a government facility; internal guidance documents directed solely to other Federal agencies; solely scientific, basic, or applied research; and any other category of significant guidance documents exempted by an agency in consultation and concurrence with the OIRA Administrator.

In the list above, “internal” policies and guidance documents do not include those that materially affect an agency’s interactions with non-Federal entities, even if nominally directed only to agency personnel. For example, an internal directive to field staff on how to implement a regulatory requirement could be a significant guidance document if it satisfied any of (i) through (iv) above. By contrast, a scientific research document that simply summarizes the protocol and conclusions of a specific research project (such as a clinical trial funded by the National Institutes of Health) would not qualify as a guidance document. However, such research may be the basis of a guidance document (such as the HHS/USDA “Dietary Guidelines for Americans”).

If they satisfy the definition above, modifications to existing guidance and interpretative documents would be considered significant guidance documents.

Q4. What is an “EO 14192 deregulatory action”?

A: An “EO 14192 deregulatory action” is an action that has been finalized and has total costs less than zero. An EO 14192 deregulatory action qualifies as both: (1) one of the actions used to satisfy the provision to repeal or revise at least 10 existing regulations for each regulation issued, and (2) a cost savings for purposes of the total incremental cost allowance. EO 14192 deregulatory actions are not limited to those defined as significant under EO 12866 or OMB’s *Final Bulletin on Good Guidance Practices*.

An EO 14192 deregulatory action may be issued in the form of an action in a wide range of categories of actions, including, but not limited to:

- Informal, formal, and negotiated rulemaking;
- Guidance and interpretive/interpretative documents;
- Some actions related to international regulatory cooperation; and
- Information collection requests that repeal or streamline recordkeeping, reporting, or disclosure requirements.

Significant proposed rules issued before noon on January 20, 2025, that are formally withdrawn by notice in the *Federal Register* and removed from the *Unified Agenda of*

Regulatory and Deregulatory Actions may qualify as repeal actions, but do not qualify for cost savings.

Please consult with OIRA regarding other actions your agency believes should qualify as an EO 14192 deregulatory action.

Q5. What does “offset” mean?

A: The term “offset” means, by the end of fiscal year accounting, at least 10 EO 14192 deregulatory actions have been taken per single EO 14192 regulatory action and that the incremental cost of the EO 14192 regulatory action has been appropriately counterbalanced by incremental cost savings from EO 14192 deregulatory actions, consistent with the agency’s total incremental cost allowance (the regulatory cap).

Q6. What is a “statutorily or judicially required” rulemaking?

A: A statutorily required rulemaking is one for which Congress has provided by statute an explicit requirement and explicit timeframe for rulemaking. For example, a statute that states that an agency “shall issue nutrition labeling requirements within 10 years” of the statute’s enactment date would be considered a statutorily required rule.

A judicially required rulemaking is one for which there is a court-ordered binding deadline for rulemaking, including deadlines established by settlement agreement or consent decree.

Agencies should consult with OIRA to determine whether a rule falls within the definition of a statutorily or judicially required rulemaking.

Q7. What is a rule issued with respect to a “national security function” or “homeland security function” of the United States?

A: For the purposes of EO 14192, a regulation issued with respect to a national security or homeland security function is a regulation that satisfies the two following requirements:

- (1) The benefit-cost analysis demonstrates that the regulation is anticipated to improve national security or homeland security as its primary direct benefit; and
- (2) (A) For regulations the agency considers legislative rules: OIRA and the agency agree the regulation qualifies for a “good cause” exception under 5 U.S.C. 553(b)(3)(B); or (B) For other regulations (including significant guidance), the agency and OIRA agree that applying the requirements of EO 14192 to the regulation would be impracticable or contrary to public interest.

Q8. What is a rule issued with respect to an “immigration-related function” of the United States?

A: A rule with a primary direct purpose of implementing or interpreting the immigration laws of the United States (as described in INA § 101(a)(17); 8 USC § 1101(a)(17)) and any other

function performed by the U.S. Federal Government with respect to aliens (including those purporting to seek asylum), including but not limited to rules related to alien eligibility for public benefits.

Q9. What is “total incremental cost”?

A: The term “total incremental cost” means the sum of all costs from EO 14192 regulatory actions minus the cost savings from EO 14192 deregulatory actions calculated over the relevant period.

Q10. For FY 2025, what amount of total incremental cost would qualify as “significantly less than zero”?

A: The specific amount will vary by agency and is a function of the amount of ongoing burden associated with existing regulations. In general, agencies should strive for meaningful reductions in regulatory costs that align with the purposes of EO 14192. As a benchmark, agencies should consider the [total incremental cost savings achieved in FY 2017](#) during the first year of implementation for Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs.” In many cases agencies should be able to meet or exceed those results.

In the upcoming Spring 2025 Data Call for the *Unified Agenda of Federal Regulatory and Deregulatory Actions*, OIRA plans to ask agencies for a preliminary estimate of the total costs or savings associated with regulatory actions and offsetting deregulatory actions that are planned through the end of FY 2025.

IV. Scope Questions

Q11. Which new regulations as defined in EO 14192 must be offset?

A: Agencies are required to offset EO 14192 regulatory actions issued after noon on January 20, 2025. This includes those EO 14192 regulatory actions that are rules finalizing a Notice of Proposed Rulemaking (or in certain instances an interim final rule; see Question 13 for a further discussion) issued before noon on January 20, 2025.

Agencies should use the existing significance determination process outlined in EO 12866 for determining whether an action is an EO 14192 regulatory action. Agencies should not assume that actions that appear, or have appeared, in the *Unified Agenda of Regulatory and Deregulatory Actions* as nonsignificant will, at all later procedural steps, be determined by OIRA to be nonsignificant. Agencies should obtain an affirmative significance determination from OIRA before publishing regulatory actions.

Q12. How are administrative orders and interagency agreements treated?

A: Administrative orders and interagency agreements are considered EO 14192 regulatory actions if they are functionally equivalent to significant regulatory actions or significant guidance that

imposes total costs greater than zero, and if they are not otherwise exempt. For example, federal public health orders issued under the authority of Section 361 of the Public Health Service Act would be considered administrative orders under EO 14192, even if they do not meet the definition of a “rule” under the Administrative Procedure Act, and such orders may impose legally binding costs on the public. Similarly, a “Dear Colleague Letters (DCL)” may also be subject to EO 14192. DCLs are primary communications used to convey guidance regarding federal student aid programs. These letters may impose substantial policy changes and regulatory enforcement without public input or a formal rulemaking process instead of interpreting existing law. As another example, grants of waivers of preemptive effect of federal law to State regulatory regimes may alternatively be presented as an ‘order’. These actions would fall under EO 14192; see Question 23 for further detail.

Please consult with OIRA regarding any questions about the applicability of EO 14192 to such items prior to publication.

Q13. How are interim and direct final rules treated?

A: In general, significant interim and direct final rules must be offset. However, a significant interim final rule or direct final rule may qualify for an exemption with respect to the timing for identifying and issuing the EO 14192 deregulatory actions, as discussed in the response to Question 36. If necessary, the costs of such actions, and the requirement to identify for repeal at least 10 existing regulations, will be moved to the subsequent fiscal year for purposes of determining EO 14192 compliance.

Q14. How are significant rules that finalize interim final rules (IFR) treated?

A: If the final rule neither increases nor decreases the cost of the IFR, then the action does not need to be offset, nor does it qualify as an EO 14192 deregulatory action. If the final rule includes changes that increase the cost of the IFR, then the final rule must be offset (however, if the final rule imposes only *de minimis* costs relative to the IFR, the final rule may qualify for an exemption). If the final rule reduces the cost of the IFR, then the rule and the cost savings relative to the IFR may qualify as an EO 14192 deregulatory action.

Q15. Must agencies identify EO 14192 deregulatory actions for significant advance notices of proposed rulemaking (ANPRM)?

A: No. With respect to rulemaking, the requirements of EO 14192 do not apply to pre-notice of proposed rulemaking activities such as ANPRMs.

Q16. How are regulatory actions that implement Federal spending programs or establish fees and penalties treated?

A: Federal spending regulatory actions sometimes cause only income transfers between taxpayers and program beneficiaries (*e.g.*, regulations associated with Pell grants and Medicare spending). An action that establishes a new fee or changes the existing fee for a service, without imposing any new costs on net, does not need to be offset; nor does an action that establishes new penalties or fines or changes those already in existence.

However, in some cases, such regulatory actions may impose requirements apart from transfers, or transfers may distort markets causing inefficiencies. In those cases, the actions would need to be offset to the extent they impose more than *de minimis* costs. Examples of ancillary requirements that may require offsets include new reporting or recordkeeping requirements or new conditions, other than user fees, for receiving a grant, a loan, or a permit. Analogously, if an action reduces the stringency of requirements or conditions for transfer recipients or permit holders, the action may qualify as an EO 14192 deregulatory action. Also, an action that causes transfers that, for example, induce moral hazard or other inefficient behavior may need to be offset and an action that reduces such transfers may qualify as an EO 14192 deregulatory action.

Please consult with OIRA on these actions, especially with regards to potential distortionary costs due to transfers. See [OMB Circular A-4](#) for a discussion of the distinction between transfers and costs generally.

Q17. How are activities treated that are associated with regulatory cooperation or international standards?

A: Regulatory activities associated with regulatory cooperation with foreign governments that reduce costs to entities or individuals within the United States, including at the border, or otherwise lower the cost of regulations on the United States economy, may qualify as EO 14192 deregulatory actions. Activities associated with standard-setting that reduce costs to entities or individuals within the United States may also qualify as EO 14192 deregulatory actions.

However, agency actions to harmonize with the standards of an international body or foreign government that increase costs on United States entities or individuals may need to be offset. Though OIRA recognizes such harmonization could also lead to operating efficiencies for businesses that agencies may be able to capture in their analysis of the benefits and costs of EO 14192 actions.

Agencies should consult OIRA on how to treat specific regulatory activities related to regulatory cooperation or international standard-setting.

Q18. Do regulatory actions overturned by subsequently enacted laws qualify for savings?

A: Generally, yes. OIRA considers Acts of Congress that overturn final regulatory actions, such as disapprovals of rules under the Congressional Review Act, to operate in a similar manner as agency EO 14192 deregulatory actions.

Q19. Do regulatory actions that are vacated or remanded by a court qualify as EO 14192 deregulatory actions?

A: If a regulatory action issued before noon on January 20, 2025, is vacated by a judicial order for which all appeals have been resolved, OIRA will consider on a case-by-case basis whether the regulatory action being vacated qualifies as an EO 14192 deregulatory action.

If an EO 14192 regulatory action was issued on or after noon on January 20, 2025, any judicial order for which all appeals have been resolved vacating the regulatory action, and any related subsequent agency action (such as a withdrawal of a vacated regulation from the Code of Federal Regulations in order to comply with the order), will not qualify as an EO 14192 deregulatory action. Any EO 14192 deregulatory actions used to offset a vacated EO 14192 regulatory action, however, would be available to offset other EO 14192 regulatory actions (after accounting for any sunk costs incurred in complying with the vacated action).

If a court permits a regulatory action to remain in effect after a judicial remand for further agency proceedings, such as through remand without vacatur, the remanded action remains in effect. Therefore, there is no action at the time of remand that could qualify as an EO 14192 deregulatory action. In the same way that an agency complies with EO 12866 when issuing a subsequent agency action to revise a remanded regulatory action, an agency will similarly need to comply with EO 14192. A subsequent agency action may qualify as an EO 14192 deregulatory action if the subsequent agency action is deregulatory in nature, or may need to be offset if the action is a significant regulatory action that is final and that imposes costs (*i.e.*, an EO 14192 regulatory action).

Agencies should notify OIRA of any judicial decisions that affect regulatory actions subject to EO 14192.

Q20. What happens if an EO 14192 deregulatory action is remanded or vacated by a court?

A: As in the answer to the previous question, OIRA recognizes the inherent case-by-case nature of the issues raised by the potential remand or vacatur of an EO 14192 deregulatory action. For example, such decisions may happen years after a rule is finalized, and may affect compliance with both the cost allowances and the repeal provisions established pursuant to EO 14192. The agency should contact OIRA to determine how a remand or vacatur of an EO 14192 deregulatory action affects the agency's obligations under EO 14192.

Q21. Does EO 14192 apply to significant regulatory actions in which the law prohibits the consideration of costs in determining a statutorily required standard?

A: Because EO 14192 applies only to the extent permitted by law, agencies are still required to comply with their statutory obligations. Accordingly, if a statute prohibits consideration of cost in taking a particular regulatory action, EO 14192 does not change the agency's obligations under that statute. However, agencies will generally be required by this process under EO 14192 to offset the costs of such regulatory actions through other deregulatory actions taken pursuant to statutes that do not prohibit consideration of costs. Because each agency's obligations will differ depending on the particular statutory language at issue, these issues must be addressed on a case-by-case basis.

Please consult with OIRA regarding questions about particular statutory language and its relationship to EO 14192.

Q22. How do the requirements of EO 14192 apply to significant regulatory actions issued by one agency that do not have the force and effect of law until adopted, with or without change, by another agency?

A: Because the agency authorities that establish such sequential or otherwise overlapping regulatory responsibilities differ by program, these actions will need to be handled on a case-by-case basis. However, agencies in these circumstances should always work together to avoid double-counting costs and cost savings; they should also work together as closely as possible when developing regulatory approaches for such programs. In cases where one agency's action does not qualify as an EO 14192 regulatory action because it is not a significant regulatory action under EO 12866, associated actions by other agencies may still be covered by EO 14192.

Q23. Should actions where the federal government transfers, waives, or grants authority to states, localities, territories, or tribes be considered regulatory or deregulatory under EO 14192?

A: The transfer, preemption waiver, or grant of authority from a federal agency to a state, local government, territory, or tribal nation, such as for example under the Safe Drinking Water Act (SDWA) primacy framework, will be reviewed on a case-by-case basis by OIRA. Multiple statutes (ex. Clean Water Act (CWA), Clean Air Act (CAA), Motor Carrier Safety Act, Hazardous Materials Transportation Safety Improvement Act, etc.) allow states or tribes to assume authority over aspects of environmental or other programs. The particular circumstances or baseline, approach to and process of gaining authority can vary by action. These factors, whether considered individually or collectively, may be material to whether such an action is regulatory or deregulatory.

V. Accounting Questions

Q24. How should costs and cost savings be measured?

A: Except where noted in other portions of this guidance, costs should be estimated using the methods and concepts appearing in OMB Circular A-4. There are several types of impacts that, under OMB Circular A-4, could be reasonably categorized as either benefits or costs, with the only difference being the sign (positive or negative) on the estimates. In most cases where there is ambiguity in the categorization of impacts, agencies should conform to the accounting conventions they have followed in past analyses. For example, if medical cost savings due to safety regulations have historically been categorized as benefits rather than reduced costs, they should continue to be categorized as benefits for EO 14192 regulatory actions. Identifying cost savings, such as fuel savings associated with energy efficiency investments, as benefits is a common accounting convention followed in OIRA's reports to Congress on the benefits and costs of Federal regulations.

Cost savings estimates for EO 14192 deregulatory actions should follow the same conventions, but in reverse. Only those impacts that have been traditionally estimated as costs when taking a regulatory action should be counted as cost savings in association with an EO 14192 deregulatory action. For example, the medical cost savings described

above as historically being counted as benefits when regulating should not then be counted as “negative cost savings” when deregulating.

An agency that has used different accounting conventions across different past analyses should consult with OIRA regarding the categorization of ambiguous impacts. In general, when faced with ambiguity, OIRA will attempt to achieve greater consistency in the categorization of similar types of costs and benefits across different agencies.

OIRA notes that rules that cause an increase in the resources used by Federal agencies to accomplish their programmatic goals may need to be offset, and rules that reduce the real resources used by Federal agencies to accomplish their goals may qualify as EO 14192 deregulatory actions. These types of impacts have long been considered regulatory costs under OMB Circular A-4, and are a component of the costs OIRA includes in its reports to Congress on the benefits and costs of Federal regulations.

For EO 14192 deregulatory actions that revise or repeal recently issued rules, agencies generally should not estimate cost savings that exceed the costs previously projected for the relevant requirements, unless credible new evidence show that costs were previously underestimated. On the other hand, a less-recent regulatory impact analysis (RIA) may need revision to reflect, among other things, the fact that only costs occurring after the effective date of the regulatory repeal should be the basis for the cost savings estimate (*i.e.*, agencies should not count sunk costs). Where an agency believes it can significantly improve upon a prior cost estimate, especially a recent one, through methodological enhancements, the agency should first discuss those methodologies with OIRA.

Q25. How should cost savings be determined for regulatory actions that expand consumption and/or production options?

A: For regulatory actions that expand consumption and/or production options—sometimes referred to as “enabling regulatory actions” or “enabling regulations”—cost savings should include the full opportunity costs of the previously forgone activities. Opportunity cost in this context would equal the sum of consumer and producer surplus, minus any fixed costs. See OMB Circular A-4 for a more detailed discussion of these concepts.

Generally, “one-time” regulatory actions (*i.e.*, those actions that are not periodic in nature) that expand consumption and/or production options would qualify as EO 14192 deregulatory actions.

There may be situations where this approach for determining the cost offsets generated by an enabling regulatory action is inappropriate. For instance, this approach may not be appropriate in certain circumstances where, if an agency were to fail to issue a regulatory action, a significant existing and ongoing economic activity would be prohibited. See Question 29. Cost offsets for such regulatory actions will be determined on a case-by-case basis.

Please consult with OIRA on all such non-routine regulations.

Q26. How does Executive Order 14192 apply to routine hunting and fishing regulatory actions?

A. Routine hunting and fishing regulatory actions that establish annual harvest limits are not required to be offset, and are not eligible to be used as cost savings. This includes migratory bird hunting frameworks under the Migratory Bird Treaty Act and fishery management plans and amendments under the Magnuson-Stevens Fishery Conservation and Management Act. This exemption does not apply to regulatory actions that affect hunting and fishing activity that are not routine regulatory actions.

Q27. What base year should agencies use?

A: Agencies should adjust all estimates to 2024 dollars using the GDP deflator, as released by the Bureau of Economic Analysis (National Income and Product Accounts Table 1.1.9).

Q28. How should agencies calculate cost and cost savings for the purpose of EO 14192 accounting?

A: Agencies should calculate the present value (as of 2024) of costs for EO 14192 regulatory actions and cost savings for EO 14192 deregulatory actions over the full duration of the expected effects of the actions using a 7 percent end-of-period discount rate.

Q29. In determining costs and cost savings under EO 14192, how should regulatory baselines be determined?

A: For the most part, agencies should follow the guidance about regulatory baselines provided in OMB Circular A-4. However, there can be uncertainty, which is recognized in OMB Circular A-4, regarding how best to capture the directive to assess impacts against the state of the world in the absence of the regulation. Provided below are two cases in which this uncertainty, or other challenges arising in the context of OMB Circular A-4, have often been addressed by performing analyses with multiple baselines. In each of these cases, OIRA has also provided guidance about how to determine costs or cost savings for the purposes of EO 14192:

- (1) When a regulatory action finalizes an interim final rule (IFR), agencies are typically encouraged to present two sets of estimates: the overall regulatory impacts and the incremental impacts relative to the IFR. For purposes of determining costs or available cost savings under EO 14192, agencies finalizing an IFR should include only the incremental impacts of the final rule, relative to the IFR.
- (2) There are multiple Federal programs and policies—such as discharge general permitting under the Clean Water Act or Medicare quality performance tracking—that are updated or renewed at regular intervals via rulemaking. Because these updates reliably occur, an assessment of the incremental changes between the previous and updated programs is often much more informative than a comparison of the updated programs against hypothetical discontinuance. Although multiple-baseline analysis is likely to continue to be encouraged in such cases for analysis conducted under EO 12866, for purposes of EO 14192, costs or cost savings

should be determined by the incremental changes between previous and updated programs. For example, if an agency is statutorily or judicially required to issue a regulation every five years to permit or prohibit an activity, and the agency previously issued a regulation to address the requirement, the appropriate baseline to use for estimating the costs or cost savings of the new regulation under EO 14192 is likely the existing regulation (or interim operating conditions if there is temporarily no regulation in effect). For regulations implementing a new statute or judicial order, agencies should use, as the primary analysis for both EO 12866 and EO 14192 purposes, a pre-statute or pre-judicial baseline. (If the agency can identify those areas where the agency has discretion, the agency can also, in its EO 12866 analysis, use a post-statute baseline to evaluate the discretionary elements of the action, per Circular A-4.)

Please consult with OIRA if you have questions regarding the appropriate baseline upon which to calculate costs or cost savings.

Q30. How should agencies treat unquantified costs and cost savings?

A: As stated in OMB Circular A-4, agencies should use their best efforts to monetize the effects of both regulatory actions and deregulatory actions and, in some cases, significant guidance documents. Depending on the likely magnitude of the effects, such efforts may include conducting or sponsoring studies to develop monetized estimates. In proposed/draft regulatory actions expected to lead to EO 14192 regulatory actions or EO 14192 deregulatory actions agencies should, at a minimum, clearly identify any non-monetized costs or cost savings, explain the key reason(s) why monetization is not possible, discuss any information the agency has that is relevant to estimating such costs, and request information from the public to monetize such costs at the final stage.

The weight assigned to unquantified effects will depend on their significance and degree of certainty, and will be handled on a case-by-case basis. See OMB Circular A-4 for more information on unquantified costs.

Q31. How should agencies treat EO 14192 regulatory actions and EO 14192 deregulatory actions published by multiple agencies?

A: These will be handled on a case-by-case basis. Agencies should consult OIRA as early as possible to determine the appropriate treatment of the action.

Q32. Can agencies “bank” cost savings and deregulatory actions?

A: Yes. Agencies may bank both EO 14192 deregulatory actions and the associated cost savings for use in the same or a subsequent fiscal year towards EO 14192’s requirement to identify at least 10 existing regulations to be repealed (unless prohibited by law) and, separately, to comply with the total incremental cost allowance. Surplus EO 14192 deregulatory actions and cost savings do not expire at the end of a fiscal year and can be used in subsequent fiscal years.

For example, if an agency issues twenty EO 14192 deregulatory actions, the agency may apply them to up to two subsequent EO 14192 regulatory actions, including those occurring in a future fiscal year. Regardless, at the end of each fiscal year, an agency must be able to identify, and should have finalized, ten times as many EO 14192 deregulatory actions as EO 14192 regulatory actions.

Similarly, if an agency issues 10 EO 14192 deregulatory actions with total cost savings of \$200 million to offset the cost of an EO 14192 regulatory action with a cost of \$150 million, the agency may bank the surplus cost savings of \$50 million to offset the cost of another EO 14192 regulatory action, regardless of when the latter action is issued. See Questions 27 and 28 for accounting conventions that allow for appropriate comparison of costs and cost savings experienced at different time periods.

Q33. Can EO 14192 deregulatory actions (and associated cost savings) be transferred within an agency?

A: Yes. The requirements of EO 14192 apply agency-wide. An EO 14192 deregulatory action issued by a component in one agency can be used to offset an EO 14192 regulatory action issued by a different component in that same agency.

Q34. Can EO 14192 deregulatory actions (and associated cost savings) be transferred between agencies?

A: An agency that is not able to identify sufficient EO 14192 deregulatory actions for an EO 14192 regulatory action it intends to issue may submit a written request to the Director of OMB to assess whether the transfer of EO 14192 deregulatory action credits (after consultation with the supplying agency) would be appropriate before submitting the EO 14192 regulatory action to OMB for review under EO 12866. However, if the transfer is not appropriate, the agency must identify adequate offsets absent an exemption.

VI. Process Questions

Q35. How does EO 14192 affect the consideration of regulatory benefits or other requirements under EO 12866?

A: EO 14192 does not change the requirements of EO 12866, which remains the primary governing EO regarding regulatory review and planning. In particular, EO 14192 has no effect on the consideration of benefits in informing any regulatory decisions. For all EO 14192 regulatory actions and EO 14192 deregulatory actions, except where prohibited by law, agencies must continue to assess and consider both benefits and costs and comply with all existing requirements and guidance, including but not limited to those in EO 12866 and OMB Circular A-4.

Q36. Which EO 14192 regulatory actions might qualify for a full or partial exemption from EO 14192 requirements?

A: The following categories of EO 14192 regulatory actions may qualify for a full or partial

exemption from EO 14192's requirements: 1) expressly exempt actions; 2) emergency actions; 3) statutorily or judicially required actions; and 4) *de minimis* actions. These categories are not exhaustive. For any EO 14192 regulatory action an agency believes qualifies for an exemption under any of the circumstances provided below, agencies should submit exemption requests to OIRA prior to submitting the action to OMB for review under EO 12866 or prior to publication of the EO 14192 regulatory action if it was not subject to EO 12866 review.

- Expressly exempt – EO 14192 expressly exempts regulations issued with respect to a military, national or homeland security, or foreign affairs function of the United States, immigration-related rules (see Question 7 and Question 8 above), and regulations related to agency organization, management, or personnel. These actions qualify for a full exemption. See 5 USC 553.
- Emergencies – EO 14192 regulatory actions addressing emergencies such as critical health, safety, financial, non-exempt national security matters, or for some other compelling reason, may qualify for an exemption. In most cases, exemptions for such rules will be granted with respect to the timing of required offsets, allowing the agency to address the emergency before identifying and issuing EO 14192 deregulatory actions. Agencies will generally still be required to offset such actions. If necessary, the costs of such actions, and the requirement to identify for repeal at least 10 existing regulations, will be moved to the subsequent fiscal year for purposes of determining EO 14192 compliance.
- Statutorily or judicially required – EO 14192 does not prevent agencies from issuing regulatory actions in order to comply with an imminent statutory or judicial deadline, even if they are not able to satisfy EO 14192's requirements by the time of issuance. However, agencies will be required to offset any such EO 14192 regulatory actions as soon as practicable thereafter. In addition, this flexibility may not apply to discretionary provisions attached to EO 14192 regulatory actions required to comply with statutory or judicial deadlines.
- De minimis – EO 14192 regulatory actions with *de minimis* costs may qualify for an exemption. For example, if OIRA designates a rule as significant under EO 12866 because it raises novel legal or policy issues, and the agency estimates the action would have present value costs of \$50,000 spread over a large number of persons and/or entities, OIRA may exempt the action from some or all of the requirements of EO 14192.

Q37. Is a significant final regulatory action exempt from the requirements of EO 14192 if the action was designated not significant at a prior stage?

A: Generally, no. Any regulatory action that is identified as significant at the final rule stage that imposes total costs greater than zero would need to be offset to comply with EO 14192, regardless of the determination in an earlier phase. Therefore, the agency should consult OIRA as soon as possible if it believes an action that was not determined to be significant at the draft or proposed rule stage may now be determined to be significant, perhaps due to substantive issues identified through public comment or further agency analysis.

Q38. How does EO 14192 apply to rulemaking that is undertaken in response to EO 14219 of February 19, 2025 (Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative)?

A: EO 14219 directs agencies to initiate a process to review existing rules for consistency with law and Administration policy and to identify regulations in the following priority areas for potential rescission or modification:

- Unconstitutional regulations and regulations that raise serious constitutional difficulties, such as exceeding the scope of the power vested in the Federal Government by the Constitution;
- Regulations that are based on unlawful delegations of legislative power;
- Regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition;
- Regulations that implicate matters of social, political, or economic significance that are not authorized by clear statutory authority;
- Regulations that impose significant costs upon private parties that are not outweighed by public benefits;
- Regulations that harm the national interest by significantly and unjustifiably impeding technological innovation, infrastructure development, disaster response, inflation reduction, research and development, economic development, energy production, land use, and foreign policy objectives; and
- Regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship.

EO 14219 further requires agencies to provide OIRA with a list of all such regulations within 60 days, and it directs OIRA, in consultation with agencies, to develop a Regulatory Agenda that seeks to rescind or modify these regulations, as appropriate.

New rulemaking pursued in response to EO 14219 is subject to the requirements of EO 14192. If an agency issues a final rule modifying or rescinding an existing rule pursuant to EO 14219 and the total cost of the action is less than zero, this would qualify as an EO 14192 deregulatory action as discussed above.

Guidance regarding how to submit the required list of regulations to OIRA will be provided as part of the Spring 2025 Data Call for the *Unified Agenda of Federal Regulatory and Deregulatory Actions*.

Q39. Can regulatory and deregulatory actions be bundled in the same action?

A: Yes, under certain circumstances. Many actions submitted to OIRA for review under EO 12866 consist of logically connected changes to multiple but related sections of the Code of Federal Regulations. For example, a rule exempting some categories of regulated entities from compliance with a previously issued regulation may also require eligible entities to submit additional documentation to demonstrate eligibility for the exemption. In these cases, it may be legitimate and appropriate to pursue such changes through a single “bundled” action,

and this guidance is not meant to materially change agency practice in this area. Per EOs 14192 and 12866, any bundling of regulatory or deregulatory actions should be done consistent with applicable law and substantively logical connections. Where an agency combines such provisions, the cost impact (the difference between costs imposed and cost savings, per Question 24) of such rules will generally determine whether such actions are EO 14192 regulatory actions that need to be offset, or EO 14192 deregulatory actions. OIRA may determine, however, that the regulatory and deregulatory portions of the rule should be considered separately for purposes of EO 14192 compliance.

Q40. How will OIRA address attempts to decouple regulatory actions and bundle regulatory actions to increase the likelihood of achieving the 10 to one ratio?

A: Per EOs 14192 and 12866, and as noted in Question 39, any parsing or bundling of regulatory or deregulatory actions should be done consistent with applicable law and in consideration of substantively logical connections. Agencies should avoid attempts to strategically break apart logically constructed deregulatory actions in order to increase the number of deregulatory actions promulgated. Similarly, agencies should avoid attempts to combine unlike regulatory provisions in order to minimize the number of regulatory actions promulgated. All provisions of a regulation should be germane both to each other and to the topic of the regulation. For example, parsing the provisions of a cohesive regulation into several smaller regulations may decrease the transparency, readability, and functionality of the action and prevent proper public feedback on related provisions. Such a result should be avoided, particularly if done arbitrarily in an attempt to game the 10 to 1 ratio. OIRA may withhold deregulatory credits or count regulatory rules as greater than one if OIRA determines either situation has occurred.

Agencies should consult with OIRA when considering bundling regulatory and deregulatory actions.

Q41. When and how should agencies identify EO 14192 deregulatory actions?

A: The agency's *Unified Agenda of Regulatory and Deregulatory Actions* should reflect compliance with the requirements of EO 14192, and should include, to the extent practicable, EO 14192 deregulatory actions that, when combined with EO 14192 deregulatory actions that are not regulations (such as Paperwork Reduction Act information collection reforms), are sufficient to offset those actions appearing in the Agenda that are or are expected to result in EO 14192 regulatory actions. In the rare event that an agency is unable to identify sufficient EO 14192 deregulatory actions, OIRA will address such a situation on a case-by-case basis.

While each *Federal Register* notice should identify whether the regulation is an EO 14192 regulatory action, there is no need to discuss specific offsetting EO 14192 deregulatory actions within the same *Federal Register* entry. Additionally, offsetting the costs of regulatory actions to comply with the requirements of EO 14192 should not serve as the basis or rationale, in whole or in part, for issuing an EO 14192 deregulatory action.

Q42. When must identified EO 14192 deregulatory actions be finalized?

A: By the end of each fiscal year, including any carryover from previous fiscal years, agencies should have: (1) issued at least 10 times the number of EO 14192 deregulatory actions as EO 14192 regulatory actions; and (2) appropriately offset the cost of all final EO 14192 regulatory actions issued. The offset should be consistent with their respective total incremental cost allowance for future fiscal years. These requirements exclude those EO 14192 regulatory actions issued during the year for which either law prohibits compliance with EO 14192 or the agency received an exemption from OIRA. Agencies should plan in advance and leave sufficient time, if necessary, for OIRA to complete its review under EO 12866 or the Paperwork Reduction Act, and for agencies to publish in the *Federal Register* any EO 14192 deregulatory actions needed to comply with EO 14192 before the end of each fiscal year.

OIRA will publish the results of agency compliance with EO 14192 after the end of each fiscal year, including a list of completed EO 14192 deregulatory and regulatory actions by agency, as well as regulatory costs and cost savings by agency.

Q43. What happens if an agency is not in full compliance with the requirements of EO 14192 at the end of a fiscal year?

A: If, by the end of a fiscal year, an agency does not finalize at least 10 times as many EO 14192 deregulatory actions as EO 14192 regulatory actions issued during the fiscal year, or has not met its total incremental cost allowance for that fiscal year, the agency must, within 30 days of the end of the fiscal year, submit for the OMB Director's approval, a plan for coming into full compliance with EO 14192 that addresses each of the following:

- (1) The reasons for, and magnitude of, non-compliance;
- (2) How and when the agency will come into full compliance; and
- (3) Any other relevant information requested by the Director.

This excludes EO 14192 regulatory actions that are exempt or where compliance with EO 14192 is prohibited by law.

OMB may recommend that an agency take additional steps to achieve compliance, such as publishing a notice in the *Federal Register* requesting ideas from the public on EO 14192 deregulatory actions to pursue. OMB may also request that agencies post plans approved by the Director.

This guidance is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.