

EXECUTIVE ORDER 93-06

IMPROVING STATE REGULATORY ACTIVITIES

I, Mike Lowry, Governor of the State of Washington, by virtue of the power vested in me declare my commitment to improve Washington's regulatory climate. It is, THEREFORE, the purpose of this executive order to accomplish the following:

- To institute immediate management improvement in state regulatory functions by reducing inefficiencies, conflicts, and de delays.
- To develop long-term solutions to complex regulatory issues that, if left unresolved, could impede the orderly growth and sustained economic development of the state.
- To ensure that any regulatory reform solutions designed to support economic benefits also ensure continued protection of the environment, the health, and the safety of our citizens.

To accomplish these purposes, I hereby direct the following actions:

I. Creation of the Governor's Task Force on Regulatory Reform

There is created the Governor's Task Force on Regulatory Reform to consist of not more than 23 members. Membership shall reflect the interests of business, agriculture, labor, the environment, other citizens, the Legislature, cities and counties, and state agencies. Representatives from state agencies will serve as nonvoting, ex officio members. members shall be appointed by the Governor and the Governor shall select the chair. Staffing for the Task Force shall be provided by the Office of Financial Management, with assistance from state a agencies and the Legislature, as may be made available. State agencies shall provide the Task Force with information and assistance, as needed.

The charge of the Task Force is to develop recommendations for statutory and administrative changes that lead to more reasonable, efficient, cost-effective, and coordinated regulatory actions. The recommendations shall support economic benefits for the state while ensuring continued protection of the environment and the health and safety of citizens.

The Task Force shall commence operations upon appointment in August 1993 and terminate on December 31, 1994. The Task Force shall submit interim recommendations to the Governor by December 1, 1993, and final recommendations by December 1, 1994.

The Task Force shall develop recommendations to respond to the following issues:

- A. How should the state's environmental and growth management requirements and processes be integrated so that the goals of environmental protection, orderly and planned growth, and sustained economic development are achieved?
- B. What improvements should be made in project approval, permitting, and appeals processes and structures to make them faster and simpler without undercutting environmental protection?

C. In addition to actions directed by this executive order, what other mechanisms, structures, and procedures should be instituted to achieve better coordination and consistency in regulatory actions within agencies, between agencies, and between jurisdictions?

D. Are there effective performance-based, market-based, and other regulatory models that will achieve more efficient and effective regulation than current command and control and technology-based regulatory approaches?

E. In addition to actions directed by this executive order, are there other ways to expand the use of alternative decision making and dispute resolution models designed to reach consensus and resolve conflict on regulatory issues without resorting to litigation?

F. Is there a need to amend the state's Administrative Procedure Act or related statutes that would lead to more reasonable, efficient, timely, cost-effective, and coordinated rule-making and adjudication?

II. Expedited Resolution of Interagency Disputes

In partial fulfillment of the intent of Chapter 279, Laws of 1993 (Substitute Senate Bill 5634), any agency that has regulatory responsibilities over areas in common with, or related to, the duties of other agencies is hereby requested to develop jointly with those other agencies procedures for the resolution of interagency disputes regarding regulatory matters. The purpose of these procedures is to avoid litigation and time-consuming delays in regulatory actions by providing commonly understood procedures to expedite the resolution of disputes between agencies. The procedures may include, but are not limited to, the delineation of stages of dispute resolution designed to elevate issues to higher administrative levels within agencies so that the issues may be resolved in a timely manner. Such processes shall be established through the use of memorandum of understanding between agencies, or by other appropriate means. The Office of Financial Management shall monitor and assist in developing model interagency dispute resolution processes for use by agencies. The Office of Financial Management shall cooperate with the Attorney General's Office in the development of these processes.

III. Agency Rule Coordinating Committees

Any agency that anticipates the adoption of rules affecting regulatory program in other agencies or jurisdictions is hereby requested to convene a temporary agency rule coordinating committee (ARCC), consisting of representatives from those affected agencies or jurisdictions. An ARCC shall be created by the agency originating the rule in the early stages of rule development to ensure that substantial coordination of regulatory programs is achieved. The purpose of an ARCC is to identify and resolve, to the extent practicable, any potential conflicts, jurisdictional overlaps, or duplication of effort before formal rule adoption occurs.

IV. Implementing and Promoting Negotiated Rule Making and the Pilot Rule Process

To assist in the implementation of Chapter 202, Laws of 1993 (Substitute Senate Bill 5088), the Office of Financial Management shall develop, in cooperation with the Attorney General's Office and other agencies, model policies, procedures, and other information to promote the use by agencies of negotiated rule making and the pilot rule process. Negotiated rule making includes procedures and methods for reaching, agreement among interested parties, when possible, on proposed rules before publication of notice and hearings. The pilot rule process is designed to reduce unreasonable economic, procedural, and technical burdens on the regulated community by measuring or testing, in advance, the feasibility of compliance. It includes the use of voluntary pilot study groups.

The purpose of these processes is to involve the regulated community and other affected groups and individuals at the early stages of rule development thereby improving compliance and acceptance of the rule and reducing the potential for litigation. Agencies are encouraged to review future rule making and identify those instances where negotiated rule making and the pilot rule process may be appropriate.

V. Improving Regulatory Information and Education

It is the goal of state government to improve public information about current and future regulatory actions and better educate agency personnel about managing regulatory activities. To achieve this goal, agencies are hereby requested to comply with the following:

- A. To the extent possible, no later than December of each year, identify and prepare a list of major subjects of potential rule making anticipated for the ensuing calendar year. The list shall be made available, upon request, to affected members of the regulated community and other groups and individuals, including other agencies and jurisdictions. Early identification of potential rule making will facilitate interagency rule coordination and early involvement of interested parties in rule making. Failure to identify a subject of rule making on the list in no way limits or affects an agency's authority to adopt rules on that subject.
- B. Inventory existing publications or other communication materials used to disseminate regulatory information to the public and, submit copies of those materials to the state's Business Assistance Center. Using this information, the Business Assistance Center, working with agencies, shall develop proposals for consistent and coordinated approaches for agencies to better inform the public about regulatory requirements.
- C. Participate, as appropriate, in the regulatory fairness training program being developed by the state's Business Assistance Center. The purpose of the training is to further educate agency regulatory personnel about business costs and concerns, help agencies achieve competency in statutory rule making requirements, share innovative and effective ways to involve and inform the public about rule making and mitigate regulatory impacts, improve the quality of rule writing, and facilitate the establishment of agency rule coordinating committees.

D. Utilize the services of the Department of Licensing's Business License Center in developing cost-effective delivery of information and one-stop master licensing for agency permits, licenses, certificates, or approvals to perform business activities.

IN WITNESS WHEREOF, I have hereunto
set my hand and caused the seal of the State
of Washington to be affixed at Olympia
this 9th day of August A.D., Nineteen hundred and ninety-three.

Additional

By:

MIKE LOWRY
Governor of Washington

BY THE GOVERNOR:
Secretary of State