

Gary Locke EO 97-02

Governor March 25, 1997

**EXECUTIVE ORDER**

**REGULATORY IMPROVEMENT**

**WHEREAS**, administrative rules are necessary to implement laws that protect the public health, safety, welfare, and the environment, and to ensure efficient administration of state government.

**WHEREAS**, in recent years, there has been a steady growth in the number and complexity of administrative rules and their impact on businesses and the general public without a systematic review of their need, effectiveness, reasonableness, clarity, potential conflicting requirements, and consistency with legislative intent.

**WHEREAS**, to achieve meaningful regulatory reform, clear goals, timelines, and commitments must be established and adhered to by the **Governor's** office, the Subcabinet on Management Improvement and Results, and each agency head.

**NOW THEREFORE, I**, Gary Locke, Governor of the State of Washington, declare my commitment to better serve the people of the state of Washington by taking every step necessary to improve the effectiveness and fairness of our regulatory processes. It is, therefore, the purpose of this **executive order** to accomplish the following:

- To ensure that state regulations that have significant impact on labor, consumers, businesses, and the environment are reviewed on an open and systematic basis and to ensure that they meet standards of need, reasonableness, effectiveness, clarity, fairness, stakeholder involvement, coordination among regulatory agencies, and consistency with legislative intent and statutory authority.

- To ensure that state regulations are consistent with all requirements of the Administrative Procedure Act and that rule making occurs when required by law.
- To create a Subcabinet on Management Improvement and Results to oversee the regulatory review process and to ensure that state government pursues a fair, effective, and sensible regulatory strategy that emphasizes:
  - **Priorities**, whereby rules focus on issues of greatest need;
  - **Partnership**, whereby rule making involves participation of business, labor, the environmental community, non-profit groups, local government, and other stakeholders;
  - **Plain language**, whereby rules are written and organized so they may be easily understood and used by people who are affected by them; and
  - **Performance**, whereby rules are fair, effective, and achieve maximum public protection with reasonable requirements.

To accomplish these purposes, by virtue of the power vested in me, I hereby **order** and direct the following actions:

## **I. Regulatory Review**

Upon the effective date of this **executive order**, each state agency shall begin a review of its rules that have significant effects on businesses, labor, consumers, and the environment. Agencies shall determine if their rules should be (a) retained in their current form, or (b) amended or repealed, if they do not meet the review criteria specified in this **executive order**. Agencies shall concentrate their regulatory review on rules or portions of a rule that have been the subject of petitions filed under RCW 34.05.330 or have been the source of complaints, concerns, or other difficulties that relate to matters other than the specific mandates of the statute on which the rule is based. Agencies that have already established regulatory review processes shall make them consistent with the requirements of this **executive order**. Each agency head shall designate a person responsible for regulatory review who shall serve as the agency's contact for regulatory

review with the Office of the Governor and the Office of Financial Management.

The following criteria shall be used for the review of each rule identified for review:

1. **Need.** Is the rule necessary to comply with the statutes that authorize it? Is the rule obsolete, duplicative, or ambiguous to a degree that warrants repeal or revision? Have laws or other circumstances changed so that the rule should be amended or repealed? Is the rule necessary to protect or safeguard the health, welfare, or safety of Washington's citizens?

2. **Effectiveness and Efficiency.** Is the rule providing the results that it was originally designed to achieve in a reasonable manner? Are there regulatory alternatives or new technologies that could more effectively or efficiently achieve the same objectives?

3. **Clarity.** Is the rule written and organized in a clear and concise manner so that it can be readily understood by those to whom it applies?

4. **Intent and Statutory Authority.** Is the rule consistent with the legislative intent of the statutes that authorize it? Is the rule based upon sufficient statutory authority? Is there a need to develop a more specific legislative authorization in **order** to protect the health, safety, and welfare of Washington's citizens?

5. **Coordination.** Could additional consultation and coordination with other governmental jurisdictions and state agencies with similar regulatory authority eliminate or reduce duplication and inconsistency? Agencies should consult with and coordinate with other jurisdictions that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

6. **Cost.** Have qualitative and quantitative benefits of the rule been considered in relation to its cost?

7. **Fairness.** Does the rule result in equitable treatment of those required to comply with it? Should it be modified to eliminate or minimize any disproportionate impacts on

the regulated community? Should it be strengthened to provide additional protection?

Each state agency shall develop a plan for the review of its rules and submit the plan to the Governor no later than September 1, 1997. Agencies shall consult with their major stakeholders and constituent groups in the development of the plan. The plan shall: (a) Contain a schedule that identifies which rules will be reviewed and when the review will occur; (b) state the method by which the agency will determine if the rules meet the criteria listed above; (c) provide a means of public participation in the review process and specify how interested persons may participate in the review; (d) take into account the need and resources required, if any, to amend significant legislative rules; (e) identify instances where the agency may require an exception to regulatory review requirements; and (f) provide a process for on-going review of rules after the initial four-year review period provided for in this **executive order** has expired. Any new rules or significant amendments for which a notice of intent to adopt is filed after the effective date of this **executive order** shall be consistent with its principles and objectives and must also be adopted in accordance with applicable laws. Agencies shall provide the plan to any person who has requested notification of agency rule making and shall submit the plan for publication in the Washington State Register.

By October 15, 1997, and on that date each year thereafter until the year 2000, each agency shall report to the Governor on the progress made toward completing its regulatory review and other measures taken to improve its regulatory program. The reports shall include, but not be limited to: (a) a summary of the number of rule sections amended or repealed and the number of pages eliminated in the Washington Administrative Code; (b) a summary of rules amended or repealed based on the review criteria in this **executive order**; (c) a summary of agency actions in response to petitions under RCW 34.05.330; (d) a summary of the results of the agency's review of policy and interpretive statements and similar documents; (e) a summary of the agency's review of reporting requirements imposed on businesses; (f) recommendations for statutory or administrative changes resulting from the regulatory reviews; and (g) other information the agency deems necessary or that may be required by the Governor. More frequent reports may be requested, as necessary. Agencies

shall make the reports available to persons who have requested notification of agency rule making and shall submit them for publication in the Washington State Register.

As part of its regulatory review, each agency shall review its existing policy and interpretive statements or similar documents to determine whether or not they must, by law, be adopted as rules. The review shall include consultation with the Attorney General. Agencies shall concentrate their review on those statements and documents that have been the source of complaints, concerns, or other difficulties.

Each agency shall also review its reporting requirements that are applied generally to all businesses or classes of businesses to ensure that they are necessary and consistent with the principles and objectives of this **executive order**. The goals of the review shall be to achieve reporting requirements that, to the extent possible, are coordinated with other state agencies with similar requirements, are economical and easy to understand, and rely on electronic transfer of information.

The Office of Financial Management shall develop procedures to ensure that agencies notify and consult with the Governor or the **Governor's** staff on the substance of any significant legislative rules upon notice of proposed rule making by the agency.

The Governor may grant exceptions to regulatory review requirements in those instances where the substance of rules is mandated by federal law or where an agency can demonstrate an unreasonable conflict with established priorities.

## **II. Creation of the **Governor's** Subcabinet on Management Improvement and Results**

There is created the **Governor's** Subcabinet on Management Improvement and Results to consist of the heads of the following agencies: Office of Financial Management, Department of Labor and Industries, Department of Ecology, Department of Social and Health Services, Department of Revenue, Department of Employment Security, and Department of Health. The chair of the Subcabinet shall be the

**Governor's** Deputy Chief of Staff. Staffing for the Subcabinet shall be provided by the Office of Financial Management, with assistance from the member agencies. All state agencies shall provide the Subcabinet with periodic reports and other information and assistance as may be requested.

The responsibilities of the Subcabinet are:

- To study and make recommendations to the Governor for statutory, administrative, and organizational changes and for special pilot projects that result in regulatory improvements in state government. Recommendations shall be designed to improve service to citizens, provide effective and fair public protection, reduce the complexity of compliance, ensure reasonableness and effectiveness, simplify administrative processes, eliminate unnecessary procedures and paperwork, and reduce costs. The Subcabinet shall report to the Governor on these items no later than [than] December 1, 1997. Subsequent reports shall be submitted in each future year no later than December 1.
- To oversee the regulatory review process established by this **executive order** and report to the Governor on the progress of state agencies in complying with these requirements. The first such report shall be submitted to the Governor no later than [than] December 1, 1997. Subsequent reports shall be submitted in each future year no later than December 1.
- To assist the Office of Financial Management in the preparation of reports to the Legislature required by RCW 34.05.328(6) and RCW 43.05.900.
- To convene work groups and other special committees for the purpose of assisting the Subcabinet in the development of recommendations and reports required by this **executive order** and in the design and implementation of special pilot projects for regulatory improvement. Depending on their purpose, membership of such groups may include representatives from business, labor, environmental organizations, state agencies, local government, nonprofit organizations, citizens, and other interests.

**III. Effective Date.** This **executive order** shall take effect immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the State of Washington to be Affixed at Olympia this 25th day of March, A.D., Nineteen hundred and ninety-seven.

Gary Locke

Governor

BY THE GOVERNOR:

Ralph Munro

Secretary of State