

# Modernizing Regulatory Review for Energy, Environmental Policy

**P**resident Joseph Biden tasked all executive branch agencies to develop recommendations for modernizing regulatory review in one of his very first actions in office. The review of regulatory proposals has included estimated benefits and costs dating back to the Reagan administration. The current framework primarily reflects President Clinton's 1993 executive order and the Office of Management and Budget's 2003 guidance on regulatory review.

Prior to the regulatory interruption of the Trump administration, energy and environmental regulations represented more than 80 percent of the benefits and about two thirds of the costs of all significant federal rules. Efforts to modernize review necessarily must account for implications for energy and environmental policy. Recent advances in economic data, methods, and research can inform such efforts and ensure an evidence-based foundation for future regulatory evaluation.

Since the intent of review is to improve information about regulatory proposals, a *value of information* lens can guide modernization. The government could prioritize those changes to regulatory review that would yield information that delivers benefits that justify data costs — the information that policymakers and the public would find most useful in understanding the impacts of regulatory proposals. Let me offer three illustrations.

First, quantifying the economic benefits and costs of regulations could inform not only a determination of whether the benefits justify the costs, but also the distributional impacts of rules. The increasing interest in environmental and energy justice highlights the benefits of understanding the distribution of who benefits from and who bears the costs of proposed regulations.

The emergence of big data and the

tools for evaluating such information have dramatically lowered the cost of undertaking distributional analyses. There are large datasets on individual behavior and economic activity. Sources include smartphones, IRS tax data, and the JPMorgan Chase Institute. Other sources include administrative records on health expenditures and outcomes, such as Medicare; air pollutant concentrations, such as census-tract-level measures from satellites; and plant-level data, such as the Annual Survey of Manufactures. Government agencies now have the opportunity to characterize the distributional impacts of environmental and energy regulations across socio-demographic categories, industries, and regions.

Second, the accounting for the timing of benefits and costs of regulations requires the application of a discount rate. These annual percentages are intended to reflect how individuals reveal their preferences concerning the value of consumption today

versus consumption in the future (3 percent), or the return an individual would expect for undertaking an investment (7 percent). Recent scholarship suggests that a lower discount rate would be appropriate. These rates were set in 2003 under the George W. Bush administration. Recent empirical work indicates that the 3 and 7 percent values are too high given more recent behavior individuals reveal in their investment and consumption behavior.

Moreover, uncertainty about long-term discount rates — for example over a century or more, relevant in the context of climate change — would better be represented by a lower discount rate or a discount rate that declines over time. As evident in previous work on the social cost of carbon, reducing the discount rate from 3 percent to 2.5 percent would increase the monetized



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benefits of reducing carbon dioxide emissions by about 50 percent.

Third, the evaluation of regulatory performance could significantly improve our understanding of the impacts of rules in practice and provide the evidence to inform public debates about the need for future regulatory actions. Over the past two decades, a rich literature has evolved that estimates in a rigorous, causal manner — as opposed to statistical associations — the impacts of energy and environmental regulations. The insights about how to approach ex post review, including the statistical framework and data needs, can be drawn from academic research to inform planning for regulatory performance evaluations. Designing and integrating such ex post reviews at the regulatory development stage — and subjecting such evaluation plans to both public comment and inter-agency review — can ensure that policymakers and the public will learn of the impacts of rules, including their net social benefits and the distribution of their impacts, under full implementation.

Evaluating and making public the economic impacts of energy and environmental rules — their net social benefits and the distribution of benefits and costs — can inform policymakers and build trust among the public in policymakers' decisions. Such transparency can mitigate the influence of special interests on regulatory decision-making, while demonstrating how the government's actions represent sound investments on behalf of the public.

**Understanding who benefits from and who bears the costs of proposed regulation**