

President Trump Signs Executive Order on Regulatory Relief to Support Economic Recovery

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On May 19, 2020, President Trump signed an executive order directed to the heads of federal agencies to review all regulatory standards that may inhibit the nation's economic recovery as it emerges from the effects of COVID-19. The order states that it is the policy of the United States to combat the economic consequences of COVID-19 as vigorously as the virus itself.

Pursuant to the order, the heads of all agencies are directed, to the fullest extent possible, to use any previous emergency authority the president has invoked in response to the COVID-19 outbreak to support the economic response as well. The heads of all agencies are also encouraged to promote economic recovery through non-regulatory actions.

Among other forms of relief, the order requires the heads of all agencies to identify regulatory standards that may inhibit economic recovery. The agencies are then required to consider taking action to temporarily or permanently rescind, modify, waive, or exempt persons or entities from those requirements. For the purpose of promoting job creation and economic growth, the agencies are to further consider exercising appropriate temporary enforcement discretion or appropriate temporary extensions of time as provided in enforceable agreements with respect to those requirements.

Compliance assistance for regulated entities is addressed by requiring accelerated procedures by which a regulated person or entity may receive a pre-enforcement ruling under executive order 13892 with respect to whether proposed conduct in response to the COVID-19 outbreak is consistent with statutes and regulations administered by the agency. The heads of all agencies shall also consider appropriate enforcement discretion and whether to decline enforcement against persons and entities that have attempted in reasonable good faith to comply with applicable statutory and regulatory standards.

While the emergency order attempts to assist persons and entities with compliance and enforcement issues during the current economic recovery, it makes clear that agency actions must remain "consistent with applicable law and with protection of the public health and safety, with national and homeland security, and with budgetary priorities and operational feasibility."

If you believe any of these provisions could apply to your facility, please refer to the order for the specific details and relevant citations.

Richard Tschantz is the former deputy general counsel at the Southwest Florida Water Management District and former general counsel at the Environmental Protection Commission of Hillsborough County, now practicing environmental law in the Government Law and Consulting Practice at Carlton Fields in the Tampa office. If you have any questions concerning this emergency final order, please contact him.