

Appendix G:

**Evaluative Criteria for Compliance:
Executive Order 13045**

(“Protection of Children from Environmental Health Risks and Safety Risks”)

CENTER FOR THE STUDY OF AMERICAN BUSINESS PROJECT ON REGULATORY OVERSIGHT

EXECUTIVE ORDER 13045:
 (“CHILDREN’S ENVIRONMENTAL HEALTH AND SAFETY”)
 PROCEDURAL REQUIREMENTS

QX#	EVALUATIVE CRITERION	EXECUTIVE ORDER CITATION
	Do all three of the criteria below apply to make this rule a “covered regulatory action”?	<p>Sec. 2-202: <u>“Covered regulatory action” means any substantive action in a rulemaking, initiated after the date of this order or for which a Notice of Proposed Rulemaking is published 1 year after the date of this order, that is likely to result in a rule that may:</u></p> <p>(a) <u>be “economically significant” under Executive Order 12866</u> (a rulemaking that has an annual effect on the economy of \$100 million or more or would 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); <u>and</u></p> <p>(b) <u>concern an environmental health risk or safety risk that an agency has reason to believe may disproportionately affect children.</u></p> <p>Sec. 2-203: <u>“Environmental health risks and safety risks” mean risks to health or to safety that are attributable to products or substances that the child is likely to come in contact with or ingest (such as the air we breath, the food we eat, the water we drink or use for recreation, the soil we live on, and the products we use or are exposed to).</u></p>
P1	a Was this rule initiated after April 23, 1997, or was a notice of proposed rulemaking published on or before April 23, 1998?	
P1	b May the rule be economically significant as defined in section 6(f)(2) of Executive Order 12866?	
P1	c May the rule concern an environmental health or safety risk that an agency has reason to believe may disproportionately affect children?	

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P2	a	Did the agency include the analysis required by this Executive Order in other required analysis, such as the economic analysis required under Executive Order 12866?	Sec. 5-503: <u>The analysis required by this section may be included as part of any other required analysis, and shall be made part of the administrative record for the covered regulatory action or otherwise made available to the public, to the extent permitted by law.</u>
P2	b	Did the agency make the analysis required by this Executive Order part of the administrative record?	
P2	c	Did the agency make the analysis required by this Executive Order available to the public?	

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 ANALYTIC REQUIREMENTS

QX#	EVALUATIVE CRITERION	EXECUTIVE ORDER CITATION
A1	a	<p>Does the rule reflect an agency-identified environmental health or safety risk that may disproportionately affect children?</p>
A1	b	<p>Does the rule actually address disproportionate risks to children that result from environmental health risks or safety risks?</p>

Sec. 1-101: A growing body of scientific knowledge demonstrates that children may suffer disproportionately from environmental health risks and safety risks. These risks arise because: children's neurological, immunological, digestive, and other bodily systems are still developing; children eat more food, drink more fluids, and breathe more air in proportion to their body weight than adults; children's size and weight may diminish their protection from standard safety features; and children's behavior patterns may make them more susceptible to accidents because they are less able to protect themselves.

Therefore, to the extent permitted by law and appropriate, and consistent with the agency's mission, each Federal agency:

(a) shall make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children; and

(b) shall ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

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 ANALYTIC REQUIREMENTS

QX#	EVALUATIVE CRITERION		EXECUTIVE ORDER CITATION
	Is the rule exempted from timely compliance with the procedural and analytic requirements of this Executive order because one or both of the following conditions apply?		Sec. 5-502: <u>In emergency situations, or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall comply with the provisions of this section to the extent practicable. For those covered regulatory actions that are governed by a court-imposed or statutory deadline, the agency shall, to the extent practicable, schedule any rulemaking proceedings so as to permit sufficient time for completing the analysis required by this section.</u>
A2	a	The rule responds to an emergency situation.	
A2	b	The agency is obligated by law to act more quickly than normal review procedures allow	
If yes:			
A2	c	Did the agency comply with the procedural and analytic requirements of the Executive order to the extent practicable?	
A3	Was the rule governed by a court-imposed or statutory deadline?		
If yes:			
A3	a	Did the agency schedule rulemaking proceedings to permit sufficient time for completing the required analysis?	

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	Did the agency provide to OIRA		Sec. 5-501: For each covered regulatory action submitted to OMB's Office of Information and Regulatory Affairs (OIRA) for review pursuant to Executive Order 12866, <u>the issuing agency shall provide to OIRA the following information developed as part of the agency's decisionmaking process</u> , unless prohibited by law: (a) <u>an evaluation of the environmental health or safety effects of the planned regulation on children</u> ; and (b) <u>an explanation of why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.</u>
A4	a	An evaluation of the rule’s environmental health or safety effects on children?	
A4	b	Did the agency consider other potentially effective and reasonably feasible alternatives?	
A4	c	Did the agency provide to OIRA an explanation of why the rule is preferable to other potentially effective and reasonably feasible alternatives?	

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EXECUTIVE ORDER 13045:
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DECISION MAKING REQUIREMENTS

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D1	Is the agency's approach consistent with any statements of principles, general policy and targeted annual priorities set by the Task Force on Environmental Health Risks and Safety Risks to Children?	Sec 3-304(a): <u>[The Task Force on Environmental Health Risks and Safety Risks to Children shall recommend to the President Federal strategies for children's environmental health and safety, within the limits of the Administration's budget, to include] statements of principles, general policy, and targeted annual priorities to guide the Federal approach to achieving the goals of this order.</u>

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EXECUTIVE ORDER 13045: ("CHILDREN'S ENVIRONMENTAL HEALTH AND SAFETY") JUDICIAL REVIEW		
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	None.	Sec. 7-701: This order is intended only for internal management of the executive branch. This order is not intended, and should not be construed to create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or its employees. <u>This order shall not be construed to create any right to judicial review involving the compliance or noncompliance with this order by the United States, its agencies, its officers, or any other person.</u>

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