

Understanding Regulation



Regulations are all around us. From health codes at your favorite fast food joint to building standards that ensure your apartment can bear the weight of each additional floor, these are the **rules** of our society. There are wide-ranging views on the necessity and importance of regulations, with the extreme saying everything should have a rule or that individuals and businesses can self-regulate, with consumers deciding on quality.

Federal regulation is largely a function of the executive branch - administrative state or the bureaucracy - rather than Congress, which writes law. These administrative rules have the force of law nonetheless, but are made by specialized agencies acting on delegated authority from Congress. There are **two** major camps in the regulation debate. Rather than there should be more or fewer regulations, this debate is on the nature of those regulations.

Think about the difference between these two hypothetical rules for vehicle headlights: “the headlights must be within this size, shape, color, and brightness” versus “the headlights must effectively illuminate this area.”

The two sides are prescriptive regulation and performance regulation. The former sets up rules and guidelines for how things should work in order to bring about an outcome. This ensures safety and predictability in products services and processes. The latter sets a principle and outcome for how things should end up or perform. Which one is better? It depends on what you value and what you’re hoping to achieve. The first is a more traditional approach, what many label performance regulation. When it comes to predictability and public safety, we know the first will produce headlights that work. After all, that is what is already on the road. When it comes to innovation, the second opens almost unlimited potential to try new things.

Along with that innovation may come cost savings, better material, or environmental advantages. The downside could be cutting corners that save costs but harm consumers. Both scenarios would result in headlights, which are still regulated. Changing regulatory methods would not eliminate oversight and safety expectations. Do you think one way of regulating is better? We encourage you to dig deeper and learn more. Then you can join the debate and help improve best practices and safety - along with efficiency and innovation!