

Implementation Guidelines for Policy Evaluation of Regulations

Approved at the Interministerial Liaison Meeting on Policy Evaluation on August 24, 2007
Partially amended on July 28, 2017
Partially amended on March 15, 2024

These Guidelines have been developed under the framework of the Government Policy Evaluations Act (Act No. 86 of 2001), the “Basic Guidelines for Implementing Policy Evaluation” (Cabinet Decision of December 16, 2005; hereinafter referred to as the “Basic Guidelines”), and the “Policy Evaluation Implementation Guidelines” (approved at the Interministerial Liaison Meeting on Policy Evaluation on December 16, 2005; hereinafter referred to as the “Policy Evaluation Guidelines”), with the aim of setting out standard procedures for preparing ex-ante evaluation reports and ex-post evaluation reports for regulations, etc. to effectively and efficiently conduct ex-ante evaluation and ex-post evaluation of policies related to the enactment or revision or abolishment of regulations, and thereby contribute to policy decision-making and explanations to the public.

Necessary revisions to these Guidelines will be made as required, based on the progress of initiatives in individual ministries and the results of leading initiatives in other countries.

I. In Conducting Evaluations

Regulations restrict the rights of the public or impose obligations on the public for administrative objectives such as the maintenance of social order, safety of life, preservation of the environment, and protection of consumers. Therefore, when considering the enactment or revision or abolishment of regulations, it is necessary to conduct policy evaluation based on fair and objective data and information, paying attention to whether there are more restrictions on rights or imposition of obligations on the public than necessary. In this regard, it is also important to foster a social consensus on the enactment or revision or abolishment of regulations, while coordinating with interested parties.

II. Evaluation Methods

1. Evaluation Targets

Ex-ante evaluation of regulations shall be conducted for policies that target the enactment or revision or abolishment of regulations as provided in Article 3, item (vi) of the Cabinet Order for Enforcement of the Government Policy Evaluation Act (Cabinet Order No. 323 of 2001). Ex-post evaluation of regulations shall also be conducted for policies for which ex-ante evaluation of regulations is required under Basic Guidelines I-5 F (B). The following are concrete examples of provisions that are not targeted for evaluation, but other provisions will also be judged according to the nature of the content of the action.

For those regulations other than those for which conducting policy evaluation of regulations is required, efforts shall be made to actively and voluntarily conduct policy evaluation of regulations in accordance with Basic Guidelines I-4 F and I-5 F (B).

(i) Provisions that act on persons who have a relationship with administrative organ that differs from the relationship between the general public and administrative organ.

- Provisions applicable to national government administrative organs or local public entities in their characteristic capacities.
- Provisions that apply only to juridical persons that have a special relationship with the government, such as juridical persons established by a special law or juridical persons that are required to perform administrative duties by the government, and that are different from the general public under laws, ordinances, cabinet decisions, etc. Specifically, provisions that apply only to incorporated administrative agencies, local incorporated administrative agencies, national university corporations, inter-university research institute corporations, special corporations, authorized corporations or designated corporations (including

- corporations for which designation or similar administrative acts are not scheduled under laws, ordinances, cabinet decisions, etc., but for which the public services to be performed only by the corporation concerned are stipulated) and similar entities (for designated corporations, only those provisions related to designation).
- Provisions that apply only to persons who are planned to be treated differently from the general public under the Constitution or administrative law (including interpretations established by prevailing views or judicial precedents). Specifically, provisions that apply only to government employees or former government employees, students and pupils at schools established by administrative organs or national university corporations, persons detained or imprisoned in correctional or detention facilities, persons who have been placed under probation or parole supervision, etc.
 - Provisions applicable only to foreign nationals or foreign corporations.
- (ii) Provisions that establish crimes and punishment for crimes as a whole (excluding parts where an act constituting a crime has a strong character of being planned and formulated by an administrative organ to achieve a certain administrative objective, such as where the act is the subject of a recommendation or disposition by an administrative organ). Also, parts of penal provisions that establish the content of the penalty alone that do not fall under the action of restricting the rights of the public or imposing obligations on them (the same applies to parts establishing the content of dispositions in provisions to determine administrative dispositions).
- (iii) Provisions that establish rules for private individuals as equals in civil society.
- Provisions regulating the relationship between private parties as equals stipulated in the Civil Code, commercial transactions, etc. If an obligation is imposed on only one party to a contract or transaction for the purpose of protecting consumers or investors, etc., the parties are not equals.
- (iv) Provisions that do not have actions that substantially place restrictions on the rights of the public or impose obligations on them.
- Provisions for a duty to endeavor with no stipulation of measures against violations.
- (v) Provisions that are clearly not for administrative objectives in light of socially accepted ideas.
- Provisions concerning the collection of fees, amounts to be borne, etc. in exchange for the provision of administrative services.
 - Provisions to ensure proper performance of a contract when an Administrative Organ is one of the parties to the contract.

2. Evaluation Units

(1) Units Covering Higher-level and Lower-level Laws, Ordinances, Cabinet Decisions, etc. (Vertical Units)

For those provisions of higher-level and lower-level laws, ordinances, cabinet decisions, etc. that together constitute the content of a regulation, an appropriate unit of evaluation shall be set and an ex-ante evaluation shall be conducted. Individual ministries shall decide whether to prepare an evaluation report for each level of laws, ordinances, cabinet decisions, etc. or prepare an evaluation report collectively when an evaluation is conducted collectively at the same time for both higher-level and lower-level laws, ordinances, cabinet decisions, etc.

If it becomes necessary to conduct an evaluation of both higher-level and lower-level laws, ordinances, cabinet decisions, etc. collectively at the same time, such as when a substantive change occurs in the content of a lower-level law, ordinance, cabinet decision, etc., an evaluation of the lower-level law, ordinance, cabinet decision, etc. shall be conducted again at the time of revision of the lower-level law, ordinance, cabinet decision, etc.

(2) Units Covering Multiple Provisions (Horizontal Units)

If the content of linked regulations covers multiple provisions of the same law, ordinance, cabinet decision, etc. or of multiple laws, ordinances, cabinet decisions, etc., the evaluation shall be conducted in units of evaluation suitable for analyzing the relationship between the effects and burdens that occur in individual cases.

(Reference)

Examples of evaluation units

- (i) Those with multiple linked provisions collectively as units of evaluation.
(Provisions specifying the main parts of a regulation, including permits and licenses, and the accompanying provisions specifying revocation, modification, and corrective orders of permits and licenses, as well as compliance criteria.)
- (ii) Those with individual provisions as units of evaluation.
(Provisions ordering individual action or inaction (prohibition), provisions solely specifying the ordering authority of the Administrative Organ.)

3. Details of Ex-ante Evaluation

(1) Necessity, Effectiveness, and Validity of the Regulation

(a) Necessity and effectiveness of the regulation

The current situation and issues that necessitate the enactment or revision or abolishment of a regulation shall be explained in a concrete and logical manner. For example, an explanation shall be made with attention to what the relevant current institutions and policy structures are, what issues have arisen or are likely to arise in response to changes in socioeconomic conditions, etc., what causes issues to arise, and whether or not there is a social need that must be immediately resolved or prevented. Then, an explanation shall be made regarding what kind of regulations require enactment or revision or abolishment, and how they will be effective in resolving or preventing the issues, while clarifying the pathways through which the effects of policy will be realized.

(b) Validity of the regulation (comparative verification with other means)

From the viewpoint of minimizing the restriction of rights and imposition of obligations on the public, for example, in the case of the enactment or expansion of a regulation, after comparative verification is conducted including the regulatory measures to be introduced as well as more lenient regulatory measures (e.g., reduction of conformity targets, relaxation of applicable content, shortening of applicable period, etc.) or non-regulatory measures, the validity of the regulatory measures shall be clarified.

In the case of comparative verification, if it is expected that more lenient regulatory or non-regulatory measures can ensure the degree of resolution or prevention of the required issues, studying and acquiring the effects and burdens shall be conducted in accordance with (2) below.

(2) Studying and Acquiring Effects and Burdens

For objective policy evaluation, the effects and burdens associated with the enactment or revision or abolishment of a regulation shall be quantified (including the case where they are converted into monetary values; the same applies hereinafter) to the greatest extent possible. For example, in the ex-ante evaluation of enactment or expansion of a regulation, the point at issue is how much of a burden is to be borne for the degree of resolution or prevention of the required issues, and it is important to quantify these issues based on fair and objective data and information so that interested parties, including those subject to the regulation, can perform comparative weighting about them.

Estimation of effects and burdens is done by comparing “the situation that would be expected to occur without enactment or revision or abolishment of the regulation (baseline)”

with “the situation that would be expected to occur with the enactment or revision or abolishment of the regulation concerned.” The baseline shall be either the situation immediately prior to the enactment or revision or abolishment of the regulation, or a situation several years later that can be assumed if that action is not conducted. If the effects and burdens cannot be quantified, they shall be explained qualitatively and clearly.

If quantification is difficult at the time of policy evaluation due to the fact that matters necessary for quantification are delegated to a lower-level law, ordinance, cabinet decision, etc. in the law (legislative bill at the time of evaluation) on which the regulation concerned is based, it is desirable to clarify the details of such matters when quantification becomes possible in the subsequent consideration of the lower-level law or regulation (up to the time of the Public Comment Procedure based on the Administrative Procedure Act (Law No. 88 of 1993) (hereinafter referred to as “public comment”)).

For data and literature, etc. used in the policy evaluation, a summary of them and information regarding their location shall be included in the evaluation report.

Studying and acquiring impacts on the state of competition shall be conducted as separately determined by the Fair Trade Commission, and if the results indicate that there is a possibility of an impact on competition, this shall be stated in the ex-ante evaluation report of the regulation.

(a) Studying and acquiring effects

In Policy Evaluation of regulations, regarding effects, effectiveness is the resolution or prevention of an issue itself, and shall be estimated as quantitatively as possible from the perspective of explaining the effectiveness of enactment or revision or abolishment of regulations. In quantification, mentioning an approximation of the estimated value and the minimum and maximum values that indicate the scope of the estimated value is also acceptable.

If the effects cannot be quantified at the ex-ante evaluation stage, the reasons for this and the process for quantification while studying and acquiring the actual values of any indicators by the ex-post evaluation shall be described in the ex-ante evaluation report.

(b) Studying and acquiring burdens

Burdens are categorized into (i) those borne by the targets of the regulation (compliance costs), (ii) those borne by the implementers of the regulation (administrative costs), (iii) those manifested due to deregulation or abolition of the regulation, and (iv) other burdens. In particular, the burdens from (i) to (iii) shall be estimated quantitatively to the greatest extent possible. In quantification, mentioning an approximation of the estimated value and the minimum and maximum values that indicate the scope of the estimated value is also acceptable.

If the burdens cannot be quantified at the ex-ante evaluation stage, the reasons for this and the process for quantification while studying and acquiring the actual values of any indicators by the ex-post evaluation shall be described in the ex-ante evaluation report.

The burdens of (iv) are also important when fostering a social consensus, and therefore, studying and acquiring a wide range of possible scenarios shall be conducted and quantitative estimates made as necessary.

If various burdens are expected to occur at various times, such as initially necessary burdens, ongoing burdens, or burdens that will be required at certain times in the future, the nature and timing of these burdens shall be indicated as necessary.

(i) Compliance costs

Costs incurred by regulated persons to comply with the regulation, including capital investment, purchase of goods, fees, applications and other administrative procedures, and responses to inspections and supervision.

(ii) Administrative costs

Costs incurred by administrative organs to implement the regulation, including system construction, responding to applications, etc., and conducting inspections and supervision.

(iii) Burdens manifested due to deregulation or abolition

Burdens of issues that were previously resolved or prevented by a regulation but are now manifested due to deregulation or abolition of the regulation, for example, an increase in CO₂ emissions resulting from the relaxation of the obligation to install CO₂ countermeasure equipment.

(iv) Other burdens

Burdens that arise indirectly as a result of the enactment or revision or abolishment of the regulation, for example, a decrease in the number of new businesses entering the market due to the obligation to install CO₂ countermeasure equipment.

(3) Hearing Opinions from Interested Parties

The implementation status of hearing opinions from interested parties at council meetings and other meetings and the main opinions expressed shall be described, and if relevant minutes are published on the Internet, the URL to which they are posted shall be stated.

(4) Ex-post Evaluation Implementation Timing

With regard to the ex-post evaluation that considers whether or not the enactment or revision or abolishment of a regulation should be continued in light of subsequent socioeconomic conditions, etc., the starting timing of this consideration shall be described. For those regulations that have a review provision in the law (a provision stating that the regulation concerned shall be reviewed after a certain period of time), the time specified in the provision shall be the time for conducting the ex-post evaluation, and for other regulations, a maximum of five years after the preparation of the ex-ante evaluation report or the commencement of the regulation concerned shall be the implementation timing of the ex-post evaluation.

4. Details of Ex-post Evaluation

(1) Summary of Ex-post Evaluation Results

The ex-post evaluation shall consider whether or not the enactment or revision or abolishment of a regulation should continue. In this regard, future actions shall be determined based on (i) the status of responses to matters of concern in the ex-ante evaluation report, (ii) an analysis of differences in indicators for which estimates at the time of the ex-ante evaluation and actual values at the time of the ex-post evaluation differed significantly, and (iii) quantification of indicators that could not be quantified at the time of the ex-ante evaluation.

The ex-post evaluation report shall include an overview of the effects and burdens as well as future actions to be taken as a summary.

(2) Comparison with Estimates at the Time of the Ex-ante Evaluation

In the ex-ante evaluation stage, the pros and cons of the enactment or revision or abolishment of the regulation shall be determined based on estimated values. In the ex-post evaluation stage, a final determination shall be made regarding whether or not the regulation concerned should be continued through re-verification with actual values, etc. Therefore, at the stage of ex-post evaluation, when it is possible to study and acquire actual values, it is necessary to check whether or not any differences have arisen that would have been impacts on the judgment made at the time of ex-ante evaluation. Even if differences have occurred between estimated and actual values, there is nothing wrong with that in itself. Rather, it is more important to properly verify the causes of those differences.

In the ex-post evaluation report, the estimated values at the time of the ex-ante evaluation and the actual values at the time of the ex-post evaluation shall be described for indicators related to effects and burdens, and if there are any differences, the reasons for the differences shall be described. In addition, the results of efforts related to quantification of indicators that could not be quantified at the time of the ex-ante evaluation shall be described. Regarding other burdens, the details of those that are impacts on a decision to take further action shall be described, and, if necessary, quantified to the extent possible.

In studying and acquiring differences that may have been impacts on the judgment at the time of the ex-ante evaluation, it is desirable to study and acquire such differences by information provided by interested parties, so as not to overlook differences that are not necessarily evident in data, etc. If differences that were not intended at the ex-ante evaluation stage are ascertained, it is desirable to specify them.

(3) Consideration

After describing the details of responses to matters of concern in the ex-ante evaluation report and the details of responses to the indicators for which the estimates at the time of the ex-ante evaluation and the actual values at the time of the ex-post evaluation differed significantly, the details of future responses shall be described.

Regarding the details of responses to matters of concern in the ex-ante evaluation report, the status of responses to those (i) pointed out in deliberations in the National Diet, (ii) pointed out in public comments, (iii) pointed out at the contact point for receiving opinions and requests from the public regarding policy evaluation, and (iv) pointed out in the inspection of the ex-ante evaluation report by the Administrative Evaluation Bureau of the Ministry of Internal Affairs and Communications shall be described.

5. Use of Simplified Evaluation Reports

Policy evaluation of regulations shall be conducted in a manner that is in balance with the significance of the social, economic, environmental, and other impacts associated with the enactment or revision or abolishment of the regulations. For this purpose, a simplified evaluation report shall be available for regulations that meet the following requirements where it is less important to conduct policy evaluation, such as where there is no room for administrative discretion in the determination of the enactment or revision or abolishment of a regulation.

For information on the procedures and methods of writing a simplified evaluation report, refer to Attachment 1, "Evaluation Report Form and Items to Be Included."

- (i) Measures for the enactment or expansion of regulations, where the total of burdens is less than 1 billion yen per year and the compliance costs for individual targets of the regulations are estimated to be less than 10,000 yen per case of compliance.*

*With respect to capital investment, in the case of regulations that involve a certain amount of capital investment, the total amount of capital investment, centering on the first year, shall be covered. In the case of regulations that do not require an initial capital investment, the total cost of maintaining and managing the equipment for about ten years shall be used as a guideline.

- (ii) Measures for deregulation or abolition of regulations, where the total of burdens is estimated to be less than 1 billion yen per year.
- (iii) Measures based on the ratification of international treaties, etc., the content of which leaves no room for discretion.
- (iv) Where the concrete regulatory content is determined by other laws, ordinances, cabinet decisions, etc., and for which there is no room for discretion in the content of the laws, ordinances, cabinet decisions, etc. that contain the regulatory provisions to be evaluated.
 - Where the concrete details of the regulations are delegated to lower-level laws, ordinances, cabinet decisions, etc.
 - Where the details of the regulations are applied mutatis mutandis from other laws, ordinances, cabinet decisions, etc., and the details of the regulations concerned require mechanical revision or abolishment as a result of the revision or abolishment of such laws, ordinances, cabinet decisions, etc.
- (v) Measures that are based on scientific knowledge and that leave no room for discretion in their content.
 - Measures that are based on scientific knowledge, such as the knowledge of researchers and other experts and the results of demonstration experiments, and for which there is no room for administrative discretion in terms of the content, degree, etc. However, this does not apply where a loss of significant effects or a significant change in behavior may be produced by the measures concerned.*

*For example, where it is assumed that regulating one substance will make it impossible to use something that was previously used for beneficial purposes such as medicine, where there is a high possibility that a substance that has been substituted will cause different burdens, etc.
- (vi) Where the target areas and details of the regulation cannot be predicted or specified.
 - As with regulations that are invoked at the time of a disaster, where there is a limit to ex-ante evaluation because the target area and details of the regulation will vary greatly depending on the type and extent of the disaster.
- (vii) Where urgent attention is required for some reason.
 - In the case that there are reasonable grounds for not being able to devote time to an ex-ante evaluation, a simplified evaluation is carried out as an emergency measure to provide a minimum level of accountability. However, the normal version of the ex-post evaluation report shall be used.

III. Other Matters That Require Attention

1. Ensuring Opportunities for the Public to Deliver Opinions and Express Comments

(1) Hearing Opinions from Interested Parties

When considering the enactment or revision or abolishment of regulations, opinions shall be heard from interested parties at council meetings and other meetings, based on the purpose of 3 (3) of Appendix 3 of the “Basic Plan concerning the Realignment and Rationalization of the Councils, etc.” (Cabinet Decision of April 27, 1999).

(2) Publication of Ex-ante Evaluation Report and Receipt of Opinions and Requests from the Public

In the case that the enactment or revision or abolishment of regulations is based on a legislative bill or a draft government ordinance to which the public comment system does not apply, publication of the ex-ante evaluation report shall be made by the date of the Cabinet decision, or at the time of public comment if it is based on a draft government ordinance to which the public comment system applies. In the case of a draft government ordinance to which the public comment system is applied, publication shall be as “related materials” of the draft government ordinance submitted for public comment on the e-Gov website (www.e-gov.go.jp).

Individual ministries shall accept opinions and requests from the public on an ex-ante evaluation report at the contact point established under Basic Guidelines I-9 (2).

2. Systematic Implementation of Policy Evaluation

When considering the enactment or revision or abolishment of regulations, the Policy Evaluation staff and law review staff of the secretariat of individual ministries and the departments with jurisdiction over the relevant laws, ordinances, cabinet decisions, etc. shall work together to study and acquire projects that require policy evaluation as quickly and as accurately as possible, and shall also systematically implement policy evaluation and strive to gradually start the ex-ante evaluation while referring to Attachment 2, “Overview of Workflow for Ex-ante Evaluation and Ex-post Evaluation”, and Attachment 3, “Use of Ex-ante Evaluation at Each Stage of the Regulatory Lifecycle”.

3. Preparation and Publication of Summary

Based on the purpose of Policy Evaluation Guidelines 2 (4) (ii), the evaluation report for Policy Evaluation of regulations prepared according to Attachment 1, “Evaluation Report Form and Items to Be Included”, shall also serve as a summary. However, this does not preclude the preparation and publication of a separate summary, if necessary.

4. Cooperative Work With the Ministry of Internal Affairs and Communications, etc.

Individual ministries can consult with the Ministry of Internal Affairs and Communications if they have any concerns regarding the concrete calculation method or degree of calculation for quantification of effects and burdens. The Ministry of Internal Affairs and Communications will study the method and degree of quantification in cooperation with the individual ministries, with support from experts as needed.

The Ministry of Internal Affairs and Communications will also provide an opportunity each year to explain to individual ministries how to proceed with the work of ex-ante evaluation and ex-post evaluation and points to keep in mind.

5. Ex-post Evaluation Pertaining to Ex-ante Evaluations Conducted Prior to the Revision of These Guidelines

In the case that an ex-ante evaluation report was prepared prior to the revision of these Guidelines, an ex-post evaluation report can be prepared according to the Guidelines prior to the revision.

Attachment 1: Evaluation Report Form and Items to Be Included
Attachment 2: Overview of Workflow for Ex-ante Evaluation and Ex-post Evaluation
Attachment 3: Use of Ex-ante Evaluation at Each Stage of the Regulatory Lifecycle
Attachment 4: Types of Regulatory and Non-Regulatory Measures
Attachment 5: Data on Base Units and Other Materials
Attachment 6: Status of Cost and Quantification of Effects in Ex-ante Evaluation and Ex-post Evaluation
Attachment 7: Frequently Asked Questions