

# Presidential Executive Orders

**Definition:** <sup>i</sup>*Executive Orders (EOs) are legally binding orders given by the President, acting as the head of the Executive Branch, to Federal Administrative Agencies. Executive Orders are generally used to direct federal agencies and officials in their execution of congressionally established laws or policies. However, in many instances they have been used to guide agencies in directions contrary to congressional intent.*

<sup>ii</sup>*Executive Orders do not require Congressional approval to take effect but they have the same legal weight as laws passed by Congress. The President's source of authority to issue Executive Orders can be found in the Article II, Section 1 of the Constitution which grants to the President the "executive Power." Section 3 of Article II further directs the President to "take Care that the Laws be faithfully executed." To implement or execute the laws of the land, Presidents give direction and guidance to Executive Branch agencies and departments, often in the form of Executive Orders.*

Executive Orders (EO) take effect 30 days after being listed in the National Registry.

## Congressional Recourse

<sup>iii</sup>*If Congress does not like what the executive branch is doing, it has two main options. First, it may rewrite or amend a previous law, or spell it out in greater detail how the Executive Branch must act. Of course, the President has the right to veto the bill if he disagrees with it, so, in practice, a 2/3 majority is often required to override an Executive Order.*

*Congress is less likely to challenge EOs that deal with foreign policy, national defense, or the implementation and negotiation of treaties, as these are powers granted largely to the President by the Constitution. As the Commander-in-Chief of the armed forces, the President is also considered the nation's "Chief Diplomat." In fact, given national security concerns, some defense or security related EOs (often called National Security Directives or Presidential Decision Directives) are not made public.*

*In addition to congressional recourse, Executive Orders can be challenged in court, usually on the grounds that the Order deviates from "congressional intent" or exceeds the President's constitutional powers. In one such notable instance, President Harry Truman, was rebuked by the Supreme Court for overstepping the bounds of presidential authority. After World War II, Truman seized control of steel mills across the nation in an effort to settle labor disputes. In response to a challenge of this action, the Supreme Court ruled that the seizure was unconstitutional and exceeded presidential powers because neither the Constitution or any statute authorized the President to seize private businesses to settle labor disputes. For the most part, however, the Court has been fairly tolerant of wide range of executive actions.*

Only (2) Executive Orders have been overturned by the Supreme Court, the first was [Executive Order #10340](#) issued by President Harry S. Truman on April 8, 1952 and second [Executive Order #12954](#) issued by President William Jefferson Clinton on March 8, 1995.

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<sup>i</sup> <http://www.thisnation.com/question/040.html>

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