

January 30, 2009

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Regulatory Review

For well over two decades, the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) has reviewed Federal regulations. The purposes of such review have been to ensure consistency with Presidential priorities, to coordinate regulatory policy, and to offer a dispassionate and analytical "second opinion" on agency actions. I strongly believe that regulations are critical to protecting public health, safety, our shared resources, and our economic opportunities and security. While recognizing the expertise and authority of executive branch departments and agencies, I also believe that, if properly conducted, centralized review is both legitimate and appropriate as a means of promoting regulatory goals.

The fundamental principles and structures governing contemporary regulatory review were set out in Executive Order 12866 of September 30, 1993. A great deal has been learned since that time. Far more is now known about regulation -- not only about when it is justified, but also about what works and what does not. Far more is also known about the uses of a variety of regulatory tools such as warnings, disclosure requirements, public education, and economic incentives. Years of experience have also provided lessons about how to improve the process of regulatory review. In this time of fundamental transformation, that process -- and the principles governing regulation in general -- should be revisited.

I therefore direct the Director of OMB, in consultation with representatives of regulatory agencies, as appropriate, to produce within 100 days a set of recommendations for a new Executive Order on Federal regulatory review. Among other things, the recommendations should offer suggestions for the relationship between OIRA and the agencies; provide guidance on disclosure and transparency; encourage public participation in agency regulatory processes; offer suggestions on the role of cost-benefit analysis; address the role of distributional considerations, fairness, and concern for the interests of future generations; identify methods of ensuring that regulatory review does not produce undue delay; clarify the role of the behavioral sciences in formulating regulatory policy; and identify the best tools for achieving public goals through the regulatory process.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Director of OMB is hereby authorized and directed to publish this memorandum in the *Federal Register*.

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