

NLWJC - Kagan

Counsel - Box 027 - Folder 006

Regulatory Reform-memos etc. [1]



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

MEMORANDUM FOR DISTRIBUTION

FROM: Sally Katzen

DATE: June 17, 1996

SUBJECT: Revised Corrections Day Chart

Attached is a revised version of the Corrections Day chart last circulated in May.

Updated versions will continue to follow roughly every two weeks. If you have any questions or comments, please call me at 5-4852, or Mike Fitzpatrick at 5-1247.

Distribution:

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HOUSE CORRECTIONS DAY

Revised 6/17/96

DATE	BILL NUMBER	PURPOSE	HOUSE VOTE	SENATE ACTION	ADMINISTRATION POSITION
July 25, 1995	H.R. 1943 San Diego Coastal Corrections Act of 1995	H.R. 1943 grants San Diego permanent exemption from secondary treatment requirements for wastewater (Clean Water Act)	Passed 269-156	Referred to Senate Envir. & Public Works Comm. (7/26/95)	SAP opposing H.R. 1943 because bill was unnecessary, scientifically unsound, and contrary to good public policy -- San Diego had already been granted preliminary approval of waiver from Clean Water Act
Oct. 10, 1995	H.R. 436 Edible Oil Regulatory Reform Act	H.R. 436 requires agencies to differentiate between petroleum and animal and vegetable oils when issuing rules or enforcing any regulation (FDA and FSIS exempted)	Passed by voice vote	Passed by voice vote (11/2/95)	SAP stating that the Administration has no objection to passage of H.R. 436 [Signed by POTUS (11/20/95)]
Oct. 24, 1995	H.R. 782 Federal Employee Representation Improvement Act	H.R. 782 allows federal employees to represent the views of employee organizations (e.g., credit unions, child care centers) before governmental agencies	Passed by voice vote	Referred to Senate Judiciary Comm. (10/25/95); Reported to full Senate (3/5/96)	SAP supporting H.R. 782

Oct. 24, 1995	H.R. 1114 Fair Labor Standards Act Exemption	H.R. 1114 permits minors covered by the Fair Labor Standards Act to load materials into balers and compactors that meet certain design standards	Passed by voice vote	Referred to Senate Labor & Human Resources Comm. (10/25/95)	The Administration did not issue a SAP on H.R. 1114
Oct. 24, 1995	H.R. 117 Senior Citizens' Housing Safety and Economic Relief Act of 1995	H.R. 117 provides public housing authorities with greater discretion to prevent persons with drug or alcohol problems from living in public housing projects designated for occupancy by the elderly	Passed 415-0	Referred to Senate Banking Comm. (10/25/95)	SAP generally supporting the goals of H.R. 117 but setting forth several concerns [Provisions of this bill were passed by voice vote in both the House (2/27/96) and Senate (3/12/96) as part of S. 1494 (the Housing Opportunity Program Extension Act of 1996); the bill was signed by POTUS (3/28/96)]
Nov. 14, 1995	H.R. 2366 Repeal of Unnecessary Medical Device Reporting Requirement	H.R. 2366 repeals the Cardiac Pacemaker Registry established under the Social Security Act because it overlaps with a more comprehensive reporting system mandated by the Food, Drug, and Cosmetic Act	Passed by voice vote	Referred to Senate Finance Comm. (11/15/95)	SAP supporting H.R. 2366

Nov. 14, 1995	S. 790 Federal Reports Elimination and Sunset Act of 1995	S. 790 eliminates over 150 reporting requirements for executive agencies and modifies or streamlines over 60 more (the 1978 Inspectors General Act and the 1990 Chief Financial Officers Act, which address waste, fraud, abuse, and other management issues, are exempted)	Passed by voice vote (11/14/95 & 12/7/95)	Passed by voice vote (7/17/95 & 12/6/95)	The Administration supports S. 790, but issued no SAP before the House vote because the bill had already passed the Senate [Signed by POTUS (12/21/95)]
Nov. 28, 1995	H.R. 2519 Philanthropy Protection Act of 1995	H.R. 2519 is intended to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws (related to H.R. 2525 below)	Passed 421-0	Passed by voice vote (11/29/95)	The Administration did not issue a SAP on H.R. 2519 [Signed by POTUS (12/8/95)]
Nov. 28, 1995	H.R. 2525 Charitable Gift Annuity Antitrust Relief Act of 1995	H.R. 2525 modifies the operation of antitrust laws, and similar state laws, with respect to charitable gift annuities to allow several charities to agree to use the same discount rate in making payments under charitable gift annuities	Passed 427-0	Passed by voice vote (11/29/95)	The Administration did not issue a SAP on H.R. 2525 [Signed by POTUS (12/8/95)]
Dec. 12, 1995	H.R. 1787 Amendment to the Federal Food, Drug, and Cosmetic Act	H.R. 1787 amends the Food, Drug, and Cosmetic Act by repealing the saccharin notice requirement	Passed by voice vote	Passed by voice vote (3/19/96)	SAP stating that the Administration has no objection to passage of H.R. 1787 [Signed by POTUS (4/1/96)]

Dec. 12, 1995	H.R. 325 Amendment to the Clean Air Act	H.R. 325 amends the Clean Air Act to allow states subject to the Employee Commute Options program (ECO) to design alternative methods of achieving required emissions reductions to those mandated by ECO itself	Passed by voice vote	Passed by voice vote (12/13/95)	The Administration did not issue a SAP on H.R. 325 [Signed by POTUS (12/23/95)]
Jan. 23, 1996	H.R. 2567 Constructed Water Conveyances Reform Act of 1995	H.R. 2567 waives, in certain circumstances, the Clean Water Act requirement that States establish "designated uses" when setting pollution standards for "constructed conveyances" (man-made water systems such as canals, dikes, irrigation systems)	Passed by voice vote	Referred to Senate Envir. & Pub. Works Comm. (1/24/96)	SAP stating Administration would support H.R. 2567 if its scope were narrowed to minimize potential impacts on water quality
March 12, 1996	H.R. 2685 Repeal of Medicare and Medicaid Coverage Data Bank	H.R. 2685 repeals the Medicare and Medicaid Coverage Data Bank established under OBRA93 which has never been funded due to concerns that it creates unnecessary and burdensome paperwork for both HHS and employers and would, at great cost, achieve little or no savings	Passed by voice vote	Referred to Senate Finance Comm. (3/13/96)	SAP supporting H.R. 2685

April 23, 1996	H.R. 3049 Amendment to the Institute for American Indian and Alaska Native Culture and Arts Development Act	H.R. 3049 would permit individuals not nominated by the President to become members of the Institute's Board of Trustees	Passed by voice vote	Referred to Senate Labor & Human Resources Comm. (4/24/96)	SAP stating the Administration opposes passage of H.R. 3049 because of constitutional concerns under the Appointments Clause -- DOJ would recommend veto
April 23, 1996	H.R. 3055 Continued Grant Participation for Historically Black Graduate and Professional Schools	H.R. 3055 removes from Section 326 of the Higher Education Act the provision restricting Historically Black Graduate Schools to receiving two five-year grants; five such institutions currently in the last year of their grant eligibility would thus be permitted to continue to compete for future grants	Passed by voice vote	Passed by voice vote (4/23/96)	The Administration did not issue a SAP on H.R. 3055 [Signed by POTUS (5/6/96)]
June 11, 1996	H.R. 2909 Conte National Fish and Wildlife Refuge Eminent Domain Prevention Act	H.R. 2909 precludes use of the Fish and Wildlife Service's power of eminent domain to acquire land to protect the Conte Refuge; the Service has no plans to use this authority, and would do so only where an imminent threat to the refuge or its resources could not be mitigated by other means	Passed by voice vote	Referred to Senate Envir. & Pub. Works Comm. (6/13/96)	SAP stating Administration strongly opposes passage of H.R. 2909 because the bill would restrict the Government's ability to protect the Conte Refuge

Call Mike Fitzpatrick (5-1247) with questions.



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OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

MEMORANDUM FOR DISTRIBUTION

FROM: Sally Katzen *S. Katzen*

DATE: May 6, 1996

SUBJECT: Revised Corrections Day Chart

Attached is a revised version of the Corrections Day chart last circulated in March. Updated versions will continue to follow every two weeks. If you have any questions or comments, please call me at 5-4852, or Mike Fitzpatrick at 5-1247.

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HOUSE CORRECTIONS DAY

Revised 5/3/96

DATE	BILL NUMBER	PURPOSE	HOUSE VOTE	SENATE ACTION	ADMINISTRATION POSITION
July 25, 1995	H.R. 1943 San Diego Coastal Corrections Act of 1995	H.R. 1943 grants San Diego permanent exemption from secondary treatment requirements for wastewater (Clean Water Act)	Passed 269-156	Referred to Senate Envir. & Public Works Comm. (7/26/95)	SAP opposing H.R. 1943 because bill was unnecessary, scientifically unsound, and contrary to good public policy -- San Diego had already been granted preliminary approval of waiver from Clean Water Act
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April 23, 1996	H.R. 3049 Amendment to the Institute for American Indian and Alaska Native Culture and Arts Development Act	H.R. 3049 would permit individuals not nominated by the President to become members of the Institute's Board of Trustees	Passed by vote	Referred to Senate Labor & Human Resources Comm. (4/24/96)	SAP stating the Administration opposes passage of H.R. 3049 because of constitutional concerns under the Appointments Clause -- DOJ would recommend veto
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Call Mike Fitzpatrick (5-1247) with questions.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 26, 1996

SK

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

MEMORANDUM FOR LEON PANETTA

THROUGH: ALICE M. RIVLIN

FROM: SALLY KATZEN

SUBJECT: REGULATORY AGENDA

As you may remember, we produce a large book every six months that lists all the regulations agencies are working on. It usually contains about 4,500 entries. This Regulatory Agenda is required by a combination of law, Executive Order, and tradition, and has been published since 1979 in April and October.

When it was last published in October 1995, we worried about it being used by the Republicans (as the April 1995 version had been), and consequently had our defenses ready. As it turned out, no one seemed to notice.

It is now time to publish the Agenda again. I will prepare talking points and be ready to comment on it when it is published in mid-May, but otherwise there should be no press release or Administration statement accompanying release of the document. Please let me know if you want me to do something differently (there really aren't any other options).

cc: Mike McCurry
Harold Ickes
Jack Quinn
Evelyn Lieberman
Kitty Higgins
Larry Haas

DRAFT

MEMORANDUM FOR JACK QUINN

FROM: KATHLEEN WALLMAN
SUBJECT: EXEMPTING ROUTINE RULES
DATE: April 23, 1996

FAX to
Elena
Elena, any comments?
KW

I looked at the attached. I agree with your thought that this could be understood as letting Congress off the hook, but there are a couple of things that make me think that that is not entirely how it will play out:

First, I think there is some feeling that by signing the bill, we have stranded the policy initiatives of our own agencies by requiring their work product to take a lengthy detour to the Hill. There is concern that things that people in the agencies were counting on getting done this year won't happen. I think there is also some concern that these problems weren't adequately aired with the agencies before a decision was made to sign the bill.

Second, to the extent that these detoured regulations seek to reinvent things that needed reinventing, or deregulate things that should be deregulated, these benefits will be delayed, and both the public and the industries affected by government regulation will suffer. It may have been this concern that led Congress to exempt the regulations that the FCC needs to promulgate to implement the Telecommunications Act of 1996.

For these reasons, I'm not sure that the dissatisfaction with the review procedures will be entirely directed at Congress. I think that some of this will come our way. At the same time, I don't think we should seem to be making a big about-face. All in all, I come out where Bruce indicates in his note -- advocate the exemption in a low-key way because it makes sense on the merits.

On the other hand, we have on several occasions publicly stated our support for Congressional review on the theory that such a process will increase Congress's accountability for the regulations issued to implement the laws it passes. Under this theory, there is no substantive reason to distinguish routine regulations from other non-major rules.

Decision

- Seek to reinstate the exemption for "routine" rules
- Do not seek to reinstate the exemption for "routine" rules
- Let's discuss

cc: John Hilley
Jack Quinn
Kitty Higgins
Ron Klain
Jack Lew

**bcc: Katie McGinty
Martha Foley
Barbara Chow
Peter Jacoby**

EXECUTIVE OFFICE OF THE PRESIDENT
April 10, 1996

TO: (See below)
FROM: Michael Fitzpatrick, OIRA
SUBJECT: Regulatory Reform

We will have a conference call tomorrow at 10 a.m. to discuss operation of H.R. 3136's Congressional review provision, which went into effect March 29. As part of the discussion, we will review the attached list of all regs published in the Federal Register between April 1-8. To access the call, dial 757-2104 code 5456.

Please call Mike (395-1247) if you have any questions.

Name	Phone	Fax	Office
Kevin Burke	690-7627	690-7380	HHS
Diane Thompson	301-443-3793	301-443-2567	FDA/HHS
John Dwyer	514-4969	514-0238	DOJ
Monica Medina	514-0750	514-0557	DOJ
Richard Carro	622-0650	622-1188	Treas
Floyd Williams	622-0725	622-0534	Treas
Gary Guzy	260-7960	260-3684	EPA
Julie Anderson	260-5414	260-0516	EPA
Bob Wager	301-504-0515	301-504-0016	CPSC
Neil Eisner	366-4723	366-9313	DOT
Cresence Massei	366-9714	366-3675	DOT
Melanie Bellar	208-7693	208-5533	DOI
Larry Finfer	208-1786	208-4867	DOI
Mary Ann Richardson	219-6141	219-5120	DOL
Seth Harris	219-6197	219-9216	DOL
Ronald Matzner	205-6642	205-6846	SBA
Bob Nordhaus	586-5966	586-1499	DOE
Tom Gessel	565-7625	565-7873	VA
Eric Olsen	720-3808	720-5437	USDA
Mike Levitt	482-3151	482-0512	DOC
Nelson Diaz	708-2244	708-3389	HUD
Jamie Studley	401-6000	401-5391	Ed
Maryanne Kane	326-2450	326-2477	FTC
Kaye Williams	942-0014	942-9650	SEC
Kris Balderston	456-7071	456-6704	WHOCA
Tracey Thornton	456-6493	456-2604	WHLA
Janet Murguia	456-6620	456-2604	WHLA
Linda Lance	456-6222	456-6231	OVP
Ron Melnick	456-6087	456-6025	OSTP
Ellen Seidman	456-2802	456-2223	NEC
Ray Prince	395-5012	395-6853	CEA
Elena Kagan	456-7901	456-1647	WHC
Lisa Kountoupes	395-4790	395-3729	OMB/LA

FEDERAL REGISTER FINAL RULES DOCUMENTS
APRIL 1, 1996 -- APRIL 8, 1996

DATE	AGENCY	SUB AGENCY	S T A G E	C L A S S	C O L U M N	R I N	E O	TITLE
04/05/96	VA		F	R	5	2900-AH14		Increase in Rates Payable Under the Montgomery GI Bill - Active Duty
04/03/96	USDA	FS	F	R	9	0596-AB58	Y	Disposal of National Forest System Timber
04/03/96	USDA	FS	F	R	39	0596-AB39		Smith River National Recreation Area
04/08/96	USDA	APHIS	F	R	20	0579-AA54		Export Certificates
04/05/96	USDA	APHIS	F	X	14			Disease Status
04/01/96	USDA	APHIS	F	X	8			Brucellosis in Cattle
04/01/96	USDA	APHIS	F	X	4			Quarantined Area
04/04/96	USDA	AMS	F	X	4			Expenses and Assessment Rate
04/01/96	TREAS	FCEN	F	N	8	1506-AA17		Amendment to the Bank Secrecy Act
04/01/96	TREAS	FCEN	F	R	10	1506-AA16		Amendment to the Bank Secrecy Act
04/01/96	TREAS	IRS	F	Y	2	1545-AS24		Correction
04/01/96	TREAS	IRS	F	Y	1	1545-AQ58		Correction
04/01/96	TREAS	IRS	F	Y	1			Correction
04/01/96	TREAS	IRS	F	Y	1			Correction
04/01/96	TREAS	IRS	F	Y	2	1545-AA13		Correction
04/08/96	TREAS	OFAC	F	Y	1			Correction
04/01/96	TREAS	IRS	F	Y	1	1545-AM15		Correction
04/01/96	TREAS	FCEN	F	Y	1	1506-AA17		Delay of Effective Date
04/01/96	TREAS	FCEN	F	Y	1	1506-AA16		Delay of Effective Date
04/01/96	HUD	OH	F	R	36	2502-AG58		Health Care Facility Mortgage Insurance Programs Regulations
04/01/96	HUD	OH	F	R	24	2502-AF74		FHA Multifamily Processing and Fees
04/01/96	HUD	OFHEE	F	R	7	2529-AA78		Fair Housing Act
04/05/96	HUD	OS	F	R	3	2501-AB55		Supplemental Standards of Ethical Conduct
04/01/96	HUD	OH	F	R	21	2502-AG64		Tax Exemptions of Obligations of Public Housing Agencies and Related Amendments
04/01/96	HUD	OS	F	R	15	2501-AC04		Prohibition of Advance Disclosure of Funding; Accountability in the Provision of HUD Assistance
04/03/96	HUD	OH	F	Y	2	2502-AG40		Meeting
04/05/96	HHS	FDA	F	N	13	0910-AA09		Medical Devices; Temporary Suspension of Approval of a Premarket Approval Application
04/03/96	HHS	HCFA	F	R	57	0938-AF14		Payment for Federally Qualified Health Center Services
04/02/96	HHS	FDA	F	X	2			New Animal Drugs
04/05/96	HHS	FDA	F	X	2			New Animal Drugs
04/02/96	HHS	FDA	F	X	2			New Animal Drugs
04/04/96	HHS	FDA	F	X	6			Food Additives for Human Consumption
04/01/96	HHS	FOA	F	Y	7			Technical Amendments
04/02/96	HHS	FDA	F	Y	12			Technical Amendment
04/02/96	HHS	FDA	F	Y	2			Technical Amendment

FEDERAL REGISTER FINAL RULES DOCUMENTS
APRIL 1, 1998 - APRIL 8, 1998

DATE	AGENCY	SUB AGENCY	S T A G E	C L A S S	C O L U M N	R I N	E O	TITLE
04/02/96	EPA	OTHER	F	N	6			Cost-Sharing Contracts
04/02/96	EPA	OTHER	F	N	4			Energy-Efficient Computer Equipment
04/08/96	EPA	SWER	F	R	306	2050-AD38	Y	Land Disposal Restrictions Phase III
04/01/96	EPA	OTHER	F	R	11			Confidential Business Information
04/02/96	EPA	AIR	F	X	4			SIP: Texas
04/05/96	EPA	OPPTS	F	X	14	2070-AB78		Tolerance Exemption
04/04/96	EPA	AIR	F	X	4			SIP: Arizona
04/02/96	EPA	AIR	F	X	8			SIP: Illinois
04/03/96	EPA	OPPTS	F	X	8	2070-AB78		Tolerance Exemption
04/03/96	EPA	AIR	F	X	9			SIP: Tennessee
04/02/96	EPA	AIR	F	X	7			SIP: Indiana
04/02/96	EPA	AIR	F	X	7			SIP: Pennsylvania
04/04/96	EPA	AIR	F	X	8			SIP: Rhode Island
04/02/96	EPA	AIR	F	X	5			SIP: Kentucky
04/04/96	EPA	AIR	F	X	6			SIP: Wisconsin
04/02/96	EPA	AIR	F	X	7			SIP: Tennessee
04/02/96	EPA	OPPTS	F	Y	1			Correction
04/02/96	ED		F	Y	2	1880-AA64		Correction
04/02/96	DOT	NHTSA	F	R	14	2127-AF18		Manufacturing Incentives for Alternative Fuel Vehicles
04/08/96	DOT	NHTSA	F	R	12	2127-AG34		1997 High-Theft Vehicle Lines
04/03/96	DOT	FHWA	F	R	8	2125-AD83		Exemptions From Federal Motor Carrier Safety Regulations
04/03/96	DOT	NHTSA	F	R	7	2127-AF16	Y	Light Truck Average Fuel Economy Standard, Model Year 1998
04/05/96	DOT	FAA	F	X	4			Airworthiness Directive
04/01/96	DOT	FAA	F	X	4			Airworthiness Directive
04/01/96	DOT	CG	F	X	2	2115-AE46		Special Local Regulations
04/01/96	DOT	FAA	F	X	5			Airworthiness Directive
04/04/96	DOT	CG	F	X	5	2115-AE47		Drawbridge Regulations
04/03/96	DOT	FAA	F	X	5			Special Conditions
04/04/96	DOT	FAA	F	X	5			Airworthiness Directive
04/04/96	DOT	FAA	F	X	4			Airworthiness Directive
04/03/96	DOT	FAA	F	X	21			Airworthiness Directive
04/08/96	DOT	FAA	F	Y	1			Correction
04/03/96	DOT	FHWA	F	Y	1	2125-AD46		Correction
04/03/96	DOT	FHWA	F	Y	4	2125-AB15		Technical Amendment
04/03/96	DOI	NPS	F	E	3	1024-AC26		Oregon Caves National Monument, Admission to Caves
04/08/96	DOI	OS	F	R	5	1090-AA55		Foreign Construction Materials
04/08/96	DOI	OSMRE	F	X	5			State Regulatory Program

FEDERAL REGISTER FINAL RULES DOCUMENTS
APRIL 1, 1996 - APRIL 8, 1996

DATE	AGENCY	SUB AGENCY	S T A G E	C L A S S	C O L U M N	R I N	E O	TITLE
04/08/96	DOI	OSMRE	F	X	6			State Regulatory Program
04/04/96	DOD	NAVY	F	X	3			Preventing Collisions at Sea
04/04/96	DOD	NAVY	F	X	1			Preventing Collisions at Sea
04/04/96	DOD	NAVY	F	X	3			Preventing Collisions at Sea
04/04/96	DOD	NAVY	F	X	3			Preventing Collisions at Sea
04/04/96	DOD	NAVY	F	X	3			Preventing Collisions at Sea
04/03/96	DOC	NOAA	F	E	2	0648-A176		Financial Aid Program Procedures
04/01/96	DOC	BEA	F	N	3	0694-XX05		Restrictive Trade Practices or Boycotts
04/03/96	DOC	NOAA	F	X	2			Fisheries: Red Snapper
04/02/96	DOC	NOAA	F	X	39	0648-AF01		Fisheries: Atlantic Mackerel, Amendment 5
04/02/96	DOC	NOAA	F	X	4	0648-AG31		Fisheries: Pacific Coast Groundfish
04/05/96	DOC	NOAA	F	X	3			Fisheries: Summer Flounder
04/04/96	DOC	NOAA	F	Y	5	0648-XX58		Correction
04/08/96	DOC	EDA	F	Y	2	0610-AA47		Correction
04/08/96		EEOC	F	N	14	3046-AA59	Y	Coverage of Apprenticeship Programs Under ADEA
04/08/96		FCC	F	R	4			Cable Television; Implementation of the Telecommunications Act of 1996
04/02/96		FCC	F	R	3			Modification of Commission's Rules
04/02/96		FCC	F	R	10			Operation Above 40 GHz
04/04/96		FCC	F	R	6			Operator Service Providers and Call Aggregators
04/08/96		FCC	F	R	13			Allocation of the 219-220 MHz Band
04/02/96		FCC	F	X	1			Radio Broadcasting Services
04/03/96		FCC	F	X	1			Radio Broadcasting Services
04/04/96		FCC	F	X	1			Radio Broadcasting Services
04/03/96		FCC	F	Y	12			Order
04/08/96		FCC	F	Y	3			Petition
04/03/96		FEMA	F	X	12			Changes in Flood Elevation Determinations
04/03/96		FEMA	F	X	23			Changes in Flood Elevation Determinations
04/02/96		FEMA	F	X	8			Communities Eligible for the Sale of Flood Insurance
04/03/96		FEMA	F	X	8			Changes in Flood Elevation Determinations
04/04/96		FMC	F	Y	2			Correction
04/04/96		FRS	F	R	23			Truth in Lending
04/01/96		FRS	F	Y	1			Delay of Effective Date

FEDERAL REGISTER FINAL RULES DOCUMENTS
 APRIL 1, 1996 - APRIL 8, 1996

DATE	AGENCY	SUB AGENCY	STAGS	CLASS	COLUMNS	REVISION	EO	TITLE
04/04/96		GSA	F	R	3	3090-AF91	Y	Use and Replacement Standards for Electronic Typewriters and Electronic Office Machines
04/01/96		LSC	F	N	8			Timekeeping Requirement
04/01/96		LSC	F	N	7			Restriction on Representation in Certain Eviction Proceedings
04/01/96		LSC	F	N	28			Competitive Bidding for Grants and Contracts
04/04/96		NARA	F	R	3	3095-AA64		Suitland Research Room Closure
04/02/96		NTSB	F	Y	2			Delegations of Authority
04/05/96		OPM	F	R	9	3206-AH36		Filing Claims; Disputed Claims Procedures and Court Actions
04/05/96		OPM	F	R	8	3206-AG30		Filing Health Benefit Claims; Addition of Contract Clause
04/08/96		USIA	F	R	6			Exchange Visitor Program

EXECUTIVE OFFICE OF THE PRESIDENT

March 25, 1996

TO: (See below)

FROM: Michael Fitzpatrick, OIRA/ Wesley Warren, CEQ

SUBJECT: Regulatory Reform

THE NEXT INTERAGENCY CONFERENCE CALL ON REGULATORY REFORM WILL BE TUESDAY, MARCH 26, 1996 AT 5:00 P.M. To access the conference call, dial (202) 757-2104, code # 5000.

For your convenience, you will find attached to this memo a letter from Senator Bliley addressed to Secretary O'Leary requesting a list of documents addressing costs associated with regulation. In addition to Energy, this letter was received by six other agencies. It will be discussed at the Thursday meeting of the Regulatory Reform Working Group. (7 pages)

If you have any questions, please call Michael Fitzpatrick at (202) 395-1247 or Wesley Warren at (202) 456-6224.

Name	Phone	Fax	Office
Kevin Burke	690-7627	690-7380	HHS
Diane Thompson	(301)-443-3793	(301)-443-2567	FDA/HHS
John Dwyer	514-4969	514-1724	DOJ
Monica Medina	514-0750	514-0557	DOJ
Richard Carro	622-0650	622-1188	Treas
Floyd Williams	622-0725	622-0534	Treas
Gary Guzy	260-7960	260-3684	EPA
Julie Anderson	260-5414	260-0516	EPA
Bob Wager	(301)-504-0515	(301)504-0016	CPSC
Neil Eisner	366-4723	366-9313	DOT
Cresence Massei	366-9714	366-3675	DOT
Melanie Bellar	208-7693	208-5533	DOI
Larry Finfer	208-7786	208-4867	DOI
Mary Ann Richardson	219-6141	219-5120	DOL
Ronald Matzner	205-6642	205-6846	SBA
Bob Nordhaus	586-5966	586-1499	DOE
Tom Gessel	565-7625	565-7873	VA
Eric Olsen	720-3808	720-5437	USDA
Mike Levitt	482-3151	482-0512	DOC
Nelson Diaz	708-2244	708-3389	HUD
Jamie Studley	401-6000	401-5391	Ed
Maryanne Kane	326-2450	326-2050	FTC
Kaye Williams	942-0014	942-9650	SEC
Ed Jurith	395-6709	395-6708	ONDCP
Kitty Higgins	456-2572	456-6704	WHOCA
Kris Balderston	456-7071	456-6704	WHOCA
Tracey Thornton	456-6493	456-2604	WHLA
Janet Murguia	456-6620	456-2604	WHLA
Martha Foley	456-6799	456-2271	WHO
Linda Lance	456-6222	456-6231	OVP
Jennifer Miller	456-9056	456-6212	OVP
Michael Waldman	456-2272	456-7431	DPC
Ron Melnick	456-6087	456-6025	OSTP
Marcia Seidner	456-6202	456-6025	OSTP
Ellen Seidman	456-2802	456-2223	NEC
Mike Toman	395-5012	395-6853	CEA
Ray Prince	395-5012	395-6853	CEA
Elena Kagan	456-7901	456-1647	WHC
Lisa Kountoupes	395-4790	395-3729	OMB/LA

MAR-22-1996 07:40 FROM REG COORDINATION

TO

94560753 P.01

ONE HUNDRED FOURTH CONGRESS

THOMAS J. BLILEY, JR., VIRGINIA, CHAIRMAN

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RON KLUG, PENNSYLVANIA

BART STUPAK, MICHIGAN

JAMES E. DEKORBAR, CHIEF OF STAFF

U.S. House of Representatives
Committee on Commerce

Room 2125, Rayburn House Office Building
Washington, DC 20515-6115

March 5, 1996

The Honorable Hazel R. O'Leary
Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

Dear Secretary O'Leary:

The House Committee on Commerce is reviewing the costs of regulation and other administrative procedures promulgated by your agency. The Committee is compiling information on how these costs have been documented both in promulgating new regulations and in enforcing and reviewing existing regulations. As part of this effort, I am requesting information on the availability of existing documentation from your agency as specified on the attached pages.

I recognize that some information on the costs of regulation may not be available. This request pertains only to listing the availability of *existing* documentation of the costs of regulation. I am not requesting that your agency prepare documents on the costs of regulation where such documents do not currently exist.

So that the Commerce Committee can complete its examination in a timely manner, please provide all requested information to my committee staff—or notify us of deficiencies—no later than April 30, 1996. The point of contact on the Commerce Committee staff is Harold Furchtgott-Roth. Please contact him with any questions at 225-4441.

Sincerely,


Thomas J. Bliley, Jr.
Chairman

Federal Agency Costs of Regulation and Licensing

1. For FY 1995, please list available documentation on all of the costs incurred by your agency to support its regulatory and licensing activities in each of the following areas:

- a. Promulgation of regulations, rules, administrative letters, licensing procedures, and other administrative procedures;
- b. Enforcement of regulations, rules, administrative letters, and other administrative procedures including inspections, record keeping, and auditing;
- c. Review of license applications and renewals; and
- d. Litigation as the result of regulations, rules, administrative letters, and other administrative procedures.

2. For years before FY 1995, please list available documentation on all of the costs incurred by your agency to support its regulatory and licensing activities in each of the following areas:

- a. Promulgation of regulations, rules, administrative letters, licensing procedures, and other administrative procedures;
- b. Enforcement of regulations, rules, administrative letters, and other administrative procedures including inspections, record keeping, and auditing;
- c. Review of license applications and renewals; and
- d. Litigation as the result of regulations, rules, administrative letters, and other administrative procedures.

MAR-22-1996 07:42 FROM REG COORDINATION

TO

94560753 P.03

Costs of Regulation and Licensing to other Federal Agencies and to State and Local Agencies

1. For FY 1995, please list available documentation on all of the costs incurred by other Federal agencies and by state and local government agencies to support the regulatory and licensing activities of your agency:

- a. Promulgation of regulations, rules, administrative letters, licensing procedures, and other administrative procedures;
- b. Enforcement of regulations, rules, administrative letters, and other administrative procedures including inspections, record keeping, and auditing;
- c. Review of license applications and renewals;
- d. Litigation as the result of regulations, rules, administrative letters, and other administrative procedures.

2. For years before FY 1995, please list available documentation on all of the costs incurred by other Federal agencies and by state and local government agencies to support the regulatory and licensing activities of your agency:

- a. Promulgation of regulations, rules, administrative letters, licensing procedures, and other administrative procedures;
- b. Enforcement of regulations, rules, administrative letters, and other administrative procedures including inspections, record keeping, and auditing;
- c. Review of license applications and renewals;
- d. Litigation as the result of regulations, rules, administrative letters, and other administrative procedures.

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TO

94560753 P.04

The Costs to Individuals and Private Firms of Regulation and Licensing

1. What procedures, if any, does your agency have in place during the promulgation of new regulations and rules to estimate the future costs to the private sector of such regulations and rules?

2. What procedures, if any, does your agency have in place in evaluating ongoing regulations and rules to estimate both the past and future costs to the private sector of such regulations and rules?

3. What procedures, if any, does your agency have in place in evaluating initial license applications to estimate the costs to the private sector of complying with licensing and related administrative procedures?

4. What procedures, if any, does your agency have in place in evaluating license renewals to estimate both the past and future costs to the private sector of complying with licensing and related administrative procedures?

5. In preparing administrative letters, what procedures, if any, does your agency have in place to evaluate costs to the private sector?

6. For FY 1995, please list available documentation on both the estimated and actual costs incurred by private sector firms and individuals as a result of the regulatory and licensing activities of your agency in each of the following areas:

- a. Monitoring and commenting on the promulgation of regulations, rules, administrative letters, licensing procedures and other administrative procedures;
- b. Complying with rules and regulations including inspections, record keeping, and auditing;
- c. License applications and renewals;
- d. Litigation as the result of regulations, rules, administrative letters, and other administrative procedures;
- e. Forgone profits from the use of resources, ingredients, processes, or other activities that were banned or limited by regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;
- f. Forgone profits from the production, marketing, distribution, or other use of

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TO

94560753 P.05

products or services that were banned or limited by regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;

- g. Forgone profits from the delayed or canceled implementation of business plans as the result of regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;
- h. Forgone profits from the production, marketing, distribution, or other use of products or services whose prices were regulated or controlled as a result of regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;
- i. Forgone investments, innovations, and quality improvements that were delayed or abandoned as a result of regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures; and
- j. Increased insurance and litigation costs as a result of changes in liability rules.

7. For years prior to FY 1995, please list available documentation on both the estimated and actual costs incurred by private sector firms and individuals as a result of the regulatory and licensing activities of your agency in each of the following areas:

- a. Monitoring and commenting on the promulgation of regulations, rules, administrative letters, licensing procedures and other administrative procedures;
- b. Complying with rules and regulations including inspections, record keeping, and auditing;
- c. License applications and renewals;
- d. Litigation as the result of regulations, rules, administrative letters, and other administrative procedures;
- e. Forgone profits from the use of resources, ingredients, processes, or other activities that were banned or limited by regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;
- f. Forgone profits from the production, marketing, distribution, or other use of products or services that were banned or limited by regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;

MAR-22-1996 07:43 FROM REG COORDINATION

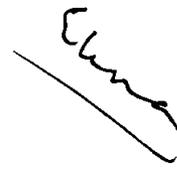
TO

94560753 P.06

- g. Forgone profits from the delayed or canceled implementation of business plans as the result of regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;
- h. Forgone profits from the production, marketing, distribution, or other use of products or services whose prices were regulated or controlled as a result of regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;
- i. Forgone investments, innovations, and quality improvements that were delayed or abandoned as a result of regulations, rules, administrative letters, licensing procedures, changes in liability rules, and other administrative procedures;
- j. Increased insurance and litigation costs as a result of changes in liability rules.

The Total Costs of Regulation

1. What procedures, if any, does your agency have in place during the promulgation of regulations and rules to estimate the total costs (defined as the sum of the costs to your agency, other government agencies, and the private sector) of regulations, rules, administrative letters, licensing procedures and other administrative procedures?
2. What procedures, if any, does your agency have in place in evaluating ongoing rules and to estimate both the past and future total costs (defined as the sum of the costs to your agency, other government agencies, and the private sector) of regulations, rules, administrative letters, licensing procedures and other administrative procedures?
3. What procedures, if any, does your agency have in place in evaluating initial license applications and license renewals to estimate both the past and future total costs (defined as the sum of the costs to your agency, other government agencies, and the private sector) of complying with licensing and other administrative procedures?
4. Please list the total number of (a) regulations, (b) rules, (c) administrative letters, (d) licensing procedures, (e) other administrative procedures, and (f) licenses that were promulgated or issued by your agency in FY 1995. For which of these procedures can you estimate total costs defined as the sum of the costs to your agency, other government agencies, and the private sector? For which of these procedures do you have insufficient information to estimate total costs?



**TENTATIVE Agenda for Regulatory Working Group Meeting
March 28, 1996**

These items, among others, are slated for discussion at the Regulatory Working Group Meeting Thursday, March 28, from 11:00 AM to 12:30 PM in the Vice President's Ceremonial Office, Old Executive Office Building, Room 274.

(Please note -- the meeting will start at 11:00 AM -- NOT 10:30 AM.)

Unfunded Mandates: OMB's March 22, 1996 Report, and next steps.

Legislation: Regulatory Reform: Status report.

Progress of 16,000/31,000 CFR Pages Elimination/Reinvention Effort,
and next steps.

Regulatory Reform: Other Initiatives: "Cut obsolete regulations..."

Administration Accomplishments in Regulatory Reform under Executive Order No. 12866

Writing Regulations in "Plain English": Planned seminar.

Corrections Day



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

MAR 25 1996

MEMORANDUM FOR DISTRIBUTION

FROM: Sally Katzen *SK*

DATE: March 25, 1996

SUBJECT: Revised Corrections Day Chart

SK

Attached is a revised version of the Corrections Day chart last circulated in January. Updated versions will continue to follow every two weeks. If you have any questions or comments, please call me at 5-4852, or Mike Fitzpatrick at 5-1247.

Distribution:

Pat Griffin
Alexis Herman
Mike McCurry
Jack Quinn
Carol Rasco
Laura Tyson
John Angell
Martha Foley
Barry Toiv
Kitty Higgins
Elaine Kamarck
Katie McGinty
Ron Klain
Greg Simon

HOUSE CORRECTIONS DAY

Revised 3/15/96

DATE	BILL NUMBER	PURPOSE	HOUSE VOTE	SENATE ACTION	ADMINISTRATION POSITION
July 25, 1995	H.R. 1943 San Diego Coastal Corrections Act of 1995	H.R. 1943 grants San Diego permanent exemption from secondary treatment requirements for wastewater (Clean Water Act)	Passed 269-156	Referred to Senate Envir. & Public Works Comm. (7/26/95)	SAP opposing H.R. 1943 because bill was unnecessary, scientifically unsound, and contrary to good public policy -- San Diego had already been granted preliminary approval of waiver from Clean Water Act
Oct. 10, 1995	H.R. 436 Edible Oil Regulatory Reform Act	H.R. 436 requires agencies to differentiate between petroleum and animal and vegetable oils when issuing rules or enforcing any regulation (FDA and FSIS exempted)	Passed by voice vote	Passed by voice vote (11/2/95)	SAP stating that the Administration has no objection to passage of H.R. 436 [Signed by POTUS (11/20/95)]
Oct. 24, 1995	H.R. 782 Federal Employee Representation Improvement Act	H.R. 782 allows federal employees to represent the views of employee organizations (e.g., credit unions, child care centers) before governmental agencies	Passed by voice vote	Referred to Senate Judiciary Comm. (10/25/95); Reported to full Senate (3/5/96)	SAP supporting H.R. 782

Oct. 24, 1995	H.R. 1114 Fair Labor Standards Act Exemption	H.R. 1114 permits minors covered by the Fair Labor Standards Act to load materials into balers and compactors that meet certain design standards	Passed by voice vote	Referred to Senate Labor & Human Resources Comm. (10/25/95)	The Administration did not issue a SAP on H.R. 1114
Oct. 24, 1995	H.R. 117 Senior Citizens' Housing Safety and Economic Relief Act of 1995	H.R. 117 provides public housing authorities with greater discretion to prevent persons with drug or alcohol problems from living in public housing projects designated for occupancy by the elderly	Passed 415-0	Referred to Senate Banking Comm. (10/25/95)	SAP generally supporting the goals of H.R. 117 but setting forth several concerns [Provisions of this bill were passed by voice vote in both the House (2/27/96) and Senate (3/12/96) as part of S. 1494, the Housing Opportunity Program Extension Act of 1996. An enrolled bill memo will be circulated shortly.]
Nov. 14, 1995	H.R. 2366 Repeal of Unnecessary Medical Device Reporting Requirement	H.R. 2366 repeals the Cardiac Pacemaker Registry established under the Social Security Act because it overlaps with a more comprehensive reporting system mandated by the Food, Drug, and Cosmetic Act	Passed by voice vote	Referred to Senate Finance Comm. (11/15/95)	SAP supporting H.R. 2366

Nov. 14, 1995	S. 790 Federal Reports Elimination and Sunset Act of 1995	S. 790 eliminates over 150 reporting requirements for executive agencies and modifies or streamlines over 60 more (the 1978 Inspectors General Act and the 1990 Chief Financial Officers Act, which address waste, fraud, abuse, and other management issues, are exempted)	Passed by voice vote (11/14/95 & 12/7/95)	Passed by voice vote (7/17/95 & 12/6/95)	The Administration supports S. 790, but issued no SAP before the House vote because the bill had already passed the Senate [Signed by POTUS (12/21/95)]
Nov. 28, 1995	H.R. 2519 Philanthropy Protection Act of 1995	H.R. 2519 is intended to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws (related to H.R. 2525 below)	Passed 421-0	Passed by voice vote (11/29/95)	The Administration did not issue a SAP on H.R. 2519 [Signed by POTUS (12/8/95)]
Nov. 28, 1995	H.R. 2525 Charitable Gift Annuity Antitrust Relief Act of 1995	H.R. 2525 modifies the operation of antitrust laws, and similar state laws, with respect to charitable gift annuities to allow several charities to agree to use the same discount rate in making payments under charitable gift annuities	Passed 427-0	Passed by voice vote (11/29/95)	The Administration did not issue a SAP on H.R. 2525 [Signed by POTUS (12/8/95)]
Dec. 12, 1995	H.R. 1787 Amendment to the Federal Food, Drug, and Cosmetic Act	H.R. 1787 amends the Food, Drug, and Cosmetic Act by repealing the saccharin notice requirement	Passed by voice vote	Referred to Senate Labor & Human Resources Comm. (2/27/96)	SAP stating that the Administration has no objection to passage of H.R. 1787

Dec. 12, 1995	H.R. 325 Amendment to the Clean Air Act	H.R. 325 amends the Clean Air Act to allow states subject to the Employee Commute Options program (ECO) to design alternative methods of achieving required emissions reductions to those mandated by ECO itself	Passed by voice vote	Passed by voice vote (12/13/95)	The Administration did not issue a SAP on H.R. 325 [Signed by POTUS (12/23/95)]
Jan. 23, 1996	H.R. 2567 Constructed Water Conveyances Reform Act of 1995	H.R. 2567 waives, in certain circumstances, the Clean Water Act requirement that States establish "designated uses" when setting pollution standards for "constructed conveyances" (man-made water systems such as canals, dikes, irrigation systems)	Passed by voice vote	Referred to Senate Envir. & Pub. Works Comm. (1/24/96)	SAP stating Administration would support H.R. 2567 if its scope were narrowed to minimize potential impacts on water quality
March 12, 1996	H.R. 2685 Repeal of Medicare and Medicaid Coverage Data Bank	H.R. 2685 repeals the Medicare and Medicaid Coverage Data Bank established under OBRA93 which has never been funded due to concerns that it creates unnecessary and burdensome paperwork for both HHS and employers and would, at great cost, achieve little or no savings	Passed by voice vote	Referred to Senate Finance Comm. (3/13/96)	SAP supporting H.R. 2685

Call Mike Fitzpatrick (5-1247) with questions.

Repubs
Not going to wait J. shut-
likely to provoke a filibuster.
They don't want this.
Don't know whether will offer it
They wait let him take bill down
or amend.

Only way larger bill -
if Dems agree -
everyone concerned
Not likely to happen.

Has to show he
can get past cloture.
Right now, he can't
do.

Unless he has
agreed, it won't
happen.

THE WHITE HOUSE
WASHINGTON

DATE: _____

TO: *Small business committee
all over Republicans.*

FROM: White House Counsel
Room 125, OEOB, x6-7901

- FYI
- Appropriate Action
- Let's Discuss
- Per Our Conversation
- Per Your Request
- Please Return
- Other



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

FEB 29 1996

MEMORANDUM TO LEON PANETTA

FROM: Sally Katz *Sally Katz*

SUBJECT: Regulatory Reform Legislation

I understand that you said at the 8:15 a.m. meeting that the House was considering a "little" reg reform bill that we could support. Late last night, we received a copy of the bill that is going to the Rules Committee today, with the expectation that it will go to the House floor Tuesday or Wednesday at the latest. We cannot support this bill because of the lookback provision.

Substance of the bill

The bill has three pieces:

1. Judicial review of "reg flex" -- This means that small businesses can go into court to challenge an agency's certification that its proposed action will not have an adverse effect on a substantial number of small businesses. All of the agencies had opposed this provision, but the President endorsed it publicly, and you sent a letter supporting it to secure the confirmation of Phil Lader as the Administrator of SBA. The House language has a few problems, but if we accept the concept (as we have publicly), its the best version we've seen yet.
2. Congressional Layover -- This is virtually the same as the Senate passed (98-0) bill to replace the House passed moratorium. The President has publicly endorsed the Senate action. The House bill extends the layover period from 45 days to 60 days. You may recall that this provision is retroactive to November 20, 1994, and applies to all (not just major) rules.
3. Lookback/Review of existing regulations -- This is a warmed-over version of a MacIntosh Bill that passed Government Reform and Oversight and House Judiciary with significant Democratic support. It is terrible, involving enormous make-work: virtually every rule will have to be reviewed by the agencies every several years and a rule-making undertaken even if the agency decides to continue the rule without change. This will tie everybody up in knots for very little, if any, good purpose. Eight or nine departments/agencies have indicated a willingness to recommend veto over this provision.

Strategy

The House Democrats are trying to decide on strategy: whether to have a substitute for this third piece (on the theory that you can't fight something with nothing); and if so, what the substitute

should be. After talking with John Hilley last evening, we are encouraging them to look at either the Levin piece on look-back in his comprehensive bill or the Glenn-Chaffee lookback provision which we generally bought into last summer. Levin's staff do not want to risk a negative vote on the Levin piece before he has a chance to do something with it in the Senate. So, we're suggesting that the House Democrats consider using the Glenn-Chaffee substitute for this provision.

It appears likely, however, that any Democratic substitute will fail, and that the House will pass the bill as it currently exists. We cannot support that bill, and indeed would recommend a SAP signaling veto.

*Kathy -
Perhaps
NOT SO.*

* * *

Senate Activity -- FYI for your call to Senator Levin.

Kyle McSarrow (Dole's reg reform person), told Levin's staff last night that he expects to take up the House-passed bill on Wednesday or Thursday at the latest (unless there's a Whitewater filibuster), pass it, and then do the cost-benefit/judicially reviewable decisional criteria stuff that Levin is working on in a second (more comprehensive) bill. Levin's staff said "Absolutely not" to two bills. They explained that the only reason Levin was working this bill was to have a single comprehensive vehicle that could be controlled.

Even more troubling, Levin's staff learned that Dole expects to substitute for the House's reg flex piece (item 1. above) a bill developed by Bond with the help of NFIB, which will be very, very, very troublesome for us.

Kyle McSarrow has apparently given Levin the option of substituting Levin's comprehensive bill (to be co-sponsored by Nickles) for the "little" House bill. That is a difficult strategy call.

Recommendation

With all this activity, I believe we should encourage Levin to slow down.

Please call if you want/need more information.

cc: Alice M. Rivlin
John Hilley
Tracy Thornton
Janet Murguia
Kittie Higgins
Katie McGinty

by House and Senate Democrats to get this done for the American people and with the American people."

Senate Majority Leader Bob Dole has agreed to bring the Kassebaum/Kennedy bill to the Senate floor between April 15 and May 3. According to Kassebaum's aide: "Kassebaum is certainly pleased that Senator Dole has been speaking about his support of this legislation on the campaign trail. He has always indicated to her that the provisions included in this bill are appropriate."

- o House, Senate working together on revised reg reform bill; hoping for quick passage. Recognizing they cannot get past a Senate Democratic filibuster to enact the current regulatory reform bill, one of the Contract With America items, House and Senate Republicans have agreed to jointly develop a smaller regulatory reform bill. According to an aide to Senate Republican Policy Committee Chairman Don Nickles, the revised reg reform bill is "a joint operation. It's a congressional leadership operation. It's going to start in the House, but everybody is pretty much agreed on what the ingredients will be -- congressional review, reg flex, and agency review." The source added, "Reg flex is the small business regulatory bill and it will be sort of the flagship provision of this measure. It's the principal ingredient. It will be the measure that the House will highlight when they bring it up over there."

A much broader regulatory reform bill fell two votes short in the Senate on a cloture vote. Consequently, with the departure of Bob Packwood, Senate Republicans are looking to attract three additional Democratic votes for the revised package in order to move a bill through the Senate. According to a Nickles aide, the revised bill should have a chance of attracting the Democratic votes because "congressional review passed unanimously. I don't think that will be a problem." The source continued: "Agency review is, every agency should review all of its regulations within an eight year period. I don't really see why anybody would have a problem with that. Reg flex is a more complicated bill and I just don't know."

The House plans to move their bill to the floor next week and the Senate expects to take it up shortly thereafter, pending budget-related activity. Senate Republicans are targeting Senators Glenn, Levin and Robb for the three votes they seek. None of the three have indicated yet whether they will support the revised measure, but a Levin aide said, "Levin has not made any conclusions about any particular vehicle thus far, but is continuing to work diligently behind the scenes to be someone who can bring the [environmental, business and labor] sides together."

- o Reno announces bankruptcy fraud initiative. Attorney General Janet Reno today announced the launching of Operation Total Disclosure, an initiative aimed at combating bankruptcy fraud. Reno told a news conference this morning, "Some time ago, the US trustees who supervise and oversee the bankruptcy system told me about the increasing problem of bankruptcy fraud. A system intended to provide deserving debtors a fresh, new start was being misused to cheat neighbors and merchants and others who had loaned money. They wanted fresh steps to be taken to make it clear that such fraud is

Levin mtg. Rep. Reh. 3/1/96.

Levin moving successfully - locking up Sen.
Sen. to him: cool jets - let H. bill play out.
Still need some imp. on L.

3-part HJR
Rep. flex - says have to certify - can't impact on business.
JR. We've supported JR of RF
Best version we've seen.

Conf. layover at 43. Pres. order out
Now GO.

Loebach - OIRA classified - rev in - yrs.
Then they turn over rep.
Then - conf + pub petition -
Reexamine everything!
Locks into law if it passes - paperwork.

- Poss replacements
- a) Levin
 - b) Glenn - Chafetz

Some support - Boehner - strike Loebach

Hillery - may not be receptive to cool-year-geto conf.
RM - he's said he'll coast + assist if Wt says so.

at least
let it
stress app.
have to talk
slow down
to address our
probs.
assess where
we are - on
PDRs / substance
slow down

Sen. to take up H. bill? Wed or Thurs?
No. Not clear

Don't waiting to see what Levin wants to do.
The Sen. game - what big bill to add to little bill.
Have to find out from 3 Sens what momentum
is.

Hillery - Ask them for report - what's happening.
Then - as he slow down.

Levin has good lookback power.

Hold up Levin? Still not be dramatic in Demo Pkt to push something.

Johansen demo - may jump ship.

Levin - from hearing we don't want a reg. rel. bill of sort Levin
w/any cr.
Prefer smaller bill - like House.

Katie - he's improving D's bill
H. bill - we'll get more credit -
get rr w/out giving D. credit

Good meeting

AK - he has not cut his bar

KM - Not true

Tho - true he has dramatically
improved this bill.

Sen bus likes H.

Rep bus - only wants Levin.

↳ but willing to settle for something small?
not opposed to it -

Msg to Levin -

↓ ↓
Pump payment
on S. 180
bill.

1. Want smaller bill

2. If he says no,
then

3. We have to engage (but slow -
don't let down on
schedule)

↑ ↑

Req Ref Substantive Mtg 3/4/96

|| My assignment - p. 12.
Boss/Neil.

Get Guzy memo -
↓ DC / JTR -
Attens: see whif sp.
(Boss etc)

Regulatory Reform Conference Call 3/4/96 Chief of Staff call

Kitty - Mtg Friday - Levin says he has support - wants to move ahead.

Levin - Will sit down w/ SK, KCM - go thru concerns.

Principals mtg? Yes, but wait until dev in House, sit down w/ Levin - 3:00

Probably.

SK - Bond^{to} try to replace ref flex w/ his? It's pretty bad.

Tracy - Staff directors mtg in state - wait + see approach.

~~Frank~~ C. will offer his plug. when H. bill comes over.

Peter - Bohler may offer motion to strike back.

If not, Dem will offer mitt.

3/12/96 Ref Ref Underlings Conference Call

942 - The RR vehicle

3 bill issues

(a) ERTA - DOT

(b) rep fl on interp rules - DOTres

(c) ombudsmen provisions on personnel ^{actions} ^{USDA}

(b) prob will be changed

(c) less likely to be changed

(a) ??

~~STP~~ to be circulated new

2) based on up's amendment

says we support the bill

(now/studying ~~changes~~ changes)
problems + need for

e.g. review panels

Treas. will veto on this acct
recommend

does not yet

incl. any layover

- think will be amended - agreed to by both sides.

Thursday - may come up.

(Depends on what happens w/ CR)

(except Cong layover)

Dem Caucus - holding firm - & else on bill -
all opposed to Johnston's adding on

Levin bill - New version / still wk in progress.

Pick up in morning.

Circulating to business roundtable.

Not going to be amended to 942.

Stand-alone bill.



Reg Ref CJS conf call 3/14/96

Two remaining issues in Bond bill

- Panels of review for EPA/OSHA
2 of small businessmen
- EASA provisions

J. not adding his bill

FAX to AF1
Situation Room

Made clear all
along

Tracey
6/26/04

Tim Fineman Telecon 2/24

Jud Rev or Dec Cris

Don't want to have all proced vgs up for review.
So it as doesn't do things in exactly the way
way

It say Q, APA JR applies

A bit unclear how it applies

But ~~may~~ may force us to comply w/ all
procedures

DC + DR provisions -

support the decision is approx

most cost effective or cheapest

Diff: vast range.

Special JR provision - may be better than saying Q
(APA provision).

That's why new provisions came in.

Have to have some review?

So - attempt to draft a provision excluding
certain things from review.

Have it come up w/ review we're happy w/.

- "Contrary to law" (ABA) (contrary to proced vgs)

----- any more
Levin not talking about changing Chevron

- for + title above
- ① Procedure or procedure[↑]
 - ② DC - range or one
jud applicable or
 - ③ "procedural" - really aspirational
"best science available"

Non-mat'l non-compliance

w/ proc - revolves problem ① above

But hard to know whether materially prejudicial
sometimes are

Mike Schmidt

Called T. Palmieri - not allowed
to contact agencies.

1/2 hr ago - Foley called - Leon
needs to get something to Pugh
What can we do?
~~What~~ How abt counsel's office?

— [N. Mexico —
— California.]

What DOT wants.

Info gathered should be part of record for purpose of determining review on merits.

Fearful that ets will get involved in "aspirational" procedures - determining, e.g., "best" science or policy.

Telecom Buss Overview 2/26

Must be not just reasonable -
but cheapest / most cost effective
OR of being it in this way.

⑨ - DOJ's proposal. (Internal
product)



mand duty to select 1 alter
if it selects another, it
would be A+C.

not ~~good~~ enough ←
to say: no review
of procedures.

③ - Prej error - insufficient std

④ - Taking this - probs w/ JR

⑧ Dith from NEPA -

? take a hard look
not-pick 1 alter

Wes Warren -

5 major issues

1. Risk assess. process -
drop completely?
cleaned up + simplified from Johnston / Pope

2. Effective date -
upon enactment or
six mos in future or
retroactive

WANT
At least 6
mo grace
period

3. Affirmative defense
opposed.

* 4. DC -

- what do require
- what escape hatch is
- how e.h. is applied to d.c. (to part or all of d.e.)

their real hope
in having a final
rather than
decisional.

* 5. JR -

- procedural error - how applic
 - issues re materiality stc.
- > 2 part
(constructive)

Ag's will give paper - list
tomorrow.

Be specific - summary / strategy
rationale.

EPA - work up jointly

Wes / Mike to sit down tomorrow - memo.

Reg Ref Mtg 2/29/96

Conf call - what to do?

Find out who is objecting to what?

Do this at end.

New events awaiting.

① Hilley - H. bill to fix Tues

H Dems want strong ^{open rule} VAT - veto.
on pts on reg flex, emp laymen
lookback - veto reqs.

Aggs have 1-3 hrs to look at
up there tomorrow - essential

Tricky - reg flex? what to say?

Bond - intending to subst his in
Senate - much worse.

Kabzen wants strong support of that.

(I'm not sure how this really
helps ward off Bond provision? why
not just make nipping objections?)

H Dems - substitute?

Glenn-Chafee - They're going w/ this
on lookback.

keep rest of bill?

Will look - but give over to mod Dems.

② Senate -

Come over Wed.

Inout into 219 - orig Sen. 45-day layover

→ put endorsed by Pres.

Conf by Tues. evening.

one poss - ask Senate to go w/
Levin, more comprehensive bill

We'd live w/

H. Reg Flex

Levin lookback

Levin
Glenn
Chafee

4590

Run - Momentum in private
Levin-selling proposal internally
See dems on the edge.
Hard to mobilize aft it, if want to.

~~How~~

Run -

How go into negot w/ Levin?

Not just tech assistance?

need issues - "six" things we need to have
escape cl.

jud rev / doc crit.

uncert lang.

8K - wait get agreement

6er - Political
Impact of 5343

Reg Ret Mtg 2/29/94

Problems w/ HR 994 - Congressional Changes

Retrospectivity - p. 39-40.

P 37-61 - include Peter ~~note~~ signature

Definition of rule - 52 - 1st huge point

removes indep agency & independence - all have to be reviewed
by OIRA etc

but agency "instruct" - much broader than APA def of rule
law vs. things that "implement" law.
taken all exemptions from APA + wrapped back in
here.

Peter - used examples.

Scope of a rule

- Can call a part a rule,
so will get over 100m threshold (a non-numericals)
- Sweeps into review stuff that shouldn't be reviewed
Even stuff no one has any interest in
Encompasses almost everything will be put on 5-9 yr schedule
Non-contin, routine, insignificant.
Just because a "part"

Sec 203 - Idea is to make Dec. crit applicable to it + when enacted

All political section unacceptable

2/20/96

WTT Mts re Strategy in Tach's Office

Sally

last time - high bar to Ross

last mtg w/ Leon - recall. of 70s.

w/ all action to push
responsive to requests for assistance
sec. let's - have to be engaged.

Not drafting or all pushing

Mtg w/ B. Johnston

SK - concerned re. IR of doctrinal criteria

BT - an absolute req. of business common

Philosophy on role of cts??

Levin - ^{tech, sci, econ} "uncertainties" - need language
→ out of doctrinal criteria

Katie - how do you do this w/out becoming the catalyst?

Kitty - What's our strategy?

What's going on in Hill?

Tach - A political question.

No one in room equipped to address.

Atch - we don't want a deal

We want to be divided, not brought together on this.

Ordering on "dealings in bad faith"

Heun -

1) ~~to~~ Accept what comes out of fuel

2) Machintosh - reprehensible bill (?)

Tracy

Dodd - says bad pol. move

Caucus will spring for it.

If we want to say no - say it now

Tach

need to be more political/forthright.

Heun to figure what we really want.

Think: don't make a deal.

Can't believe our own rhetoric.

NO ONE AGREES
ON WHAT THESE
PRINCIPLES ARE

EG - JUDICIAL REVIEW
OF DECISIONAL CRITERIA

Dawn Chirwa

J Todd

✓ Final - 5:30 T.J.

Rep Ref Conf Call - staff level 2/20

Uncertainties large

Proposal - elim this (b)(2) escape hatch

Timber w/ large in del of costs, bene, reg. anal.

supported to ensure unc's considered

in risk assessment

cost-benefit anal.

Everyone had neg. reaction.

New language -

try to see how it would work.

" " come up w/ stories - negs that would be affected
by this lang

2,

Resistance from ays.

Don't want to say - to anyone -
that negs will be affected/
overridden by this statutory change.

EXECUTIVE OFFICE OF THE PRESIDENT

20-Feb-1996 06:59pm

TO: Jack M. Quinn

FROM: Elena Kagan
Office of the Counsel

SUBJECT: regulatory reform

I just spoke with Mike Fitzpatrick, who is Sally Katzen's assistant. Mike tells me that Sally will not ask Leon for another meeting; her view is that Leon already has told her what to do and that she's doing it. Mike also tells me that Wesley Warren, who is on Katie's staff, does not think another, more political meeting is necessary. And finally, I gathered from comments she made today that Kitty isn't going to do anything to upset what's been going on.

So if the political types are going to be brought in, as you indicated they should be, I think you're going to have to do something. You could (1) call such a meeting yourself, or (2) talk to Katie and/or Ron about doing so, or (3) do nothing. I think (2) makes the most sense. There's no good reason why the initiative here should come from the counsel's office, but someone should try to do something about this. It doesn't make much sense to have discussions with Levin about statutory language on judicial review of decisional criteria -- at least in the way we're having them -- if we either don't want any bill at all or don't want any bill that includes such language.

THE WHITE HOUSE
WASHINGTON
February 13, 1996

MEMORANDUM FOR JACK QUINN
KATHY WALLMAN

FROM: ELENA KAGAN *EK*
SUBJECT: REGULATORY REFORM UPDATE

As you know, at the end of last month, Sally Katzen raised the question whether the Administration should be participating in discussions on the Hill regarding regulatory reform. After a meeting with Leon, which was attended by Sally, Katie McGinty, Kitty Higgins, and representatives from selected agencies, a decision was made to establish contact with Levin and other Senate Democrats who are attempting to put together a regulatory reform bill capable of gaining bipartisan support.

The main players on the Democratic side in the Senate are Levin (whose efforts to craft a bipartisan bill Daschle has blessed), Johnston, and Robb. The latest word is that if one of them can draft legislation gaining bipartisan support in the Senate, the House may well give up on some of its more radical proposals and go along with the Senate's alternative.

Following the meeting with Leon, Sally convened an interagency group to provide input on the substance of the various legislative proposals. That group has spent many hours in the past two weeks reviewing and commenting on a draft bill from Johnston and draft provisions from Levin on decisional criteria and judicial review. Sally is communicating these comments to Levin's and Johnston's staff. Discussions with Levin's office, in particular, seem intense; partly in response to the Administration's comments, Levin's office has redrafted its proposed language several times in the last ten days.

The Levin provisions generally require an agency, in promulgating a major rule, to select an approach that it determines is likely to (1) employ flexible regulatory options; (2) either maximize net benefits or achieve benefits in a more cost-effective manner than alternatives; and (3) provide benefits that justify costs. The agency need not adopt such an approach if (1) otherwise required by law or (2) economic, scientific, or technical uncertainties make such a determination unfeasible and it is clearly in the public interest to issue a rule. A court may set aside a rule for failure to comply with the above-listed decisional criteria only if the agency's action, based on the rulemaking record as a whole, is arbitrary, capricious, or an abuse of discretion. A court may set aside a rule for failure to comply with the procedures mandated by the statute only if the failure to comply affected the agency's decision and this

decision is arbitrary, capricious, or an abuse of discretion.

Some agencies are extremely upset about this whole endeavor. EPA, Labor, Interior and at least the environmental section of DOJ believe that we are helping Congress to pass an undesirable bill. They think that we have gone beyond the point of providing technical assistance and are actively facilitating compromise legislation. They also believe that the draft bills, though better than what Congress has considered in the past, prevent agencies from considering appropriate factors and undermine protective standards. In their view, the White House effectively is abandoning a successful pro-environment message and providing the Republicans with an escape hatch from the mess they've gotten into. (DOJ also has objections to the process the White House used in making its decision to engage on the Hill. DOJ did not receive an invitation to the meeting with Leon and believes that its exclusion was deliberate.)

Sally would argue that Democrats on the Hill are working toward a regulatory reform compromise regardless what we say about it. On this view, we should try to improve the legislation now, so that we are not ultimately presented with a bipartisan bill that does real harm. She would say that this is all she is doing -- not encouraging or facilitating, but improving a near-inevitable legislative compromise.

My sense is that we may be doing too much. Do you have views?

THE WHITE HOUSE

WASHINGTON

February 14, 1996

MEMORANDUM FOR JACK QUINN
KATHY WALLMAN

FROM: ELENA KAGAN

SUBJECT: REGULATORY REFORM AGAIN

Sally held a meeting today of the working group set up to comment on the Levin and Johnston bills. A number of other, more political types attended (most notably, Ann Shields from Interior, John Dwyer from DOJ) and voiced objections to what Sally has been doing. The meeting was at times quite ugly; there's clearly a lot of distrust between Sally and some of the agency people.

First, one correction of yesterday's memo: Sally has met with Levin and his staff, but so far not with Johnston (or anyone else). Johnston, however, just recently asked Sally for a meeting, and Sally scheduled it for tomorrow. I take it that the prospect of this meeting, as much as anything else, prompted the agencies' current "uprising."

Sally tried to assure everyone at the meeting that she would tell Johnston little more than that his current bill failed to satisfy the Administration's "highbar" standard. She said she would not offer Johnston alternative language or engage in any kind of negotiation. In response to a question from Shields about the Administration's overall strategy, Sally said that we were maintaining the old highbar position while providing assistance to friends engaged in drafting legislation. Sally argued that this approach would prevent a repeat of the "securities bill nightmare" by making clear what the President would and would not accept and fixing what easily could be fixed.

Objections fell in four main categories. (1) Shields argued that we should not want any regulatory reform bill and should act to minimize the chance of any bill passing. Sally responded that this is "not where the President is." She represented the President as being in favor of responsible regulatory reform legislation, which would codify reforms undertaken through administrative action. (2) John Dwyer argued that given changes in the political context, favoring environmental regulation and disfavoring regulatory reform, we should at least consider setting the highbar even higher. (3) Some participants accepted the current highbar, but indicated some skepticism as to whether Sally's view of it coincided with their own and/or whether Sally was adhering to it. (4) Everyone at the meeting from the Justice Department objected to not being included in the critical meeting with Leon.

I recommend having a talk with Sally; after that conversation, we can determine whether another, bigger meeting with Leon is called for.

Curb call 2/14/96

Treas S. Matthews
E. Olson / G. Frazer
Dwyer / Media
Harris / Richardson
Thumm / Burke
Susman / Lee
Eimer
Diaz / Linington
VA -
EPA - Robertson / Guzy
OPM
Shedley - Ed

Higgins - 3 levels

Lein - principals as needed

Hil / Katz - curb call COPS - 1x wk
neg mtgs - technical details of lg.

Issue divides agencies

McC / J. Hilley met w/ Sen J. today.

Katzen -

J. says he's circ. his draft to all his SPS.

All signed on

Said we had substantial concerns / difficulties.

He said Lein effort - grinding to halt.

He said there will be bill - expect votes for closure

(still whiny tho)

→ don't we want to make bill as good as poss.

Left open.

Surprised by how neg. we are.

" v. jud. enforceable decisional criteria

by concern on

We said - hard to think. No admin pos on substance / tactics.

But he knew we didn't find his bill acceptable

Katzen continued -

House side - nervous - mly. Early March??
45 day layover / JR of rej flex / look back w/ sunset (terrible)
↳ can't get thru for.

Threat to Senate? Work on comprehensive bill.

Things will look very diff on 2 sides.

BT again - lots of pieces he has no investment in.
But decis crit / JR - he was stymied.

Guzy - What is next step?

Hard to know

Don't want to be proactive - cause thing to move
faster.

BT asked - at least when closure vote came,
we should come to table.

Keep close in touch.

Higgins - raise now or forever hold your peace.

As things described, { Shields
OK - { Suro
investigation { Guzy
tracking bar { Labor
not facilitating

Guzy - how much more w/ Levin?

Kitty - continue to provide tech assistance.

not proposing or negotiating

but not idle exercise. Some want to move fwd.

Cleaning up stuff / indicating what's objectionable

Walking fine line.

Gary Gury phone call 2/14

It's request -

Has to happen by Thursday

(he's headed out of town)

Why not wait?

"Looks like we're negotiating"

Cal Aff - copied a call
Kathy, Sally, Kevin Thomas (HHP)
EPA.

Edward says consensus
They said - wait to go forward.

At least - make sure she
says what she's saying.
Today - synthesis.

Agency Rep Ret Mtg 2/16

S. Katzen mtg w/ B Johnson
Reiterate his bar position
say his draft doesn't pass.

No change in strategy / substance

Shields - what is the strategy?

SK - I favor reg w/ EPA
EO -

- Assis hard to handle
- High bar

will support by - embodying such princ.
But not if excessive costs
his bar principles -

Provide assis to Levin (a/ blessing of Dashi)
Johnson - no assis / revert to his bar.

See litig - easily fixed early.
Don't let this happen again.

Shields - we're winning battle now!
why go backwards?

SK - If it's mainly, we have to make clear what's
unacceptable. w/ to
- That's what a POS is.

Dith p. has dith reads on whether there will be Lill.
If we get one - + he hasn't made his views
known - then we're in an imposs position.

DOT - Haven't been involved in policy discussions

Tmrow 4:30 - Conf calls on strategy - C of Staff

John Dwyer - Maybe his bar should have changed.

SK - to talk w/ J. Schmidt

BO - Are you questioning our old hi bar?

SK - Not a lot of space between
with bar

no legislative
Anything the least bit troublesome to
everyone was put w/in the high bar.

AS - Our preference - keep w/ admin changes.
No bill.
We've taken care of problem.

SK - Then bar to go back to Ceira.

Not where Pros is.
Then ags have advocated capitalizing
in which we have done by seeing
it embodied in a bill.

SK to GG - Not told Ceira what Admin position
is in his draft.
Just said what problems in C's
bill are.

Telex -
Jim Simon
Rep. Reform

66 - ² - Levin bill - what are you saying?
Blow up at me.
Disinstruct me
Go to CP - tell him I should respond.

4:30 - Johnston
Jim Simon

Levin - below the high bar.

HP - very mushy.
Principles -
What is the high bar,
in terms of details.

Mr. Paul Allaire
Chairman and Chief Executive Officer
Xerox Corporation
Post Office Box 1600
Stamford, Connecticut 06904

Could be good bill.
Don't repeat acc
Must be engaged to some degree.
But very loose -
Repubs are in a hole
Don't encourage.

Dear Paul:

I know my veto of the securities litigation bill disappointed you. As you know, I strongly supported the basic legislation, and was not aware of the pleading changes that were made in the conference until the bill reached my desk at which time I received a number of letters from legal experts (not identified with the plaintiff's bar) who stated that the new pleading rules would keep clearly meritorious cases out of court.

When a lawyer I respected called me to lobby for the bill, I asked a simple question: would a person with a claim that every high-tech executive in America agreed should go to court be able to get his case to court under this law? The lawyer paused and finally said, "if he gets a good judge."

The ^{modifications} changes I sought were simple, ^{changes} and would not have weakened the bill since the ~~modification~~ to the pleading rules I objected to (plus the managers' statement on these rules) were not in the Senate or House bill. In fairness to the bill's supporters, we did not raise this issue in conference because we were unaware of it. At any rate, the bill is now law, and we must hope that the benefits it brings are not tarnished by the problems I feared.

You are a good friend whose counsel I have always valued. There is a large agenda of critical issues ahead of us, and I hope we will be able to work on them together.

Sincerely,

raised.

BC/TS/ckb-emu (2PGRP)
(Allaire.ltr)

Xeroxed copy of signed original to NH thru Todd Stern

CLEAR THRU TODD STERN

PRESIDENT TO SIGN

Lois Schifler -

Settlement on Tampus!

(Industry won't agree.)

Fair cut of timber on loan under injunctio

↳ 92 mb f.

(46 already under R)

Rey return - disaster

Understand need to talk if he's asked

But shouldn't be pressing!

And No JP.

Primer
Primer
Graham
Sally
Mica
Tara Gray

Glynn-Lin

facilitating a
response

providing
technical assistance → negotiable
collaborative process.

why are we helping?

→ to find a way out of mess
Repulse got into

being an issue.

msg. has been great -

why are we giving up on this?

3 new stories - business fleeing from Dole bill.
lots of mvt in fence. H. increased eager to move.

Interview
HHS

As admin. we should want to
see.

Sally - some kind of response RT by is very positive
(Commerce)

No appetite for their
purviews

getting better, but ...

unrec. prescriptive

restrict kinds of factors

to take into acct

undermine protective stps

tie up 's

Decision - to provide technical assistance
be responsive, but not negotiate

Sally Katsen - House of Rep mts

Feb 16 draft - already out of date
cobbling together of lots of pieces

New - just 2 pieces

T. II + III are gone.

Reg Flex - 3 Things to be aware of

- S of L

- effective or publication date

Cong. Review (passed for 98-0)

- 60 days (for - 45 days)

- Retroactivity date

Ad Review -

- Def of major rule? - Also, includes interpretive rules. Impose to categorize.
non-numericals?

- All other rules also covered! Any rule anyone has a
schedule impossible problem w/ for any
reason.

No way this can be done unless a team. This kind of lobbying is insane. Also Cong politics
Have NOT met my concerns
Endless process - need get done, have to start
all over again.

(12-year sunset)

Guidance included - non-numeric guidance!

James M -

we've got lots of prob. w/ this.

Do Dems need cover?

Can we just say no?

Others - need some thing? Push for a substitute?

↳ tell us.

Hunt - need a SFP - need it as early as poss.
otherwise have 150 Dem. on the bill

James - can't do till see lined bill.

supposed to be the same set of understandings to which we have always subscribed. This exercise, of course, will allow some, though not a full, debate of substantive positions.

In a conference call with agency Chiefs of Staff yesterday, Sally and Kitty announced this "rescrubbing" exercise and asked the Chiefs to designate a person (by Thursday) who would communicate the agency's views on the exact content of our highbar principles. But Mike Fitzpatrick, Sally's special assistant, has told me that Sally intends to rule off the table many comments that we know the agencies will make (for example, on judicial review of decisional criteria) on the ground that they are simple efforts to raise (not rescrub) the highbar.

Several of the agencies are incensed. I got calls from EPA and Justice yesterday, once more expressing the view that the White House is taking the wrong approach on this issue -- and that it is failing to take account of the views of the affected agencies. There is, as I've noted, a lot of distrust of Sally's goals -- a feeling that she actively wants a bill as a "legacy."

We may not have much time on this issue. The latest word is that a new House bill will go to the floor next week. This will put pressure on the Senate to do something on the subject. So the congressional train is moving out of the station.

It seems to me that we are now in a terrible place. First, Ron's arguments that we really shouldn't want a bill seem right to me, and everything we are doing makes a bill more likely. Second, we may be repeating the securities fiasco (ironically, in an effort to prevent it) by sending signals that are directly opposed to where the President ultimately comes out on the issue. (The question here is whether the President will end up where the Vice President is or where Leon is; if the former, we will have misled everyone.) Third, we are making the affected agencies very unhappy (for, it seems to me, no very good reason), as to matters of both substance and process.

I'm not quite sure how to turn this around (should you wish to do so); let me know if you have any ideas.

THE WHITE HOUSE

WASHINGTON

February 28, 1996

MEMORANDUM FOR JACK QUINN
KATHY WALLMAN

FROM: ELENA KAGAN *EK*
SUBJECT: REGULATORY REFORM

As we discussed briefly this morning, the Monday evening meeting that Leon held on regulatory reform reaffirmed the Administration's current strategy on the issue. This strategy seems misguided for several reasons.

The meeting was essentially a debate between Ron and Leon, with George taking Ron's part but not asserting himself very forcefully. Ron argued that the political context has changed since we articulated our views on a regulatory reform bill; that what we asked for then should not be the same as what we ask for now; that we should set the "highbar" in a place where Congress won't meet it; that we should stand on our own (administrative) record of regulatory reform. Leon argued that we should want a good bill; that we should reach toward the middle on this issue; that we can't put ourselves in the position of vetoing or otherwise obstructing securities, product liability, and regulatory reform.

The decisions Leon made at the end of the meeting basically continue the current strategy. He stated unambiguously that we should keep our "highbar" where it is -- that we should not raise it in response to new political realities. He instructed Sally to keep consulting with -- and providing "technical assistance" to -- Senator Levin and his staff regarding the content of the Levin bill. He agreed to have a meeting with Levin. He said several times that if Congress presented us with a bill that came 90% of the way to our highbar, we should willingly and happily accept it. Meantime, Sally clearly believes that the Levin bill is very near to this 90% figure.

Two proposals that Leon accepted, however, may provide some opportunity to shift ground on this issue. First, Leon agreed that John Hilley would speak with the Democratic leadership to find out what it really wants on this issue. Ron thinks that the leadership may now believe that a reg ref bill is a Republican victory; on this view, the leadership, in encouraging Levin's efforts, may only be responding to its perception of the White House position. John Hilley is going to try to get a read on this matter. Second, Leon agreed that the Administration should "rescrub" (not raise) the highbar by reviewing and then articulating exactly where it is. The idea here is to get everyone to agree to a common set of understandings, which is

supposed to be the same set of understandings to which we have always subscribed. This exercise, of course, will allow some, though not a full, debate of substantive positions.

In a conference call with agency Chiefs of Staff yesterday, Sally and Kitty announced this "rescrubbing" exercise and asked the Chiefs to designate a person (by Thursday) who would communicate the agency's views on the exact content of our highbar principles. But Mike Fitzpatrick, Sally's special assistant, has told me that Sally intends to rule off the table many comments that we know the agencies will make (for example, on judicial review of decisional criteria) on the ground that they are simple efforts to raise (not rescrub) the highbar.

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I'm not quite sure how to turn this around (should you wish to do so); let me know if you have any ideas.

Swiftest way to disaster - projects w/ no image

Reg Ret Cust call 2/27/96

Not moving the high bar - Levin unequivocal
Scrubbing the hi bar - "define exactly what we want"
done by political types - SP
designated by Thursday's N/S call

Then - determine whether large rises to the bar
That's where subor SP plays critical role

Levin wants to meet w/ Leen
Hilley talking to Demo caucus

Lots of rumors - all untrue
no change in position
giving tech assist to Levin
maintaining contact w/ Paschle

Levin thinks he has met Admin's objections to those issues.

Don't have most recent version
[big problem - uncertainty language.]
Don't know what's happened to this.

Timing - quite fast, bc House is moving forward.
Will put pressure on what's going on in Senate.
House bill - floor next wk.

Sally may be asked to talk to Demo staff
tomorrow 1:30 - we're invited.

Copies available tomorrow.

5 components

ref flap -

ref impact analysis - no dec. criteria / JR as
part of rulemaking analysis as a whole

risk prioritization / no JR

lookback - lots of probs

emp. layover.

Distributed by
C&D APs

Sith Harris - what are we recommending

"Issues of concern" // ~~May 21, 1996~~

letter to DOE

ASP 7/10/96

Baldwin

Blinded - reactive
Doing it Thursday

Principles all along
were not missing

Yes - IR of DC

override, but not
modify

All need to know about their
issues are/was deals w/ them.

Seen large
Telecom's unit

TRM
whole AFA sect - not
look back - advice unit
↳ no political process.

Ray Rehm

Levin wants to meet w/ Panetta

He has opt-in - business community

↓
DC/IR

Levin: how far there

75% of the way there

Rehm: new pol. reality

asked for them / ask for them

not the same

Rehm: rescrubs our subst priority -

Levin - subst p. hard to negotiate - figure out when

everyone's conf.

90% of where we are now

Want a good bill

Rehm - Look where bar should be

If in rt place, they won't meet

Stand on own record of resp. ref.

Wilkey - The bar has to be set w/ political, constituency interests

Levin - Veto res, prod, resp ref !!

Katzen - Influence in shaping

THE WHITE HOUSE
WASHINGTON
COUNSEL'S OFFICE

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

MEMORANDUM FOR DISTRIBUTION

FROM: Sally Katzen *Sally Katzen*

DATE: January 26, 1996

SUBJECT: Revised Corrections Day Chart

Slender

Attached is a revised version of the Corrections Day chart we circulated two weeks ago. Updated versions will continue to follow every two weeks. If you have any questions or comments, please call me at 5-4852.

Distribution:

Pat Griffin
Alexis Herman
Mike McCurry
Jack Quinn
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Laura Tyson
John Angell
Martha Foley
Barry Toiv
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Elaine Kamarck
Katie McGinty
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Greg Simon

DRAFT

HOUSE CORRECTIONS DAY

Revised 1/25/96

DATE	BILL NUMBER	PURPOSE	HOUSE VOTE	SENATE ACTION	ADMINISTRATION POSITION
July 25, 1995	H.R. 1943 San Diego Coastal Corrections Act of 1995	H.R. 1943 grants San Diego permanent exemption from secondary treatment requirements for wastewater (Clean Water Act)	Passed 269-156	Referred to Senate Envir. & Public Works Comm. (7/26/95)	SAP opposing H.R. 1943 because bill was unnecessary, scientifically unsound, and contrary to good public policy -- San Diego had already been granted preliminary approval of waiver from Clean Water Act
Oct. 10, 1995	H.R. 436 Edible Oil Regulatory Reform Act	H.R. 436 requires agencies to differentiate between petroleum and animal and vegetable oils when issuing rules or enforcing any regulation (FDA and FSIS exempted)	Passed by voice vote	Passed by voice vote (11/2/95)	SAP stating that the Administration has no objection to passage of H.R. 436 [Signed by POTUS (11/20/95)]
Oct. 24, 1995	H.R. 782 Federal Employee Representation Improvement Act	H.R. 782 allows federal employees to represent the views of employee organizations (e.g., credit unions, child care centers) before governmental agencies	Passed by voice vote	Referred to Senate Judiciary Comm. (10/25/95); may also be referred to Gov't Affairs Comm.	SAP supporting H.R. 782

Oct. 24, 1995	H.R. 1114 Fair Labor Standards Act Exemption	H.R. 1114 permits minors covered by the Fair Labor Standards Act to load materials into balers and compactors that meet certain design standards	Passed by voice vote	Referred to Senate Labor & Human Resources Comm. (10/25/95)	The Administration did not issue a SAP on H.R. 1114
Oct. 24, 1995	H.R. 117 Senior Citizens' Housing Safety and Economic Relief Act of 1995	H.R. 117 provides public housing authorities with greater discretion to prevent persons with drug or alcohol problems from living in public housing projects designated for occupancy by the elderly	Passed 415-0	Referred to Senate Banking Comm. (10/25/95)	SAP generally supporting the goals of H.R. 117 but setting forth several concerns
Nov. 14, 1995	H.R. 2366 Repeal of Unnecessary Medical Device Reporting Requirement	H.R. 2366 repeals the Cardiac Pacemaker Registry established under the Social Security Act because it overlaps with a more comprehensive reporting system mandated by the Food, Drug, and Cosmetic Act	Passed by voice vote	Referred to Senate Finance Comm. (11/15/95)	SAP supporting H.R. 2366
Nov. 14, 1995	S. 790 Federal Reports Elimination and Sunset Act of 1995	S. 790 eliminates over 150 reporting requirements for executive agencies and modifies or streamlines over 60 more (the 1978 Inspectors General Act and the 1990 Chief Financial Officers Act, which address waste, fraud, abuse, and other management issues, are exempted)	Passed by voice vote (11/14/95 & 12/7/95)	Passed by voice vote (7/17/95 & 12/6/95)	The Administration supports S. 790, but issued no SAP before the House vote because the bill had already passed the Senate [Signed by POTUS (12/21/95)]

Nov. 28, 1995	H.R. 2519 Philanthropy Protection Act of 1995	H.R. 2519 is intended to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws (related to H.R. 2525 below)	Passed 421-0	Passed by voice vote (11/29/95)	The Administration did not issue a SAP on H.R. 2519 [Signed by POTUS (12/8/95)]
Nov. 28, 1995	H.R. 2525 Charitable Gift Annuity Antitrust Relief Act of 1995	H.R. 2525 modifies the operation of antitrust laws, and similar state laws, with respect to charitable gift annuities to allow several charities to agree to use the same discount rate in making payments under charitable gift annuities	Passed 427-0	Passed by voice vote (11/29/95)	The Administration did not issue a SAP on H.R. 2525 [Signed by POTUS (12/8/95)]
Dec. 12, 1995	H.R. 1787 Amendment to the Federal Food, Drug, and Cosmetic Act	H.R. 1787 amends the Food, Drug, and Cosmetic Act by repealing the saccharin notice requirement	Passed by voice vote	Sent to Senate (12/12/95); not currently referred to committee	SAP stating that the Administration has no objection to passage of H.R. 1787
Dec. 12, 1995	H.R. 325 Amendment to the Clean Air Act	H.R. 325 amends the Clean Air Act to allow states subject to the Employee Commute Options program (ECO) to design alternative methods of achieving required emissions reductions to those mandated by ECO itself	Passed by voice vote	Passed by voice vote (12/13/95)	The Administration did not issue a SAP on H.R. 325 [Signed by POTUS (12/23/95)]

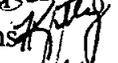
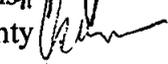
Jan. 23, 1996	H.R. 2567 Constructed Water Conveyances Reform Act of 1995	H.R. 2567 waives, in certain circumstances, the Clean Water Act requirement that States establish "designated uses" when setting pollution standards for "constructed conveyances" (manmade water systems such as canals, dikes, irrigation systems)	Passed by voice vote	Referred to Senate Envir. & Pub. Works Comm. (1/24/96)	SAP stating Administration would support H.R. 2567 if its scope were narrowed to minimize potential impacts on water quality
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THE WHITE HOUSE

WASHINGTON

JAN 23 1996

MEMORANDUM FOR LEON PANETTA

FROM: Sally Katzen 
Kitty Higgins 
Katie McGinty 

SUBJECT: Reg Reform Legislation

Toward the end of last year, we found ourselves in a position where it appeared likely that the Senate would not pass any reg reform legislation. The Administration articulated a "high bar" we would insist upon before we could sign a bill. The end result was that the session finished without any legislation. That was last year.

This year, the landscape has shifted somewhat, with forces on both sides of the aisle pushing towards some type of bill. Senate Democrats have continued drafting, meeting with each other (as well as outside groups, principally business), and redrafting. And the Republicans have again made reg reform one of their major agenda items for the year (see Lott's recent remarks to the Chamber of Commerce). In light of this activity, and the belief that there is a strong possibility that there will be a bill this year, we need to decide what our role should be. The main players on the Democratic side are Levin, who is working with Daschle's blessing to craft a bipartisan bill that can get a large number of Democratic votes; Johnston, who is attempting to reestablish himself as the Democratic point man on the issue (and is in close contact with business); and Robb, who is speaking with both and has never abandoned his desire for a bill.

We've had several meetings within the complex, and with the chiefs of staffs of the most affected agencies, to discuss the following questions:

- Should we be engaged in the discussions?
- If so, at what point, in what manner, and to what end?

Sally, who has the lead on substance, has an interagency group in place that provides input. Before we move along this path, however, we need a high level decision on these threshold questions. Given the agencies' reaction to last year's decision-making process, it is important to provide a meaningful opportunity for cabinet members or under-secretaries from the most affected agencies to provide their input before you or the President makes a final decision. There are real and strongly held differences of opinion on the threshold questions. Accordingly,

we suggest that you have such a meeting, at which you should solicit their views of the political situation (and the strategies that flow from this) as well as what they think are the two or three most important substantive points for their agencies (for example, the petition process, decisional criteria, and judicial review have been our most important issues).

Recommendation:

We should have a meeting

We should not have a meeting

Let's discuss

CC: Alice Rivlin
Laura Tyson/Ellen Seidman
Pat Griffin/Tracey Thornton
Jack Quinn/Elena Kagan
Joe Steiglitz/Mike Toman
Jack Gibbons/Tim Newell
Ron Klain/Linda Lance
Mike Fitzpatrick
Wes Warren
Kris Balderston