



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

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

MAY - 4 REC'D

File:

MAY 2 1994

*Regulatory
Review*

MEMORANDUM FOR THE REGULATORY POLICY ADVISORS

FROM:

SALLY KATZEN *SKatzen*

SUBJECT:

REPORT ON EXECUTIVE ORDER NO. 12866

On September 30, 1993, the day the President signed Executive Order No. 12866, "Regulatory Planning and Review," he issued a memorandum directing me to monitor OIRA's activities over the next six months and report on those activities by May 1, 1994. Attached is a copy of the report that I submitted to the President and Vice President yesterday.

The Executive Summary condenses to its essence this lengthy report. However, if you have any additional time for this subject, I encourage you to look at Chapter IV of the report (pages 43-50), which is a discussion of issues that may warrant further consideration.

I welcome any comments you have.

Attachments

May 1, 1994

REPORT ON EXECUTIVE ORDER NO. 12866

EXECUTIVE SUMMARY

On September 30, 1993, President Clinton signed Executive Order No. 12866, "Regulatory Planning and Review." On that same day, he issued a memorandum directing the Administrator of OMB's Office of Information and Regulatory Affairs to "monitor [her] review activities over the next six months and, at the end of this period, to prepare a report on [her] activities." OIRA's Report covers the implementation of Executive Order No. 12866 from October 1, 1993, through March 31, 1994.

As set forth in greater detail in the report, implementation of the new Executive Order is well underway. At this point, we are beginning to see some of the changes that were envisioned in the Order. We have, however, encountered greater delays than anticipated in implementing some aspects of the Order. And some of the processes established by the Order, while initiated on schedule, are still in the formative stages. As a result, it is too early to arrive at a final judgment regarding the success of the new system; however, the early indications are that there is substantial improvement in the rulemaking process.

Executive Order No. 12866 clearly articulates President Clinton's regulatory philosophy and his view of how the nation's regulatory system should work. Most fundamentally, as the Order states in its opening lines:

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best

engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable.

A number of themes run through the Order. Within the Executive Branch, it encourages cooperation and coordination among OMB and the agencies. With respect to the public, it emphasizes openness and early involvement by all of the interested entities, including particularly State, local, and tribal participation in the rulemaking process.

The Order reaffirms the primacy of the agencies in the regulatory decision-making process and sets forth principles to which they are to adhere, to the extent permitted by law, when developing rules. At the same time, the Order reaffirms the legitimacy of centralized review. The process established for centralized review distinguishes between significant and non-significant regulatory actions so as to focus OIRA's review activities on where there will likely be the most benefit. It also emphasizes sound and timely analysis, early and frequent consultation, and it reduces delay and removes secrecy in the review process by establishing time limits and disclosure requirements.

Many of the objectives of the Order have begun to be realized. Regarding cooperation and public involvement, one of the major changes during the six-month period is the improved relationships that have been developed between OIRA and the agencies. While remnants of the mistrust and hostility that often characterized relationships between the career staffs over much of the past decade still exist, for the most part this has been replaced with a spirit of cooperation.

Much of the credit for the improved environment goes to the newly created Regulatory Policy Officers (RPO), high level agency officials who represent the agency head in efforts to implement the Order and improve the regulatory process. The RPOs work together in the Regulatory Working Group (RWG) -- chaired by the OIRA Administrator and attended by the White House Regulatory Policy Advisors -- which meets regularly to discuss regulatory issues. The RWG has proven to be a useful forum not only for discussion of ideas and the exchange of best practices, but also for coordinating regulatory activities that affect more than one agency.

Regarding public participation, agencies appear to be making efforts to engage the public earlier and more fully in the regulatory process. For its part, OIRA has held two conferences (and is planning a third) with representatives of State, local, and tribal governments to improve the consultation process between them and Federal regulators. OIRA has also taken steps to improve the participation of the small business community in the rulemaking process. OIRA joined the Small Business Administration (SBA) to sponsor a Small Business Forum on Regulatory Reform in March 1994 to discuss how the regulatory process can better address the special needs of small businesses.

With respect to the objectives of selectivity and timeliness, OIRA received and reviewed 578 regulatory actions from October 1, 1993, through March 31, 1994. (See Table 1 and Appendix A of the report.) The 578 rules received and reviewed by OIRA for the six-month period is approximately half what it was for comparable periods in previous years. The number of rules under review at any given time has also shown a significant decline. For example, on July 1, 1993 (three months before the Executive Order was signed), 254 regulations were under review; on March 31, 1994 (six months after the Executive Order was signed), 68 rules were under review.

These figures reflect a longer than anticipated start-up period during which many non-significant rules continued to be sent to OIRA for review. This is a result of difficulties some agencies have had in instituting internal systems to manage the listing process that is to distinguish between significant and non-significant regulatory actions. Where the process has been implemented it has been helpful.

In total, OIRA has received lists designating 1,624 regulatory actions as significant or non-significant. (These rules would not all be rules reviewed during the six-month period -- and hence they all do not appear on Appendix A -- because, if they are non-significant, they would not have been submitted for review, and even if they are significant, they may not have been ready to be submitted for review and reviewed during the period covered by the report.) Of the 1,624 regulatory actions, almost two-thirds were designated non-significant, one-third significant; specifically, agencies designated (and OMB agreed) that 1047 (or 64%) were non-significant; 316 (or 19%) were designated by the agency as (and OIRA agreed that they were), significant; and the remaining 261 (or 16%), were designated significant by OMB. Stated another way, the agency and OMB agreed with the initial designation for 83% of the regulatory actions; in only 16% was there a difference of view.

The definition of "significant" regulatory action has been the source of much discussion both within agencies and departments and between OIRA and the agencies (and it has been at least a partial source of the start-up delays we have experienced). Some of the differences may be attributable to the difference in the natural inclinations of rule writers, who might prefer not to have another review layer to go through, and the natural inclinations of reviewers, who might prefer to see more, rather than fewer rules, to ensure that everything that should be reviewed is reviewed. In any event, we have found that the

number of instances where there is an initial difference of opinion as to significance decreases (sometimes substantially) with the agencies' increased experience with the process. In some cases, it is simply a function of the agencies' not knowing how much information to provide to enable OIRA to agree that the regulation is non-significant. In other cases, the agencies and OMB discuss the reasons for their different judgments so that the staffs come to an understanding and agreement on the definition of significance.

With respect to timeliness, the Executive Order establishes strict time limits on OIRA review -- in most cases 90 days -- to balance the need for adequate time to conduct review with the need to streamline the regulatory process and prevent unwarranted delay. OIRA has made a concerted effort to meet not only the letter of this requirement, but its spirit as well, and this goal of the Order is clearly being accomplished. Of the 578 rules received and reviewed between October and March, only three were extended beyond the 90-day limit. Each of these rules was extended at the request of the regulating agency to permit completion of interagency reviews that were in fact concluded in less than three weeks after the extension was requested.

In addition, the Order establishes disclosure requirements for both OIRA and the agencies to increase openness, accessibility, and accountability. On July 1, 1993, as one of her first actions, the OIRA Administrator began making available a daily list of draft agency regulations under review at OIRA. This was done in order to remove the stigma of secrecy that had previously characterized regulatory review, and to make the review process more transparent. In addition, lists and statistics related to regulatory review for each month are compiled and made available by early the following month. Meetings and telephone calls with persons outside the Executive Branch on regulations under review are now logged, and these logs

are made publicly available. And other material related to regulatory review is kept in a public file, forwarded to the agencies, or made available upon request, in accordance with the Order. These various disclosure procedures are working well and have helped restore the integrity of the regulatory review process.

Two aspects of the Executive Order -- the regulatory planning mechanism and review of existing regulations -- are not covered in detail in the report, because although both are underway and on schedule, it is too early to judge their success. The regulatory planning process began with an agencies policy meeting held in early April and guidance on the process issued by the OIRA Administrator immediately after the meeting. This began the planning cycle that will result in the publication of the Regulatory Plan in October 1994. Regarding review of existing regulations, agencies submitted to OIRA in late December their plans for review of existing regulations. Several of the agencies have published notices requesting the public to suggest candidates for review. These and other approaches to reviewing existing regulations are being discussed within the RWG, and further action is planned.

In the memorandum from the President, we were asked to identify any provisions of the Executive Order that should be changed. As noted above, it is premature to make specific recommendations. We have, however, identified a number of issues that warrant further consideration and that ultimately may require changes to the Executive Order, its implementation by OIRA, or both.

* * *

The importance of regulations in our society makes it imperative that the process by which they are developed and

reviewed be characterized by integrity and accountability. During the first six months of Executive Order No. 12866, we have made major strides toward these goals. We have moved the regulatory process from one criticized for delay, favoritism, and secrecy to one that is principled, professional, and productive. Much remains to be done, but we have made a strong beginning.

May 1, 1994

REPORT ON EXECUTIVE ORDER NO. 12866

On September 30, 1993, President Clinton signed Executive Order No. 12866, "Regulatory Planning and Review" (attached). On that same day, he issued a memorandum directing the Administrator of OMB's Office of Information and Regulatory Affairs (OIRA) to "monitor [her] review activities over the next six months and, at the end of this period, to prepare a report on [her] activities" (attached). The President also directed that "[t]he report . . . identify any provisions of the order that, based on [her] experience or on comments from interested persons, warrant reconsideration so that the purposes and objectives of this order can be better achieved." He directed that this report be submitted to the Vice President and the President by May 1, 1994, and be published in the Federal Register.

This report will describe and comment on what has occurred during the first six months of implementation of Executive Order No. 12866 (from October 1, 1993, through March 31, 1994), and will identify issues that could lead to suggested changes in the future. Although six months is a short time to bring about the fundamental changes in the Government's regulatory process envisioned by the Executive Order, the outlines of the new system have clearly begun to emerge. In some cases, we can point to unqualified successes; in others, we have encountered unexpected difficulties in implementing the system. To a large degree, it is too early to assess the success of the new system.

This report consists of four chapters. The first section introduces the subject with a brief history of the major regulatory programs of the U.S. Government and a general discussion of the nature of regulation. The second chapter describes the Clinton Administration's regulatory philosophy and

the objectives of Executive Order No. 12866. The third section describes the implementation of the Executive Order during the first six months. The fourth section comments generally on issues raised as a result of our experience or from comments received from agencies and members of the public.

I. HISTORY OF THE REGULATORY PROGRAMS OF THE U.S. GOVERNMENT

The Federal Government affects the lives of its citizens in a variety of ways -- through taxation, spending, grants and loans, and through regulation. Over time, regulation has become increasingly prevalent in our society, and the importance of our regulatory activities cannot now be overstated.

The History of Major Regulatory Programs.

Federal regulation as we know it began in the late 19th century with the creation of the Interstate Commerce Commission, which was charged with protecting the public against excessive and discriminatory railroad rates. The regulation was economic in nature, setting rates and regulating the provision of railroad services. Having achieved some success, this administrative model of an independent, bipartisan commission, reaching decisions through an adjudicatory approach, was used for the Federal Trade Commission (1914), the Water Power Commission (1920) (later the Federal Power Commission), and the Federal Radio Commission (1927) (later the Federal Communications Commission). In addition, during the early 20th century, Congress created several other agencies to regulate commercial and financial systems -- including the Federal Reserve Board (1913), the Tariff Commission (1916), the Packers and Stockyards Administration (1916), and the Commodities Exchange Authority (1922) -- and to ensure the purity of certain foods and drugs, the Food and Drug Administration (1931).

Federal regulation began in earnest in the 1930s with the implementation of wide-ranging New Deal regulatory programs.

Some of the New Deal economic regulatory programs were implemented by the Federal Home Loan Bank Board (1932), the Federal Deposit Insurance Corporation (1933), the Commodity Credit Corporation (1933), the Farm Credit Administration (1933), the Securities and Exchange Commission (1934), and the National Labor Relations Board (1935). In addition, the jurisdiction of both the Federal Communications Commission and the Interstate Commerce Commission were expanded to regulate other forms of communications (e.g., telephone and telegraph) and other forms of transport (e.g., trucking). In 1938, the role of the Food and Drug Administration was expanded to include prevention of harm to consumers in addition to corrective action. The New Deal also called for the establishment of the Employment Standards Administration (1933), and of Social Security (1933) and related programs.

A second burst of regulation began in the late 1960s with the enactment of comprehensive, detailed legislation intended to protect the consumer, improve environmental quality, enhance work place safety, and assure adequate energy supplies. In contrast to the pattern of economic regulation adopted before and during the New Deal, the new social regulatory programs tended to cross many sectors of the economy (rather than individual industries) and affect industrial processes, product designs, and by-products (rather than entry, investment, and pricing decisions).

The consumer protection movement led to creation in the newly formed Department of Transportation of several agencies designed to improve transportation safety. They included the Federal Highway Administration (1966), which sets highway and heavy truck safety standards; the Federal Railroad Administration (1966), which sets rail safety standards; and the National Highway Traffic Safety Administration (1970), which sets safety standards for automobiles and light trucks. Regulations were also authorized pursuant to the Truth in Lending Act, the Equal

Credit Opportunity Act, the Consumer Leasing Act, and the Fair Debt Collection Practices Act. The National Credit Union Administration (1970) and the Consumer Product Safety Commission (1972) were also created to protect consumer interests.

In 1970, the Environmental Protection Agency was created to consolidate and expand environmental protection programs. Its regulatory authority was expanded through the Clean Air Act (1970), the Clean Water Act (1972), the Safe Drinking Water Act (1974), the Toxic Substances Control Act (1976), and the Resource Conservation and Recovery Act (1976). This effort to improve environmental protection also led to the creation of the Materials Transportation Board (1975) (now part of the Research and Special Programs Administration in the Department of Transportation) and the Office of Surface Mining Reclamation and Enforcement (1977) in the Department of the Interior.

The Occupational Safety and Health Administration (1970) was established in the Department of Labor to enhance work place safety. It was followed by the Mining Enforcement and Safety Administration (1973), now the Mine Safety and Health Administration, also in the Department of Labor. The Pension Benefit Guaranty Corporation was directed to administer pension plan insurance systems in 1974.

Also in the 1970s, the Federal Government attempted to address the problems of the dwindling supply and the rising costs of energy. In 1973, the Federal Energy Administration (FEA) was directed to manage short-term fuel shortage. Less than a year later, the Atomic Energy Commission was divided into the Energy Research and Development Administration (ERDA) and an independent Nuclear Regulatory Commission. In 1977, the FEA, ERDA, the Federal Power Commission, and a number of other energy program responsibilities were merged into the Department of Energy and the independent Federal Energy Regulatory Commission.

Another significant regulatory agency, the Department of Agriculture (1862), has grown over time so that it now regulates the price, production, import, and export of agricultural crops; the safety of meat, poultry, and certain other food products; a wide variety of other agricultural and farm-related activities; and broad-reaching welfare programs. Agriculture regulatory authorities have changed over time, but now include the U.S. Forest Service (1905), the Farmers Home Administration (1921), the Soil Conservation Service (1935), the Agricultural Stabilization and Conservation Service (1961), the Food and Nutrition Service (1969), the Agricultural Marketing Service (1972), the Federal Grain Inspection Service (1976), the Animal and Plant Health Inspection Service (1977), the Foreign Agricultural Service (1974), The Food Safety and Inspection Service (1981), and the Rural Development Administration (1990).

The consequence of the long history of regulatory activities is that Federal regulations now affect virtually all individuals, businesses, State, local, and tribal governments, and other organizations in virtually every aspect of their lives or operations. Some rules are based on old statutes; others on relatively new ones. Some regulations are critically important (such as the safety criteria for airlines or nuclear power plants); some are relatively trivial (such as setting the times that a draw bridge may be raised or lowered). But each has the force and effect of law and each must be taken seriously.

The Nature of Regulation.

It is conventional wisdom that competition in the marketplace is the most effective regulator of economic activity. Why then is there so much regulation? The answer is that markets are not always perfect and when that occurs, society's resources may be imperfectly or inefficiently used. The advantage of regulation is that it can improve resource allocation or help

obtain other societal benefits. For example, consider the following situations:

- Certain markets may not be sufficiently competitive, thus potentially subjecting consumers to the harmful exercise of market power (such as higher prices or artificially limited supplies). Regulation can be used to promote competition (for example, removing barriers to entry) and to ensure that firms engage in fair trade practices such as the sale of dangerous substances.

- In an unregulated market, firms and individuals may impose costs on others -- including future generations -- that are not reflected in the prices of the products they buy and sell. They may pollute streams, cause health hazards, or endanger the safety of their workers or customers. Regulation can be used to reduce these harmful effects by prohibiting certain activities or imposing the societal costs of the activity in question on those causing harm. One goal of regulation is to induce private parties to act as they would if they had to bear the full costs that they impose on others.

- Similarly, in an unregulated market, firms and individuals may not have incentives to provide individuals with accurate or sufficient information needed to make intelligent choices. Firms may mislead consumers or take advantage of consumer ignorance to market unsafe or risky products. Regulation may be needed to require disclosure of information, such as the possible side effects of a drug, the contents of a food or packaged good, the energy efficiency of an appliance, or the full cost of a home mortgage.

- Even when consumers have full information, the Government may wish to protect individuals, especially children, from their own actions. Regulation may thus be used to restrict certain unacceptable or harmful practices.

- Regulation can also be beneficial in achieving goals that reflect our national values, such as equal opportunity and universal education, or a respect for individual privacy.

There are also many potential disadvantages of regulating -- to the Government, to those regulated, and to society at large.

- The direct costs of administering, enforcing, and complying with regulations may be substantial. Some of these costs may be borne by the Government, while others are paid for by firms and individuals, eventually being reflected in the form of higher prices, lower wages, reduced output, and investment, research, and expansion foregone.

- There are also disadvantages of regulation that are difficult to measure, such as adverse effects on flexibility and innovation, which may impair productivity and competitiveness in the global marketplace, and counterproductive private incentives, which may distort investment or reduce needed supporting activities.

In short, regulations (like other instruments of government policy) have enormous potential for both good and harm. Well-chosen and carefully crafted regulations can protect consumers from dangerous products and ensure they have information to make informed choices. Such regulations can limit pollution, increase worker safety, discourage unfair business practices, and contribute in many other ways to a safer, healthier, more productive, and more equitable society. Excessive or poorly designed regulations, by contrast, can cause confusion and delay,

give rise to unreasonable compliance costs in the form of capital investments and on-going paperwork, retard innovation, reduce productivity, and accidentally distort private incentives.

The challenge for regulators is to approach their task with an appreciation and respect for the complexity of the problems they must solve and the diversity of the individuals and institutions their work affects. In doing this, they need to balance a number of conflicting objectives, to apply sensitivity and judgment to the best available information, and ultimately to achieve the most effective means to the desired ends. The efforts to do this, especially in the recent past, have not been particularly successful, and the American people have indicated their irritation, if not anger, at the maze of inconsistent, duplicative, and excessive rules that can cause more harm than good.

Executive Order No. 12866 was developed to bring the Government back to the task at hand -- to design sensible regulations that improve the quality of our life without imposing unnecessary costs and to do so in a way that is efficient, fair, and accountable to the American people.

II. THE OBJECTIVES OF EXECUTIVE ORDER NO. 12866

Executive Order No. 12866 clearly articulates President Clinton's regulatory philosophy and his view of how the nation's regulatory system should work. Most fundamentally, as the Order states in its opening lines:

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable.

The Order sets out specific goals:

The objectives of this Executive Order are to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public.

In its first section, Executive Order No. 12866 sets forth the specific philosophy and principles that are to govern regulatory development. This is worth quoting at this point because it so succinctly describes the philosophy that the Order is established to implement:

Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as

material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

Regulatory Principles.

The Order then lists 12 principles of regulation (Section 1(b)) that, to the extent permitted by law, agencies are to follow when considering and developing regulating. These principles can be viewed as a series of questions to be raised by the agency, begins with identifying the problem the agency is trying to solve or the situation it is trying to change. How serious is it, compared with other problems the agency faces? What will this proposed regulation do? How sure is the agency that it will do it? Will the proposed regulation have any unintended benefits? Any unintended costs? Create any counterproductive private incentives? Is there any other approach that would achieve the same objective better? Is there a way of modifying the proposed regulation to achieve greater benefits for the same costs or to achieve the same benefits for fewer costs?

Two themes emerge from these principles: the need for data and for analysis, particularly of alternative ways to solve the

problem. It is the responsibility of regulators to obtain and rely on the best reasonably obtainable scientific, technical, or economic data, as may be called for in a particular instance. The data should be assembled and analyzed objectively, without preconceived notions of the outcome. At the same time, it is clear that as the state of scientific knowledge advances, technology develops and changes, and economic forecasts are revised, there may be legitimate disputes about what constitutes the best available data. That being the case, the quest for the best should not be the enemy of the practicable.

It is also the responsibility of regulators to be disciplined in analyzing the benefits and costs of proposed regulations and alternative ways of solving the problem, so that they can attest not only that the benefits of their regulations outweigh their costs, but also that their regulations are designed in the most cost-effective manner possible. Such a statement of principle would not seem to be controversial, yet the use of benefit-cost analysis has been one of the most contentious issue in the regulatory arena during the last twelve years.

Those who criticize benefit-cost analyses believe that it is often difficult (or even impossible or morally improper) to quantify or place a dollar value on such benefits as lives saved, improved air quality, or reduced discrimination. Others believe that while it may be difficult to quantify or place a dollar value on certain costs -- such as reduced flexibility, the loss of innovation, or counterproductive incentives to cheat -- generally costs are easier to measure than benefits, so that undertaking a benefit-cost analysis will, they believe, skew the decision-making process against the adoption of needed regulations.

While there is no easy response to these concerns, the Executive Order stresses not only that the anticipated effects of a regulation should be quantified to the extent possible, but also that those that cannot be quantified -- whether they be benefits or costs -- should nevertheless be considered. This underscores that the decision-maker should consider all of the anticipated effects in deciding whether, on balance, society as a whole will benefit from the proposed regulatory action.

Responsibilities of the Various Participants.

How these objectives are to be incorporated into a regulatory system is the subject of the rest of the Executive Order. It begins by affirming the primacy of the regulatory agencies, the legitimacy of centralized review, and the areas of responsibilities for each.

The process of developing regulations must begin with the agencies to which Congress has assigned statutory regulatory authority and responsibilities. These agencies are the repositories of significant substantive expertise and experience in a particular field. An agency's activities are sometimes driven by statutory mandates; there is also frequently a substantial amount of discretion involved. In either event, it is the agency itself that must be responsible for carefully identifying the problem to be addressed, analyzing the source of the problem (including whether existing regulations or other laws have created, or contributed to, the problem and whether those regulations or other laws can be modified to achieve the regulatory goals more effectively), assessing the importance of that problem, and determining the proper solution to it.

The Order assigns the task of centralized review to OMB's OIRA, which in the words of the Executive Order, is the "repository of expertise concerning regulatory issues, including methodologies and procedures that affect more than one agency,

this Executive Order, and the President's regulatory policies." With such expertise, OIRA's role is to "ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive Order, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency." (Section 2(b).)

The Vice President is designated as "the principal advisor to the President on . . . regulatory policy, planning, and review." The Order also names 12 White House regulatory policy "Advisors" who are to assist the President and Vice President in specified tasks. These include: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisors (CEA); (3) the Assistant to the President for Economic Policy (NEC); (4) the Assistant to the President for Domestic Policy (DPC); (5) the Assistant to the President for National Security Affairs (NSA); (6) the Assistant to the President for Science and Technology (OSTP); (7) the Assistant to the President for Intergovernmental Affairs (IGA); (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President (OVP); (10) the Assistant to the President and Counsel to the President; (11) the Deputy Assistant to the President and Director of the White House Office on Environmental Policy (OEP); and (12) the Administrator of OIRA, who is to "coordinate communications relating to this Executive Order among the agencies, OMB, the other Advisors, and the Office of the Vice President." (Section 2(c).)

Scope of the Executive Order.

The scope of the Order is set forth in several different sections. "Regulation" and "regulatory action," the subject of the planning and review provisions of the Order, are defined, as are exemptions from the definitions, such as formal rulemaking, rules pertaining to military or foreign affairs, and rules limited to agency organization, management, and personnel

matters. (Section 3(d).) In addition, the OIRA Administrator is given the authority to exempt any other category of regulations. (Section 3(d)(4).) "Regulation" and "regulatory action" are the operative terms used throughout the Order. They are defined to include any regulatory pronouncement, regardless of form, that has, or is expected to lead to a promulgation that has the force and effect of law. Thus, certain guidance documents, directives, notices of inquiry, policy statements, and the like may be included under the Order depending on the extent to which the agency intends to enforce their terms and conditions.

In general, the Order focusses on "significant regulatory actions," rather than all regulations or regulatory actions. This is an important distinction between this Order and its predecessor, Executive Order No. 12291. This Order makes clear, among other things, that centralized review is to be focussed on the most important regulatory actions, where OIRA's limited resources can be expected to have maximum beneficial effect. Consistent with the spirit of the primacy of agencies for regulatory decisions and the streamlining of the regulatory process, the agencies themselves are solely responsible for review of non-significant regulatory actions.

A significant regulatory action is defined to mean any regulatory action that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. (Section 3(f).)

The Order applies as a whole to all Federal agencies, with the exception of the independent regulatory agencies. However, the independent regulatory agencies are requested on a voluntary basis to adhere to the statement of regulatory philosophy and the regulatory principles that may be pertinent to their activities. Moreover, these independent agencies are included within the provisions relating to the planning process. (Section 4(b) and Section 4(c).)

Planning and Coordination.

The objective of the planning process is to identify significant issues early in the course of regulatory development so that appropriate coordination can be conducted at the beginning of the process rather than at the end. Specifically, the purpose of the planning and coordinating mechanisms set up by the Order is:

[T]o provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive Order. (Section 4.)

First, the Order establishes a planning cycle that begins with a meeting, convened by the Vice President, with the regulatory policy advisors and the heads of agencies to discuss

priorities and to coordinate regulatory efforts to be accomplished in the upcoming year (Section 4(a)). The Order recognizes the continued utility of the "Unified Regulatory Agenda," a compilation of "all regulations under development or review," to be published as specified by the Administrator. (Section 4(b).) The Order also calls for agencies to develop a "Regulatory Plan" (Section 4(c)), a description of the "most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter." Agencies' plans are to be submitted to OIRA by June 1st of each year, and are then to be coordinated with various affected agencies and the regulatory policy advisors. After appropriate consultation and coordination, the Plan is to be published annually in the October publication of the Unified Regulatory Agenda.

Another vehicle for increased coordination and cooperation regarding regulatory affairs among agencies and between the Executive Office of the President and the agencies is the Regulatory Working Group (RWG). (Section 4(d).) The RWG -- which is to meet at least quarterly -- is to be chaired by the OIRA Administrator, and consist of representatives of the regulatory policy advisors and the heads of agencies determined to have significant domestic regulatory responsibility. The Order sets forth specific tasks for the RWG:

To assist agencies in identifying and analyzing important regulatory issues (including among others (1) the development of innovative regulatory techniques, (2) the methods, efficacy, and utility of comparative risk assessment in regulatory decision-making, and (3) the development of short forms and other streamlined regulatory approaches for small businesses and other entities.)

In order for agencies to implement the Order's philosophy regarding accountability, planning, and coordination, it is necessary for a very senior official with sufficient authority to be given responsibility for these functions. The Order thus requires each agency to appoint a Regulatory Policy Officer (RPO) (Section 6(a)(2)). The RPO is to report to the agency head and is to oversee in the agency "the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive Order." In most cases, the RPO also serves as the agency's representative on the RWG.

To ensure improved coordination between the Government and the public, the Order also requires the OIRA Administrator to meet quarterly with representatives of State, local, and tribal governments, and to convene, from time to time, conferences with representatives of businesses, nongovernmental organizations, and the public to discuss regulatory issues of common concern. (Section 4(e).)

Centralized Review Process.

A large part of the Order is devoted to the processes for implementing centralized regulatory review (Section 6), including a mechanism for resolving disputes that may result from such review (Section 7). In the most recent Administration, centralized review was highly controversial and vigorously attacked by critics who believed that it had been misused. Yet, few really challenge the notion that it is appropriate for the President to provide an opportunity for an appraisal -- detached from the originating agency's legitimate focus on its programmatic goals -- as to whether the agency's regulatory activities are consistent with and further the President's overall objectives and regulatory philosophy. Centralized review also provides an effective vehicle for ensuring that decisions made by one agency do not conflict with policies or actions taken or planned by other agencies -- an increasingly important

function as the decentralized government takes on increasingly complex responsibilities. And centralized review can be helpful in identifying a particular success story, or a particular mistake, by an agency that can provide important information for other agencies facing the same or similar problems.

Some of the problems with the way centralized review has been implemented in the past can be reduced if the agency rule-writers and the reviewer become engaged sooner rather than later in the regulatory process. After an agency has spent years, and substantial intellectual resources in producing a proposed regulation, it is difficult for it to be receptive and responsive to comments questioning the fundamental premises on which the regulation is based -- regardless of the merits of those comments. Recognizing the benefits of advance planning and coordination in identifying -- and more importantly resolving -- major issues early in the process, Section 6 establishes a process that focusses on selectivity and early determination of what is important, or "significant."

The process begins with the agency submitting to OIRA a list of planned regulatory actions (Section 6(a)(3)(A)), indicating those the agency believes to be "significant regulatory actions", as defined in Section 3(f). OIRA then has ten working days to notify the agency that it has determined that a listed regulation is a "significant regulatory action." Those regulatory actions that both OIRA and the agency agree are not significant are not subject to review. Also, the OIRA Administrator may waive review of any regulatory action designated by the agency as significant.

For regulatory actions designated as significant, the agency is to send the draft rule and an assessment of its costs and benefits to OIRA for review. Additional and more extensive analysis is necessary if the rule is "economically significant." (A regulatory action is economically significant within the

meaning of the Executive Order if it appears that it will "have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities." (Section 3(f)(1).) For an economically significant rule, the agency, unless it is prohibited by law, is to submit with the rule an assessment, including the underlying analysis, of the anticipated benefits, the anticipated costs, and of the costs and benefits of "potentially effective and reasonable feasible alternatives." (Section 6(a)(3)(C).)

Section 6 also seeks to eliminate unwarranted delays in the regulatory review process by establishing deadlines within which OIRA must complete its review. (Section 6(b)(2).) For preliminary regulatory actions prior to a Notice of Proposed Rulemaking, such as a notice of inquiry or advance notice of proposed rulemaking, OIRA must conclude review within 10 working days. For most submissions, OIRA must conclude review within 90 calendar days, except that if OIRA has previously reviewed a submission and there is no material change at its next stage, OIRA must complete its review within 45 days. In some cases extensions of review may be needed. The Order allows the review period to be extended upon written approval of the Director of OMB or at the request of the agency head. Finally, if the OIRA Administrator returns a regulatory action to the agency for further consideration, this action is to be done in writing and is to include an explanation for the return, including the pertinent provision of the Order that is the basis for the return.

Openness: Public Involvement and Disclosure.

The Order speaks not only to the relationship between the centralized reviewer and the agencies, but also to the relationship between both of them and the public. It is

essential that the public be involved in the rulemaking process -- those benefitting from, those incidentally affected by, as well as those who might be burdened by, the proposed regulations. The public will often be able to corroborate the information that the agency already has in its possession, or provide additional relevant information to the agency. The public can also provide a useful reality check on the agency's proposal.

While the Administrative Procedure Act, 5 U.S.C. § 551, et seq., the agency's organic statute, and the agency's internal rules provide for public input, the Order reflects the fact that more can be done to involve the public in the rulemaking process, particularly in the early stages (before a formal notice of proposed rulemaking is issued). Specifically, the Order requires each agency to "provide the public with meaningful participation in the regulatory process," including "a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days." (Section 6(a)(1).) The Order also encourages agencies "to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking." (Section 6(a)(1).) An open and easily accessible process generally improves the basis for decision-making, increases accountability on the part of the agency, and generally enhances the prospect for acceptance of the final product by the regulated industry.

To increase the openness and accountability of the regulatory review process itself, the Order sets forth certain disclosure responsibilities for both the agencies and OIRA. After a regulatory action has been issued, the agency is to make available to the public the material that the Order requires to have been submitted to OIRA for review. The agency is also to identify for the public the "substantive changes between the draft submitted to OIRA for review and the action subsequently

announced," as well as identifying those changes that were made at the suggestion or recommendation of OIRA. (Section 6(a)(3)(E).)

OIRA too is subject to a variety of disclosure procedures. (Section 6(b)(4).) Regarding regulatory actions under review at OIRA, only the OIRA Administrator or a particular designee is to receive oral communications from persons not employed by the Executive Branch. If meetings are held with such persons, OIRA is to invite a representative from the appropriate agency to be present. Within 10 working days OIRA will forward to the agency a copy of all written communications received from persons outside the Executive Branch, as well as the names and dates of individuals involved in substantive oral communications. OIRA is also to maintain a publicly available log that includes a notation of all written communications forwarded to an agency and the dates, names of individuals, and subject matter discussed in substantive oral communications between OIRA and persons outside the Executive Branch. In addition, OIRA will make available the status of all regulatory actions under review. Finally, after publication or issuance of a regulatory action, OIRA will make available all documents exchanged between OIRA and the agency during the review.

The Order also provides a dispute resolution mechanism, in the event that the Administrator of OIRA cannot resolve a disagreement between or among agency heads or between OMB and an agency. (Section 7). In that event, the issue will be decided by the President or the Vice President acting at his behest. Resolution of an issue under this section may be requested only by the Director of OMB, the head of the issuing agency, or the head of an agency with a significant interest in the outcome. Such review will specifically not be undertaken at the request of any other persons.

Review of Existing Regulations.

The Order establishes an ongoing process whereby agencies will review existing regulations (Section 5). Agencies were required to submit to OIRA by December 31, 1993, a plan under which the agency will periodically review its existing significant regulations to determine whether any such rules should be modified or eliminated. The Administrator of OIRA is directed to work with the RWG and others -- State, local and tribal governments in particular -- to help pursue the review of existing regulations. The general purpose of such review is as follows:

[T]o reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regulations promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive Order, within applicable law; and to otherwise improve the effectiveness of existing regulations (Section 5).

III. THE IMPLEMENTATION OF EXECUTIVE ORDER NO. 12866

We would prefer to report that all the regulatory problems of the nation have either been resolved or are on their way to being resolved by the 6-month mark of the Executive Order. It should be no surprise, however, that this is not the case. Improving the regulatory system of the nation is tied to reforms that are being undertaken throughout the government, many initiated through the Vice President's National Performance Review. While changes are underway, most are not yet completed; this is true also for implementation of the Executive Order.

Many of the themes that run through the Order -- careful planning, cooperation and team work within the Executive Branch, sound and timely analysis, focusing of resources, openness and accountability -- are also being instituted across other programs of the Federal Government. In some cases, the ability of agencies to implement changes in the regulatory system depends on changes being made in other areas. For example, planning and priority setting depend on the existence within departments of offices that possess the authority to resist the natural tendency of large agencies to seek autonomy within departments. In other cases, there may be a tension between reform in one area and reform in another. Sound analysis, for example, requires highly skilled personnel and budget resources, at a time when the Federal government is reducing personnel and constraining budgets.

To some extent, our ability to reform the regulatory process is not wholly within our control. Regulations are often mandated by statutes, most of which attack a single problem without recognition that other problems -- possibly more important problems -- may be implicated by the proposed solution. Many statutes also create lengthy, often highly detailed regulatory requirements, leaving agencies with little discretion to

establish reasonable tradeoffs between requirements, and in some cases driving agencies to scramble in response to the statutory (or, if they miss it, the judicially imposed) deadline of the day.

Nevertheless, we believe that we have made a very good start in implementing Executive Order No. 12866 during its first six months in operation, with many measurable improvements. The OMB Director and OIRA Administrator issued guidance to the heads of agencies regarding implementation of the Order on October 12, 1993, less than two weeks after the Order was signed. Since then, as detailed below, both OIRA and the agencies have been energetic in implementing the Order.

We must point out, however, that the start-up time for various provisions of the Order has taken longer (and in some cases a lot longer) than we anticipated. Many agencies have had to establish new oversight mechanisms to enable them to implement provisions in the Order. For example, the listing of significant and non-significant rules has proven particularly troublesome for some decentralized departments, both in terms of the internal decision-making to determine the "significance" of particular rules, and in terms of clearing those determinations with sister agencies or the Office of the Secretary (or its equivalent).

In addition, several provisions of the Order establish processes that will take time to implement or simply have not been used yet. The regulatory planning process set forth in Section 4 of the Order is on schedule, but only just now beginning. The Vice President convened the Agencies' Policy Meeting (Section 4(a)) on April 5, 1994, and guidance to the agencies on implementation of the Regulatory Plan (Section 4(c)) was issued by the OIRA Administrator immediately after the meeting. Draft Regulatory Plans are not due to OIRA until June

1st, and the first Plan will not be published until October 1994, when it will appear with the semi-annual Regulatory Agenda.

Similarly, the review of existing regulations established by Section 5 contemplated that agencies would submit programs under which they would periodically review their existing significant regulations by December 31, 1993. Several agencies, including DOT, HHS, DOE, and DOI, included as part of their plans public notices soliciting suggestions for regulations to be reviewed. Other approaches to reviewing existing regulations have been discussed within the Regulatory Working Group, and next steps are being developed.

Finally, the provision of the Order that has not yet been implemented because it has not been used is Section 7, Resolution of Conflicts. To date, there have been no disagreements regarding implementation of the Order that have been raised to the President or Vice President for resolution.

To a large extent, the first three months of the Order -- October through December 1993 -- were almost exclusively devoted to start-up, by both OIRA and the agencies. During January through March 1994, the changes created by the Order began to emerge, and now some are clearly visible and measurable. Start-up still goes on, however, and, as will be discussed below, it may simply be too early to tell whether the Order is working as intended.

Cooperation and Coordination.

There are a number of ways to analyze and measure the implementation of Executive Order No. 12866. Some of the most important changes that have been made, which nourish the spirit of the Order as much as carrying out its letter, are intangible and difficult to quantify. One of these is the vastly improved relationship that has developed between OIRA and the agencies.

While remnants of the mistrust and hostility that often characterized relationships between the career staffs over much of the past decade still exist, for the most part this has been replaced with a spirit of cooperation. Rule writers and rule reviewers are learning to work together as partners rather than as adversaries. Particularly good working relationships have evolved between OIRA and DOT, DOI, and Education. Substantial changes are evident with DOL and EPA. In all cases, working relationships have improved.

Differences between OMB and the agencies, including significant disagreement on issues, continue -- as one would expect and as is contemplated by the Order. But these differences, which are largely the product of different perspectives, are functioning for the most part as a constructive, professional tension that leads to improved regulations.

The change toward a spirit of cooperation and teamwork has occurred largely because it has been fostered by strong leadership within the Administration, including that of the President and Vice President themselves, as well as by agency heads and managers at OMB. The Administrator of OIRA and her staff have visited many of the agencies to meet with the senior regulatory officials and entertain comments or answer questions about the Executive Order. More work needs to be done, however, so the message reaches throughout the agencies. In the end, perhaps the best antidote for any residual hostility will be several working experiences where the career staffs work together through a problem to produce a product that all agree is better for the effort.

Other serious efforts to improve communications, cooperation, and coordination have now been institutionalized.

As required by the Executive Order, each agency has designated a high level Regulatory Policy Officer (RPO) to represent directly the agency head in efforts to implement the Order and improve the regulatory process. (Section 6(a)(2).) Although departments have selected different positions to perform this role, many have designated the general counsel as the RPO. This has ensured high level agency attention to the regulatory process and efforts to reform it.

One of the primary forums for the RPOs to work together to improve the regulatory process is the Regulatory Working Group (RWG). The RWG has met three times -- in November, January, and March. These meetings have been well attended by the White House advisors and the RPOs and have served as a convenient forum for discussion of issues related to the implementation of the Order in an organized and collegial manner. The meetings have allowed agencies to share techniques and solutions to common problems, and have allowed White House and agency officials to exchange views as a group on a regular basis.

The RWG has created four sub-groups to consider specific cross-cutting issues that affect all or many regulatory agencies: these include benefit-cost analysis, risk assessment, streamlining the regulatory system, and use of information technology to improve rulemaking. The sub-groups are inclusive and any agency that is interested has been invited to designate staff to participate. These sub-groups have discussed informal work plans and several are in the process of developing materials for consideration by the RWG.

An additional effort to improve working relationships between agencies and OIRA is the Regulatory Training and Exchange Program instituted by OIRA. Agencies have been encouraged to designate career staff who would come to OIRA on a training detail to learn how regulatory review is conducted and to work on

RWG matters. The purpose of the program is to provide expertise among the agency career staff in how regulatory review is conducted so that it can be incorporated into the working practices of the agency, as the Executive Order envisions. This program is still in its start-up phase, but OIRA has hosted two trainees, from USDA and DOT. Other exchange program candidates are being sought, and are expected to undergo this training during the summer and fall.

Openness: Public Involvement and Disclosure. Executive Order No. 12866 places special emphasis on increased openness in the rulemaking process, particularly increased public involvement earlier in the regulatory process. Agencies are instructed to "provide the public with meaningful participation in the regulatory process . . . which in most cases should include a comment period of not less than 60 days." In addition, agencies are to "explore, and where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking." (Section 6(a)(1).) Agencies are also encouraged, prior to issuing notices of proposed rulemaking, to seek the involvement of those affected by it, especially State, local, and tribal officials.

It is difficult to know how much advance consultation is taking place. However, with all but a few well justified exceptions, agencies are allowing 60 days for public comment. Regarding regulatory negotiation, on the same day that the President signed the Executive Order, he also signed a memorandum to agency heads further encouraging the use of consensual mechanisms and directing each agency, by December 31, 1993, to identify to OIRA at least one candidate for a regulatory negotiation during the upcoming year, or explain why the use of such a process would not be feasible. Agencies provided these candidates to OIRA on time, or very shortly after the deadline, and many agencies are currently undertaking regulatory

negotiations. To assist with the learning process, OIRA joined with the Administrative Conference of the U.S. (ACUS) to sponsor a program for agency officials, which was held on November 29, 1993, on how to do regulatory negotiation, using expertise and materials that ACUS staff have assembled over the past decade.

As noted above, OIRA has its own responsibilities to meet with various affected entities. OIRA has held two conferences with representatives of State, local, and tribal governments -- one in December 1993, the second in March 1994. The first conference, chaired by the OIRA Administrator and attended by about 100 persons, consisted of three panel discussions: an overview of the regulatory partnership; regulatory burdens and how they may be reduced; and involving all affected entities in regulatory development. The panels and audience consisted of representatives from State, county, town, and tribal governments; academics; association representatives, for example from the National Association of Counties, the National Governors' Association, the National Association of Towns and Townships, the National Association of American Indians, and the Advisory Commission on Intergovernmental Relations; and agency intergovernmental affairs office representatives.

The second conference, also chaired by the OIRA Administrator, was a working session devoted to discussion of consultations between the Federal government and State, local, and tribal officials regarding unfunded nonstatutory mandates. This session brought together at one table general counsels from several major regulatory agencies and various State, local, and tribal governmental officials to discuss how to improve the consultative process called for in Executive Order No. 12875, "Enhancing the Intergovernmental Partnership".

These conferences are the beginning of a significant and continuing effort by this Administration to ensure that more

effective working relationships among the Federal, State, local, and tribal governments are institutionalized. A third conference is tentatively scheduled for early June. We have asked representatives of the major State, local, and tribal associations for suggested topics or formats for this and other conferences to be scheduled on a regular basis.

OIRA has also taken steps to improve the participation of the small business community in the rulemaking process. OIRA joined the Small Business Administration (SBA) to sponsor a Small Business Forum on Regulatory Reform in March 1994 to discuss how the regulatory process can better address the special needs of small businesses. The Forum, chaired by the OIRA Administrator and the Administrator of the SBA, brought together high level officials from regulatory agencies that significantly affect small businesses -- EPA, DOT, IRS, DOL, DOJ, and FDA -- to listen to small business owners discuss their concerns regarding Federal regulations. This Forum was followed by work session meetings focussed on five industry sectors -- chemical and metals; food processing; transportation and trucking; restaurants; and environmental, recycling, and waste disposal -- that have been attended by both relevant agency officials and small business representatives. A second conference, to discuss the results of these work sessions, will be scheduled later this summer.

While the regulatory review process conducted by OIRA cannot displace the agencies' responsibilities to seek and accommodate public input in rulemaking, OIRA is charged with conducting its work so as to "ensure greater openness, accessibility, and accountability in the regulatory review process." (Section 6(b)(4).) On July 1, 1993, as one of her first actions, the OIRA Administrator began making available a daily list of draft agency regulations under review at OIRA. This was done in order to remove the stigma of secrecy that had previously characterized regulatory review, and to make the review process more

transparent. Now, the fact that a rule is under review at OIRA, or "pending," is public information available to anyone who seeks it.

The completion of review is also made public. On the pending list, the date of completion of review for any regulation pending that month is indicated. Lists and statistics for each month are compiled and made available by the tenth day of the following month. This information includes a list of all rules on which review was concluded the previous month, showing agency, title, an identification number, date received, date review completed, type of rule (e.g., proposal, final, etc.), and OIRA action taken (e.g. found consistent with the Order without change, with change; withdrawn; returned to agency; etc.). In addition, there is a list of all economically significant rules reviewed. Finally, this monthly compilation includes aggregate statistics on reviews for the month and for the calendar year, including the number of reviews by agency, OIRA action taken, and average review time.

As provided for in the Executive Order, meetings and telephone calls with persons outside the Executive Branch on regulations under review are now logged, and these logs are made publicly available. Entries for meetings include the date, the attendees, and the subject matter discussed. An agency representative is invited and almost always attends such meetings. Any written materials provided by the outside person(s) are made publicly available, and, if an agency representative is not in attendance, are provided to the agency.

The OIRA meetings log contains 36 entries, for meetings that occurred between July 19, 1993, and March 31, 1994. In all but two, the OIRA Administrator chaired the meetings; in these two, other officials in the Executive Office of the President acted as chair. An agency representative attended all but four meetings.

Usually the meetings were with persons outside the Federal Government, but in several instances the attendees included Congressional representatives. Most of the meetings were devoted to EPA regulations -- 30 of the 36. The other meetings concerned a DOC/NOAA rule and several FDA and USDA food safety regulatory actions.

Any material sent to OIRA on rules being reviewed from anyone outside the Executive Branch is kept in a public file. In addition, if the material is not merely a copy of documents already sent to the agency, a copy is forwarded to the agency. Finally, documents exchanged between OIRA and the agency during the review, including the draft rule submitted for review and changed pages, are made available to anyone requesting them after the rule has been issued (or, if it is not issued, after the agency has announced its decision not to issue the rule).

These various disclosure procedures are working well and have helped restore the integrity of the regulatory review process. Communications with outsiders are controlled and disclosed, but apparently this has not had the result of discouraging such communications. Also, the results of the review process itself are disclosed, making OIRA clearly accountable for its actions.

Regulatory Review Statistics:

The statistics maintained by OIRA of the regulatory review process provide another means of measuring the implementation of the Executive Order. Indeed, these statistics respond directly to most of the questions raised in the President's September 30, 1993, memorandum to the OIRA Administrator. In this memorandum, he directed the Administrator:

To monitor your review activities over the next six months and, at the end of this period, to prepare a report on your

activities. This report shall include a list of the regulatory actions reviewed by OIRA, specifying the issuing agency; the nature of the regulatory action . . . ; whether the agency or OIRA identified the reviewed regulatory action as "significant," within the meaning of the order; and the time dedicated to the review, including whether there were any extensions of the time periods set forth in the order, and if so, the reason for such extensions.

OIRA received and reviewed 578 regulatory actions from October 1, 1993, through March 31, 1994. Appendix A lists these rules, indicating the originating department and/or agency, the review time in days, the nature of the regulatory action (e.g., Proposed Rule, Final Rule, etc.), the rules designated significant by the agency and those designated by OIRA, the rules for which review was extended, and the title of the rule. Table 1 summarizes information about these rules by agency, including the number of rules and average review time for rules in the "economically significant" and "other than economically significant" categories. It also indicates the OIRA action taken by agency.¹

Table 1 indicates that of the 578 rules reviewed, 63 (11%) were economically significant (or "major," a term from Executive Order 12291 that continued to be used until about the beginning

¹On October 1, 1993, OIRA also had 175 rules under review that had been submitted under Executive Order 12291. Table 2 summarizes the data on these rules. On average, these rules were reviewed in 76 days. Review was concluded on the last of these pre-Executive Order No. 12866 rules on 1/13/94.

Also, on March 31st, 68 rules that had been submitted between October 1st and March 31st were still under review. Table 3 summarizes the pertinent data on these rules. 45 rules (or 66%), had been under review for under 30 days; 66 (or 97%), had been under review less than 90 days. Three (or 3%), had been under review over 90 days, and had been extended.

of January). The average review time for all the rules was 26 days, well below the 90-day limit established by Executive Order No. 12866. The 10 agencies with the highest volume of submissions were, in order: HHS (126), USDA (94), EPA (52), DOT (44), DOC (42), DOI (34), Education (25), HUD (25), VA (21), and OPM (17). For about 60% of the submissions, review was completed without change to the rule. In 30% of the cases, review was completed with change. 4.5% of the rules were withdrawn by the agency; 2% were returned because they were sent improperly; in about 3% of the cases, mostly EPA rules, review was not concluded but was ended because of a statutory or judicial deadline.

These statistics are affected by the fact (discussed later) that during the start-up period, during which many non-significant rules continued to be sent to OIRA for review. Once the process is fully implemented and agencies submit only significant rules to OIRA for review, the total number of rules is likely to decrease, as will the percentage of rules for which review is concluded without change. At the same time, as only the more important rules become the focus of OIRA's review, average review time is likely to increase. We will be watching these indicators closely during the coming year.

Of the 578 individual rules listed in Appendix A, three rules were extended beyond the 90-day limit, all at the request of the agency to permit interagency coordination to be completed. Regarding the designation of rules as "significant," the list indicates which rules were designated significant by the agency, and which were designated significant by OMB. Of the 578 rules reviewed, a total of 238 or 41% were designated significant in accordance with Section 6(a)(3)(A). Of those designated significant, 166 or 70% were so designated by the agency, while 72 or 30% were designated significant by OMB.

Listing Process. As Appendix A indicates, many of the rules reviewed were not designated either "significant" or "not significant." This is because virtually all agencies needed the first two to three months of the Order for start-up activities, and did not have in place their listing processes until the second half of the six-month period under review. The process was smoother for agencies that either already had or created offices to perform the central management function necessary for the listing process to succeed. DOT, for example, has had in place for many years a central regulatory review office in its Office of the General Counsel, whose function is to coordinate and review the DOT sub-agencies' rulemaking on behalf of the Secretary. In other instances, offices have been established to perform these functions by Clinton appointees. The Secretary of the Department of the Interior, for example, created an Office of Regulatory Affairs whose director reports to the Secretary and Chief of Staff and whose job it is to organize, monitor, and manage the Department's rulemaking activities. The Department of Education also addressed the need for centralized responsibility, assigning this function to its General Counsel, who brought on board a Deputy specifically charged with regulatory responsibilities. These agencies have done an excellent job instituting the listing procedures.

In other instances, however, it has proven difficult to create a centralized, departmental function capable of: collecting information from agencies within the department on the status of regulations; coordinating a departmental decision on significance; and managing the submission of the result to OMB and the discussion with OMB to reach agreement on the proper designation. Even now, after six months of experience, some agencies have still been unable to submit a single list to OIRA designating rules as significant or non-significant. These agencies generally continue to submit all rules to OMB for review, telling us that it is easier and quicker for them to do

so than to go through the process of designating rules as significant or non-significant -- even though they know that the majority of their rules are non-significant and would therefore not need to be reviewed.

These agencies are examples where internal agency coordination needs to be improved. OIRA does not want to review non-significant rules; more importantly, it is only when agencies are able to designate rules as non-significant well in advance that the benefits of this system in streamlining the regulatory processes will be realized. In the meantime, OIRA is working with agencies to process all the rules that are submitted, accommodating as much as possible the difficulties agencies are experiencing starting up their systems.

OIRA initially envisioned that agencies would send lists designating rules significant or non-significant every 30 or 60 days. It is now clear that for some agencies, lists may be needed more often; for others, less often; and for some, at irregular intervals. The process should remain informal and flexible to respond to differences among the agencies and to changing circumstances within some agencies. For example, DOC's National Marine Fisheries Service must sometimes modify Federal fishery management plans on only several weeks, and indeed sometimes on several days, notice. Speed in the listing process is therefore critical. Also, in some instances, agencies have preferred to submit informal drafts of lists to OMB so that discussions can take place and additional information be exchanged before the lists are finalized. We do not want to discourage any opportunities for early exchanges of information, and therefore it has worked with the agencies to sort through the various informal lists they are able to provide.

In total, OIRA has received lists designating 1,624 rules as significant or non-significant. (These rules would not all be

listed in Appendix A because, if non-significant, they would not have been submitted for review, and if significant, they may or may not have been ready to be submitted for review within the six-month period covered by this report.) Of the 1,624 regulatory actions, agencies designated, and OIRA agreed, that 1047, or 64%, were non-significant; 316, or 19% were designated by the agency as, and OIRA agreed they were, significant; and the remaining 261, or 16%, were designated significant by OIRA. Stated another way, the agency and OIRA agreed with the initial designation for 83% of the cases; in only 16% was there a difference of view.

These aggregate data mask the fact that for most agencies the number of instances where there is an initial difference of opinion between the agency and OIRA as to significance decreases as the agency gains experience with the process. In some cases it is simply a function of the agencies not knowing how much information to provide to enable OIRA to agree with the agency designation. In all cases, differences have diminished with time as the agencies and OMB discuss the reasons for the different perspectives and develop an understanding and agreement on the definition of significance.

OIRA's experience implementing this listing provision of the Executive Order has provided some valuable lessons. In some cases, the difficulties described above are symptomatic of agency processes that are broken and need to be fixed. But it is also true that the Executive Branch is characterized by great variety in agency structures, cultures, statutory mandates, and missions. As a consequence, the Executive Order must be flexible enough to accommodate such variety and not seek to impose rigid constraints that may be counterproductive.

We believe that so far, the listing system that has been implemented contains both discipline and flexibility. Both OIRA

staff and agency staff have worked to accommodate each other's needs. The listing process is serving to focus OIRA efforts on significant rules, promote streamlining in the rulemaking process, and establish accountability in agencies, without creating unnecessary and burdensome additional structures.

Selectivity.

One of the purposes of the Executive Order was to reduce the number of rules submitted to OIRA for review, thereby streamlining the rulemaking process for the agencies and allowing OIRA to focus its limited resources on the more important rules. The start-up issues discussed above have clouded to some extent a clear measure of the changes that have occurred in regulatory review since the Executive Order was signed. Nevertheless, the intended reduction in the number of rules reviewed under the Order is clearly demonstrated in the statistics.

Part of the reduction is attributable to the implementation of OIRA's authority to exempt both specific agencies and categories of regulations from centralized review. In guidance issued to agencies on October 12, 1993, the OIRA Administrator exempted 31 smaller agencies and 35 categories of regulation so that OIRA review could be more usefully focussed. (Lists of these exemptions are included with the October 12, 1993, guidance from the OMB Director and OIRA Administrator on implementation of the Order, attached. These lists have been updated to exempt four additional agencies and approximately 30 additional categories of regulations.)

Overall, the 578 rules received and reviewed by OIRA for the six-month period is approximately half what it was in previous years. Figure A indicates the clear decline in the number of rules OIRA received for review, compared to the average monthly receipts for the preceding nine months of 1993 (which is comparable to that of previous years). The number of rules

received for OIRA review decreased from an average of about 180 per month from January through September 1993 (the monthly average for the years 1989 through 1992 was 192), to well under 100 for January through March 1994. (Monthly figures will vary depending on regulatory activity at agencies. Figure A shows a steady decline from October 1993 through February 1994 and an increase for March. April's figures are between those of February and March.)

The number of rules under review at any given time has also shown a significant decline. On July 1, 1993, when OIRA began its disclosure of rules under review, 254 regulations were listed as pending. On September 30, when the President signed Executive Order No. 12866, 175 regulatory actions were pending review at OIRA. On March 31, 1993, 68 regulatory actions were pending. All these figures re-emphasize the obvious -- that OIRA is reviewing far fewer rules than in the past, exactly as envisioned by the Executive Order.

Time Limits.

The Executive Order establishes strict time limits on OIRA review, in most cases 90 days. The purpose of such limits is to balance the need for adequate time to conduct review with the need to streamline the regulatory process and prevent unwarranted delay. OIRA has made a concerted effort to meet not only the letter of this requirement, but its spirit as well, and this goal of the Order is clearly being accomplished.

As can be seen from both Table I and Appendix A, the average review times for the rules submitted during the first six months of the Order is only 26 days. This is a reduction in the average annual review time for the past five years: 1989 - 29 days; 1990 - 28 days; 1991 - 29 days; 1992 - 39 days; 1993 - 44 days. (The average times were particularly high during 1992 and 1993 because of, respectively, the Regulatory Moratorium instituted by

President Bush and the effect of the transition to the Clinton Administration, when many agencies were without political appointees for a significant portion of 1993.)

Notwithstanding OIRA's commitment to speed up the review process, it is likely that the average review time will go up in the future. As non-significant rules, which in the past had generally been reviewed quickly and thus helped keep average review times down, are removed from the review process, and only significant rules submitted and reviewed by OIRA, the time necessary to complete such review may increase. To some extent, however, average review time is no longer as useful a measure as it was when there were no meaningful limits on review. Since all rules, except the small percentage specifically extended, must be reviewed within 90 days, it is compliance with that deadline that is most important and is therefore discussed in detail below. Nevertheless, average review time will continue to be a measure carefully watched by OIRA in the coming year.

A quick look at Appendix A reveals that most reviews were completed in under 30 days. This may be as a result of OIRA's still receiving non-significant rules, or its receiving some rules on the eve of statutory or judicial deadlines, or because OIRA and agency staffs have consulted earlier in the process and few issues remain by the time for formal submission. Of the 578, 408 or 71% were reviewed in under 30 days. 512 or 89% were reviewed in under 60 days. Review took greater than 60 days for only 66 or 11% of the 578. The OIRA Administrator has instituted an internal management system that flags for her attention all rules still under review at their 60th day. This has ensured that submissions do not languish on staff desks, but are raised to the appropriate level well before the 90th day.

Appendix A and Table I also show how review times compare across different agencies. For some agencies, the review time is

skewed because of lengthy reviews of only a small number of rules. For example, the average time for review for OMB of 108 days was for a single rule, which was extended. NSF's average of 84 days was for three rules; FFIEC's average of 70 days was for a single rule. For the higher volume regulatory agencies, review time averages ranged from 15 days for DOT's 44 rules to 40 days for VA's 21 rules. Others fall in between: HHS - 27 days (for 126 rules); USDA - 19 days (for 94 rules); EPA - 35 days (for 52 rules); DOC - 16 days (for 42 rules); DOI - 23 days (for 34 rules); Ed - 29 days (for 25 rules); HUD - 33 days (for 25 rules); OPM - 19 days (for 17 rules).

The Order permits the time for review to be extended at the request of the agency head, or by the Director of OMB for 30 days. Appendix A indicates that of the 578 rules received and reviewed between October and March, only three were extended. These were: DOI's Wild Bird Conservation Act rule, which was under review for 107 days; OMB's Cost Accounting Standards Board Regulations, under review for 108 days; and DOD's Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) rule, under review for 99 days. Each of these rules was extended at the request of the originating agency. Wild Birds was extended to permit the completion of interagency coordination between DOI, DOJ, State and USTR. Cost Accounting Standards was extended to allow OIRA staff to meet with the Cost Accounting Standards Board at the Board's request. DOD's CHAMPUS rule was extended to ensure coordination of the rule with the regulatory programs of other health care agencies. In all these cases, extension was used to permit completion of reviews that were in fact concluded in less than three weeks after the extension was requested.

As of March 31st, two additional rules had been extended and were still under review: USDA's Revisions of Farmland Protection Policy Act (received November 9, 1993), and EPA's Lender Liability for Underground Storage Tanks (received December 20,

1993). Also, nine rules that were submitted before the Executive Order was signed, but for which review was concluded after October 1, 1993, were extended after they had been under review for 90 days in an effort to comply with the spirit of the new Order.²

Overall, OIRA's experience during the first six months with the review time limits show them to be working well.

²These rules were: USDA's Export Bonus Program (review concluded 12/7/93); DOD's Prompt Payment Act (review concluded 12/16/93); DOC's Natural Resource Damage Assessment rule (review concluded 12/23/93); HHS's Payment of Preadmission Service, Medicare Program (review concluded 12/23/93); HHS's Revisions to Freedom of Information Regulations, Medicare and Medicaid (withdrawn 12/09/93); HHS's Medicare Coverage and Payment of Clinical Psychologists (review concluded 12/15/93); HHS's Medicare Secondary Payment (review concluded 1/13/94); DOE's Amendment to Workplace Substance Abuse Programs (review concluded 12/3/93); and DOE's Workplace Substance Abuse Programs at DOE Sites (review concluded 12/3/93).

IV. ISSUES FOR FURTHER CONSIDERATION

In his September 30, 1993, memorandum, the President requested that the Administrator of OIRA "identify any provisions of the order that, based on your experience or on comments from interested persons, warrant reconsideration" There are a number of provisions that qualify, although it is too early to say whether the problems lie with the terms of the Executive Order, with its implementation, or some combination of the two. As discussed above, in many cases start-up activities implementing certain provisions of the Order are still in progress. The process of listing rules as significant or non-significant, for example, while well underway at most agencies is nevertheless still in its formative stages at many other agencies. As a result, we are not now able to judge the effectiveness of this approach in achieving the objectives of the Order.

By the same token, we do not know if agencies are giving to non-significant regulatory actions the review and care that they deserve. It was anticipated that, because there would be no OIRA review, agencies themselves would have to ensure that non-significant rules, as well as significant regulations, meet the principles of the Order. Some agencies have told OIRA that they are fulfilling this responsibility. OIRA has no independent basis for confirming or denying these reports. With time, however, there should be sufficient information to enable informed judgement on the issue. With time, OIRA should also be able to better evaluate the effects of earlier communication between OIRA and agency staffs and more selective review to ensure that significant regulations adhere to the principles of the Order. And, as noted above, additional time is needed to evaluate the planning process and the process for review of existing regulations.

While it is premature to recommend specific revisions to the Executive Order, we have enough experience to suggest some areas that are likely to require further consideration.

Review Time Limits.

One such issue is the 90-day review time limit (Section 6(b)(2)(B).) In general, we have found the discipline of this limit useful and fair. Along with the disclosure procedures, the time limits have helped remove the stigma of secrecy and delay that have characterized regulatory review in the past. As shown in Appendix A, only a small percentage of the rules submitted for review are extended.

There are two types of situations, however, where the balance between adequate review and the limits on review time is problematic. First, OIRA's experience is that interagency coordination can sometimes be unexpectedly lengthy. In the case of the USDA Farmland Protection rule, for example, coordination among multiple agencies, in this case USDA, DOT, HUD, Treasury, and GSA, has required the resolution of significant issues at the highest levels in major regulatory departments. As a practical matter, it takes time to arrange meetings, define and analyze issues, circulate and coordinate exchanges between the agencies, and negotiate solutions. It has proven extremely difficult to keep this process moving to resolution.

The second situation is where the agency and OIRA agree that additional analysis is necessary to meet the requirements of the Order. In some instances, where issues are highly technical -- legally, mechanically, or economically -- such analysis can take months to complete. If this is the case, the rule is technically still under review at OIRA, although in fact no review can be conducted -- either by OIRA or the agency -- until the further data and analysis are generated. In such cases, the time limits

on review serve to discourage rather than encourage efforts to develop the most effective, minimally burdensome regulation.

The current mechanism to deal with such circumstances is the provision for extension of review by either the Director or the agency head. (Section 6(b)(2)(C).) While this provision has functioned to keep some rules under review that might otherwise have been returned to the agency, it gives the misleading impression that OIRA is reviewing the rule when in fact the originating agency, or an affected agency, is engaged in further analysis or coordination or even in some cases simply making changes that have already been agreed to in principle by policymakers.

There is another area where the 90-day limit may not be appropriate -- namely, an economically significant regulatory action, which may have taken several years to develop to the proposed stage and which arrives at OIRA with several hundred pages of detailed analysis. Even if the OIRA and agency staffs have conferred during the developmental stages, it is very difficult to review all of the materials presented, and particularly to consider not only what is presented, but also what is not (which often is equally, if not more, important), within the 90-day limit under the best of circumstances (e.g., no intervening statutory or judicial deadlines or agency requests for expedited consideration of high priority agency initiatives).

At the other extreme are those instances where review is triggered by Section 3(f)(4) -- that is, a rule raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Order. Here, if there has been advance consultation as there should be, and other agencies are not affected, OIRA may need very little, if any, time to conclude review.

By contrast, OIRA is often given a few days for review -- even though substantially more time is necessary -- because there is an imminent statutory and/or judicial deadline. Some agencies, notably EPA, but also HHS, DOL, DOI and others, often must develop regulations under severe time constraints set in statutes or arising from litigation resulting from missed statutory deadlines. In such cases, the discretion of the agency is often severely limited, both in terms of time to conduct adequate analysis and discretion to devise flexible, innovative, and cost-effective solutions to difficult problems. In some of these cases, OIRA has received rules for review only days before a deadline; in fact, in some cases, the agency managers themselves have only a few days to deal with deadline cases.

While this is a serious problem, it may be beyond our ability to remedy through the Executive Order. It is our view that highly prescriptive legislation, including dictating time lines for promulgating regulations, has contributed to a regulatory system that is sometimes unmanageable or is driven by plaintiffs rather than by a rational planning process that directs the government's limited resources to the most important problems and the most cost-effective solutions. However, the solution, if there is one, clearly invites the Legislative Branch and extends beyond the issues covered in this report.

A different problem, but one related to review time limits, is the question of when the clock should start. OIRA has encouraged agencies to consult early in the development of a regulatory action. This brings the perspectives of both the reviewer and the agency to bear on the rule early in the process, informing the regulatory development and permitting early identification and resolution of any major policy differences. Adequate front-end involvement is especially important when statutory or judicial deadlines dictate a rapid pace in the development of the rule. The starting of the clock with the

submission of a relatively complete formal draft does not encourage such advance consultation. On the other hand, some have expressed concern that with such advance consultation, the measurement of review time beginning with the submission of a relatively formal draft does not accurately state (indeed, may substantially understate) the time that OIRA has in fact spent reviewing (in some sense) the regulatory action.

Definition of "Significant".

Another area where further monitoring and additional thought is warranted involves the term "significant," which is the trigger for determining whether or not there will be OIRA review. The definition of "significant" is not, apparently, self-executing, and argument over its meaning has been at least partly responsible for the long start-up time in implementing the listing process. In some cases, debate takes place within the agency as to whether or not a rule is significant. In some of those same cases, and in others, the debate takes place between OMB and the agency, typically with OMB thinking that a regulatory action which the agency initially thinks is non-significant is, in OMB's view, significant.

To some extent these debates are part of the initial adjustment period as the Order is implemented; some reflect residual mistrust from the previous regulatory review system; and, some reflect the natural tension between the agency responsible for the regulation and a reviewing entity. But some may reflect the lack of precision (deliberate at the time of drafting) in the definition set forth in the Executive Order.

The uncertainty centers in particular around two of the four criteria that define "significant regulatory action" -- the first and the fourth. The first criterion defines what has become known as an "economically significant" rule. (Section 3(f)(1).) Although the initial clause of the criterion -- a \$100 million

annual effect on the economy -- is clear, the remainder is not as easily understood. What does it mean to "adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities"? Similarly, looking at the fourth criterion, what are "novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order"? Some have read it very narrowly; others have read it to include everything. While it is too early to suggest specific changes to the definition, we will be monitoring it to see if further clarification is required.

Identification of Changes Made During Review.

Another area that may warrant further consideration are Sections 6(a)(3)(E)(ii) and (iii), which require the agency to identify the substantive changes made in a regulatory action during OIRA review, and to identify those changes made at the suggestion or recommendation of OIRA. These provisions are intended to make the results of OIRA review transparent to the public. Some agencies have told us they are identifying such changes, and while we have not conducted a survey, we have no reason to think that all are not complying with the terms of the Order.

From our perspective, however, changes that result from regulatory review are the product of collegial discussions, involving not only OIRA and the agency, but frequently other White House Offices -- such as OVP, DPC, NEC, CEA, OEP, OSTP -- and other agencies as well (including at times, other sister agencies in the same department as the originating agency). After an extended process, it is not clear that identifying changes made at the suggestion of OIRA is accurate (if the only choice is OIRA suggestions or agency proposals) or meaningful (if OIRA suggestions are only those suggestions originating at OIRA

rather than at another agency). We expect to explore this subject with the agencies and see if any further guidance is necessary or desirable.

Intergovernmental Relations.

There are two areas that are touched on in the Executive Order where perhaps more should be done. The first involves Executive Order No. 12875. It provides, among other things, that Federal agencies that impose nonstatutory, unfunded mandates on State, local, or tribal government either: (1) assure that funds necessary to pay the costs of compliance are provided by the Federal Government, or (2) describe the extent of the agency's prior consultations with affected units of government, the nature of their concerns, any written submissions from them, and the agency's position supporting the need to issue the regulation containing the mandate. The purpose of this provision is, in part, to improve communications between the agencies and State, local, and tribal officials, particularly those responsible for funding the programs, and to establish a meaningful working relationship between them where none may now exist. This is very much a part of the philosophy of Executive Order No. 12866, and OMB has provided guidance to the agencies that regulatory actions that contain an unfunded mandate should be submitted to OIRA for review under Executive Order No. 12866. Further clarification of OIRA's role in this regard could be considered.

Small Business Concerns.

The second area involves the burdens of regulation on small businesses. Concerns voiced by the small business community have led to a variety of proposals to increase the focus of regulators on the unique problems of small businesses, and in particular the agencies' compliance (or lack of compliance) with the Regulatory Flexibility Act. 5 U.S.C. 601. One suggestion is to have OIRA and the Small Business Administration (SBA) coordinate review of agency rules to assure that the agencies prepare and use high

quality regulatory flexibility analyses when it would be appropriate to do so. SBA could notify OIRA of any concerns it has with an agency's regulatory flexibility analysis within a certain time after publication (e.g., 20 days) of a notice of proposed rulemaking, and OIRA could be authorized to direct the agency to issue a supplemental notice raising regulatory flexibility analysis concerns or announcing the intent to prepare a regulatory flexibility analysis by a date certain. Other forms of collaboration are also possible to encourage better interagency coordination and compliance with existing law.

Post hoc Evaluation of Rules.

Finally, regulations are developed based on estimates of behavior and events in the future. Even the best of such predictions can turn out to be wrong. After a regulation has been issued, however, there is little, if any, effort made to review estimates and analyses to see what was right and what was wrong, both to change the current rule to make it more effective and to learn how to do better analyses for future rules. Agencies with increasingly limited staffs and new mandates to meet have little incentive for such exercises, although they could be critical to an efficient and effective rulemaking program.

It is possible that the appropriate incentives could be provided by requiring, at least in selected cases, that agencies manage their regulations toward results. That is, a rule could be written with specific goals, initial baselines against which to measure achievement of these goals, and an evaluation plan, including comment by affected parties with an expectation that based on such input and analysis the rule would be modified to improve its effectiveness and efficiency. If so, review of an existing regulation would become part of its development rather than an after-the-fact exercise.

CONCLUSION

The importance of regulations in our society makes it imperative that the process by which they are developed and reviewed be characterized by integrity and accountability. Regrettably, this Administration did not inherit such a process from the prior Administration. On the contrary, that process was severely criticized for delay, uncertainty, favoritism, and secrecy. Significant improvements have been made with the implementation of Executive Order No. 12866. While it is still too early to judge the effects of the new Order, the regulatory process has been made more principled, professional, and productive. The Executive Office of the President is working in concert with the agencies and listening to the public in order to solve problems, not pretending they do not exist.

The American people deserve a regulatory system that improves their health, safety, and economic well-being without imposing unacceptable or unreasonable costs on society. The regulatory system being established by Executive Order No. 12866 demands quality, efficiency, and accountability, and is well on its way to improving the functioning of government, the economy and, most importantly, the quality of life for the American people.

LIST OF ATTACHMENTS

1. Executive Order No. 12866.
2. Presidential Memorandum for the Administrator of OIRA dated September 30, 1993.
3. Guidance from the Administrator of OIRA for Implementing E.O. 12866.
4. Appendix A.
5. Table 1.
6. Table 2.
7. Table 3.
8. Figure A.

Federal Register

Monday
October 4, 1993

Part VIII

The President

Executive Order 12866—Regulatory
Planning and Review

Presidential Documents

Title 3—

Executive Order 12866 of September 30, 1993

The President

Regulatory Planning and Review

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

With this Executive order, the Federal Government begins a program to reform and make more efficient the regulatory process. The objectives of this Executive order are to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public. In pursuing these objectives, the regulatory process shall be conducted so as to meet applicable statutory requirements and with due regard to the discretion that has been entrusted to the Federal agencies.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Statement of Regulatory Philosophy and Principles. (a) *The Regulatory Philosophy.* Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

(b) *The Principles of Regulation.* To ensure that the agencies' regulatory programs are consistent with the philosophy set forth above, agencies should adhere to the following principles, to the extent permitted by law and where applicable:

(1) Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.

(2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation

is intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more effectively.

(3) Each agency shall identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(4) In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

(5) When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. In doing so, each agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public), flexibility, distributive impacts, and equity.

(6) Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

(7) Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.

(8) Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

(9) Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.

(10) Each agency shall avoid regulations that are inconsistent, incompatible, or duplicative with its other regulations or those of other Federal agencies.

(11) Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

(12) Each agency shall draft its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.

Sec. 2. Organization. An efficient regulatory planning and review process is vital to ensure that the Federal Government's regulatory system best serves the American people.

(a) *The Agencies.* Because Federal agencies are the repositories of significant substantive expertise and experience, they are responsible for developing regulations and assuring that the regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order.

(b) *The Office of Management and Budget.* Coordinated review of agency rulemaking is necessary to ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. The Office of Management and Budget (OMB) shall carry out that review function. Within OMB, the Office of Information and Regulatory Affairs (OIRA) is the repository of expertise concerning regulatory issues, including methodologies and procedures that affect more than one agency, this Executive order, and the President's regulatory policies. To the extent permitted by law, OMB shall provide guidance to agencies and assist the President, the Vice President, and other regulatory policy advisors to the President in regulatory planning and shall be the entity that reviews individual regulations, as provided by this Executive order.

(c) *The Vice President.* The Vice President is the principal advisor to the President on, and shall coordinate the development and presentation of recommendations concerning, regulatory policy, planning, and review, as set forth in this Executive order. In fulfilling their responsibilities under this Executive order, the President and the Vice President shall be assisted by the regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as the President and the Vice President may, from time to time, consult.

Sec. 3. Definitions. For purposes of this Executive order: (a) "Advisors" refers to such regulatory policy advisors to the President as the President and Vice President may from time to time consult, including, among others: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Assistant to the President for Science and Technology; (7) the Assistant to the President for Intergovernmental Affairs; (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President; (10) the Assistant to the President and Counsel to the President; (11) the Deputy Assistant to the President and Director of the White House Office on Environmental Policy; and (12) the Administrator of OIRA, who also shall coordinate communications relating to this Executive order among the agencies, OMB, the other Advisors, and the Office of the Vice President.

(b) "Agency," unless otherwise indicated, means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(c) "Director" means the Director of OMB.

(d) "Regulation" or "rule" means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. It does not, however, include:

(1) Regulations or rules issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(2) Regulations or rules that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(3) Regulations or rules that are limited to agency organization, management, or personnel matters; or

(4) Any other category of regulations exempted by the Administrator of OIRA.

(e) "Regulatory action" means any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected

to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

(f) "Significant regulatory action" means any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

Sec. 4. Planning Mechanism. In order to have an effective regulatory program, to provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive order, these procedures shall be followed, to the extent permitted by law: (a) *Agencies' Policy Meeting.* Early in each year's planning cycle, the Vice President shall convene a meeting of the Advisors and the heads of agencies to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

(b) *Unified Regulatory Agenda.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). Each agency shall prepare an agenda of all regulations under development or review, at a time and in a manner specified by the Administrator of OIRA. The description of each regulatory action shall contain, at a minimum, a regulation identifier number, a brief summary of the action, the legal authority for the action, any legal deadline for the action, and the name and telephone number of a knowledgeable agency official. Agencies may incorporate the information required under 5 U.S.C. 602 and 41 U.S.C. 402 into these agendas.

(c) *The Regulatory Plan.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). (1) As part of the Unified Regulatory Agenda, beginning in 1994, each agency shall prepare a Regulatory Plan (Plan) of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. The Plan shall be approved personally by the agency head and shall contain at a minimum:

(A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;

(B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits;

(C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order;

(D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;

(E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

(F) The name, address, and telephone number of a person the public may contact for additional information about the planned regulatory action.

(2) Each agency shall forward its Plan to OIRA by June 1st of each year.

(3) Within 10 calendar days after OIRA has received an agency's Plan, OIRA shall circulate it to other affected agencies, the Advisors, and the Vice President.

(4) An agency head who believes that a planned regulatory action of another agency may conflict with its own policy or action taken or planned shall promptly notify, in writing, the Administrator of OIRA, who shall forward that communication to the issuing agency, the Advisors, and the Vice President.

(5) If the Administrator of OIRA believes that a planned regulatory action of an agency may be inconsistent with the President's priorities or the principles set forth in this Executive order or may be in conflict with any policy or action taken or planned by another agency, the Administrator of OIRA shall promptly notify, in writing, the affected agencies, the Advisors, and the Vice President.

(6) The Vice President, with the Advisors' assistance, may consult with the heads of agencies with respect to their Plans and, in appropriate instances, request further consideration or inter-agency coordination.

(7) The Plans developed by the issuing agency shall be published annually in the October publication of the Unified Regulatory Agenda. This publication shall be made available to the Congress; State, local, and tribal governments; and the public. Any views on any aspect of any agency Plan, including whether any planned regulatory action might conflict with any other planned or existing regulation, impose any unintended consequences on the public, or confer any unclaimed benefits on the public, should be directed to the issuing agency, with a copy to OIRA.

(d) *Regulatory Working Group.* Within 30 days of the date of this Executive order, the Administrator of OIRA shall convene a Regulatory Working Group ("Working Group"), which shall consist of representatives of the heads of each agency that the Administrator determines to have significant domestic regulatory responsibility, the Advisors, and the Vice President. The Administrator of OIRA shall chair the Working Group and shall periodically advise the Vice President on the activities of the Working Group. The Working Group shall serve as a forum to assist agencies in identifying and analyzing important regulatory issues (including, among others (1) the development of innovative regulatory techniques, (2) the methods, efficacy, and utility of comparative risk assessment in regulatory decision-making, and (3) the development of short forms and other streamlined regulatory approaches for small businesses and other entities). The Working Group shall meet at least quarterly and may meet as a whole or in subgroups of agencies with an interest in particular issues or subject areas. To inform its discussions, the Working Group may commission analytical studies and reports by OIRA, the Administrative Conference of the United States, or any other agency.

(e) *Conferences.* The Administrator of OIRA shall meet quarterly with representatives of State, local, and tribal governments to identify both existing and proposed regulations that may uniquely or significantly affect those governmental entities. The Administrator of OIRA shall also convene, from time to time, conferences with representatives of businesses, nongovernmental organizations, and the public to discuss regulatory issues of common concern.

Sec. 5. Existing Regulations. In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regula-

tions promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

(b) The Administrator of OIRA shall work with the Regulatory Working Group and other interested entities to pursue the objectives of this section. State, local, and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.

(c) The Vice President, in consultation with the Advisors, may identify for review by the appropriate agency or agencies other existing regulations of an agency or groups of regulations of more than one agency that affect a particular group, industry, or sector of the economy, or may identify legislative mandates that may be appropriate for reconsideration by the Congress.

Sec. 6. Centralized Review of Regulations. The guidelines set forth below shall apply to all regulatory actions, for both new and existing regulations, by agencies other than those agencies specifically exempted by the Administrator of OIRA:

(a) *Agency Responsibilities.* (1) Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

(2) Within 60 days of the date of this Executive order, each agency head shall designate a Regulatory Policy Officer who shall report to the agency head. The Regulatory Policy Officer shall be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive order.

(3) In addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, and other applicable law, each agency shall develop its regulatory actions in a timely fashion and adhere to the following procedures with respect to a regulatory action:

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory

actions within the meaning of this Executive order. Absent a material change in the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with subsection (a)(3)(B) or subsection (a)(3)(C) of this section.

(B) For each matter identified as, or determined by the Administrator of OIRA to be, a significant regulatory action, the issuing agency shall provide to OIRA:

(i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

(ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

(C) For those matters identified as, or determined by the Administrator of OIRA to be, a significant regulatory action within the scope of section 3(f)(1), the agency shall also provide to OIRA the following additional information developed as part of the agency's decision-making process (unless prohibited by law):

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

(D) In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall notify OIRA as soon as possible and, to the extent practicable, comply with subsections (a)(3)(B) and (C) of this section. For those regulatory actions that are governed by a statutory or court-imposed deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for OIRA to conduct its review, as set forth below in subsection (b)(2) through (4) of this section.

(E) After the regulatory action has been published in the Federal Register or otherwise issued to the public, the agency shall:

(i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);

(ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

(iii) Identify for the public those changes in the regulatory action that were made at the suggestion or recommendation of OIRA.

(F) All information provided to the public by the agency shall be in plain, understandable language.

(b) *OIRA Responsibilities.* The Administrator of OIRA shall provide meaningful guidance and oversight so that each agency's regulatory actions are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order and do not conflict with the policies or actions of another agency. OIRA shall, to the extent permitted by law, adhere to the following guidelines:

(1) OIRA may review only actions identified by the agency or by OIRA as significant regulatory actions under subsection (a)(3)(A) of this section.

(2) OIRA shall waive review or notify the agency in writing of the results of its review within the following time periods:

(A) For any notices of inquiry, advance notices of proposed rulemaking, or other preliminary regulatory actions prior to a Notice of Proposed Rulemaking, within 10 working days after the date of submission of the draft action to OIRA;

(B) For all other regulatory actions, within 90 calendar days after the date of submission of the information set forth in subsections (a)(3)(B) and (C) of this section, unless OIRA has previously reviewed this information and, since that review, there has been no material change in the facts and circumstances upon which the regulatory action is based, in which case, OIRA shall complete its review within 45 days; and

(C) The review process may be extended (1) once by no more than 30 calendar days upon the written approval of the Director and (2) at the request of the agency head.

(3) For each regulatory action that the Administrator of OIRA returns to an agency for further consideration of some or all of its provisions, the Administrator of OIRA shall provide the issuing agency a written explanation for such return, setting forth the pertinent provision of this Executive order on which OIRA is relying. If the agency head disagrees with some or all of the bases for the return, the agency head shall so inform the Administrator of OIRA in writing.

(4) Except as otherwise provided by law or required by a Court, in order to ensure greater openness, accessibility, and accountability in the regulatory review process, OIRA shall be governed by the following disclosure requirements:

(A) Only the Administrator of OIRA (or a particular designee) shall receive oral communications initiated by persons not employed by the executive branch of the Federal Government regarding the substance of a regulatory action under OIRA review;

(B) All substantive communications between OIRA personnel and persons not employed by the executive branch of the Federal Government regarding a regulatory action under review shall be governed by the following guidelines: (i) A representative from the issuing agency shall be invited to any meeting between OIRA personnel and such person(s);

(ii) OIRA shall forward to the issuing agency, within 10 working days of receipt of the communication(s), all written communications, regardless of format, between OIRA personnel and any person who is not employed by the executive branch of the Federal Government, and the dates and names of individuals involved in all substantive oral communications (including meetings to which an agency representative was invited, but did

not attend, and telephone conversations between OIRA personnel and any such persons); and

(iii) OIRA shall publicly disclose relevant information about such communication(s), as set forth below in subsection (b)(4)(C) of this section.

(C) OIRA shall maintain a publicly available log that shall contain, at a minimum, the following information pertinent to regulatory actions under review:

(i) The status of all regulatory actions, including if (and if so, when and by whom) Vice Presidential and Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

(D) After the regulatory action has been published in the Federal Register or otherwise issued to the public, or after the agency has announced its decision not to publish or issue the regulatory action, OIRA shall make available to the public all documents exchanged between OIRA and the agency during the review by OIRA under this section.

(5) All information provided to the public by OIRA shall be in plain, understandable language.

Sec. 7. Resolution of Conflicts. To the extent permitted by law, disagreements or conflicts between or among agency heads or between OMB and any agency that cannot be resolved by the Administrator of OIRA shall be resolved by the President, or by the Vice President acting at the request of the President, with the relevant agency head (and, as appropriate, other interested government officials). Vice Presidential and Presidential consideration of such disagreements may be initiated only by the Director, by the head of the issuing agency, or by the head of an agency that has a significant interest in the regulatory action at issue. Such review will not be undertaken at the request of other persons, entities, or their agents.

Resolution of such conflicts shall be informed by recommendations developed by the Vice President, after consultation with the Advisors (and other executive branch officials or personnel whose responsibilities to the President include the subject matter at issue). The development of these recommendations shall be concluded within 60 days after review has been requested.

During the Vice Presidential and Presidential review period, communications with any person not employed by the Federal Government relating to the substance of the regulatory action under review and directed to the Advisors or their staffs or to the staff of the Vice President shall be in writing and shall be forwarded by the recipient to the affected agency(ies) for inclusion in the public docket(s). When the communication is not in writing, such Advisors or staff members shall inform the outside party that the matter is under review and that any comments should be submitted in writing.

At the end of this review process, the President, or the Vice President acting at the request of the President, shall notify the affected agency and the Administrator of OIRA of the President's decision with respect to the matter.

Sec. 8. Publication. Except to the extent required by law, an agency shall not publish in the Federal Register or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without

any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a regulatory action, the head of that agency may request Presidential consideration through the Vice President, as provided under section 7 of this order. Upon receipt of this request, the Vice President shall notify OIRA and the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

Sec. 9. Agency Authority. Nothing in this order shall be construed as displacing the agencies' authority or responsibilities, as authorized by law.

Sec. 10. Judicial Review. Nothing in this Executive order shall affect any otherwise available judicial review of agency action. This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 11. Revocations. Executive Orders Nos. 12291 and 12498; all amendments to those Executive orders; all guidelines issued under those orders; and any exemptions from those orders heretofore granted for any category of rule are revoked.

William Clinton

THE WHITE HOUSE,
September 30, 1993.

[FR Doc. 93-24523
Filed 10-1-93; 12:12 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks on signing this Executive order, see issue 39 of the *Weekly Compilation of Presidential Documents*.

THE WHITE HOUSE

WASHINGTON

September 30, 1993

MEMORANDUM FOR THE ADMINISTRATOR
OFFICE OF INFORMATION AND REGULATORY AFFAIRS

SUBJECT: Report of Regulations Reviewed

Today, I issued an Executive order setting forth the Administration's regulatory philosophy; defining a more effective and accountable role for the Executive Office of the President in regulatory planning and review; and establishing the procedures to be followed by agencies and your office in promulgating and reviewing regulations. The review process set forth in the order is designed to assist agencies in issuing better regulations by, among other things, streamlining the review process and enhancing accountability.

In order to ascertain the success of the regulatory review process, I direct you to monitor your review activities over the next 6 months and, at the end of this period, to prepare a report on your activities. This report shall include a list of the regulatory actions reviewed by OIRA, specifying the issuing agency; the nature of the regulatory action (e.g., advance notice of proposed rulemaking, notice of proposed rulemaking, interim final rule, or final rule); whether the agency or OIRA identified the reviewed regulatory action as "significant," within the meaning of the order; and the time dedicated to the review, including whether there were any extensions of the time periods set forth in the order, and, if so, the reason for such extensions. The report shall include any other information that your office may have with respect to the kind or amount of regulatory actions that were not reviewed by your office. Finally, the report shall identify any provisions of the order that, based on your experience or on comments from interested persons, warrant reconsideration so that the purposes and objectives of this order can be better achieved.

I further direct you to submit this report to the Vice President and me by May 1, 1994, and to publish the report in the Federal Register.

William Clinton



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

October 12, 1993

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES, AND
INDEPENDENT REGULATORY AGENCIES

FROM: Sally Katzen *S.Katzen*
Administrator, Office of
Information and Regulatory Affairs

SUBJECT: Guidance for Implementing E.O. 12866

The President issued Executive Order No. 12866, "Regulatory Planning and Review," on September 30, 1993 (58 Fed.Reg. 51735 (October 4, 1993)).¹ It calls upon Federal agencies and the Office of Information and Regulatory Affairs (OIRA) to carry out specific actions designed to streamline and make more efficient the regulatory process. This memorandum provides guidance on a number of the provisions of the new Order. Undoubtedly, with experience, additional questions will be raised, and we will attempt to respond promptly as they arise.

1. Coverage

The Order as a whole applies to all Federal agencies, with the exception of the independent regulatory agencies (Sec. 3(b)). The independent regulatory agencies are included in provisions concerning the "Unified Regulatory Agenda" (Sec. 4(b)) and "The Regulatory Plan" (Sec. 4(c)). However, while the President's "Statement of Regulatory Philosophy and Principles" (Sec. 1) applies by its terms only to those agencies that are not independent, the independent regulatory agencies are requested on a voluntary basis to adhere to the provisions that may be pertinent to their activities.

In addition, the Order states that the OIRA Administrator may exempt agencies otherwise covered by the Order. Appendix A is a first cut of those agencies that have few, if any, significant rulemaking proceedings each year; effective immediately, these agencies are exempt from the scope of the

¹ This Order replaces E.O. 12291 and E.O. 12498.

Order.² Like the independent agencies, those agencies listed in Appendix A are requested to adhere voluntarily to the relevant provisions of the Order, particularly the President's "Statement of Regulatory Philosophy and Principles" (Sec. 1).

2. Designation of Regulatory Policy Officer.

The Order directs each agency head to designate a Regulatory Policy Officer "who shall report to the agency head" (Sec. 6(a)(2)). This Regulatory Policy Officer is to be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations. Because the Regulatory Policy Officer will in most circumstances serve as the agency representative to the Regulatory Working Group (see below), please provide us with the name, mailing address, and telephone and fax numbers of your designee as soon as possible.

3. Regulatory Working Group.

The Order directs the OIRA Administrator to convene a Regulatory Working Group consisting, in part, of the representatives of the heads of each agency having significant domestic regulatory responsibility (Sec. 4(d)).

Again, we have made a first cut of a list of those agencies which should be members of the Regulatory Working Group, which is attached as Appendix B. Some of the Departments that have separate regulatory components may qualify for multiple representatives. Please notify us if you believe that your Department should have more than one representative. In suggesting additional representatives, please identify these persons and provide us with their mailing addresses, and telephone and fax numbers.

The Administrator is to convene the first meeting of the Regulatory Working Group within 30 days. It is therefore essential that we have your response as soon as possible.

4. Regulatory Planning Mechanism.

The Order emphasizes planning as a way of identifying significant issues early in the process so that whatever coordination or collaboration is appropriate can be achieved at

² To assure that the purposes of the Executive Order are carried out, we may ask these agencies to review particular significant regulatory actions of which we become aware. These Agencies should advise OIRA if they believe that a particular rule warrants centralized review.

the beginning of the regulatory development process rather than at the end (Sec. 4).

There are two specific planning documents discussed in the Order. The first, the semiannual Unified Regulatory Agenda (Sec. 4(b)), is on schedule and will be published before the end of October. Traditionally, all agencies participate, describing briefly the regulations under development. The Order does not call for any change in either the scope or format of this document.

The second planning document is the annual Regulatory Plan (Sec. 4(c)), which is to be published in October as part of the Unified Regulatory Agenda. The Regulatory Plan seeks to capture the most important significant regulations. In advance of agencies drafting their Regulatory Plans, the Vice President will meet with agency heads to seek a common understanding of regulatory priorities and to coordinate regulatory efforts to be accomplished in the upcoming year (Sec. 4(a)). The Vice President will convene the first meeting in early 1994. Following that meeting, we will provide appropriate guidance on the scope and structure of the submissions for the 1994 Regulatory Plan.

As you may recall, OMB had asked in OMB Bulletin No. 93-13 (May 13, 1993) that certain agencies prepare a draft 1993 Regulatory Program under the then applicable Executive Order No. 12498. Many agencies sent in some or all of their proposed programs. Other agencies informed us that they wanted to wait for the confirmation of political appointees or the issuance of the new Executive Order. While there is now insufficient time for all of the steps necessary to prepare a formal regulatory plan for this year, the materials we have received will be useful in preparing for the meeting with the Vice President and our other coordination efforts. Those agencies that have already drafted but not submitted materials, as well as those who wish to augment what we have already received, are encouraged to send these materials to OIRA.

5. Review of Existing Regulations.

The Order directs each agency to create a program under which it will periodically review its existing significant regulations to determine whether any should be modified or eliminated to make the agency's regulatory program more effective, less burdensome, and in greater alignment with the President's priorities and regulatory principles (Sec. 5). Specifically, within 90 days, agencies are to submit to the OIRA Administrator a program establishing, consistent with the agency's resources and regulatory priorities, the procedures for carrying out a periodic review of existing significant

regulations and identifying any legislative mandates that may merit enactment, amendment, or rescission (Sec. 5(a)).

We are aware that past Administrations have required agencies to undertake similar review efforts. Some of these have been so broad in scope that necessary analytic focus has been diffused, or needed follow-up has not occurred. This current effort should be more productive because it focuses only on significant regulations and the legislation that mandates them, and because we will be looking at groups of regulations across agencies with the help of the Vice President and the White House Regulatory Advisers, as well as the public.

Pursuant to the Order, we are asking each agency to send to the OIRA Administrator within 90 days a work-plan which identifies who and which office within the agency will be responsible for assuring that periodic reviews take place; the criteria to be used for selecting targets of review; the kinds of public involvement, data collection, economic and other analysis, and follow-up evaluation that are planned; the timetables to be applied; and, to the extent then known, the targets selected. As the program is implemented and an agency selects specific targets for review, please identify the specific programs, regulations, and legislation involved. To the extent they are relevant, we will share with you the review efforts of other agencies.

6. Centralized Review of Regulations.

One of the themes in the Order is greater selectivity in the regulations reviewed by OIRA, so that we can free up our resources to focus on the important regulatory actions and expedite the issuance of those that are less important. Another theme is that we are to determine early in the process which regulations are important (the term in the Order is - "significant"). Among other things, this will permit agencies to conduct the needed analyses for these regulations as part of the development process, not as an after-the-fact exercise (Sec. 6(a)(3)(B)).

The Order defines "significant" regulatory actions as those likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impact of entitlements, grants, user fees, or loan programs; or

(4) raising novel legal or policy issues (Sec. 3(f)).³ This definition is not wholly susceptible to mechanical application; rather, in many instances, it will require the exercise of judgment. We will work with the agencies to come to a consensus on the meaning of this term in the context of the specific programs and characteristics of each agency.

To begin, we ask the appropriate personnel at each agency to work with the OIRA desk officer(s) to develop an appropriate list of rulemakings that are under development for submission to OIRA. For each rulemaking, please use the format below:

DEPARTMENT/REGULATORY COMPONENT. Title ([Indicate significance⁴]; Upcoming Action: [Identify]⁵) Planned Submission/Publication: [date]; RIN: [number⁶]. Statutory/Judicial Deadline: [date, if any].

[Describe briefly what the agency is intending to do and why, including whether the program is new or

³ The Order is intended to cover any policy document of general applicability and future effect, which the agency intends to have the force and effect of law, such as guidances, funding notices, manuals, implementation strategies, or other public announcements, designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. Such documents are normally published in the Federal Register, but can also be made available to the affected public directly.

⁴ State one of the following: "Not Significant", "Significant", or "Economically Significant". A designation as "Economically Significant" means that the regulatory action is likely to result in the effects listed in the first subsection -- namely, i.e., "have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities." A regulatory action that is considered "Economically Significant" must ultimately be supported by the analyses set forth in Section 6(a)(3)(C).

⁵ Indicate whether the upcoming regulatory action is a "Notice of Inquiry", "Funding Notice", "ANPRM", "NPRM", "Interim Final Rule", "Final Rule", or what other action it may be.

⁶ "RIN" is the Regulation Identifier Number published in the Unified Regulatory Agenda. If a RIN has not been assigned, the agency should obtain one through the normal process by contacting the Regulatory Information Service Center.

continuing and, if continuing, the significant changes in program operations or award criteria. Briefly describe issues associated with the rulemaking, as appropriate, e.g., impacts (both benefits and costs), interagency and intergovernmental (State and local) effects, budgetary effects (e.g., outlays, number of years and awards, administrative overhead), time pressures, and why the regulatory action is important, sensitive, controversial or precedential. For final regulatory actions, include a brief statement of the nature and extent of public comment, and the nature and extent of changes made in response to the public comments.] ([Name and telephone number of program official who can answer detailed questions])

We are not looking for a lengthy or detailed description of the issues listed above. All we need is information sufficient to confirm the characterization of "significant" or "not significant". Similarly, for final regulatory actions, the description of the public comments and changes is simply to enable us to decide whether we can expedite or waive our review of the final rule where, for example, there are few or no public comments and little or no substantive change from the previously reviewed NPRM.

Under the Executive Order, within 10 working days after OIRA receives this list, we will meet with or call your office to discuss whether or not listed regulatory actions should be submitted for centralized review (Sec. 6(a)(3)(A)). The purpose of this meeting is to confirm the characterization of the proposal as "significant" or "not significant", the characterization is important because, absent a material change in the development of the rule, those characterized as "not significant" need not be submitted for OIRA review before publication.

OIRA will also want to discuss the timing for updates that would identify any new regulatory actions under development. OIRA implemented this procedure with several agencies on a pilot basis while the Order was being drafted. We are most pleased by the results. It has in some instances taken one or two tries to develop a process that works for a particular agency. In most instances, submission of a list once a month has proven sufficient for our purposes.

Once it is clear that a rulemaking warrants review by OIRA, the process will be facilitated by your advising the OIRA staff as soon as possible on the basic concept, direction, and scope of the rulemaking. This will enable us to identify early the issues that we are concerned about and to inform agency personnel of the type of analyses that OIRA will look for when it reviews the

regulatory action. All of this is designed to make the review process more efficient and avoid last minute problems.

When an agency submits a significant regulatory action for review, the Order sets forth certain information that each agency should provide a description of the need for the regulatory action, how the regulation will meet that need, and an assessment of the potential costs and benefits of the regulatory action, together with an explanation of how it is consistent with a statutory mandate, promotes the President's priorities, and avoids undue interference with State, local, and tribal governments. This should not impose additional burden on the agency. All of the information should have been prepared as part of the agency's deliberative process; and much, if not all, of this information should already be set forth in the preamble of the proposal so as to allow more informed public comment.

If the regulatory action is economically significant (as defined in Sec. 3(f)(1)),⁷ the Order sets forth additional information that an agency must provide -- an assessment of benefits, costs, and of potentially effective and reasonably feasible alternatives to the planned regulatory action (Sec. 6(a)(3(C))). We recognize that this material may take different forms for different agencies. We are reviewing our current guidance to see what changes, if any, are appropriate. Pending the conclusion of this review, agencies should continue to adhere to the existing OMB guidance on how to estimate benefits and costs.

In order to assure that the public is aware of our review under the Order and the possible effects that this review may have had, agencies should indicate in the preamble to the regulatory action whether or not the regulatory action was subject to review under E.O. 12866. On the other hand, there is no requirement that an agency document (in the preamble or in its submissions to OIRA) compliance with each principle of regulation set forth in the beginning of the Executive Order (Sec. 1(b)); we do, however, expect agencies to adhere to these principles and to respond to any questions that may be raised about how a regulatory action is consistent with these provisions of the Order.

The OIRA Administrator was given the authority to exempt any category of agency regulations from centralized review (Sec. 3(d)(4)). To begin with, we have decided that the previously granted exemptions should be kept in effect, except as the Order

⁷ See footnote 4.

specifically includes them.⁵ Several additional exemptions have been added as a result of our ongoing discussions with agencies. A list of current exemptions is set forth in Appendix C. We will add to this list as experience warrants. We urge you to contact the Administrator, or have your staff contact your OIRA desk officer, to discuss those categories you believe may be suitable for exemption.

7. Openness and Public Accountability.

To assure greater openness and accountability in the regulatory review process, the Order sets forth certain responsibilities for OIRA (Sec. 6(b)(4)). Among other things, OIRA is placing in its public reading room a list of all agency regulatory actions currently undergoing review. This list is updated daily, and identifies each regulatory action by agency, title, date received, and date review is completed.

The reading room also contains a list of all meetings and telephone conversations with the public and Congress to discuss the substance of draft regulations that OIRA is reviewing. Within OIRA, only the Administrator (or an individual specifically designated by the Administrator -- generally the Deputy Administrator) may receive such oral communications.

When these meetings are scheduled, we are asking those outside the Executive branch to have communicated their concerns and supporting facts to the issuing agency before the meeting with OIRA. To assure that the matters discussed are known to the agency, we are inviting policy-level officials from the issuing agency to each such meeting.

In addition, written materials received from those outside the Executive branch will be logged in the reading room and forwarded to the issuing agency within 10 working days. It will be up to each agency to put these in its rulemaking docket.

After the regulation is published, OIRA is making available to the public the documents exchanged between OIRA and the issuing agency. These materials will also be made public even if the agency decides not to publish the regulatory action in the Federal Register. In addition, the Order directs that, after a

⁵ Section 3(d)(2) includes within the definition of "regulation" or "rule" those pertaining to "procurement" and the "import or export of non-defense articles and services." The OIRA Administrator interprets the latter to include within the scope of the Order the regulations of the Bureau of Export Administration, and to exclude State Department regulations involving the Munitions List.

regulatory action has been published in the Federal Register or otherwise released, each agency is to make available to the public the text submitted for review, and the required assessments and analyses (Sec. 6(a)(3)(E)). In addition, after the regulatory action has been published in the Federal Register or otherwise issued to the public, each agency is to identify for the public, in a complete, clear, and simple manner, the substantive changes that it made to the regulatory action between the time the draft was submitted to OIRA for review and the action was subsequently publicly announced, indicating those changes that were made at the suggestion or recommendation of OIRA (Sec. 6(a)(3)(E)(ii) & (iii)). Should you have any questions about these matters, please call the Administrator or one of your OIRA Desk Officers.

8. Time Limits for OIRA Review.

The Order sets forth strict time limits for OIRA review of regulatory actions. For any notices of inquiry, advance notice of proposed rulemaking, or other preliminary regulatory action, OIRA is to complete review within 10 working days (Sec. 6(b)(2)(A)). For all other regulatory actions, OIRA has 90 calendar days, unless OIRA has previously reviewed it and there has been no material change in the facts and circumstances upon which the regulatory action is based, in which case there is a limit of 45 days (Sec. 6(b)(2)(B)). Because of these tight time limits, we must work closely together to ensure that requests for clarification or information are responded to promptly. Upon receipt of a regulatory action, we plan to take a quick look and make certain that whatever analyses should be included are included, and to get back promptly to the agency to ask for whatever is missing.

In some instances, a reason for OIRA review will be the potential effect of a regulation on other agencies. In these circumstances, OIRA will attempt to provide the affected agencies with copies of the draft regulatory action as soon as possible. If you are aware that another agency has an interest in the draft regulatory action, please let us know quickly.

We also want to stress the provision in the Order that calls upon each agency, in emergency situations or when the agency is obligated by law to act more quickly than normal review procedures allow, to notify OIRA as soon as possible and to schedule the rulemaking proceedings so as to permit sufficient time for OIRA to conduct an adequate review (Sec. 6(a)(3)(D)).

9. Regulation Identifier Number (RIN).

We ask that each agency include a Regulation Identifier Number in the heading of each regulatory action published in the

Federal Register.⁹ This will make it easier for the public and agency officials to track the publication history of regulatory actions throughout their life cycles and to link documents in the Federal Register with corresponding entries in the Unified Agenda of Federal Regulations (Sec. 4(b)) and the Regulatory Plan (Sec. 4(c)).

* * * * *

We look forward to working with you to implement this Executive Order. If you have any questions, please let us know. We will, of course, provide additional guidance as experience and need dictate.

⁹ The Office of the Federal Register has issued guidance to agencies on the placement of the RIN number in their documents. See Document Drafting Handbook, 1991 ed., p. 9.

APPENDIX A

AGENCIES EXEMPT FROM E.O. 12866

Advisory Council on Historic Preservation
African Development Foundation
Alaska Natural Gas Transportation System,
Office of the Federal Inspector
American Battle Monuments Commission
Arms Control and Disarmament Agency
Board for International Broadcasting
Central Intelligence Agency
Commission of Fine Arts
Committee for Purchase from the Blind
and Severely Handicapped
Export-Import Bank of the United States
Farm Credit System Assistance Board
Federal Financial Institutions Examination Council
Federal Mediation and Conciliation Service
Harry S. Truman Scholarship Foundation
Institute of Museum Services
Inter-American Foundation
International Development Corporation Agency
James Madison Memorial Fellowship Foundation
Merit Systems Protection Board
Navajo Hopi Indian Relocation Commission
National Capital Planning Commission
Office of Special Counsel
Overseas Private Investment Corporation
Panama Canal Commission
Pennsylvania Avenue Development Corporation
Peace Corps
Selective Service System
Tennessee Valley Authority
United States Metric Board
United States Information Agency
United States International Development Cooperation Agency

APPENDIX B

MEMBERS OF THE REGULATORY WORKING GROUP

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Department of the Treasury
Department of Veterans Affairs
Environmental Protection Agency
Small Business Administration
General Services Administration
Equal Employment Opportunity Commission

APPENDIX C

REGULATORY ACTIONS EXEMPTED FROM CENTRALIZED REGULATORY REVIEW

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service--Special Nutrition program notices that revise reimbursement rates and eligibility criteria for the School Lunch, Child Care Food, and other nutrition programs.

Food and Nutrition Service--Food Stamp program notices that set eligibility criteria and deduction policies.

Agricultural Marketing Service--Regulations that establish voluntary standards for grading the quality of food.

Animal and Plant Health Inspection Service--Rules and notices concerning quarantine actions and related measures to prevent the spread of animal and plant pests and diseases.

Animal and Plant Health Inspection Service--Rules affirming actions taken on an emergency basis if no adverse comments were received.

Rural Electrification Administration--Rules concerning standards and specifications for construction and materials.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration--Certain time-sensitive pre-season and in season Fishery Management Plan regulatory actions that set restrictions on fishing seasons, catch size, and fishing gear.

DEPARTMENT OF EDUCATION

Certain Final Rules Based on Proposed Rules--Final regulations based on proposed regulations that OMB previously reviewed where: (1) OMB had not previously identified issues for review in at final regulation stage; (2) Education received no substantive public comment; and (3) the proposed regulation is not substantively revised in the final regulation.

Rules Directly Implementing Statute--Final regulations that only incorporate statutory language with no interpretation.

Notices of Final Funding Priorities--Notices of final funding priorities for which OMB has previously reviewed the proposed priority.

DEPARTMENT OF ENERGY

Power Marketing Administrations--Regulations issued by various power administrations relating to the sale of electrical power that they produce or market.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration--Agency notices of funds availability.

Food and Drug Administration--Medical device reclassifications to less stringent categories.

Food and Drug Administration--OTC monographs, unless they may be precedent-setting or have large adverse impacts on consumers.

Food and Drug Administration--Final rules for which no comments were received and which do not differ from the NPRM.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining--Actions to approve, or conditionally approve, State regulatory mining actions or amendments to such actions.

Office of Surface Mining--Approval of State mining reclamation plans or amendments.

Office of Surface Mining--Cooperative agreements between OSM and States.

United States Fish and Wildlife Service--Certain parts of the annual migratory bird hunting regulations.

DEPARTMENT OF TRANSPORTATION

All Office of DOT--Amendments that postpone the compliance dates of regulations already in effect.

Coast Guard--Regatta regulations, safety zone regulations, and security zone regulations.

Coast Guard--Anchorage, drawbridge operations, and inland waterways navigation regulations.

Coast Guard--Regulations specifying amount of separation required between cargoes containing incompatible chemicals.

Federal Aviation Administration--Standard instrument approach procedure regulations, en route altitude regulations, routine air space actions, and airworthiness directives.

National Highway Traffic Safety Administration--Federal Motor Vehicle Safety Standard 109 table of tire sizes.

DEPARTMENT OF THE TREASURY

Internal Revenue Service, Bureau of Alcohol, Tobacco, and Firearms, and Customs Service--Revenue rulings and procedures, Customs decisions, legal determinations, and other similar ruling documents. Major legislative regulations are covered fully.

ENVIRONMENTAL PROTECTION AGENCY

Office of Pesticides and Toxic Substances--Actions regarding pesticide tolerances, temporary tolerances, tolerance exemptions, and food additives regulations, except those that make an existing tolerance more stringent.

Office of Pesticides and Toxic Substances--Unconditional approvals of TSCA section 5 test marketing exemptions, and of experimental use permits under FIFRA.

Office of Pesticides and Toxic Substances--Decision documents defining and establishing registration standards; decision documents and termination decisions for the RPAR process; and data call-in requests made under section 3(c)(2)(B) of FIFRA.

Office of Air, Noise, and Radiation--Rules that unconditionally approve revisions to State Implementation Plans.

Office of Air, Noise, and Radiation--Unconditional approvals of equivalent methods for ambient air quality monitoring and of NSPS, NESHAPS, and PSD delegations to States; approvals of carbon monoxide and nitrogen oxide waivers; area designations of air quality planning purposes; and deletions from the NSPS source categories list.

Office of Water--Unconditional approvals of State Water Standards.

Office of Water--Unconditional approval of State underground injection control programs, delegations of NPDES authority to States; deletions from the 307(a) list of toxic pollutants; and suspension of Toxic Testing Requirements under NPDES.

Office of Solid Water and Emergency Response--Unconditional approvals of State authorization under RCRA of State solid waste management plans and of hazardous waste delisting petitions under RCRA.

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	* SIGNIFICANCE	TITLE
UNITED STATES DEPARTMENT OF AGRICULTURE				
USDA-AgSEC	10	Final Rule	1	Rural empowerment zones and enterprise community regulations -- 7 CFR part 25
USDA-AgGC	7	Proposed Rule		Rules of practice governing formal adjudicatory proceedings -- 7 CFR parts 0, 1, 47, 50, 51, 52, 53, 54 and 180 and 9 CFR part 202
USDA-CSRS	5	Final Rule		Biotechnology risk assessment research grants program administrative provisions
USDA-FAS	32	Final Rule		Cooperative agreements for the development of foreign markets for agricultural commodities -- 7 CFR part 1485
USDA-FAS	38	Proposed Rule		Tobacco exports requirements (advance notice of proposed rulemaking)
USDA-ASCS	11	Final Rule		Poundage quota regulations and marketing assessments for the 1994 and 1995 crops of peanuts
USDA-ASCS	11	Final Rule		Oilseed prevailing world price calculations, loan origination fees, and final loan maturity date -- 7 CFR parts 1421 and 1474, workplan no. 93-005
USDA-ASCS	24	Final Rule	1	Price support loan requirements, farmer-owned reserve program eligibility requirements -- workplan no. 93-004
USDA-ASCS	64	Proposed Rule	2	Conservation and environmental programs regulation regarding the water quality incentives program, cost-share provisions of the emergency conservation program
USDA-ASCS	1	Final Rule		Amendments to the regulations governing reductions in the price of milk received by producers required by the Omnibus Budget Reconciliation Act of 1993
USDA-ASCS	11	Proposed Rule		1994 crop peanut national poundage quota and the minimum CCC export edible sales price for additional peanuts
USDA-ASCS	28	Final Rule		Selection and functions of agricultural stabilization and conservation state and county community committees
USDA-ASCS	11	Proposed Rule		Cotton marketing system, notice requesting comments
USDA-ASCS	5	Final Rule		1993 specifications for cotton bale packaging materials -- workplan no. 93-019
USDA-ASCS	11	Proposed Rule		Non-emergency haying and grazing on conservation reserve program grasslands -- workplan no. ASCS 93-029
USDA-ASCS	87	Final Rule	2	Malting barley assessment
USDA-ASCS	3	Proposed Rule		1994-crop national marketing quotas for six kinds of tobacco -- workplan no. 92-045
USDA-ASCS	31	Proposed Rule	1	Wetlands reserve program -- 7 CFR part 703, workplan no. ASCS 93-032
USDA-ASCS	14	Proposed Rule	1	Domestic marketing assessment -- workplan 93-033
USDA-ASCS	8	Final Rule	1	Support prices for shorn wool, wool on unshorn lambs, and mohair for the 1993 marketing year
USDA-ASCS	70	Final Rule	2	Debt settlement policies and procedures -- 7 CFR part 792, workplan no. 92-030
USDA-ASCS	15	Interim Final Rule		1994-crop national peanut poundage quota -- workplan 92-041
USDA-ASCS	13	Final Rule	2	Emergency livestock assistance -- 7 CFR part 1475
USDA-ASCS	8	Proposed Rule		Revisions to the upland cotton user marketing certificate program -- wp 94-014
USDA-ASCS	21	Final Rule (N/C)		Using electronic cotton warehouse receipts, amendment to the U.S. Warehouse Act -- workplan 92-048
USDA-FCIC	6	Final Rule		Late planting option and the prevented planting endorsement, general crop insurance regulations -- 7 CFR part 401
USDA-FCIC	43	Final Rule		Sugar beets -- 7 CFR part 430
USDA-FCIC	43	Final Rule		Mutual consent cancellation, general administrative regulation -- 7 CFR part 400
USDA-FCIC	3	Final Rule		Late and prevented planting for various crop endorsements, general crop insurance regulations
USDA-FCIC	3	Final Rule		Late and prevented planting for hybrid seed, general crop insurance regulations
USDA-REA	38	Proposed Rule		Pre-loan policies and procedures for electric loans
USDA-REA	11	Final Rule		Rural telephone bank and telephone program loan policies, design criteria, construction policies and standards and specifications for materials, equipment ...
USDA-REA	11	Final Rule		Pre-loan policies and procedures for electric loans
USDA-FmHA	8	Final Rule		Housing application packaging grants -- 7 CFR part 1944-b
USDA-FmHA	36	Final Rule	2	Receiving and processing applications for farmer programs loans
USDA-FmHA	24	Proposed Rule		Revisions to the direct emergency loan instructions to implement administrative decisions pertaining to the applicant loan eligibility calculation and appraisal
USDA-FmHA	10	Proposed Rule		Removal of the prohibition against charging interest on interest on FmHA guaranteed loans
USDA-FmHA	3	Final Rule (N/C)		Revisions to the direct emergency loan instructions to implement administrative decisions pertaining to the applicant loan eligibility calculation, appraisals,
USDA-SCS	10	Final Rule		Emergency wetlands reserve program
USDA-APHIS	13	Proposed Rule		Importation of restricted articles, Port Everglades, FL -- APHIS docket no. 93-029-1, obp&a workplan no. 93-019
USDA-APHIS	58	Proposed Rule		Garbage, inspection at airports -- APHIS docket no. 93-038-1
USDA-APHIS	7	Final Rule		Ports designated for the exportation of animals, Kentucky and New Jersey -- APHIS docket no. 93-016-3, obp&a workplan no. 93-011
USDA-APHIS	7	Proposed Rule		Ruminants and horses imported from Canada, importation of wild ruminants and swine -- APHIS docket no. 92-129-1, obp&a workplan no. 92-057

APPENDIX A

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA

FM -- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
USDA-APHIS	7	Final Rule		Imported fire ant -- APHIS docket no. 93-082-1
USDA-APHIS	12	Proposed Rule		Rules of practice
USDA-APHIS	3	Proposed Rule		Importation of pork and pork products from countries where swine vesicular disease is known to exist -- APHIS docket no. 93-102-1
USDA-APHIS	4	Proposed Rule		Ports designated for the exportation of animals -- APHIS docket no. 93-106-1, obp&a workplan no. 93-051
USDA-APHIS	4	Proposed Rule		Scrapie: sheep and goats less than 1 year of age moved to slaughter -- APHIS docket no. 93-050-1, obp&a workplan no. 93-029
USDA-APHIS	38	Final Rule		Garbage, compliance agreements -- APHIS docket no. 91-017-2, obp&a workplan no. 91-005
USDA-APHIS	2	Final Rule		Importation of monterey pine logs and douglas-fir logs from New Zealand -- APHIS docket no. 91-074-5, obp&a workplan no. 92-032
USDA-APHIS	2	Final Rule	1	User fees, agricultural quarantine and inspection services -- APHIS docket no. 92-148-2, obp&a workplan no. 92-069
USDA-APHIS	2	Final Rule		Commutated traveltime periods -- APHIS docket no. 93-123-1
USDA-APHIS	4	Final Rule		Mediterranean fruit fly, addition to the quarantined areas, treatments
USDA-APHIS	5	Final Rule		User fees, import- and export-related veterinary services -- APHIS docket no. 92-042-2, obp&a workplan no. 92-023
USDA-APHIS	27	Proposed Rule	1	Importation of logs, lumber, and other unmanufactured wood products -- APHIS docket no. 91-074-3, obp&a workplan no. 92-032
USDA-FGIS	9	Proposed Rule		United States standards for flax seed, mixed grain, oats, rye, sunflower seed, and tritcale
USDA-FGIS	14	Final Rule		United States standards for rice
USDA-FGIS	10	Proposed Rule	2	Fees for official pesticide residue testing
USDA-AMS	14	Final Rule		Egg products inspection, increase in fees and charges -- py-93-003
USDA-AMS	13	Proposed Rule	2	Grading and inspection, general specifications for approved plants and standards for grades of dairy products, proposed fee increase
USDA-AMS	10	Final Rule		Soybean promotion and research program, procedures for conduct of referenda
USDA-AMS	12	Final Rule	2	Increase testing fees for inspection and certification of quality of agricultural and vegetable seeds under the Agricultural Marketing Act of 1946
USDA-AMS	12	Final Rule		Soybean promotion and research, rules and regulations -- 7 CFR part 1220
USDA-AMS	5	Final Rule	2	Changes in fees for federal meat grading and certification services
USDA-AMS	2	Proposed Rule		Amendment to egg research and promotion rules and regulations -- py-93-004
USDA-AMS	36	Final Rule	2	Revision of user fees, grading and inspection, general specifications for approved plants and standards for grades of dairy products
USDA-AMS	6	Proposed Rule		Realignment of districts, watermelon research and promotion plan, rules and regulations
USDA-AMS	5	Proposed Rule		Dairy promotion program, amendments to the order
USDA-AMS	6	Proposed Rule		Revision of fees for fresh fruit and vegetable destination market grading services
USDA-FSIS	0	Final Rule	1	Mandatory safe handling statements on labeling of raw meat and poultry products
USDA-FSIS	1	Final Rule	1	Mandatory safe handling statements on labeling of raw meat and poultry products -- 9 CFR parts 317 and 381, docket no. 93-012f-1
USDA-FSIS	1	Proposed Rule	1	Mandatory safe handling statements on labeling of raw meat and poultry products -- 9 CFR parts 317 and 381, docket no. 93-026p
USDA-FSIS	28	Final Rule		Accreditation fees, standards, and procedures for FSIS accredited laboratories
USDA-FSIS	5	Proposed Rule		Sodium Citrate as a tripe denuding agent
USDA-FSIS	5	Proposed Rule		Use of Trisodium Phosphate on raw, chilled poultry carcasses
USDA-FSIS	39	Final Rule	1	Nutrition labeling of meat and poultry products, technical amendments -- 9 CFR parts 317 and 381, docket no. 91-006f-ta
USDA-FSIS	39	Proposed Rule	1	Nutrition labeling of meat and poultry products, technical amendments -- 9 CFR parts 317 and 381, docket no. 93-022p
USDA-FSIS	39	Proposed Rule	1	Placement of nutrition labeling and other mandatory labeling on meat and poultry products
USDA-FSIS	1	Prerule	1	Poultry products produced by mechanical deboning and products in which such poultry products are used
USDA-FSIS	1	Proposed Rule	1	Meat produced by advanced meat/bone separation machinery and meat recovery systems
USDA-FSIS	19	Final Rule	1	Mandatory safe handling statements on labeling of raw and partially cooked meat and poultry products
USDA-FNS	68	Final Rule	2	Special supplemental food program for women, infants, and children (WIC), coordination rule
USDA-FNS	56	Final Rule	2	Maximum allotments for Alaska, Hawaii, Guam, and the Virgin Islands
USDA-FNS	56	Final Rule		Administrative improvement and simplification provisions from the Hunger Prevention Act of 1988
USDA-FNS	34	Final Rule		Definition of food and nutrition service -- 7 CFR parts 253 and 254
USDA-FNS	59	Final Rule	2	Maximum allotments for the 48 states and D.C. and income eligibility standards and deductions for the 48 states, D.C., Alaska, Hawaii, Guam, and the Virgin Islands
USDA-FNS	57	Final Rule		Recommendations for improvements to Food Stamp/SSI joint processing
USDA-FNS	6	Proposed Rule		Consideration of an alternate protein source, whey protein concentrate, as a meat alternate for use in the child nutrition programs
USDA-FNS	65	Final Rule	2	Performance standards for the employment and training program, Food Stamp Program

* Significance -- 1) Designated Significant by Agency. 2) Designated Significant by OIRA
Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
USDA-FS	21	Final Rule		National forest system notice, comment, and appeal procedures
USDA-FS	34	Proposed Rule		Hells Canyon private land use regulations -- 36 CFR 292, subpart e
USDA-FS	1	Proposed Rule		Grazing fees on national forest system lands
USDA-FS	2	Proposed Rule		Grazing fees on national forest system lands
USDA-FS	24	Proposed Rule	2	Prohibition -- 36 CFR part 261, law enforcement support activities -- 36 CFR part 262
DEPARTMENT OF COMMERCE				
DOC-EDA	67	Final Rule		Property management standards
DOC-ITA	26	Proposed Rule		Watch duty--exemption program
DOC-USTTA	8	Final Rule		Notice of availability of financial assistance for projects to support tourism trade development in midwest states affected by the widespread flooding of 1993
DOC-NOAA	4	Proposed Rule		Reef fishery resources of the Gulf of Mexico, amendment 5, management measures including 3 SMZs
DOC-NOAA	0	Proposed Rule		The taking of marine mammals incidental to underwater detonation of explosives in the outer sea test range, Pt Mugu, California
DOC-NOAA	9	Final Rule		Groundfish of the Gulf of Alaska, Groundfish fishery of the Bering Sea and Aleutian Islands
DOC-NOAA	9	Proposed Rule		Groundfish of the Gulf of Alaska, Groundfish fishery of the Bering Sea and Aleutian Islands area
DOC-NOAA	23	Proposed Rule		Observer coverage of the Groundfish fisheries in the Gulf of Alaska and the Bering Sea and Aleutian Islands management area
DOC-NOAA	1	Final Rule		Fishery management plan for the Shrimp fishery for the South Atlantic region
DOC-NOAA	5	Proposed Rule		Reef Fish resources of the Gulf of Mexico, management measures to enhance enforcement and data collection -- amendment 7
DOC-NOAA	1	Final Rule		Coastal Migratory Pelagic resources of the Gulf of Mexico and South Atlantic, trip limits for gulf group King Mackerel in each of two sub-zones
DOC-NOAA	1	Proposed Rule		Defining the term as it pertains to fish import regulations under the Marine Mammal Protection Act
DOC-NOAA	7	Proposed Rule		Improve Finfish excluder device requirement in the Northern Shrimp fishery under the fishery management plan for the Northeast Multispecies fishery
DOC-NOAA	3	Proposed Rule		Allow importers or brokers to file using the U.S. customer service's automated broker interface system
DOC-NOAA	20	Final Rule		Establish procedures for the National Weather Service to follow in certifying when NSW field offices are closed, relocated or automated
DOC-NOAA	8	Final Rule		Prohibition of explosive devices and establishment of a procedure for permitting fishing operations to experiment with new equipment
DOC-NOAA	22	Proposed Rule		Groundfish of the Bering Sea and Aleutian Islands area require increased observer coverage and improved equipment for measuring Groundfish total catches
DOC-NOAA	22	Final Rule		Notice of availability of financial assistance, FY 94 Marlin projects
DOC-NOAA	27	Proposed Rule	1	Northeast Multispecies fishery plan -- amendment 5
DOC-NOAA	18	Proposed Rule		Atlantic Swordfish fishery: voluntary pilot program to allow retention of undersized Swordfish for donation to charity
DOC-NOAA	18	Final Rule		Pelagic fisheries of the Western Pacific -- the Hawaii-based longline fishery mandatory observer program
DOC-NOAA	16	Final Rule	1	Designating critical habitat for listed Snake River Salmon
DOC-NOAA	6	Final Rule		Summer Flounder fishery -- amendment 5
DOC-PTO	3	Final Rule	2	Revision of trademark fees
DOC-NTIA	25	Notice	1	Notice of availability, TIAP of funds
DOC-NIST	12	Proposed Rule		Fips 71: advanced data communication control procedures (ADCCP)
DOC-NIST	7	Final Rule		Standard reference data grants and cooperative agreements, program announcement
DOC-NIST	11	Final Rule		Precision measurement grants
DOC-NIST	8	Final Rule		Materials science and engineering grants program
DOC-NIST	22	Proposed Rule		Fips: open document architecture (ODA) raster document application profile (dap) -- solicitation of comments
DOC-NIST	4	Proposed Rule		Fips: for portable operating system interface (POSIX), part 2 -- shell and utilities
DOC-NIST	13	Proposed Rule	2	Fips: security label for the government open systems interconnection profile -- second solicitation of comments
DOC-NIST	20	Proposed Rule	2	Fips 140-1: security requirements, notice of proposed validation requirements for products
DOC-NIST	8	Final Rule	2	Fips: approval of the escrowed encryption standard

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA

† -- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	* SIGNIFICANCE	TITLE
DOC- BXA	6	Final Rule		Country group G: addition of Bulgaria, Latvia, and Mongolia, expansion of favorable consideration treatment, and implementation of import certificate/delivery...
DOC- BXA	34	Final Rule		Revisions to the export administration regulations, clarifications
DOC- BXA	0	Final Rule		Foreign availability and general license GFW eligibility for certain oil well perforators controlled by ecen 1c18a.o
DOC- BXA	60	Final Rule		Elimination of the certification requirements for general license GLR and transfers of technology to foreign nationals in the U.S., revisions to the export administration
DOC- BXA	1	Final Rule		Digital computers: removal of national security-based validated license requirements for
DOC- BXA	50	Final Rule		Computers: increase in supercomputer threshold level to a ctp of 1,500 mtops, expansion of general license GFW eligibility for
DOC- BXA	0	Final Rule		Foreign availability assessment determination of synchronous digital hierarchy (SDH) telecommunications transmission equipment
DOC- BXA	1	Interim Final Rule		Commerce control list, items controlled for nuclear nonproliferation reasons
DEPARTMENT OF DEFENSE				
DOD- DODOAS	26	Final Rule		CHAMPUS: specialized treatment services, non-availability statements, peer review organization program
DOD- DODOAS	99	Final Rule	Ext	CHAMPUS: screening mammography and papanicolaou (PAP) tests, certified marriage and family counselors coverage, etc.
DOD- DODOAS	57	Proposed Rule		CHAMPUS: hospital payments for ambulatory care
DOD- DODOAS	21	Final Rule		CHAMPUS: uniform HMO benefit
DOD- DODOAS	64	Proposed Rule		CHAMPUS: tricare enrollment program, special health care program
DOD- OS	22	Proposed Rule		Defense Logistics Agency privacy program -- Defense Logistics Agency regulation 5400.2
DOD- OS	58	Final Rule		National Security Agency security protective force
DOD- OS	5	Interim Final Rule	1	Revitalizing base closure communities and community assistance
EDUCATION DEPARTMENT				
ED- EDOGC	11	Final Rule	1	Final policy statement under Administrative Dispute Resolution Act
ED- OESE	55	Proposed Rule	2	Priorities for training program in early childhood education and violence counseling
ED- OESE	8	Proposed Rule	1	Chapter 1 program in local educational agencies, Chapter 1 Migrant Education Program
ED- OSERS	21	Notice	2	Notice of proposed priorities for fiscal years 1994-1995 for the Knowledge Dissemination and Utilization Program
ED- OVAE	27	Final Rule	2	State-administered Workplace Literacy Program, National Workplace Literacy Program
ED- OPE	41	Final Rule	2	Graduate assistance in areas of national need
ED- OPE	84	Proposed Rule	1	Federal Pell Grant Program and Presidential Access Scholarship Program
ED- OPE	34	Proposed Rule	1	State postsecondary review program
ED- OPE	81	Proposed Rule	2	Federal family education loan program, Federal Stafford loan forgiveness demonstration program
ED- OPE	87	Proposed Rule	1	Federal Family Education Loan Program
ED- OPE	57	Proposed Rule	1	The National Early Intervention Scholarship and Partnership Program
ED- OPE	21	Proposed Rule	1	Federal Family Education Loan Program loan cancellation and wage garnishment
ED- OPE	0	Final Rule	1	Reporting and recordkeeping requirements for the direct loans program, final standards, criteria, and procedures
ED- OPE	1	Proposed Rule	1	Secretary's procedures and criteria for recognition of accrediting agencies
ED- OPE	1	Proposed Rule	1	State Postsecondary Review Program
ED- OPE	17	Proposed Rule	1	Institutional eligibility under the Higher Education Act of 1965, as amended
ED- OPE	62	Proposed Rule	1	Federal Family Education Loan Program repayment schedules, deferments, and forbearances
ED- OPE	5	Proposed Rule	2	Federal Family Education Loan Program, loan forgiveness demonstration program
ED- OPE	1	Proposed Rule	1	Federal Pell Grant Program and Presidential Access Scholarship Program
ED- OPE	34	Final Rule	2	Student assistance general provisions, student eligibility amendments
ED- OPE	6	Proposed Rule	1	Student assistance general provisions, Federal Pell Grant Program -- subparts a and b
ED- OPE	1	Notice	1	Notice of standards for participation and solicitation of applications

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA

-- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
ED-OERI	0	Notice	2	Notice of proposed priorities for model projects in encouraging female & minority students in mathematics & science & for model science-based professional...
ED-EDMAN	8	Proposed Rule	1	State-administered programs and federal, state, and local partnership for educational improvement
ED-EDMAN	1	Proposed Rule	2	Education Department general administrative regulations (EDGAR) -- 34 CFR parts 75 and 76
DEPARTMENT OF ENERGY				
DOE-ENDEP	88	Final Rule		Nuclear safety management
DOE-ENDEP	78	Proposed Rule	1	Energy conservation standards for eight types of appliances
DOE-EE	85	Proposed Rule		Calculation of equivalent petroleum-based fuel economy of electric vehicles -- 10 CFR part 474
DOE-PR	18	Proposed Rule	2	Acquisition of federal information resources by contracting, provide procedures governing the acquisition of federal information
DOE-PR	18	Proposed Rule	2	Acquisition regulation, updated coverage
DOE-PR	48	Proposed Rule	2	Acquisition regulation, updating of patent regulations
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
HHS-PHS	32	Final Rule		Notice regarding section 602 of the Veterans Health Care Act of 1992, entity guidelines
HHS-PHS	23	Final Rule		Health Education Assistance Loan (HEAL) Program: school collection assistance
HHS-PHS	10	Final Rule		Notice of competitive grant applications for tribal management grants for American Indians/Alaska natives, Indian Health Service
HHS-PHS	28	Proposed Rule		Grants for faculty training projects in geriatric medicine and dentistry
HHS-PHS	15	Notice		Health professions preparatory, pregraduate and Indian health professions scholarship grant programs
HHS-PHS	14	Notice		Notice of availability of funds for loan repayment for health professions educational loans
HHS-PHS	6	Proposed Rule		Food labeling, nutrition labeling, small business exemption
HHS-PHS	7	Notice		Indian Health Service research program, grants application announcement
HHS-PHS	14	Notice		Mental health care provider education in HIV/AIDS
HHS-PHS	11	Notice		HIV/AIDS mental health services demonstration program
HHS-PHS	14	Proposed Rule		Medical facility construction and modernization, requirements for provision of services to persons unable to pay
HHS-PHS	4	Notice		Healthy Start initiative, special project grants
HHS-PHS	12	Notice		Community support program: mental health systems improvement demonstration grants for consumer and family networks
HHS-PHS	5	Notice		Cooperative agreements for studies to evaluate the effectiveness of interventions to prevent or reduce childhood lead poisoning, notice of availability of funds
HHS-PHS	5	Notice		Cooperative agreements for studies to determine sources and predictors of lead poisoning in young children, notice of availability of funds for FY 1994
HHS-FDA	2	Proposed Rule	2	Food labeling: health claims and label statements, folate and neural tube defects
HHS-FDA	2	Proposed Rule		Food labeling: health claims for dietary supplements
HHS-FDA	15	Proposed Rule		Medical devices, hearing aid requirements
HHS-FDA	13	Final Rule		Human tissue intended for transplantation
HHS-FDA	1	Final Rule		Quality standards and certification requirements for mammography facilities
HHS-FDA	1	Final Rule		Requirements for accrediting bodies of mammography facilities
HHS-FDA	0	Final Rule	1	Requirements for nutrient content claims for dietary supplements of vitamins, minerals, herbs, and other similar nutritional substances, food labeling
HHS-FDA	0	Final Rule		Health claims and label statements, folate and neural tube defects, food labeling
HHS-FDA	0	Final Rule		Reference daily intake, food labeling
HHS-FDA	0	Final Rule		Establishment of date of application, dietary supplements
HHS-FDA	0	Final Rule		General requirements for health claims for dietary supplements, food labeling
HHS-FDA	58	Proposed Rule	2	Laxative drug products for over-the-counter human use, proposed amendment to the tentative final monograph
HHS-HSA	22	Proposed Rule		Charitable facility compliance alternative -- 42 CFR subpart I
HHS-HSA	14	Final Rule		Program announcement for grants for geriatric education centers for FY 1994
HHS-HSA	14	Final Rule		Program announcement for nursing special project grants for FY 1994
HHS-HSA	7	Proposed Rule		General statutory funding preference for nurse anesthetist traineeships for FY 1994, program announcement and proposed minimum percentages

* Significance -- 1) Designated Significant by Agency. 2) Designated Significant by OIRA

Ext -- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
HHS-HSA	7	Proposed Rule		Grants for professional nurse traineeships for FY 1994, program announcement and proposed minimum percentages
HHS-HSA	12	Proposed Rule		Announcement of availability of funds for family planning research grant
HHS-HSA	8	Proposed Rule		Program announcement for AIDS regional education and training centers
HHS-HSA	8	Proposed Rule		Program announcement for implementation of the statutory funding preference for allied health project grants for FY 1994, proposed minimum percentages
HHS-HSA	18	Final Rule		Rural health outreach program
HHS-HSA	9	Final Rule		Grants for health professions projects in geriatrics
HHS-HSA	19	Final Rule		Grants for interdisciplinary training for health care for rural areas for FY 1994 -- program announcement no. 2148
HHS-HSA	15	Proposed Rule		Program announcement for grants for establishment of departments of family medicine
HHS-HSA	7	Proposed Rule		Implementation of the general statutory funding preference for grants for nurse anesthetist education programs for FY 1994 -- pn 2154
HHS-HSA	14	Final Rule		Disadvantaged health professions faculty loan repayment program -- pn 2160
HHS-HSA	14	Final Rule		Ryan White title iv, HIV demonstration program for children, adolescents, and families (no. 2165), notice of availability of funds
HHS-HSA	16	Proposed Rule		Program announcement and proposed funding priorities for special project grants to schools of public health for FY 1994
HHS-HSA	16	Proposed Rule		Proposed funding preference and priority for grants for programs for physicians' assistants for FY 1994, program announcement and proposed minimum percent
HHS-HSA	16	Final Rule		Special project grants, maternal and child health services, federal set-aside program, collaborative health, education, and human services systems
HHS-HSA	13	Final Rule		Emergency medical services for children demonstration grants, notice of availability of funds
HHS-HSA	13	Proposed Rule		Cooperative agreements for area health education centers programs, program announcement
HHS-HSA	14	Notice		Availability of funds for the community scholarship programs
HHS-HSA	14	Notice		Special project grants and cooperative agreements, maternal and child health services, federal set-aside program
HHS-HSA	14	Notice		Rural telemedicine grant program
HHS-HSA	6	Notice		Availability of funds for community and migrant health center activities
HHS-HSA	8	Notice		Rural health outreach grant program
HHS-HSA	13	Notice		Junior National Health Service Corps, junior health careers opportunity program
HHS-HSA	10	Notice		Grants to improve emergency medical services and trauma care in rural areas
HHS-HSA	14	Notice		Availability of funds for grants to provide comprehensive health promotion, disease prevention, and primary health care services to native Hawaiians
HHS-HSA	14	Notice		Special projects of national significance
HHS-HSA	8	Notice		Model state-supported AHEC program
HHS-HSA	12	Notice		Notice of availability of funds for general family planning training grants
HHS-HSA	12	Notice		Notice of availability of funds for family planning nurse practitioner training grants
HHS-CDC	7	Final Rule		Grants for injury control research centers, notice of availability of funds for FY 1994 -- announcement no. 405
HHS-CDC	23	Proposed Rule		Evaluation of a community intervention in China of the use of Periconceptional Folic Acid supplements to prevent Spina Bifida and Anencephaly
HHS-CDC	18	Proposed Rule		FY 1994 preventive health services addendum to announcement 401, standard accelerated prevention campaign project grants -- announcement 401a
HHS-CDC	7	Proposed Rule		Cooperative agreements to conduct research, treatment, and education programs on lyme disease in the United States -- announcement no. 400
HHS-CDC	18	Proposed Rule		Grants for injury prevention research for violence against women, notice of availability of funds for FY 1994 -- announcement 409
HHS-CDC	8	Notice		Announcement of a cooperative agreement to the association of state and territorial public health laboratory directors -- announcement number 413
HHS-CDC	9	Notice		Grants for education programs in occupational safety and health, notice of availability of funds for FY 1995 -- announcement number 123
HHS-CDC	19	Notice		Announcement of a cooperative agreement to the ambulatory sentinel practice network -- announcement number 416
HHS-CDC	5	Notice		State-based programs to reduce the burden of diabetes: a health systems approach -- announcement number 424
HHS-NIH	4	Final Rule		National Heart, Lung, and Blood Institute grants for prevention and control projects
HHS-NIH	17	Final Rule		Minority biomedical research support program
HHS-NIH	35	Final Rule		NIH guidelines on the inclusion of women and minorities as subjects in clinical research
HHS-NIH	21	Final Rule		Availability of training fellowships under the NIH Intramural Research Training Award (IRTA) Program
HHS-SAMHSA	17	Notice		Substance abuse prevention demonstration grants for high risk youth populations
HHS-HCFA	56	Proposed Rule	1	Extended Medicaid for certain families who lose AFDC eligibility because of increased earned income or loss of earned income disregards, work supplementation
HHS-HCFA	34	Final Rule		Carrier jurisdiction for claims for durable equipment, prosthetics, orthotics, and supplies (DMEPOS), Medicare program -- 42 CFR part 421
HHS-HCFA	43	Final Rule		Required laboratory procedures for rural health clinics -- bpd-783-fc
HHS-HCFA	47	Final Rule		Intermediary and carrier checks that are lost, stolen, defaced, mutilated, destroyed, or paid on forged endorsements -- 42 CFR part 424, bpo-114-fc
HHS-HCFA	75	Proposed Rule	1	Special payment limits for home blood glucose monitors -- 42 CFR part 414, pbd-778-pn
HHS-HCFA	72	Final Rule	1	Deduction of incurred medical expenses (spenddown), Medicaid -- mb 020-fc
HHS-HCFA	71	Proposed Rule	2	Revisions to the definition of end-stage renal disease and resumption of entitlement
HHS-HCFA	70	Final Rule		Health care financing research and demonstration cooperative agreements and grants for FY 1993 and 1994

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA

--- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	* SIGNIFICANCE	TITLE
HHS-HCFA	61	Final Rule		Coverage of Epoetin (EPO) used by competent home dialysis patients -- bpd-737-f
HHS-HCFA	5	Final Rule		Part a premium for 1994 for the uninsured aged and for certain disabled individuals who have exhausted other entitlement -- oact-043-n
HHS-HCFA	38	Proposed Rule	1	Proposed additions to and deletions from the current list of covered procedures for ambulatory surgical centers, Medicare program -- bpd-776-pn
HHS-HCFA	90	Proposed Rule	2	Standards for quality of water used in dialysis and revised guidelines on reuse of hemodialyzer filters for end-stage renal disease patients
HHS-HCFA	87	Final Rule	2	Partial hospitalization services in Community Mental Health Centers
HHS-HCFA	1	Final Rule		Monthly actuarial rates and monthly supplementary medical insurance premium rates beginning January 1, 1994, Medicare program -- oact-044-n
HHS-HCFA	12	Final Rule	1	Medicare program: physician performance standard rates of increase for federal FY 1994 and physician fee schedule update for calendar year 1994 -- bpd-774-
HHS-HCFA	90	Proposed Rule	1	Limit on payments to HMOs, CMPs, and HCPPs -- occ-018-p
HHS-HCFA	86	Proposed Rule	2	Health Maintenance Organization and Competitive Medical Plan national coverage decisions, Medicare -- bpd-732-p
HHS-HCFA	8	Final Rule	1	Revisions to payment policies and adjustments to the relative value units under the physician fee schedule, Medicare program -- bpd-770-fc
HHS-HCFA	58	Final Rule	1	Limitations on aggregate payments to disproportionate share hospitals, FY 1994
HHS-HCFA	54	Proposed Rule	1	Third party liability cost-effectiveness waivers
HHS-HCFA	89	Proposed Rule	1	Low-income eligibility groups and coverage of services legislative changes, Medicare program -- mb-13-p
HHS-HCFA	13	Proposed Rule		Withdrawal of coverage of diagnostic nocturnal penile tumescence testing (impotence testing), Medicare program -- bpd-780-pn
HHS-HCFA	9	Final Rule		Schedule of limits for skilled nursing facility inpatient routine service costs, effective October 1, 1993 -- bpd-795-nc
HHS-HCFA	63	Final Rule	1	Changes to the requirement for annual physician acknowledgement of physician attestation -- bpd-769-fc
HHS-HCFA	64	Proposed Rule		Change in provider agreement regulations related to federal employee health benefits, bpd-748-p
HHS-HCFA	45	Final Rule	2	Freedom of choice waiver granted under section 1915(b) of the Social Security Act, conforming changes to amendments made to the act by sections 4604 and 4742
HHS-HCFA	37	Final Rule	2	Computer matching and privacy protection for Medicaid eligibility
HHS-HCFA	56	Proposed Rule	2	Intermediary and carrier functions, Medicare program
HHS-HCFA	52	Final Rule		Data, standards, and methodology used to establish budgets for fiscal intermediaries and carriers, Medicare program
HHS-HCFA	7	Proposed Rule		Post-contract protections and other coordinated care issues -- occ-011-p
HHS-HCFA	37	Final Rule		Aggregation of Medicare claims for administrative appeals -- bpd-694-f
HHS-HCFA	28	Final Rule		Diagnosis codes on physician bills, Medicare -- bpd-610-f
HHS-SSA	56	Final Rule		Suspension of benefits where individual is deported, exemption from social security because of religious beliefs -- 20 CFR part 404, subparts d, e, and k
HHS-SSA	56	Final Rule		Suspension of dependent's benefits when a worker is in an extended period of eligibility -- 20 CFR parts 404.401a and 404.1592a
HHS-SSA	56	Final Rule	1	Representation of claimants for benefits under title II and/or title XVI
HHS-SSA	31	Final Rule		Considering an application filed under the Railroad Retirement Act as an application for social security benefits -- 20 CFR part 404
HHS-SSA	56	Final Rule		Continued entitlement of deemed spouse -- 20 CFR part 404, subparts d and e
HHS-SSA	54	Final Rule	2	Redetermination of supplemental security income eligibility -- 20 CFR part 416, regulations no. 16, subpart b, ssa-161
HHS-SSA	58	Proposed Rule	1	Revised medical criteria for determination of disability, musculoskeletal system and related criteria -- regulation no. 4, subpart p
HHS-SSA	58	Final Rule	1	Revised medical criteria for determination of disability, cardiovascular system
HHS-SSA	10	Final Rule	1	Extension of expiration dates for various body system listings
HHS-SSA	89	Final Rule	1	Payments for vocational rehabilitation (VR) services
HHS-SSA	0	Final Rule	1	Determining disability and blindness, extension of expiration date for cardiovascular system listings -- 20 CFR part 404, 404, regulation no. 4, subpart p, insurance
HHS-ACF	14	Proposed Rule		Availability of financial assistance for native american social and economic development projects to promote self-sufficiency
HHS-ACF	28	Proposed Rule		Notice of proposed program instruction requiring all head start programs to provide smoke-free environments
HHS-ACF	26	Final Rule	1	Statewide automated child welfare information systems
HHS-ACF	26	Final Rule	1	Adoption and foster care analysis and reporting system
HHS-ACF	13	Notice		The administration on developmental disabilities announcing the request for public comments on proposed developmental disabilities funding
HHS-ACF	20	Notice		Availability of financial assistance for improving the capability of indian tribal governments to regulate environmental quality
HHS-HDSO	28	Final Rule		Head Start Public and Indian Housing Child Care Demonstration Project, grants availability, FY 1993 program announcement
HHS-HDSO	51	Proposed Rule		Grants for state and community programs on aging
HHS-OS	64	Proposed Rule		Revisions to the peer review organization sanctions process
HHS-OFA	17	Proposed Rule	2	Child support enforcement, paternity establishment

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA
Ext -- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	* SIGNIFICANCE	TITLE
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
HUD-HUDSEC	90	Proposed Rule		Lead-based paint hazard elimination
HUD-HUDSEC	5	Final Rule		Prohibition of advance disclosure of funding decisions, amendments -- part 4
HUD-HUDSEC	8	Final Rule		Implementation of OMB circular A-133
HUD-HUDSEC	36	Final Rule		Home Investment Partnerships Program (FR-3411)
HUD-HUDSEC	7	Interim Final Rule		Home Investment Partnerships Program
HUD-OH	19	Final Rule		Electronic transmission of required data for certification and recertification and subsidy billing procedures for multifamily subsidized projects
HUD-OH	15	Final Rule		GNMA requests for full insurance on coinsurance loans
HUD-OH	63	Proposed Rule		Single-family property disposition program, closing agent escrow accounts
HUD-OH	17	Final Rule		Expedited procedures for HTC multifamily properties
HUD-OH	20	Final Rule		Flexible subsidy program for troubled projects -- 24 CFR part 219
HUD-OH	43	Final Rule	1	Manufactured home construction and safety standards on wind standards
HUD-OH	60	Proposed Rule	2	Assisted living facilities under section 232
HUD-OH	12	Proposed Rule		Termination of tenancy for criminal activity
HUD-OH	28	Proposed Rule	1	Contract rent annual adjustment factors, revision to part 888 HAPP
HUD-OH	54	Final Rule	1	Amendments to regulation X, the Real Estate Settlement Procedures Act regulation (subordinate liens) -- FR-3382
HUD-OH	21	Final Rule		Multifamily property disposition, state housing finance agency demonstration program
HUD-OH	14	Proposed Rule	1	Sale of HUD-held multifamily mortgages
HUD-GNMA	86	Proposed Rule	2	Real estate mortgage investment conduit, notice of GNMA REMIC (FR-3555)
HUD-CPD	82	Proposed Rule	2	Miscellaneous amendments to correct identified deficiencies in the Community Development Block Grant Program -- part 570
HUD-CPD	8	Final Rule	2	Designation of empowerment zones and enterprise communities -- part 597
HUD-CPD	11	Notice		Notice of request for consideration for community development corporation designation
HUD-FHEO	1	Final Rule	1	Administrative proceedings under section 812 of the Fair Housing Act (FH-3485)
HUD-PIH	40	Proposed Rule	1	Designated housing, public housing designated for occupancy by disabled, elderly, or disabled and elderly families, proposed new part 945 and proposed amendments
HUD-PIH	46	Proposed Rule		Amendments to the Comprehensive Grant Program
HUD-PIH	35	Proposed Rule		Tenant participation and tenant opportunities in public housing (FR-3568)
DEPARTMENT OF THE INTERIOR				
DOI-BLM	14	Final Rule		Onshore oil and gas unit agreements: unproven areas
DOI-BLM	11	Final Rule		Land exchanges, general
DOI-BLM	3	Final Rule		Protection, management, and control of wild free-roaming horses and burros
DOI-BLM	5	Proposed Rule	1	Department hearings and appeals procedures, cooperative relations gazing administration, exclusive of Alaska
DOI-BLM	33	Proposed Rule		Onshore oil and gas operations, federal and Indian oil and gas leases, onshore oil and gas order no. 5, measurement of gas
DOI-BLM	4	Proposed Rule	1	Department hearings and appeals procedures, cooperative relations gazing administration, exclusive of Alaska
DOI-RB	15	Proposed Rule		Mitigate losses and damages resulting from drought -- proposed rescission of 43 CFR part 423
DOI-RB	15	Proposed Rule		Payment of claims for actual damages -- proposed rescission of 43 CFR part 419
DOI-RB	15	Proposed Rule		Exchange of certain unpatented farm units -- proposed rescission of 43 CFR part 406
DOI-RB	15	Proposed Rule		Management of water rights for individuals receiving benefits -- proposed rescission of 43 CFR part 230
DOI-MMS	10	Final Rule		Administrative amendments of regulations governing royalty oil surety requirements, information collection requirements and addresses
DOI-FWS	9	Final Rule		Injurious wildlife: importation of fish or fish eggs
DOI-FWS	14	Final Rule		Incidental, but not intentional, take of small numbers of Polar Bears and Walruses during oil and gas industry operations (exploration, development and production)
DOI-FWS	15	Final Rule		Wild Bird Conservation Act of 1992
DOI-FWS	7	Proposed Rule	1	Endangered and threatened wildlife and plants, proposed revision of the special rule for nonessential experimental population of Red Wolves in North Carolina

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA

- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
DOI-FWS	107	Proposed Rule	Ext	Wild Bird Conservation Act of 1992
DOI-FWS	23	Final Rule		Captive-bred wildlife regulation
DOI-FWS	4	Final Rule		Endangered and threatened wildlife and plants, special rule concerning take of the threatened Coastal California Gnatcatcher
DOI-FWS	56	Final Rule		Endangered and threatened wildlife and plants, designation of critical habitat for the Least Bell's Vireo
DOI-FWS	52	Proposed Rule		Regulations prohibiting taking of free ranging Wolves and Wolverines on Alaska national wildlife refuges on the same day the trapper or hunter is airborne
DOI-FWS	2	Proposed Rule	1	Endangered and threatened wildlife and plants, revised proposed critical habitat designation for the Delta Smelt
DOI-FWS	36	Final Rule		Endangered and threatened wildlife and plants, determination of critical habitat for the Mojave population of the Desert Tortoise
DOI-FWS	2	Proposed Rule	1	Endangered and threatened wildlife and plants, proposed designation of critical habitat for the Marbled Murrelet
DOI-FWS	16	Final Rule		Designation of critical habitat for the threatened Loach Minnow, endangered and threatened wildlife and plants
DOI-FWS	16	Final Rule		Designation of critical habitat for the threatened Spikedace, endangered and threatened wildlife and plants
DOI-FWS	4	Final Rule	1	Designate critical habitat for four endangered Colorado River fishes
DOI-NPS	23	Proposed Rule	2	National Capital Region parks, sale and distribution of newspapers, leaflets, and pamphlets
DOI-OSMRE	19	Proposed Rule		Coal formation fire control
DOI-BIA	62	Proposed Rule	1	Indian Self-determination and Education Assistance Act regulations
DOI-BIA	24	Final Rule		Protection of archaeological resource
DOI-BIA	45	Proposed Rule		General forest regulations
DOI-BIA	32	Final Rule		Preparation of rolls of Indians, roll of independent Seminole Indians of Florida
DOI-BIA	14	Interim Final Rule	1	Procedures for establishing that an American Indian group exists as an Indian tribe -- 25 CFR 83
DOI-ASPMB	43	Final Rule	1	Natural Resources Damage Assessments
DEPARTMENT OF JUSTICE				
DOJ-PARCOM	24	Proposed Rule		Category eight policy for murder -- 28 CFR 2.20
DOJ-PARCOM	24	Final Rule		Prisoners transferred pursuant to treaty -- 28 CFR 2.62
DOJ-PARCOM	24	Proposed Rule		Ammunition as a weapon -- 28 CFR 2.20
DOJ-INS	5	Final Rule		Approval process for school to admit nonimmigrant students
DOJ-INS	4	Final Rule		Temporary protected status, exception to registration deadlines
DOJ-INS	4	Proposed Rule		Petitioning for foreign-born orphans by United States citizens
DOJ-INS	4	Proposed Rule		Control of employment of aliens
DOJ-INS	4	Proposed Rule		Nonimmigrant classes, B visitor for business or pleasure
DOJ-INS	29	Proposed Rule		Expiration of the replenishment agricultural worker program
DOJ-INS	41	Proposed Rule		Rules and procedures for adjudication of applications for asylum of withholding of deportation and for employment authorization
DOJ-DEA	5	Proposed Rule		Reporting on psychotropic substances
DOJ-BOP	25	Proposed Rule		Drug abuse treatment programs
DOJ-BOP	25	Final Rule		Mandatory English as a second language program
DOJ-BOP	11	Final Rule		Compassionate release
DOJ-BOP	23	Final Rule		Use of force and application of restraints
DEPARTMENT OF LABOR				
DOL-ETA	20	Final Rule	1	Job Training Partnership Act (Job Corps) -- title iv-b
DOL-OSHA	9	Proposed Rule	1	Indoor air quality

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA
- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
DEPARTMENT OF STATE				
STATE	28	Final Rule		Amendments to the international traffic in arms regulations (ITAR), the U.S. munitions list, category v -- 22 CFR part 121.1
STATE	28	Final Rule		Amendments to the international traffic in arms regulations (ITAR), the U.S. munitions list, category vi -- 22 CFR part 121
STATE	15	Proposed Rule		Grants and cooperative agreements with institutions of higher education, hospitals, and other nonprofit organizations
STATE-AFA	20	Final Rule		Foreign prohibitions on longshore work by U.S. nationals
STATE-AFA	4	Proposed Rule		Diversity of immigrants -- 22 CFR 42.33, implementation of sections 201(a)(3), 201(e), 203(c), and 204(a)(1)(g) of the Immigration and Nationality Act as amended
STATE-AFA	6	Proposed Rule		Implementation of chapter 16 of NAFTA and sections 341 and 342 of the North American Free Trade Implementation Act
DEPARTMENT OF TRANSPORTATION				
DOT-OST	0	Final Rule	1	Transportation for individuals with disabilities
DOT-OST	0	Final Rule	1	Management information system (MIS) for workplace drug testing programs (common rule)
DOT-OST	13	Final Rule	1	Prevention of alcohol misuse in the aviation, transit, motor carrier, railroad, and pipeline industries, common preamble
DOT-OST	7	Proposed Rule	1	Procedures for workplace drug and alcohol testing programs, blood testing programs
DOT-OST	7	Proposed Rule	1	Random drug testing program
DOT-OST	3	Final Rule	1	Procedures for transportation workplace drug and alcohol testing programs
DOT-USCG	12	Final Rule	1	Documentation of vessels, recording of instruments, fees
DOT-USCG	28	Final Rule	1	Discharge removal equipment for vessels carrying oil
DOT-USCG	35	Final Rule	1	Licensing of pilots, manning of vessels by pilots -- 84-060
DOT-USCG	80	Proposed Rule	1	Security for passenger vessels and passenger terminals
DOT-USCG	0	Final Rule	1	Collection of drug test information (MIS), programs for chemical drug testing of commercial vessel personnel
DOT-USCG	12	Proposed Rule	1	Collection of commercial vessel and personnel accident (marine casualty) information & programs for chemical drug & alcohol testing of commercial vessel personnel
DOT-USCG	17	Proposed Rule	1	Great lakes pilotage rate methodology -- 92-072
DOT-FAA	0	Final Rule	1	Antidrug program for personnel engaged in specific aviation activities, management information system
DOT-FAA	2	Final Rule	1	Training and checking in ground icing conditions
DOT-FAA	6	Proposed Rule	1	Antidrug program and alcohol misuse prevention program for employees of foreign air carriers engaged in specified aviation activities
DOT-FAA	1	Final Rule	1	Antidrug program for personnel engaged in specified aviation activities
DOT-FAA	1	Proposed Rule	1	Alcohol misuse prevention program for personnel engaged in specified aviation activities
DOT-FHWA	2	Final Rule	1	Qualification of drivers, medical examination
DOT-FHWA	62	Final Rule	1	Radar detectors in commercial motor vehicles
DOT-FHWA	34	Final Rule	1	Management and monitoring systems
DOT-FHWA	3	Final Rule	1	Statewide planning, metropolitan planning
DOT-FHWA	42	Final Rule	1	Private motor carriers of passengers
DOT-FHWA	0	Final Rule	1	Controlled substances testing, recordkeeping and reporting requirements
DOT-FHWA	6	Proposed Rule	1	Foreign-based motor carriers and drivers, controlled substances and alcohol use and testing
DOT-FHWA	1	Final Rule	1	Controlled substances and alcohol use and testing
DOT-NHTSA	35	Proposed Rule	1	Motor vehicle content labeling -- 49 CFR part 583
DOT-NHTSA	11	Proposed Rule	1	Determination of effectiveness, highway safety programs
DOT-NHTSA	1	Proposed Rule	1	Compressed natural gas fuel containers, federal motor vehicle safety standards
DOT-NHTSA	1	Proposed Rule	1	Antilock brake systems for light vehicles (anprm)
DOT-NHTSA	14	Prerule	1	Light Truck Fuel Economy Standards, model years 1998-2006
DOT-NHTSA	14	Final Rule	1	Light Truck Fuel Economy Standards, model years 1996-1997

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA

-- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
DOT-FRA	0	Final Rule	1	Amendments to alcohol/drug regulations, annual reporting requirements
DOT-FRA	15	Proposed Rule	1	Grade crossing signal system safety
DOT-FRA	13	Final Rule	1	Railroad police officers -- 49 CFR part 207
DOT-FRA	1	Final Rule	1	Amendments to alcohol/drug regulations, alcohol testing
DOT-FRA	11	Proposed Rule	1	Maintenance-of-way equipment, freight car safety standards
DOT-FTA	29	Proposed Rule	1	Rail fixed guideway systems, state safety oversight
DOT-FTA	1	Final Rule	1	Prevention of prohibited drug use in transit operations
DOT-FTA	1	Final Rule	1	Prevention of alcohol misuse in transit operations
DOT-MarAd	16	Interim Final Rule	1	Obligation guarantees
DOT-RSPA	0	Final Rule	1	Management information system (MIS) standardized data collection and reporting of drug testing results
DOT-RSPA	35	Final Rule	1	Operation and maintenance procedures for pipelines
DOT-RSPA	1	Final Rule	1	Alcohol misuse prevention program
DEPARTMENT OF THE TREASURY				
TREAS-OTS	0	Proposed Rule		Community Reinvestment Act regulations
TREAS-OCC	35	Proposed Rule		Lending limits
TREAS-OCC	1	Proposed Rule		Community Reinvestment Act
DEPARTMENT OF VETERANS AFFAIRS				
VA	87	Proposed Rule		Examinations
VA	17	Final Rule		Standards of ethical conduct and related responsibilities
VA	15	Final Rule		Loan guaranty: limited denial of participation in the loan guaranty program
VA	72	Proposed Rule		Claims based on chronic effects of exposure to vesicant agents
VA	72	Proposed Rule		Full disclosure of beneficiary's income
VA	27	Proposed Rule		Veterans education, implementation of the Veterans' Benefits Act of 1992 and the National Defense Authorization Act for FY 1993 in the post-vietnam era veteran
VA	18	Final Rule		Veterans education, standardization of programs
VA	88	Proposed Rule		Claims based on exposure to ionizing radiation
VA	17	Final Rule		Reservists education, the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 and the Montgomery GI bill, selected reserve
VA	13	Final Rule		Veterans education: Veterans Job Training Act
VA	88	Proposed Rule	2	Loan guaranty: acceptance of partial payments, indemnification of default
VA	78	Final Rule	2	To amend the travel authority for beneficiaries who are in receipt of pension
VA	51	Proposed Rule	1	Disease associated with exposure to certain herbicide agents, multiple myeloma and respiratory cancers
VA	63	Proposed Rule		Loan guaranty: implementation of public law 102-547
VA	49	Proposed Rule		Line of duty
VA	23	Proposed Rule		Loan guaranty and vocational rehabilitation and counseling programs -- VA acquisition regulation (VAAR) part 871
VA	14	Final Rule	1	Disease associated with exposure to certain herbicide agents
VA	14	Final Rule		Procedural due process and appellate rights
VA	14	Final Rule		Procedural due process and appellate rights
VA	2	Proposed Rule		Reservists education: the Veterans Education and Employment Amendments of 1989, the Department of Defense Authorization Act, 1990, and the Montgomery GI bill -
VA	15	Proposed Rule		Schedule for rating disabilities: diseases of the ear and other sense organs

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA

Ext -- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
ENVIRONMENTAL PROTECTION AGENCY				
EPA-GCEC	17	Final Rule		Simplification of EPA's process for treating indian tribes as states, amendments to interim final rule, 40 CFR parts 35 and 130
EPA-GCEC	17	Proposed Rule		Simplification of EPA's process for treating indian tribes as states, proposed amendments -- 40 CFR parts 124, 131, 142, 144, 145, and 233
EPA-WATER	4	Proposed Rule		Analytical methods for regulated drinking water contaminants, national primary drinking water regulations
EPA-WATER	37	Proposed Rule	1	Water quality standards for surface waters of the Sacramento River, San Joaquin River, and San Francisco Bay and delta of the state of California
EPA-WATER	14	Proposed Rule	2	Drinking water information collection rule
EPA-WATER	91	Final Rule	1	Combined sewer overflow (CSO) control policy
EPA-WATER	51	Proposed Rule	1	Pesticide chemicals point source category, formulating, packaging, and repackaging sub-categories, effluent limitations guidelines and NSPS
EPA-SWER	49	Final Rule	1	List of regulated substances and thresholds for accidental release prevention, requirements for petitions under section 112(r) of the Clean Air Act as amended
EPA-SWER	36	Proposed Rule	1	National priorities list for uncontrolled hazardous waste sites -- proposal no. 16
EPA-SWER	34	Proposed Rule	2	Hazardous waste management system, Carbamate production identification and listing of hazardous waste and CERCLA hazardous substance designation & reportable
EPA-SWER	17	Final Rule	2	Underground storage tank financial responsibility requirements, 1998 compliance deadline for tribally-owned underground storage tanks (UST) on indian lands that..
EPA-SWER	20	Proposed Rule	2	Standards for the management of specific hazardous wastes, amendment to subpart c, recyclable materials used in a manner constituting disposal
EPA-SWER	11	Final Rule	2	National priorities list for uncontrolled hazardous waste sites
EPA-AR	7	Final Rule		Protection of stratospheric ozone, federal procurement regulation -- 40 CFR part 82, san 2899
EPA-AR	36	Proposed Rule		Labeling supplemental proposal -- 40 CFR part 82, san 3348
EPA-AR	46	Final Rule		Ohio miscellaneous VOC RACT I and II regulations -- san 3376, ch-10-5677
EPA-AR	28	Final Rule	1	Criteria and procedures for determining conformity to state or federal implementation plans of transportation plans, programs, and projects funded or approved
EPA-AR	60	Proposed Rule	1	National emission standards for hazardous air pollutants for source category: gasoline distribution (stage I) -- san 2928
EPA-AR	36	Proposed Rule	2	Surface coating of plastic parts control techniques guideline -- title i, Clean Air Act amendments
EPA-AR	18	Final Rule	2	Approval of state programs and delegation of federal authorities -- 42 CFR part 63, subpart e, san 3142
EPA-AR	14	Proposed Rule	1	National emission standards for hazardous air pollutants for alogenated solvent cleaners -- san 2839
EPA-AR	87	Proposed Rule	1	Field citation program -- 40 CFR part 59, san 2937
EPA-AR	28	Final Rule	1	Accelerated phaseout of ozone depleting chemicals and listing and phaseout of Methyl Bromide
EPA-AR	26	Proposed Rule	1	National emissions standard for hazardous air pollutants for Chromium electroplating and anodizing operations -- san 2841
EPA-AR	91	Proposed Rule	1	Requirements for constructed, reconstructed, or modified major sources under Clean Air Act section 112(g) -- san 2932
EPA-AR	71	Proposed Rule	1	Regulations governing awards under section 113(f) of the Clean Air Act, the Clean Air Act awards rule -- san 2939
EPA-AR	3	Final Rule	2	Schedule for the promulgation of emission standards under section 112(e) of the Clean Air Act amendments of 1990
EPA-AR	0	Final Rule	1	Determining conformity of general federal actions to state or federal implementation plans
EPA-AR	27	Proposed Rule		Sip: West Virginia pm-10 revision, approval and limited disapproval -- san 3387, sip-wv-5-1-5149
EPA-AR	13	Final Rule		Clean fuel fleet program definitions and general provisions -- san 3070
EPA-AR	90	Final Rule	2	Preemption of state regulations for nonroad engine and vehicle standards
EPA-AR	1	Proposed Rule	1	Regulation of fuels and fuel additives: renewable oxygenate requirement for reformulated gasoline
EPA-AR	1	Final Rule	1	Fuel and fuel additives: standards for reformulated gasoline
EPA-AR	67	Final Rule	1	Acid rain NOX regulations under title iv of the Clean Air Act amendments of 1990
EPA-AR	12	Proposed Rule		Disapproval of Service Plastic's request for operating restrictions -- il44-1-5481, san-3396
EPA-AR	14	Final Rule	2	Model standards and techniques for control of Radon in new buildings, proposed guidance document, not a rulemaking -- san 2975
EPA-AR	18	Final Rule		Reconsideration for GM Electromotive Division -- il-1226-5785, san 3399
EPA-AR	63	Proposed Rule	2	National emission standards for hazardous air pollutants for Ethylene Oxide commercial sterilization and fumigation operations -- san 2484
EPA-AR	72	Final Rule	2	Standards for emissions from natural gas-fueled and liquefied petroleum gas-fueled motor vehicles and motor vehicle engines and certification procedures for...
EPA-AR	62	Final Rule	1	Hazardous organic NESHAP (HON) for the synthetic organic chemical manufacturing industry (SOCMI) and other processes subject to the negotiated regulation for equi
EPA-AR	56	Final Rule	2	National ambient air quality primary standards for Carbon Monoxide, final decision -- san 2762
EPA-AR	85	Proposed Rule	1	Emission standards for new nonroad spark-ignition engines at and below 19 kilowatts, control of air pollution
EPA-AR	15	Final Rule	1	Control of air pollution from new motor vehicles and new motor vehicle engines, refueling emission regulations for light-duty vehicles and trucks and heavy-duty vehicle
EPA-AR	27	Final Rule		Significant new alternatives policy (SNAP) program -- san 2991 -- title vi of the Clean Air Act amendments of 1990
EPA-AR	28	Proposed Rule	2	National emissions standard for hazardous air pollutants for magnetic tape manufacturing operations -- san 2948
EPA-AR	16	Final Rule	1	General provisions for national emission standards for hazardous air pollutants for source categories -- 40 CFR part 63, subpart a, san 2918
EPA-AR	0	Proposed Rule	1	California federal implementation plans for Sacramento, Ventura, and the South Coast under the Clean Air Act -- section 110(c)
EPA-AR	5	Final Rule	1	Economic incentive program rules -- san 2964

* Significance -- 1) Designated Significant by Agency, 2) Designated Significant by OIRA
- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	* SIGNIFICANCE	TITLE
EPA--OPPTS	91	Proposed Rule	1	Emergency Planning and Community Right-to-know Act, section 313 proposed addition of chemicals -- 40 CFR 372.65
EPA--OPPTS	17	Final Rule	1	Addition of 21 chemicals and 2 chemical categories to the list of toxic chemicals under section 313 of the Emergency Planning and Community Right-to-know Act
EPA--OPPTS	17	Final Rule	1	Petition to add Hydrochlorofluorocarbons (HCFCs) to the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right
EPA--OPPTS	61	Proposed Rule	1	Provision of lead hazard information pamphlet before renovation of target housing
EPA--OPPTS	70	Proposed Rule	2	Fishing sinker -- TSCA section 6
OFFICE OF MANAGEMENT AND BUDGET				
OMB	108	Final Rule		Ext Application of cost accounting standards board regulations to educational institutions -- 48 CFR parts 9903, 9905
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION				
NASA	1	Final Rule	1	NASA far supplement synopsis requirements to implement fac 90-20, expedited implementation of NAFTA
NASA	18	Final Rule	2	Streamline the major system acquisition process
NASA	22	Proposed Rule	2	Increasing contractor liability on research and development contracts
NASA	20	Final Rule	2	Performance-based contracting
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE				
CNCS	1	Proposed Rule		Corporation grant programs and support and investment activities
CNCS	12	Final Rule		Corporation for National and Community Service: requirements and for state commissions on national and community service
CNCS	22	Proposed Rule		Corporation for National and Community Service
CNCS	56	Proposed Rule		Uniform administrative requirements for grants and cooperative agreements to state and local governments, governmentwide debarment and suspension requirements
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION				
EEOC	27	Final Rule		Collection of debts by federal tax refund offset
FEDERAL EMERGENCY MANAGEMENT AGENCY				
FEMA	44	Proposed Rule		National flood insurance program: insurance coverage and rates, criteria for land management, use, identification, and mapping of flood control restoration zones
FEMA	5	Proposed Rule		National flood insurance program, insurance rates
GENERAL SERVICES ADMINISTRATION				
GSA	55	Final Rule		Aviation, transportation, and motor vehicles -- FPMR subchapter g amendment
GSA	66	Final Rule		Interim amendment to FIRMR to implement provisions of Executive Order 12845 requiring agencies to purchase energy efficient computer equipment
GSA	0	Final Rule		Maximum per diem rates -- federal travel regulation (FTR), amendment 33
GSA	28	Final Rule	2	Rules of procedure of the general services administration board of contract appeals
GSA	57	Final Rule	1	Identification of energy-efficient office equipment and supplies containing recovered materials or other environmental attributes
GSA	15	Proposed Rule	2	Placement of orders -- 48 CFR 552.216-73, ordering information -- 48 CFR 552.216-74
GSA	4	Final Rule	1	Changes to the FTR maximum per diem rates -- federal travel regulations (FTR), amendment 34
GSA	40	Final Rule	2	Aviation, transportation, and motor vehicles -- federal property management regulations, subchapter g, control no. 93-43
GSA	25	Proposed Rule	2	1) reinventing MAS ordering procedures (notice), 2) removing FSS ordering instructions -- FPMR amendment e (proposed rule), 3) amendment to FIRMR to remove ...

* Significance -- 1) Designated Significant by Agency. 2) Designated Significant by OIRA

--- Extended at request of the agency

EXECUTIVE ORDER 12066 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION				
NARA	0	Proposed Rule	1	Electronic mail systems
UNITED STATES INFORMATION AGENCY				
USIA	7	Interim Final Rule		Educational, scientific, and cultural material; world-wide free flow (export-import) of audio visual materials -- rulemaking 200
USIA	1	Interim Final Rule		Camp counselor exchanges -- rulemaking no. 102
INSTITUTE OF MUSEUM SERVICES				
IMS	10	Final Rule		Institute of Museum Services, technical assistance grants
APPRAISAL SUBCOMMITTEE OF THE FFEIC				
FFIEC	70	Proposed Rule		Freedom of Information Act, requests for confidential treatment of information subject to FOIA and petitions for the issuance, amendment, and repeal of a rule
NATIONAL SCIENCE FOUNDATION				
NSF	84	Final Rule		Investigator financial disclosure policy
NSF	0	Final Rule		Salary offset
NSF	0	Final Rule		Claims collection and administrative offset
OFFICE OF PERSONNEL MANAGEMENT				
OPM	70	Proposed Rule		Temporary, term, and excepted service employment
OPM	27	Proposed Rule		Recomputation of congressional annuities after reemployment
OPM	19	Final Rule		Prevailing rate systems, Champaign, Illinois, NAF wage area
OPM	31	Final Rule		Civil service retirement system, law enforcement officers and firefighters
OPM	8	Final Rule		Prevailing rate systems: Oscoda-Alpena, Michigan, wage area
OPM	10	Final Rule		Termination of the performance management recognition system
OPM	15	Final Rule		Prevailing rate systems, Clark-Hardin-Jefferson, Kentucky, NAF wage area
OPM	13	Final Rule		Prevailing rate systems: redefinition of Santa Clara, California, NAF wage area
OPM	50	Proposed Rule		Interim relief -- 5 CFR part 772
OPM	0	Final Rule		Locality-based comparability payments
OPM	36	Final Rule		Political activity of federal employees
OPM	8	Proposed Rule		Temporary and excepted service employment
OPM	8	Final Rule		Absence and leave
OPM	1	Proposed Rule		Notification requirements relating to the statutory prohibition on political recommendations under the Hatch Act Reform amendments of 1993
OPM	5	Final Rule		Special pay entitlements for law enforcement officers
OPM	2	Interim Final Rule		Commercial garnishment of federal employees' pay
OPM	1	Final Rule		Federal employees health benefits acquisition regulation, miscellaneous changes

Ext -- Extended at request of the agency
 -- Extended at request of the agency

EXECUTIVE ORDER 12866 REVIEWS
OCTOBER 1, 1993 -- MARCH 31, 1994
RECEIVED SINCE OCTOBER 1, 1993

AGENCY/ SUBAGENCY	REVIEW TIME (DAYS)	STAGE OF RULEMAKING	SIGNIFICANCE	TITLE
----------------------	--------------------------	------------------------	--------------	-------

OFFICE OF GOVERNMENT ETHICS

OGE 2 Final Rule Executive branch financial disclosure, qualified trusts, and certificates of divestiture, amendment

RAILROAD RETIREMENT BOARD

RRB 50 Proposed Rule Availability of information to the public
RRB 45 Final Rule 1 Railroad employers' reports and responsibilities
RRB 34 Final Rule 1 Duration of normal extended benefits
RRB 34 Proposed Rule 1 Assessment or waiver of interest, penalties, and administrative costs with respect to collection of certain debts
RRB 31 Final Rule 1 Representative payment

SMALL BUSINESS ADMINISTRATION

SBA 59 Proposed Rule Amendments to the amount of flood insurance coverage required of recipients of certain SBA assistance
SBA 21 Final Rule Physical disaster and economic injury loans, redefining
SBA 54 Proposed Rule Leverage, regulatory exemptions for non-leveraged licensees, Small Business Investment Companies
SBA 74 Final Rule Defense economic assistance, business loans
SBA 76 Proposed Rule Business loans, after ego - development companies, after ego
SBA 85 Proposed Rule Business loan policy, media policy rule
SBA 23 Final Rule Minority small business and capital ownership development, miscellaneous amendments
SBA 0 Interim Final Rule Disaster - physical disaster and economic injury loans
SBA 30 Proposed Rule Loans to state and local development companies, seller financing by regulated lenders
SBA 7 Interim Final Rule Disaster: physical disaster and economic injury loans, landlord exceptions
SBA 7 Interim Final Rule Disaster: physical disaster and economic injury loans, definition of major source of employment
SBA 18 Interim Final Rule Small Business Investment Companies, leverage, participating securities, conditions affecting good standing of licensees
SBA 18 Interim Final Rule Small Business Investment Companies, small business size standards
SBA 18 Interim Final Rule Small Business Investment Companies, implementation of p.l. 102-366 and other matters
SBA 13 Proposed Rule Business loan policy, media policy rule
SBA 0 Interim Final Rule Small business size standards - inflation adjusted size standards

FEDERAL ACQUISITION REGULATIONS

FAR 36 Proposed Rule 1 Electronic contracting
FAR 71 Final Rule 1 Exemptions from cost or pricing data
FAR 11 Proposed Rule 1 Electronic contracting
FAR 6 Final Rule 1 Expedited implementation of the North American Free Trade Agreement (NAFTA) Implementation Act of 1993
FAR 40 Proposed Rule 2 Past performance information
FAR 21 Proposed Rule 2 Subcontracting plans -- FAR case 92-19

TABLE 1

**EXECUTIVE ORDER REVIEWS
OCTOBER 1, 1993 - MARCH 31, 1994
RECEIVED AFTER OCTOBER 1, 1993**

AGENCY	NUMBER OF REVIEWS			ACTIONS TAKEN						AVERAGE REVIEW TIME		
	ECON SIG	NOT ECON SIG	TOTAL	1	2	3	5	9	12	ECON SIG	NOT ECON SIG	ALL
TOTAL	63	515	578	348	177	26	11	0	16	24	26	26
%	10.9%	89.1%		60.2%	30.6%	4.5%	1.9%	0.0%	2.8%			
USDA	11	83	94	65	20	5	2	0	2	17	20	19
DOC	0	42	42	29	11	2	0	0	0	NA	16	16
DOD	0	8	8	1	5	2	0	0	0	NA	44	44
ED	2	23	25	3	19	3	0	0	0	7	31	29
DOE	1	5	6	3	3	0	0	0	0	78	51	56
HHS	7	119	126	93	24	5	4	0	0	37	27	27
HUD	3	22	25	15	8	2	0	0	0	55	30	33
DOI	1	33	34	25	9	0	0	0	0	4	23	23
DOJ	0	15	15	15	0	0	0	0	0	NA	17	17
DOL	1	1	2	0	2	0	0	0	0	9	20	15
STATE	0	6	6	5	1	0	0	0	0	NA	17	17
DOT	14	30	44	21	23	0	0	0	0	6	21	15
TREAS	2	1	3	1	2	0	0	0	0	1	35	12
VA	0	21	21	15	4	2	0	0	0	NA	40	40
EPA	14	39	53	14	25	0	0	0	14	36	36	36
CNCS	1	3	4	0	4	0	0	0	0	22	23	23
EEOC	0	1	1	1	0	0	0	0	0	NA	27	27
FAR	3	3	6	3	1	2	0	0	0	39	23	31
FEMA	0	2	2	0	2	0	0	0	0	NA	25	25
FFIEC	0	1	1	0	1	0	0	0	0	NA	70	70
GSA	0	9	9	6	3	0	0	0	0	NA	36	36
IMS	0	1	1	1	0	0	0	0	0	NA	10	10
NARA	0	1	1	1	0	0	0	0	0	NA	116	116
NASA	0	4	4	4	0	0	0	0	0	NA	15	15
NSF	0	3	3	2	1	0	0	0	0	NA	84	84
OGE	0	1	1	1	0	0	0	0	0	NA	2	2
OMB	0	1	1	0	1	0	0	0	0	NA	108	108
OPM	0	17	17	13	2	2	0	0	0	NA	19	19
RRB	0	5	5	0	0	0	5	0	0	NA	39	39
SBA	3	13	16	9	6	1	0	0	0	15	42	36
USIA	0	2	2	2	0	0	0	0	0	NA	4	4

TABLE 2

EXECUTIVE ORDER REVIEWS
OCTOBER 1, 1993 – MARCH 31, 1994
RECEIVED PRIOR TO OCTOBER 1, 1993

AGENCY	NUMBER OF REVIEWS			ACTIONS TAKEN						AVERAGE REVIEW TIME		
	ECON SIG	NOT ECON	TOTAL	1	2	3	5	9	12	ECON SIG	NOT ECON	ALL
		SIG									SIG	
TOTAL	8	167	175	86	60	24	1	2	2	108	74	76
%	4.6%	95.4%		49.1%	34.3%	13.7%	0.6%	1.1%	1.1%			
USDA	2	26	28	20	6	2	0	0	0	148	55	62
DOC	1	13	14	9	4	1	0	0	0	128	44	50
DOD	0	2	2	0	0	2	0	0	0	NA	99	99
ED	0	9	9	0	6	3	0	0	0	NA	86	86
DOE	0	4	4	2	2	0	0	0	0	NA	121	121
HHS	1	39	40	25	6	6	1	2	0	104	72	73
HUD	1	9	10	4	4	2	0	0	0	42	84	80
DOI	0	7	7	4	2	1	0	0	0	NA	82	82
DOJ	0	0	0	0	0	0	0	0	0	NA	NA	NA
DOL	0	0	0	0	0	0	0	0	0	NA	NA	NA
STATE	0	0	0	0	0	0	0	0	0	NA	NA	NA
DOT	1	6	7	1	4	2	0	0	0	160	149	151
TREAS	0	3	3	1	2	0	0	0	0	NA	81	81
VA	0	8	8	6	0	2	0	0	0	NA	119	119
EPA	2	14	16	1	13	0	0	0	2	67	98	94
AID	0	1	1	0	1	0	0	0	0	NA	36	36
EEOC	0	1	1	0	0	1	0	0	0	NA	205	205
FEMA	0	2	2	0	2	0	0	0	0	NA	51	51
GSA	0	9	9	5	4	0	0	0	0	NA	36	36
NARA	0	1	1	0	1	0	0	0	0	NA	116	116
NASA	0	4	4	2	1	1	0	0	0	NA	47	47
NSF	0	2	2	1	0	1	0	0	0	NA	68	68
OPM	0	5	5	4	1	0	0	0	0	NA	32	32
USIA	0	1	1	1	0	0	0	0	0	NA	11	11
ALL OTHER	0	1	1	0	1	0	0	0	0	NA	74	74

TABLE 3

EXECUTIVE ORDER REVIEWS REVIEWS PENDING ON APRIL 1, 1994

AGENCY	1 -- 30	31 -- 60	61 -- 90	OVER 90	TOTAL
TOTAL	45	13	8	2	68
USDA	10	0	0	1	11
DOC	2	0	0	0	2
DOD	2	0	0	0	2
ED	2	1	4	0	7
DOE	0	0	0	0	0
HHS	6	4	1	0	11
HUD	8	1	0	0	9
DOI	0	0	1	0	1
DOJ	1	0	0	0	1
DOL	0	0	0	0	0
STATE	0	0	0	0	0
DOT	2	0	0	0	2
TREAS	0	0	0	0	0
VA	2	0	0	0	2
EPA	7	3	1	1	12
ACTION	1	0	0	0	1
ATBCB	0	0	1	0	1
FAR	0	1	0	0	1
JMMFF	0	1	0	0	1
OPM	2	2	0	0	4

EXECUTIVE ORDER 12866 RECEIPTS FROM AGENCIES

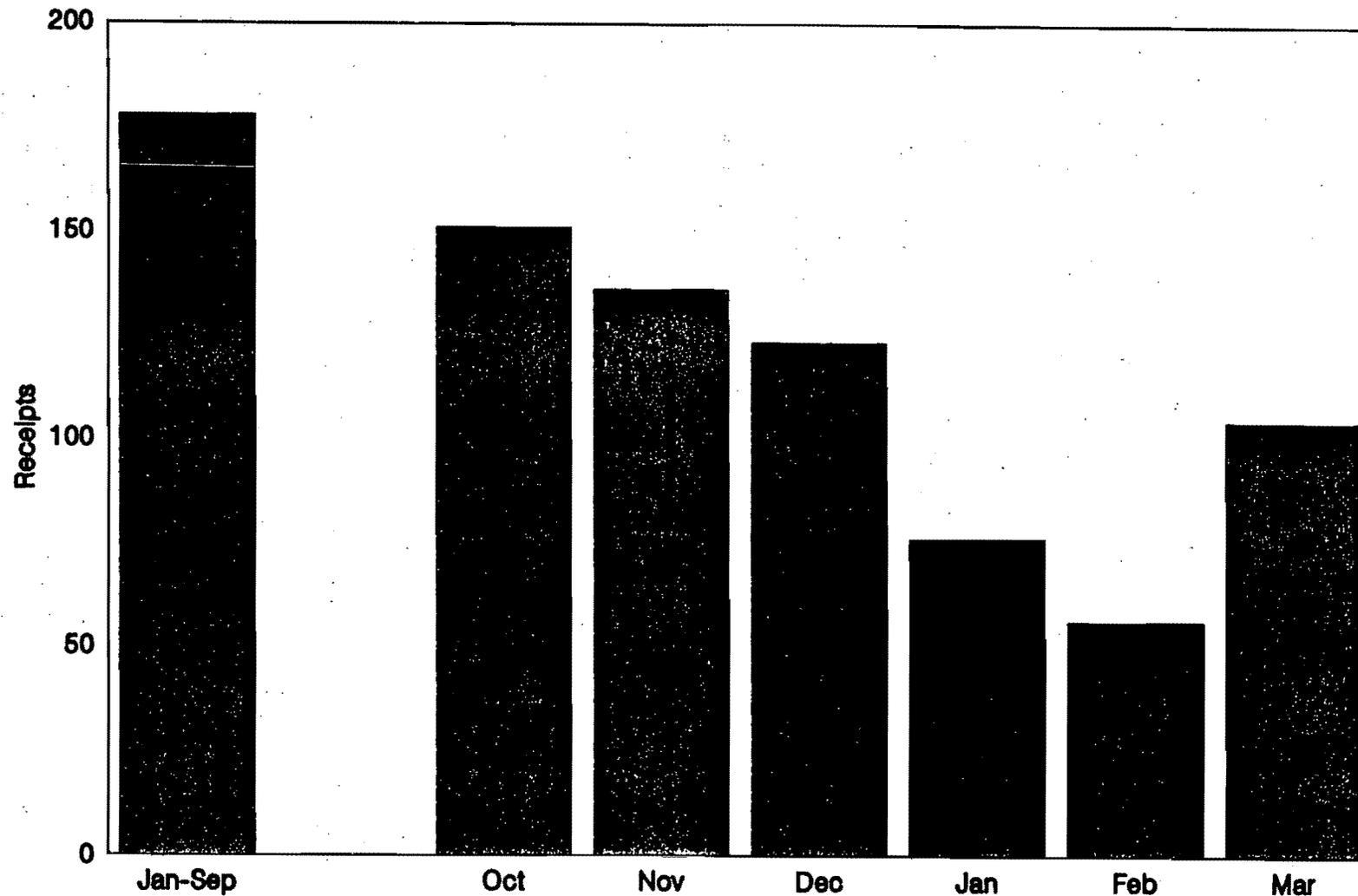


FIGURE A

Note: Pre EO 12866 period is January - September 1993 average
Note: EO 12866 period begins October 1993

HannahTHE WHITE HOUSE
WASHINGTON

APR 6 REC'D

March 11, 1994

MEMORANDUM FOR ALL WHITE HOUSE STAFF

FROM: JACK QUINN
ASSISTANT TO THE PRESIDENT AND
CHIEF OF STAFF TO THE VICE PRESIDENTJOEL I. KLEIN
DEPUTY COUNSEL TO THE PRESIDENTRE: Prohibited Contacts on Rulemaking Matters

By memorandum dated May 4, 1993, we reiterated our policies governing communications by members of White House staff with independent agencies, executive branch agencies, and their components. We also noted that the President was considering certain changes to the regulatory review process and that further guidance regarding communications on regulatory and rulemaking matters would be forthcoming.

In the Fall, the President issued Executive Order No. 12866, "Regulatory Planning and Review." Consistent with the intent of that Order, White House staff members are directed to adhere to the following guidelines with respect to communications with executive branch agencies regarding rulemaking matters:

I. Contacts with Agencies

A. Members of the White House staff may contact executive branch agencies with respect to pending rulemaking matters if the purpose of the communication is not to influence the outcome of the pending proceeding (including, specifically, contacts regarding the status of the matter or general policy, budgetary, or administrative issues).

B. When the purpose of the contact is to influence the outcome of a pending rulemaking proceeding, the staff member should, prior to making the contact:

1. obtain approval from his or her principal or departmental supervisor; and

2. coordinate the contact with the Administrator of OIRA, who will advise the staff member on the appropriateness of the contact.

II. Contacts with Members of the Public

A. Members of the public (that is, persons not employed by the executive, legislative, or judicial branches of the federal government) often approach members of the White House staff and ask to have a position or information considered in a rulemaking proceeding at an executive branch agency. When this occurs, White House staff should inform the person that positions or information provided by members of the public must be submitted in writing if they are to be incorporated into the rulemaking process. All such written communications received from members of the public are to be forwarded by the recipient to the affected agency(ies) for inclusion in the public docket.

Please be reminded that under Executive Order No. 12866, this provision applies to contacts with the public regarding pending rulemaking proceedings under review by the President, Vice President, or any regulatory policy advisor.

B. Consistent with the policies reflected in Executive Order No. 12866, White House staff members should not communicate non-written comments from members of the public on pending rulemaking matters to agencies, OIRA, or anyone else involved in the rulemaking or the review process.

* * *

Please cooperate in observing the guidelines discussed above and continue to refer to prior memoranda issued by the White House Counsel's Office on contacts regarding investigative and adjudicative matters and, more generally, contacts with independent agencies. If you have any questions regarding any of these procedures, please contact the White House Counsel's Office.

Thank you for your continuing assistance and cooperation in this area.

J.M.Q.
JIK

Counsel Memos

THE WHITE HOUSE

WASHINGTON

May 4, 1993

MEMORANDUM FOR ALL WHITE HOUSE STAFF

FROM: BERNARD W. NUSSBAUM
Counsel to the President

STEPHEN R. NEUWIRTH
Associate Counsel to the President

RE: Prohibited Contacts with Agencies

By memoranda dated February 22 and March 8, 1993, we set forth the policies governing communications by members of the White House staff with independent regulatory agencies, executive branch agencies and their components. In those memoranda, we explained that certain communications are prohibited without prior approval from the White House Counsel's office (e.g., communications with the Department of Justice concerning pending criminal or civil cases and investigations, and communications with other agencies concerning other adjudicative, investigative or rulemaking matters).

Our memoranda also noted that the President and Vice President are considering certain changes to the regulatory review process, and that further guidance will be forthcoming with respect to communications with agencies concerning pending regulatory and rulemaking matters. (Many such communications on regulatory and rulemaking matters are prohibited under the policies currently in effect, as set forth in our memoranda.)

The regulatory review project -- which is being coordinated by Jack Quinn, Counsel to Vice President Gore, in close cooperation with Sally Katzen, the Administrator-designate of OIRA -- should be completed during the next six to eight weeks. In the interim, and in order to ensure that the various offices within the White House do not send conflicting messages to any agency or department, all communications with agencies on specific regulatory and rulemaking matters should be discussed in advance with Jack Quinn. (Once Sally Katzen is confirmed by the Senate, all such communications should be discussed with her.)

All other communications requiring clearance from the Counsel's Office -- i.e., communications concerning pending adjudicative and investigative matters, as well as matters involving international aviation -- should continue to be cleared with us.

At the same time, we reiterate the guidance in our prior memoranda that members of the White House staff may communicate directly with agencies or departments with respect to policy, legislation or budgeting matters. Such communications are appropriate if they do not address particular pending adjudicative, investigative or rulemaking matters.

Thank you for your continuing assistance and cooperation in this area.