

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 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: (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.

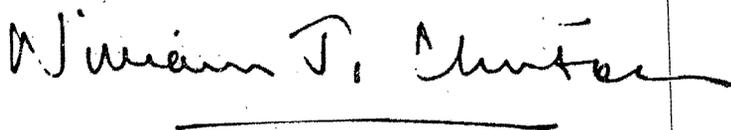
Sec. 8. Publication. Except to the extent required by law, an agency shall not publish in the Federal Register or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the

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.



THE WHITE HOUSE,

September 30, 1993.



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

ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

December 20, 1994

MEMORANDUM FOR REGULATORY POLICY ADVISORS

FROM:

SALLY KATZEN *Sally*

SUBJECT: DECEMBER 21ST REGULATORY CROSSCUT MEETING

Here is the paper that has been prepared for the meeting tomorrow morning at 9:15 with the Vice President.

Distribution:

The Director of the Office of Management and Budget
The Chair of the Council of Economic Advisors
The Assistant to the President and Chief of Staff to the Vice President
The Assistant the President and Counsel
The Assistant to the President for Domestic Policy
The Assistant to the President for Intergovernmental Affairs
The Assistant to the President for Economic Policy
The Assistant to the President for National Security
The Assistant to the President and Staff Secretary
The Deputy Assistant to the President and Director of the Office of Environmental Policy

*Folder
My inbox*

December 21, 1994
9:15 a.m.

**CROSS CUTTING ISSUES
AND
GENERAL REGULATORY APPROACHES**

The Cross-Cutting Subgroup has looked at various ways to improve some of the perceived deficiencies of the regulatory system. We do not assume that regulations are an evil intrusion on an otherwise idyllic world; rather, we assume that though some regulations are necessary and desirable, the current system for producing and implementing rules is broken and needs fixing.

The goals of the ideas presented below (like the goals of E.O. 12866) are to make regulation less costly, less intrusive, and more easily understood. The group also identified a number of initiatives (listed at the end of the paper) that could be included under the "Customer Service" rubric. We also identified two subgroups of the regulated community that deserve special consideration: State, local, and tribal governments and small businesses. Small business is the subject of another subgroup, and State and local issues will be discussed there as well.

The purpose of this paper is to discuss briefly a range of cross-cutting approaches that could be productive both in improving the regulatory process government-wide and in sending a message to the bureaucracy and the public that we will not be conducting business as usual. Because the regulatory system is wide-spread, multi-layered and legally-based, we specifically include ideas to reform and cut through the process of establishing regulations to create a more efficient and less complex and burdensome system.

Those items marked below with asterisks will be discussed at the first meeting; the rest at subsequent meetings.

- * 1. Use of Performance Standards
- * 2. Use of Bubbles/Marketable Permits
- * 3. Use of Audited Self-Regulation
- * 4. Use of Contractual Mechanisms
- * 5. Regulatory Budget
- 6. Use of Information in Place of Regulation

7. Reduce Barriers to Public Participation
8. Provide Incentives For Agencies to Review Existing Regulations
9. Streamline Paperwork Requirements
10. Waivers
11. Eliminate Statutory Deadlines
12. Federalism
13. Customer Service Proposals

1. Use of Performance Standards. "Performance standards" set objectives or goals to be met by those to be regulated. They stand in contrast to what is more commonly used at present -- less flexible "design" or "command and control" standards, which specify particular technologies or practices that must be used by those being regulated. Executive Order No. 12866 states that performance standards are preferable to design standards.

Pro:

- More cost-effective (greater benefits for a given level of costs or reduced costs for a given level of benefits) and less intrusive than inflexible design standards.
- Innovation is encouraged and rewarded.
- Regulatory objectives are made clear from the onset.
- Extends idea of "waivers" to every regulated entity.

Con:

- Difficult to measure compliance and thus to enforce.
- Difficult to articulate the regulatory objective.
- Those regulated may want design standards for protection against liability.
- May require extensive information collection or more frequent monitoring.

Current Uses:

- OSHA Permissible Exposure Levels (sets eight-hour averages for presence of specific chemicals in the workplace); DOT auto safety standards; Animal welfare rules; environmental air and water rules.

Potential Uses:

- Performance Standards could be used wherever performance can be measured (e.g., food safety; other environmental rules; hazard communications).

2. Bubbles/Marketable Permits: The "bubble" approach treats several sources of safety or environmental risk as if they were a single unit. It therefore frees a firm from having to concern itself with each particular source of risk or emissions, enabling it instead to use its resources for the most cost-effective reduction in aggregate risks or emissions. The "marketable permit" approach represents an expansion of the bubble approach. It assigns each firm a specified level (or license, such as airline landing slots or fishing quotas) and authorizes firms below the specific level to sell their credits or excess licenses to another firm that finds it less expensive to purchase the credits or to use the licenses more efficiently.

Pro:

- More cost-effective.
- Encourages and rewards innovation.
- Greater flexibility in meeting performance standards; encourages firms to go beyond minimum compliance requirements.

Con:

- Difficult to determine equivalences and hence to measure compliance with bubbles and even more so with marketable permits.
- Difficult to allocate rights initially.
- May create "hot spots," where risks are concentrated disproportionately.

Current Uses: EPA adopted its "bubble" policy for air emissions from plants in 1980. EPA also allows "averaging" across truck engines for emissions of certain pollutants. DOT's CAFE standards for cars are another example. Takeoff and landing rights at congested airports can be traded and sold. Radio and television spectrum licenses are allocated through auctions. Market trading mechanisms helped reduce lead in gasoline. Individual Transferable Quotas are beginning to be used in fishery management. The Acid Rain trading program is a good example of this approach.

Potential Uses: Allow auto makers to treat individual vehicles as "bubbles" for safety from varied impacts; expand use in environmental regulations.

3. Self-Certification and Self-Regulation: Under self-certification schemes, firms certify that they have complied with applicable regulations (rather than having to obtain pre-approval from the regulator). Under self-regulatory schemes, individual firms in an industry form or use an existing association to set rules to which all members will adhere. This association will be charged with policing its members. Under either approach, government might audit the compliance of either individual firms or the intermediary private organization.

Pro:

- Self-certification (in lieu of preapproval regulations) reduces delay in making available life-saving or cost-saving products or technologies.
- Requires regulated industry to take greater responsibility for achieving the regulator's goals.
- Reduces bureaucracy by trimming the need for enforcement staff.
- Regulations are more likely to be more sensible and better tailored to the industry because they are designed by those who know the industry well.

Con

- Harm could occur before government auditors discover problems.
- Firms themselves may prefer the certainty of a pre-approval, command and control regime.
- Capture of the regulators by the industry is more likely.
- Anticompetitive problems (i.e., barriers to entry, collusion) could be created by bringing firms in an industry together.

Current Uses: Self-Certification: DOT auto safety regulation; consumer product safety (e.g., clothing flammability standards); tax payment. Self-Regulation: securities regulation (stock exchanges); HHS and NSF science research regulations, which require self-monitoring, self-investigations, and self-reporting by institutions that receive federal grants; underwriters Laboratory certification on electrical appliances.

Potential Uses: Self-Certification as replacement for FDA medical device approval; USDA prior label approval; EPA permits for modifications of production processes in the electronics industry. Self regulation: nursing homes; seafood safety.

4. Use of Contractual Arrangements: Use contractual arrangements, such as insurance and enforceable contracts between the regulator and the regulated party, in place of direct regulation.

a. Insurance-based approaches: The government might refrain from direct regulation if the regulated industry obtained sufficient insurance against the harm the government wished to prevent. Insurers would have an incentive to monitor risks and insure that regulated entities reduced them to desirable levels. The government's role would be limited to making sure that a desirable level of insurance was purchased.

Pro

- Expands enforcement capacity by enlisting the resources of insurance and surety companies.
- Avoids unnecessary government intrusion in private industries.

Con

- May create barriers to entry for small businesses.
- Could increase the cost of doing business if surety company charges high premium or requires large collateral deposit. Some businesses may be vulnerable to price fluctuations in the insurance market.
- Insurers may be unwilling to accept innovative new technologies designed to diminish risks.

Current Uses: Oil tanker regulation; fire insurance; workers compensations; crop insurance, etc.

Potential Uses: RCRA

b. Enforceable Contracts in Place of Regulation: Agencies could be encouraged to use "enforceable contracts" as a way of assuring continued "good practices" by an industry (or for the "good actors" within the industry), instead of imposing regulatory requirements on the industry.

Pro

- Rewards good behavior; avoids imposing a burdensome regulatory scheme on industries that are behaving responsibly.
- Allows regulatory agencies to focus regulatory resources on problem areas, rather than requiring agencies to allocate resources to address de minimis problems.

Con

-- Agencies may lack legal authority to use and enforce "private" contracts requiring private firms to follow certain practices.

Current Uses: EPA is presently taking comments on this approach as part of its NPRM on the listing of certain wastes from the dye and pigment industry because of statutory requirement to consider plausible mismanagement.

Potential Uses: If it is acceptable for the dye and pigment industry, can be used for refineries and possibly other industries.

5. Establish a Regulatory Budget: The total cost of agency regulations on the private sector would be capped. Each agency would then be limited in the amount of private costs it could impose on private parties through regulation. A variation would include a percentage reduction each year.

Pro:

- Would reduce the cost of regulations on the economy or would force agencies to find offsets for the cost of new regulations.
- Would force agencies to set regulatory priorities.
- Could encourage agencies to rewrite existing regulations in a more cost-effective manner.
- Agencies would have to defend their proposed regulations vis-a-vis those of other agencies.

Con:

- Does not take benefits of regulation into account.
- Difficulty in setting baseline and/or scoring.
- There is no way to verify actual regulatory spending by the private sector, and likelihood of accounting gimmicks is large.
- If done by legislation, would shift control over regulatory activity to Congress, thereby inviting micromanagement and frustrating Administration priorities.



6. Use of Information: Information disclosure may be used as a substitute for regulation. Providing information on a product or service, for example, would permit potential consumers to regulate their own behavior, rather than having the government decide for them by banning or restricting use of the product or service.

7. Reducing Barriers to Public Participation: A variety of internal government rules limit the ability of regulators to talk with those to be regulated. While these were issued for good reason to curb abuses ("smoke filled rooms"), they now serve more as a barrier to meaningful communication between the rule-writers and the regulated. Consequently, important information is not exchanged and a disconnect has developed between the good intentions of rules and the practical realities of commercial life.

Two paths for improvement exist:

(1) Reduce current barriers -- (a) eliminate all administrative, pre-NPRM, ex parte rules; (b) repeal the Federal Advisory Committee Act (FACA), or carve out exemptions for State/local/tribal governments and/or for technical or scientific advisors. These would be accompanied by simple disclosure of when who met with whom about what (as in EO 12866).

(2) Encourage more consultation -- (a) encourage use of regulatory negotiation; (b) establish a consultation system based on the European model, where government, business, and interest groups meet to negotiate on an industry-wide basis an approach to a perceived problem.

8. Provide incentives for agencies to review existing regulations. Section 5 of E.O. 12866 requires the agencies to review existing regulations. Regrettably, little has been achieved to date. Two suggestions for improvement exist:

(1) Require each agency to respond within a specified period of time to a petition to eliminate a particular regulatory provision. Petitions that must be denied because a particular provision is required by statute could be transmitted to the relevant congressional committees.

(2) Agencies should periodically reexamine the costs and benefits of regulations that impose large costs and repropose rules where the actual costs and benefits differ markedly from those anticipated before the rule was promulgated.

9. Waivers: On any new legislation or reauthorization bill, grant the relevant agency or department head the ability to waive any provision of the new law if a State or local community is overburdened by unfunded mandate requirements, economic or social distress, or has an innovative proposal to improve an economic or social condition or a federal program. The waiver would be temporary and the community would have to provide a strategic plan.

10. Streamlining Paperwork: Many small businesses, local governments, and citizens know their Federal government primarily through its forms and reporting requirements. Because these are frequently unintelligible, duplicative, burdensome, annoying, or nonsensical, they are among the most often criticized aspects of the government. In fact, to many, paperwork is the Federal government. Streamlining government paperwork can be done through a number of means: (1) establishing a "paperwork budget" and reducing "burden hours" by a specific percentage; (2) reviewing individual forms and requirements to reduce and eliminate unnecessary forms and requirements; (3) using technology to make information more easily submitted and to make better use of information submitted. Other ideas include giving agency heads authority to waive information requirements if it can be demonstrated that certain information can be more effectively collected by another means or from another source.

11. Eliminate Statutory Deadlines. Seek legislation to eliminate or extend statutory deadlines.

12. Federalism Issues. A final crosscutting issue concerns the scope of federal regulatory authority and the role of State and local governments. In addition to asking whether government should regulate, we need to also scrutinize which level of government should do the regulating.

13. Customer Service Proposals:

- Require a political appointee in each agency to certify that he or she has read in its entirety each rule that is promulgated.

- Require each agency to establish an ombudsman.

- Encourage compliance rather than penalties:

- o Prohibit agencies from appraising an employee's performance on the basis of the number of citations he or she issues.

o Give those who violate regulations notice and an opportunity to correct the violation before issuing a citation (exclude imminent health and safety risks).

REGULATORY POLICY ADVISORS *file*

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UNITED STATES DEPARTMENT OF AGRICULTURE

MAJOR REGULATORY PRIORITY DESCRIPTION

FOOD SAFETY AND INSPECTION SERVICE

HAZARD ANALYSIS AND CRITICAL CONTROL POINT SYSTEM

A Hazard Analysis and Critical Control Point (HACCP) system identifies and controls the points throughout the food production process that are critical in producing safe food. The use of HACCP systems in all federally inspected meat and poultry establishments would provide increased food protection for consumers.

Meat and poultry inspection historically has focused most of its resources on inspecting slaughter and processing operations in establishments. Inspectors and a variety of supporting inspection program activities are intended to ensure, to the extent possible, that all product leaving inspected establishments is unadulterated and properly labeled. However, recent illnesses related to foodborne pathogens have demonstrated that USDA's inspection program, as currently designed, cannot alone prevent outbreaks of food poisoning. Although science and technology provide no feasible means to produce raw product that is guaranteed pathogen-free, the Secretary believes that more careful and consistent production controls superimposed on existing technology will significantly reduce the potential for bacterial contamination.

Consequently, the Department will initiate rulemaking this year to require all inspected meat and poultry establishments to develop and maintain a HACCP system. HACCP would supplement, not replace traditional inspection. HACCP is a proactive strategy that anticipates food safety hazards and makes it easier to prevent unsafe products from being distributed to consumers.

UNITED STATES DEPARTMENT OF AGRICULTURE**MAJOR REGULATORY PRIORITY DESCRIPTION****FOOD AND NUTRITION SERVICE****Food Funding Formula for the Special Supplemental Food Program
for Women, Infants and Children (WIC)**

WIC full funding, providing sufficient funds to support all eligibles who wish to participate, is a Congressional and Administration priority. The President has committed to funding WIC at about \$4.2 billion to help 7.5 million participants by the end of 1996. The formula used to allocate funds to the States, created in 1987, did not anticipate full funding and does not adequately allocate funds to low participation States. This rule would assure allocations sufficient to encourage low participation States to grow quickly to full participation while supporting needed growth and operations in the other States.

WIC helps low income women, infants, and children who have been determined to be at nutritional risk. The Program has been shown to reduce medical costs and improve birth outcomes through provision of supplemental foods with nutrients known to be lacking in the target groups' diets, through provision of nutrition education and breastfeeding promotion, and through health care referrals.

The key concern of the new allocation formula is to assure timely distribution of funds to States where they are needed. This requires taking into account how the year-to-year variation in economic and demographic circumstances of the States affect the number of eligibles they need to serve. Among other issues likely to come up are maintenance of State incentives to improve their cost containment programs, potential changes in benefit and eligibility by States, and welfare reform issues.

UNITED STATES DEPARTMENT OF AGRICULTURE

MAJOR REGULATORY PRIORITY DESCRIPTION

FOREST SERVICE

NATIONAL FOREST MANAGEMENT ACT PLANNING REGULATIONS

The National Forest Management Act was enacted in 1976 in the wake of the Monongahela court decision which severely limited clearcutting on national forests. The Act required the Department to develop a land and resource management plan for each national forest specifying the standards and guidelines for management. The plans are analogous to a local zoning plan with certain lands allocated for specific purposes such as commercial timber production or wilderness. Many areas are made available for a multiplicity of public uses. The plans were intended to last 10-15 years and then to be revised. They may be amended on an ad hoc basis due to changed circumstances at any time. For example, the controversy surrounding the old-growth ecosystems of the Pacific Northwest ultimately is concerned with the standards and guidelines in the land management plans for the management of areas containing threatened wildlife species. In fact, one of the major points of contention in the litigation which has tied up Federal timber sales in the Pacific Northwest for several years is the interpretation of the wildlife species "viability" requirement in the current regulations.

The original plans were developed under regulations developed with no prior Federal experience in this sort of work. The Department has long recognized that the current regulations need to be modified to incorporate lessons learned in developing and implementing the first generation of plans, court interpretations of the Act and of the current regulations, and to make the process less cumbersome. The regulation does not deal with the substance of the plans, other than to require that they meet certain statutory standards. Rather, the regulations set forth the procedures and requirements governing their preparation. A major revision was originally published as an advanced notice of proposed rulemaking in February 1991. Over 600 groups and individuals provided 4,700 public comments. Work on a proposed rule was completed in December 1992, but has never been cleared for publication.

UNITED STATES DEPARTMENT OF AGRICULTURE

MAJOR REGULATORY PRIORITY DESCRIPTION

FOOD SAFETY AND INSPECTION SERVICE

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**GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE**
Washington, D.C. 20230

March 7, 1994

MEMORANDUM FOR Kumiki Gibson
Associate Counsel to the Vice President

From: Ginger Lew 
General Counsel

Subject: Regulatory Meeting with the Vice President

This memorandum responds to your request for a description of the major regulatory priorities for the upcoming year for the Department of Commerce. The Commerce Department has two regulatory initiatives that may warrant the Vice President's attention.

Export Administration Act/Regulations

Consistent with the export reform measures announced in September 1993 by the Administration in the Trade Promotion Coordinating Committee (TPCC), the Bureau of Export Administration is undertaking a comprehensive review of the Export Administration Regulations. This comprehensive review, the first such review in decades, is intended to simplify, clarify, and make the existing regulations more user-friendly. This review will include a reexamination of the basic approaches to export controls as they are currently administered by the regulations. The new regulations are intended to minimize unnecessary interference with United States trade and competitiveness and are scheduled to be completed by the end of 1994.

At the same time, the Administration has submitted a proposal to the Congress to re-focus the Export Administration Act (EAA) on the security threats that will confront the nation into the next century, particularly those relating to the proliferation of weapons of mass destruction. The EAA must be renewed by June 30, 1994. The Administration's proposal focuses on increasing discipline on unilateral controls, simplifying and streamlining the export control system, increasing transparency in the process, harmonizing sanctions laws, and strengthening enforcement. When the EAA is reenacted and amended, the review of the regulations being conducted in response to the TPCC mandate will be adjusted so as to include regulatory changes that will be necessary to implement the amended law.

The Uruguay Round Implementation Regulations

Regulations will be needed to implement the results of the Uruguay Round with respect to the administration of the

antidumping and countervailing duty laws. The newly negotiated Antidumping Agreement and Subsidies/Countervailing Measures Agreement (Agreements) establish general principles regarding the administration of these laws, and the U.S. implementing legislation likely will not go much beyond the Agreements in terms of the level of detail. In order to facilitate the administration of these laws and to provide greater predictability for private parties affected by these laws, it will be necessary to promulgate regulations which translate the general principles of the Agreements and the implementing legislation into more specific and predictable rules. The manner in which these regulations are drafted could have a significant impact on various important sectors of the economy, including steel, lumber and bearings. We also anticipate significant Congressional interest in this rulemaking.

If you have any questions about these regulations, please contact Michael Levitt (482-3151).



ADMINISTRATION
AND MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

WASHINGTON, DC 20301-1950

04 MAR 1994



MEMORANDUM FOR ASSOCIATE COUNSEL TO THE VICE PRESIDENT

SUBJECT: Regulatory Meeting With the Vice President

In your memorandum of February 15, 1994, subject as above, you asked that advanced information concerning regulatory priorities be provided to you prior to the meeting with the Vice President on April 5, 1994.

We have identified five initiatives within the Department of Defense that are major regulatory priorities for the coming year. Although the Department has relatively few regulations that impact substantially on the private sector, these efforts to improve/streamline regulations will lessen the administrative burden of doing business with, and within, the Department.

Brief descriptions of the DoD's major regulatory priorities follow:

- Reducing and streamlining internal Department of Defense regulations, in conformance with Executive Order 12861 that requires a 50% reduction in internal regulations, will constitute a major effort by the Department in 1994 and beyond.

This is a Department-wide effort that will encompass all directives/regulations, instructions, pamphlets, and circulars issued by the Office of the Secretary of Defense, headquarters of the Military Departments, Chairman of the Joint Chiefs of Staff, and headquarters of the Defense Agencies and DoD Field Activities. Regulatory reduction is not new to the DoD. Previously, regulations that are part of the acquisition process were reviewed, resulting in 135 issuances being canceled, combined, or revised. Most recently, the Department of the Air Force began a major effort to rid its policy directives of extraneous material, resulting in a substantial restructuring and reduction of its issuances. The current effort will expand on these initiatives and result in a tighter systems and better management within the Department along with savings to taxpayers.

- A major priority for the Department of Defense in 1994 in the area of Procurement Policy is the rewrite and streamlining of the Federal Acquisition Regulation (FAR). The Department is currently working with other cognizant federal agencies and departments to develop a plan, for approval by the President's Management Council, for implementing the National Performance Review report recommendation that the FAR be converted from rigid

rules to guiding principles. The Administrator of the Office of Federal Procurement Policy (OFPP) has established a 10-member Board of Directors to develop the plan. The Board is chaired by OFPP, and includes representatives from DoD, NASA, GSA, DoE, and DoT. The Board must submit its plan to the President's Management Council by July 1994. The actual rewrite of the FAR will occur subsequent to approval of the plan.

• In a separate, but related action, the Department is conducting a major effort to accommodate the concerns of the Congress and the public relating to revisions to the Defense Federal Acquisition Regulation Supplement (DFARS) on Rights in Technical Data. This initiative, required by the FY 1992 Defense Authorization Act, sought the advice of representatives of certain industry segments, academia, the Under Secretary of Defense for Acquisition and Technology, and the acquisition executives of the Military Departments in order to create a technical data rule equitable to all participants in technical data creation and use. This issue has been of concern to industry for some time and its resolution will benefit both the private sector and Department of Defense. It is expected that deliberations on this issue will soon be completed and recommended changes to the DFARS will be published for public comment in 1994.

• In the area of Civilian Personnel Administration, the Department has developed a regulatory model which provides for maximum coordination and consultation within the Office of the Secretary of Defense and the Military Departments and Defense Agencies in deregulating civilian personnel management and administration. The project complements the Office of Personnel Management "sunset" of the Federal Personnel Manual. Led by the Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), the effort features working groups composed of representatives provided by each of the major DoD Components.

These working groups are currently reviewing all personnel regulations with the goal of retaining only those that are absolutely essential. The Component-issued regulatory material which is retained will be consolidated into a single issuance at the Office of the Secretary of Defense level. New or revised regulations will promote the priorities and principles set forth in the NPR and EOs 12866 and 12861, with maximum delegation given directly to front-line managers of civilian employees.

The working groups recommendations will be reviewed by a Policy Council of senior civilian personnel officials from the Army, Navy, Air Force, Defense Logistics Agency, and Washington Headquarters Services. The DoD labor Management Partnership Council has been kept informed and is an integral part of the process. These personnel management actions will aid both employees and managers within the DoD.

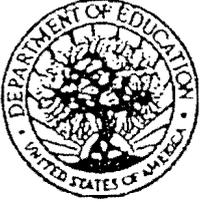
- As part of the President's Wetlands Plan, the Army Corps of Engineers will propose two new Clean Water Act regulations to reduce regulatory burdens imposed on the public. In one, the Corps proposes to allow administrative appeals of permit denials from permit applicants and wetlands delineations by property owners. Currently, there is no opportunity for administrative appeal of these Corps decisions. This action will increase fairness in the wetlands permit process by allowing landowners to seek a speedy recourse of decisions without having to go to court.

The second effort involves revising current regulations to provide that permit decisions will be made within 90 days of the issuance of a public notice. This action should expedite most permit decisions and provide applicants with realistic expectations of final permit decisions, thus reducing applicant costs and delays.

If there are any questions concerning the information provided above, my staff point of contact for this initiative is Ralph Kennedy, who can be reached at (703) 697-1142.



D. O. Cooke
Director



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

March 8, 1994

The Vice President
United States Senate
Washington, D.C. 20510

Dear Mr. Vice President:

I am pleased to identify the Department of Education's top regulatory priorities in preparation for your April 5 meeting with agency heads on regulatory planning and coordination.

I. Direct Loan Program:

The Direct Loan Program is the Department of Education's highest regulatory priority because it reflects a significant Administration program, represents a significant investment of Federal funds affecting many American families, and involves complex regulatory processes including regulatory negotiation.

The Student Loan Reform Act of 1993 established the Direct Loan Program under the Higher Education Act of 1965, as amended. Under the Direct Loan Program, loan capital is provided directly to student and parent borrowers by the Federal Government rather than through private lenders. Direct loans will account for five percent of the total new federal student loan volume for academic year 1994-95, estimated to be more than \$1 billion. Direct loans will increase to at least 60 percent of new student loans by academic year 1998-99. Direct lending will save taxpayers an estimated \$4.3 billion through fiscal year 1998 (and \$1 billion each year thereafter) by eliminating excess profits in the current student financial aid system and capitalizing on the Federal government's ability to borrow at a lower interest rate. A streamlined system offering "one-stop shopping" will make borrowing and repayment easier for students. Students also will have an income-contingent repayment option that tailors their monthly payments to their income.

As required by the statute, the Department has already published interim standards and procedures to administer the program during the initial years. Standards, criteria, procedures, and other regulations to implement the program for subsequent years are being developed through regulatory negotiation, to the extent practicable. We expect that the regulatory negotiation process will be completed by July 1994 and that the Department will publish final program regulations by December 1, 1994.

II. Elementary and Secondary Education Act Reauthorization:

The Elementary and Secondary Education Act (ESEA) reauthorization would (1) reauthorize and restructure the elementary and secondary education programs of the Department of Education to make them better vehicles for helping all children achieve high standards; (2) direct greater Federal resources to the poorest schools and communities; (3) support education reforms underway in the States; (4) support sustained, intensive professional development in the core academic subjects for educators; (5) assist efforts to make schools safe and drug-free; and (6) provide increased State and local administrative flexibility, in return for greater accountability for successful education results. The ESEA is one of the Federal government's largest investments in education. Assuming passage of this critical legislation, I expect that regulations will be necessary to implement many of the changes to the ESEA.

III. Goals 2000: Educate America Act:

The Goals 2000: Educate America Act (Goals 2000) is the leading edge of this Administration's strategy to reinvent the Federal role in education and to provide support and leadership to the national effort to overhaul the elementary and secondary education system. Goals 2000 would (1) codify the National Education Goals; (2) establish the National Education Goals Panel and the National Education Standards and Improvement Council; (3) challenge States to develop content and student performance standards, opportunity-to-learn standards, and assessments, and provide for development of national standards; (4) provide funding to support, accelerate, and sustain State and local improvement efforts in the system of education; (5) provide Federal leadership on the use of technology for educational programs; (6) provide authority to waive statutory and regulatory requirements that impede the ability of a State, local educational agency, or school to carry out State or local improvement plans; and (7) establish the National Skill Standards Board to be a catalyst in stimulating the development and adoption of a voluntary national system of skill standards, assessment, and certification.

The bill is currently in conference, and we hope for passage this Spring. The Department of Labor would administer the provisions relating to the National Skill Standards Board; the Department of Education would administer the remaining provisions. I expect that regulations will be necessary to implement certain aspects of Goals 2000. However, this program provides an ideal laboratory for employing alternatives to regulation whenever possible. This approach is in keeping with the intent of Goals 2000 to foster flexibility and innovation at the State and local

The Vice President - Page 3

level, with the spirit of Executive Order 12866, and with this Department's approach to regulation.

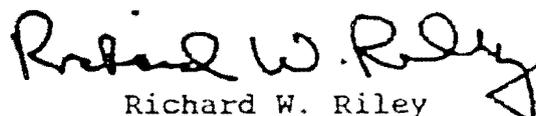
IV. School-to-Work Opportunities Program:

The School-to-Work Opportunities Act of 1993 would establish the School-to-Work Opportunities Program to provide American youth with the knowledge and skills to make an effective transition from school to a first job in a high-skill, high-wage career. The Federal government would provide "venture capital" to States and communities to build bridges from school to work through integrated learning experiences. The core components of the program are work-based learning, school-based learning, and connecting activities. The work-based learning component would provide students with a planned program of job training and occupational experiences as well as paid work experience and workplace mentoring. The school-based learning component would include a coherent multi-year sequence of instruction--typically beginning in the eleventh grade and ending after at least one year of postsecondary education--tied to the high academic and skill standards proposed under Goals 2000. Finally, the connecting activities component would ensure coordination of the other components by providing technical assistance in designing work-based learning components, matching students with employers' work-based learning opportunities, and collecting information on what happens to students after they complete the program.

The bill is in conference, and we hope for passage shortly. The program would be administered jointly with the Department of Labor, and we are working closely with the Department of Labor to determine whether regulations will be necessary to implement this program. Because speedy implementation is essential, we are exploring alternatives to regulation whenever possible, as well as proposing a statutory waiver of the rulemaking procedures applicable to the Department for the implementation of this program.

I look forward to meeting with you and our colleagues to review our foremost regulatory priorities, and to working together to achieve them.

Yours sincerely,


Richard W. Riley

DEPARTMENT OF ENERGY

Selected Regulatory Priorities for 1994

APPLIANCE ENERGY EFFICIENCY STANDARDS

SUMMARY DESCRIPTION: The Energy Policy and Conservation Act, as amended, established energy efficiency standards for several appliances. Under EPCA, efficiency standards shall be designed to achieve maximum improvement in energy efficiency, be technologically feasible and economically justified, and provide significant savings of energy.

The proposed rule would set initial standards for television sets and increase the efficiency standards for:

Water Heaters	Pool Heaters
Room Air Conditioners	Kitchen Ranges and Ovens
Mobile Home Furnaces	Fluorescent Lamp Ballasts
Direct Heating Equipment	

SIGNIFICANCE: Over the period 1996-2030, the use of energy by the eight covered appliances could be reduced by approximately 64 quadrillion Btu's, which is roughly equivalent to U.S. domestic energy production annually. This action, taken together with Golden Carrot partnerships, stimulates close to \$19.5 billion in private sector investment (1994-2000) and yields energy savings worth about \$9.4 billion through 2000 and an additional \$40.7 billion through 2010. Together with Golden Carrot partnerships, this action would reduce greenhouse gas emissions from projected 2000 levels by 24 MMT of carbon equivalent.

CONTRACT REFORM INITIATIVE

SUMMARY DESCRIPTION: In February 1994, the Department's Contract Reform Team reported on its comprehensive review of the Department's contracting practices, providing over 45 recommended actions to the Secretary. These recommendations will serve as the basis for fundamental changes to the Department's contracting practices. A new outcome-oriented approach will take the place of DOE's traditional cost-reimbursement management and operating contracts. The new Performance-Based Management Contract will clearly set out the Department's expectations, reward superior performance, and minimize costs to the government.

Rulemakings will be required to implement a number of these recommendations. For example, amendments to the Department of Energy Acquisition Regulation will be required to revise the current provisions on fines and penalties, third-party liabilities, and loss of or damage to Government property by

establishing a rebuttable presumption that these costs are unallowable. The amendments also would apply comparable cost reimbursement rules to nonprofit contractors, unless certain specific findings are made. The Department also will review section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and develop a contractor indemnification scheme that is consistent with the principles articulated in CERCLA. A rulemaking may be required to implement this new approach, as well as other recommendations of the Report.

SIGNIFICANCE: Consistent with the National Performance Review, the actions outlined in the Report would revise traditional contracting practices, and increase contractor accountability, enhance competition, improve contract administration and financial accountability, and provide appropriate incentives for contractors to meet and exceed performance criteria and achieve cost savings. The changes described above would reverse the Department's historical policy of reimbursing its management contractors for virtually all costs incurred in the performance of their contracts, including fines and penalties, third-party liability claims, and damage to government property. These changes will increase contractor accountability and create a more equitable and rational allocation of the costs and risks of contract performance between DOE and its management contractors.

SAFETY AND HEALTH INITIATIVE

SUMMARY DESCRIPTION: The Atomic Energy Act provides the Secretary with broad authority to establish safety and health requirements for the Department's nuclear activities. In addition, the Act provides for civil and criminal penalties if these requirements are violated.

In 1994, the Department will issue final rules on radiological protection of the public and the environment to: establish exposure limits; specify procedures to ensure any radioactive releases are as low as reasonably achievable; provide for the management of liquid discharges; and establish requirements for decontamination and the management of residual radioactive material. In addition, the Department will issue final rules on the safe management of Departmental nuclear facilities to include: conduct of operations, quality assurance, safety analysis reports, technical safety requirements, training and defect identification. Last year, the Department issued final rules on radiological protection of workers, as well as procedural rules to implement all of these requirements, including the imposition of civil penalties.

SIGNIFICANCE: Since the 1940's the nuclear activities of the Department and its predecessors have been covered by a series of directives that have grown in size, complexity and ambiguity. As part of a comprehensive Safety and Health Initiative announced

last May, the Department has clearly established the responsibility of DOE and its contractors to protect the health and safety of workers "inside the fence." This policy embraces nuclear and radiological issues as well as non-nuclear occupational health and safety hazards that have traditionally received less attention at the Department's facilities. The Department is committed to codifying basic nuclear safety and health requirements in a clear and concise manner.

ENERGY SAVINGS PERFORMANCE CONTRACTS

SUMMARY DESCRIPTION: Section 801 of the National Energy Conservation Policy Act (NECPA), as amended by the Energy Policy Act of 1992, requires the issuance of regulations establishing standard procedures and methods for use by all Federal agencies to acquire energy savings performance contract services without an initial capital investment and to pay for them with a share of the energy cost savings over time. The regulations will include substitute regulations for some of the Federal Acquisition Regulations. They should accelerate the retrofit of Federal buildings with energy efficiency measures.

SIGNIFICANCE: The regulations will facilitate achievement of the goal in section 543 of NECPA of reducing energy consumption per gross square foot of Federal buildings in use in the year 2000 by 20 percent compared to 1985.



MAR - 7 1994

Washington, D.C. 20201

MEMORANDUM FOR: Jack Quinn
Chief of Staff to the Vice President

Kumiki Gibson
Associate Counsel to the Vice President

SUBJECT: Regulatory Meeting with the Vice President

This responds to your request to Department and agency heads for an advance description of two or three major regulatory priorities for the coming year.

The Department of Health and Human Services has two overarching initiatives: health care reform and welfare reform. Each proposal, upon enactment, will require major changes in many program regulations. In addition, entirely new regulatory systems may be created, either under HHS auspices or with HHS help. We expect, as the final contours of each legislative enactment take shape, to devote significant energies and resources to developing the necessary regulations and the other implementation steps. Preliminary conceptual work has already begun and, before final passage, more concrete steps will be taken to reduce any delay in implementing these reforms.

Other high priority regulatory initiatives include regulations to: implement the reengineering of the disability insurance claims process; implement the Family Preservation and Family Support program; ensure food safety; implement the Mammography Quality Standards Act; and encourage childhood immunization. These regulations will significantly improve the services we deliver to our customers either directly or through state, local, and private providers.

Regulations to reengineer the Social Security Administration's disability program claims process are necessary to dramatically reduce serious backlogs and provide better service. Changes to the current process and procedures significantly unchanged since the 1950's, will be ready in June. While we are not certain of the scope and dimensions of changes, they will affect types and locations of personnel in state agencies that serve as agents for the program, and in adjudicative standards.

The new Family Preservation and Family Support program, enacted last fall, enables state child welfare agencies to develop, expand, or operate services to improve the ability of families to nurture their children and to deal with children at risk. Our regulations will foster a partnership among the federal government, states, and local communities.

The Food and Drug Administration has embarked on a series of measures to increase the safety of the food supply and modernize its food inspection program. The centerpiece of this initiative is a concept known as Hazard Analysis Critical Control Points (HACCP), which was identified by the Vice President in the National Performance Review as the best way to reinvent federal food safety inspection. FDA proposed HACCP regulations for seafood in January and is seeking public and industry advice on which foods should next be subject to HACCP controls.

Under the Mammography Quality Standards Act, FDA is implementing a major initiative to upgrade the quality of mammography services. By fostering the use of private accrediting bodies to increase the quality of services, we believe our regulations will reduce the number of women whose cancers are not detected early.

In several forums, including revisions to existing HHS regulations concerning child care, we plan to encourage strong early childhood immunization. By supporting intervention when children come in contact with child care and Head Start services, we can assure that existing funding and delivery mechanisms reach children at their most vulnerable ages.

As you know, we have scarcely begun the regulatory planning process under E.O. 12866, so that we may well have additional priorities to advance this summer. For now, these examples illustrate our primary concerns and opportunities. Thank you for the opportunity to give the Vice President an advance description of our priorities.

A handwritten signature in black ink, appearing to read "K. Thurm", written in a cursive style.

Kevin Thurm

Department of Housing and Urban Development

Priority Regulation

Preferences for Admission to Assisted Housing

Summary. The Housing and Community Development Act of 1992 and the Cranston-Gonzalez National Affordable Housing Act make changes in the application of federal preferences for admission in several project-based assisted housing programs. The revised statute provides that the federal preferences for admitting families who occupy substandard housing, who pay more than 50% of income for rent, or who are involuntarily displaced, apply not to admission to all of the units during the year but to at least 50% of the public housing units and at least 70% of units in Indian housing and project-based Section 8 programs. Preference in admission with respect to the remaining units is to be given to applicants who qualify for a local preference.

The local preferences are to be adopted by a housing authority to respond to local housing needs and priorities after a public hearing. Private housing owners will be required to follow the local preferences adopted by the housing authority in their jurisdiction if they wish to use any preferences other than federal preferences in selecting tenants from among applicants they find acceptable under their own tenant selection policy.

The rule will also disqualify from a selection preference for three years any individual or family that has been evicted from certain HUD assisted housing for drug-related activity.

Why a Department Priority. As indicated above, the rule has a statutory basis. It also provides communities with more flexibility to use local preferences to address specific problems.

Regulatory Status. A proposed rule on Preferences for Admission to Assisted Housing was issued on August 25, 1993 with comments due October 25, 1993. The Department is currently preparing the responses to the 51 comments and expects to publish a final rule by July, 1994.

A similar rule will be published for the Section 8 Certificate and Voucher Programs as an interim rule in April, 1994.

Department of Housing and Urban Development

Priority Regulation

The Title VI (or Mixed Populations) Regulations

Summary. Title VI of the Housing and Community Development Act of 1992 addresses the issue of "mixed populations" (the combination of elderly and disabled persons and families) in certain HUD-assisted housing, and provides that under certain conditions, housing authorities and owners may provide housing occupied only by, or substantially by, elderly families, or only by, or substantially by, disabled families.

- o Section 622 of Subtitle B of Title VI provides public housing agencies with the option, subject to certain requirements, to designate public housing projects for occupancy only by elderly families, or only by disabled families, or by both disabled and elderly families.

- o Subtitle D of Title VI allows an owner of a covered Section 8 housing project to elect to provide preferences in housing to elderly families subject to certain statutory requirements.

Why a Department Priority. As indicated above, the Housing and Community Development Act of 1992 provides a statutory basis for this initiative, which will address recent problems arising from mixing elderly persons and non-elderly disabled persons in HUD-assisted housing.

Regulatory Status. Responsibility for implementation of Section 622 is with the Office of Public and Indian Housing. Responsibility for implementation of Subtitle D is with the Office of Housing.

- o On January 7, 1994, the Department published its proposed rule implementing Section 622 (also referred to as the "Designated Housing" rule). The public comment period expires on March 8, 1994. Our goal is to publish the final rule on Section 622 within 60 days following expiration of the public comment period.

- o The Office of Housing is drafting a proposed rule which would implement Subtitle D. Our goal is to publish the proposed rule by May 1994.

Department of Housing and Urban Development

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Department of Housing and Urban Development

Priority Regulation

Economic Opportunities for Low- and Very Low-Income Persons
(Section 3 Regulation)

Summary. Section 3 of the Housing and Urban Development Act of 1968, as amended by the Housing and Community Development Act of 1992, requires that the Department of Housing and Urban Development administer its programs of housing (including public and Indian housing) and community development so that, to the greatest extent feasible, opportunities for job training and employment generated by the expenditure of HUD financial assistance under these programs be given to low-income residents, particularly those who are recipients of HUD housing assistance, and contracts for work in connection with projects assisted under these programs be given to businesses owned by low-income residents or which substantially employ low-income residents.

Why a Department Priority. This regulation implements Section 915 of the Housing and Community Development Act of 1992, which amended Section 3 in its entirety. It also incorporates changes which will facilitate compliance with Section 3 and support our objective of empowering communities by creating economic opportunities for low-income persons.

Regulatory Status. On October 8, 1993, the Department published its proposed rule on Section 3. By the expiration of the comment period on December 8, 1993, the Department had received 63 public comments. Although the number of comments was not significantly high, several commenters submitted written comments in excess of 20 pages. We are currently reviewing the issues raised by the comments. We expect to publish a final rule by mid-year.

DEPARTMENT OF THE INTERIOR
PRIORITY RULEMAKINGS FOR 1994

BUREAU OF LAND MANAGEMENT: GRAZING ADMINISTRATION EXCLUSIVE OF ALASKA (43 CFR 4100)

This rule is Secretary Babbitt's highest regulatory priority, and he has been meeting with western interests for months in an effort to reach a consensus position. The rule will amend regulations governing the Bureau of Land Management's ("BLM's") administration of livestock grazing on BLM land and has been developed in close cooperation with the United States Forest Service ("USFS"). An advance notice of proposed rulemaking was published in August 1993, and a proposed rule is expected to be published in mid-March 1994.

The rule addresses five major categories of rangeland management reform: effective public participation in rangeland management; administrative practices; range improvements; and water rights; resource management requirements, including standards and guidelines; and grazing fees and associated incentives. To date, the grazing fee and water rights proposals have generated the most comment.

The grazing fee proposal provides a formula designed to correct problems associated with the current fee, reduce the wide gap between grazing fees on private and federal land, and link fees to the forage value trend in the private market. The water rights proposal is designed to make BLM's policy generally consistent with USFS's policy and BLM's pre-1984 policy.

BUREAU OF RECLAMATION: ADMINISTRATION OF ENTITLEMENTS TO COLORADO RIVER WATER IN THE LOWER COLORADO RIVER BASIN (43 CFR 415)

Future requests for delivery of Colorado River Water are expected to exceed the amount of water that will be available. These rules are designed to maximize efficient use of water in the Lower Colorado River Basin. Among other things, the rules will: (1) encourage voluntary water transactions by authorizing entitlement holders to transfer, lease, exchange, or bank-market unused water; (2) establish due process to impose corrective actions for misuse of water entitlements; (3) impose a fee upon water users to recover administrative and management costs; and (4) establish criteria for determining when wells near the river illegally drain water from the river. The rules will affect the rights and obligations of recipients of water allotments and is controversial among some users of Lower Colorado River water.

- 2 -

BUREAU OF INDIAN AFFAIRS: REVISED PROCEDURES FOR IMPLEMENTATION
OF THE INDIAN SELF DETERMINATION AND EDUCATION ASSISTANCE ACT
AMENDMENTS OF 1988 (25 CFR 900)

This rule implements the 1988 amendments to the Indian Self Determination and Education Assistance Act (the "Act"). The purpose of the rule is to transfer to Indian tribes the administration of federal programs established for Indians, thus providing tribes with greater autonomy to plan and conduct programs for the benefit of Indian people.

The proposed regulations were developed jointly with the Indian Health Service ("IHS") over a nearly five-year period. During this time, tribes had opportunities to provide input, although there is some question as to the adequacy of this input. The rules were published on January 20, 1994, and the comment period expires on May 20, 1994.

The Department and IHS currently are planning three regional consultation meetings with tribes in April and one national consultation meeting with tribes in early May to afford tribes meaningful participation in the development of the final rule. A number of issues are likely to be very controversial, including the criteria for determining which federal programs are eligible for contracting to tribes under the regulations and the circumstances under which the Secretary may decline to approve a contract. If the tribes are not satisfied with the development of the final rule, they may pursue a legislative solution (further amending the Act). A bill already has been introduced that addresses most tribal concerns with the Act's 1988 amendments, but little action has been taken.

- 3 -

In addition to the above, the following rulemakings are included for your information, as they are expected to be controversial and may be of interest to other federal agencies.

OFFICE OF ENVIRONMENTAL POLICY AND COMPLIANCE: NATURAL RESOURCE DAMAGE ASSESSMENTS (43 CFR 11)

This proposed rule would revise regulations for assessing natural resource damages resulting from discharges of oil into navigable waters under the Clean Water Act or from release of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act. The Department has been working closely with the National Oceanic and Atmospheric Administration ("NOAA") in developing this rule, particularly with respect to the use of an economic methodology known as contingent valuation (which is expected to be very controversial among industry and others). The Department also has been working with the Justice Department, NOAA, and environmental groups (particularly the Environmental Defense Fund) to establish a publication schedule in accordance with a judicial settlement.

FISH AND WILDLIFE SERVICE: CRITICAL HABITAT DESIGNATION FOR FOUR COLORADO RIVER FISHES (50 CFR 17)

This final rule will designate 1,980 miles critical habitat along the Colorado River for four species of endemic Colorado River Basin fishes: the Razorback Sucker, Colorado Squawfish, Humpback Chub, and Bonytail Chub. The designation will include 3,960 miles of shoreline (2 miles per mile of river, 566 miles of which will be on lands associated with eight Native American tribes), and will include portions of Colorado, Utah, New Mexico, Nevada, and California. The designation will require federal agencies to consult on any federal action that is likely to destroy or adversely affect the critical habitat.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT: SUBSIDENCE (30 CFR 817)

This proposed rule would require underground coal miners to repair or compensate owners of surface structures for damage to occupied residential dwellings, related structures, and non-commercial buildings caused by subsidence of the land. The rule also would require underground coal miners to replace existing drinking, residential, or domestic water supplies from wells or springs that are lost or damaged because of subsidence. The Department has estimated that the rule would cost the coal industry roughly \$58.8 million annually, or roughly 14.4 cents per ton of coal.



U.S. Department of Justice

Office of Policy Development

Assistant Attorney General

Washington, D.C. 20530

March 4, 1994

MEMORANDUM

TO: Kumiki Gibson
Associate Counsel to the Vice President

FROM: Eleanor D. Acheson *EDA*
Assistant Attorney General

SUBJECT: Regulatory Meeting with the Vice President

In response to the memorandum of February 15 from you and Jack Quinn, I am pleased to provide, on behalf of the Department of Justice, a general description of the Department's two major regulatory priorities for the coming year: reforming the asylum system and strengthening the asset forfeiture process.

As you know, the Department is not a major regulatory agency and, with the exception of the Americans with Disabilities Act and the immigration laws, the Department and its components engage in relatively little rulemaking activity that affects the economy. Though a variety of regulatory actions are presently underway or planned within the Department, these two initiatives are the most significant for purposes of the regulatory planning process under Section 4 of Executive Order 12866.

ASYLUM REFORM

The reform of the affirmative asylum review process is the Department's highest priority among our regulatory initiatives. The current asylum review system, established in 1990, has been completely overwhelmed by the volume of new asylum petitions and has been criticized as creating a magnet for unfounded claimants who file solely to obtain work authorization. Under the current system, work authorization is provided to virtually all applicants within 30 days yet, because of mounting backlogs, claimants can expect to wait years for a decision by an Asylum Officer. The present system requires Asylum Officers to hold a hearing in every case and does not provide adequate means to deal swiftly with manifestly abusive claims.

The new procedure, developed after careful consultation with Congress, other Federal agencies, and non-governmental immigration organizations, will refocus the entire process to speed the grant of asylum to those truly meriting protection while swiftly disposing of non-meritorious claims by referring those aliens promptly to Immigration Judges for exclusion or

deportation proceedings. The attachment summarizes the provisions of the proposed asylum reform regulations. The draft notice of proposed rulemaking was submitted to OIRA on February 9, 1994, for review under Executive Order 12866, and is still pending review at OIRA as of this date.

ASSET FORFEITURE

The Department of Justice, in cooperation with the Treasury, has been developing a comprehensive set of legislative and administrative proposals to improve the Department's asset forfeiture program. The proposals are designed to strengthen and enhance asset forfeiture and the public's confidence in the process; to improve procedures to ensure fairness and due process to innocent property owners; and to expand the availability of forfeited funds for victim restitution and for drug treatment and prevention programs.

The Department's review of the forfeiture program was prompted by a rising chorus of criticism of the perceived unfairness of the forfeiture laws by the media and members of Congress, among others, and by a series of recent Supreme Court decisions consistently ruling against the government in asset forfeiture cases. The series of forfeiture laws passed in the mid-1980's aimed at drug traffickers and money launderers, and the establishment of funds to finance the management and disposition of seized assets, have led to a dramatic growth in the number and value of seizures. With this expansive use has come increased scrutiny of the forfeiture laws. In particular, criticisms have been directed at civil forfeiture procedures, which are viewed as providing inadequate safeguards and due process protections to innocent property owners and at the perceived misuse of forfeiture as a revenue raising or "bounty hunting" measure to enrich law enforcement agencies rather than as a means to cripple criminal enterprises.

Many of these concerns must be addressed by substantive amendments to the forfeiture laws themselves which the Department has drafted, both to expand the class of federal offenses warranting forfeiture and to provide additional procedural safeguards for a fairer application of the forfeiture laws.

Apart from those legislative proposals, the Department intends to pursue a regulatory change revising the existing regulations governing the Attorney General's statutory authority to remit or mitigate forfeitures. This process is the principal mechanism for avoiding harshness in the application of forfeiture laws in specific cases. The Department has prepared a single, consolidated set of regulations to govern all petitions filed in federal forfeiture cases initiated by agencies participating in the Department of Justice Asset Forfeiture Program. In addition to simplifying the petition process and providing for consistent rulings on petitions, the new regulations remedy deficiencies in current regulations and, importantly, specifically provide for petitions filed by or on behalf of certain victims in fraud cases. These regulations also include provisions for making restitution and restoration to victims, pursuant to the Racketeer Influenced and Corrupt Organizations (RICO) statute. The Department is anxious to proceed with these regulations in view of pending victim requests for remission or mitigation of completed forfeitures.

SUMMARY OF PROPOSED ASYLUM REFORM REGULATIONS

To accomplish the goal of asylum reform outlined in President Clinton's July, 1993 immigration directive, the Immigration and Naturalization Service (INS) and the Department of Justice, after extensive consultation with Administration officials, key Congressional offices and non-governmental immigration organizations, have developed a comprehensive set of proposed asylum regulations. The main thrust of these regulatory changes is to speed grants of asylum to those truly deserving of protection and deter abusive filings, while swiftly denying meritless claims and removing individuals from the U.S. who do not qualify for relief. Coupled with the additional resources for immigration initiatives requested in the President's 1995 budget, these reforms will substantially decrease the current processing time for asylum applications. The salient components of the proposed regulations are summarized below.

Establishes a Streamlined, Unified Asylum System That Will Decrease Processing Time Substantially.

The present two-track asylum review procedures administered by the INS Asylum Officer Corps (AOC) and the Executive Office for Immigration Review (EOIR) are not integrated into a coherent single process. This lack of integration contributes to duplication of effort, the increasing backlog of cases and delays in reaching final decisions. Currently, an alien may pursue his asylum application before the AOC until receiving a decision, but if denied, he may restart the whole process before an Immigration Judge (IJ) during the removal proceedings. Affirmative asylum processing - including INS processing and *de novo* adjudication by an IJ - now takes a minimum of 18 to 24 months. Under reform, INS procedures are expected to be completed in 180 days or less for all newly filed applications. The proposed regulations improve the process by:

- Eliminating the preparation of detailed, time-consuming denials by asylum officers in cases where they do not grant asylum to applicants who have no legal immigration status. Instead, asylum applications from these aliens will be referred automatically, and mandatorily, to IJs for adjudication as part of the exclusion or deportation proceedings;
- No longer requiring asylum officers to conduct personal interviews in every case, but giving INS discretion to conduct interviews as deemed appropriate;
- Eliminating the requirement that an asylum officer send the alien a detailed Notice of Intent to Deny (NOID); also eliminating the 30 day rebuttal period for challenges to the NOID;
- Requiring the asylum officer, in cases where he has not granted asylum to immigrants lacking lawful status, to issue a letter informing the alien that his asylum application has been referred to an IJ at the same time the applicant is served with the charging document that initiates the removal proceedings before the IJ;
- Curtailing the need for asylum officers to determine whether "withholding of deportation" is an appropriate benefit after the denial of an asylum application. Under the proposed rule, asylum officers, in most cases, will not need to reach this issue because they will not be issuing asylum denials in exclusion or deportation cases. IJs will continue to determine whether withholding of deportation is appropriate in those cases;
- Specifying that information contained in an asylum application may be used as a basis for expeditiously initiating removal proceedings before an IJ against otherwise deportable aliens;
- Authorizing asylum officers and IJs to deny otherwise approvable claims on the ground that the applicant can be deported or returned to a country in which the alien would not face harm or

persecution and would have access to full and fair procedures for determining his asylum claim in that country:

- Discouraging applicants from filing claims before IJs that differ from the claims they filed before asylum officers by requiring that the original asylum application be forwarded to the IJ at the time the case is referred by the asylum officer.

Reduces Incentives to File for Asylum Solely to Obtain Work Authorization. Currently, an asylum applicant may apply for an Employment Authorization Document (EAD) at the time of filing. INS must grant work authorization if the asylum application is not frivolous and has not been adjudicated within 90 days of filing. Study of this issue has revealed that numerous applicants are abusing the asylum system and filing time-consuming, frivolous claims solely to obtain an EAD. Such filings increase both the backlog of cases to be adjudicated and the time before deserving applicants are granted asylum. The proposed regulations provide that applicants may not apply for work authorization until 150 days after filing an asylum application, and work authorization will not be granted unless the original asylum application has been granted or is not decided within 180 days. This is only a 90-day increase over the current waiting period for an EAD. Moreover, the reforms will encourage INS and the IJs to adjudicate claims promptly within the 150-day period, since, by doing so, the need to adjudicate work authorization separately would be avoided. Under reform, well-founded asylum applications are anticipated to be granted within 60 days of filing and employment authorized immediately for those applicants. An applicant who has been convicted of an aggravated felony shall not be granted employment authorization. An applicant who previously obtained work authorization, but whose application for asylum or withholding of deportation is denied because of the conviction, shall have his work authorization terminated automatically as of the date of the denial.

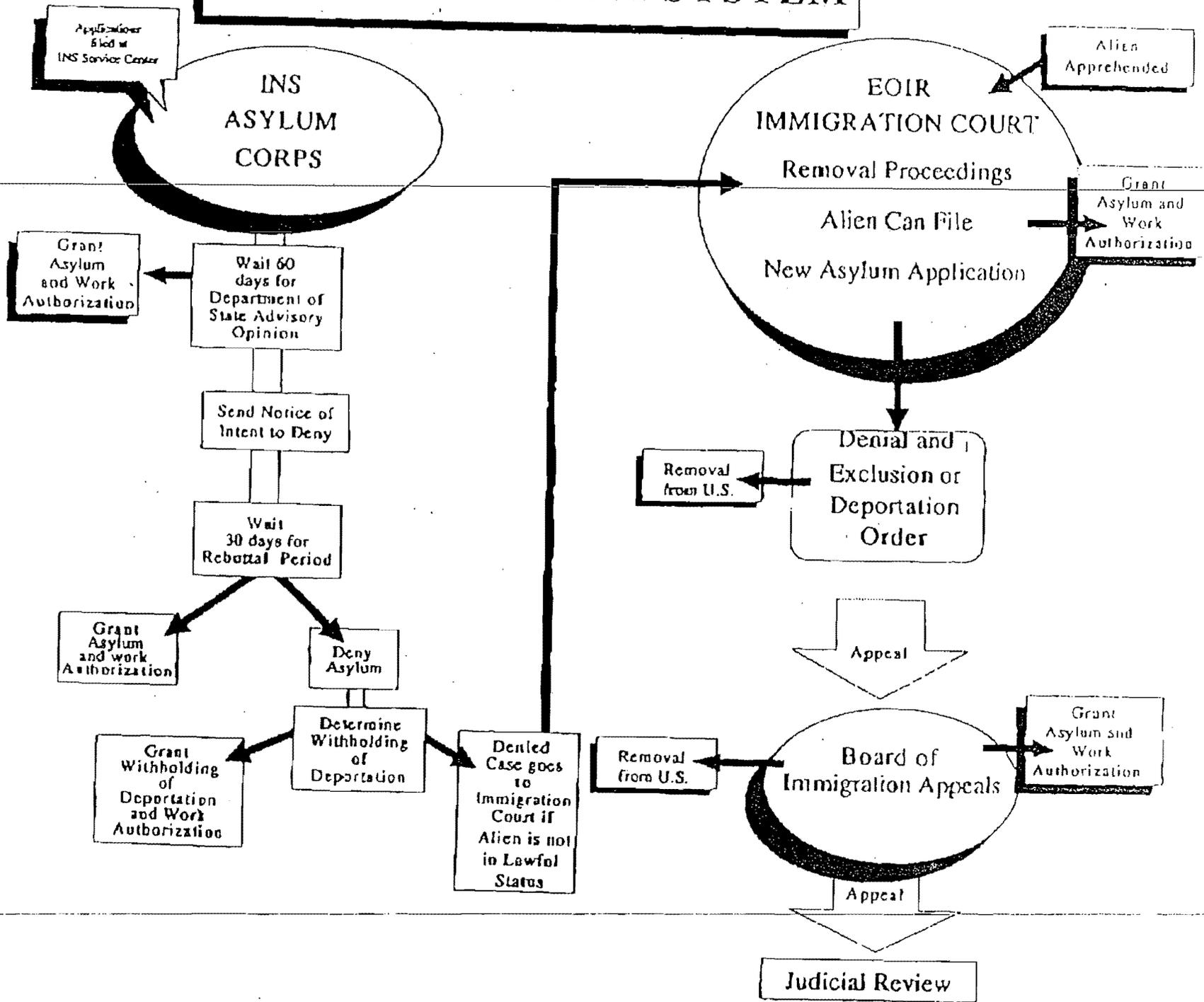
Improves Communication With Department of State on Country Conditions. Asylum officers and the IJs will have access electronically to State Department information on detailed country conditions to assist them in making asylum decisions. INS and the IJs also may request specific information from the State Department on individual cases or specific country conditions. The State Department may, in its discretion, provide information available to it concerning individual cases. Under the proposed regulations, INS will not be required to wait 60 days, as now mandated, for the Department of State's discretionary advisory opinion before issuing a decision on each asylum application.

Requires A Filing Fee for Asylum and Initial Work Authorization Applications to Alleviate Increasing Costs. The proposed regulations institute a fee of \$130 only for applicants who file an asylum application with INS in what is called the "affirmative asylum program," but not for aliens who initially file for asylum when placed in removal proceedings. The proposed fee for initial applications for an EAD is \$60. Consistent with fees for non-asylum applications, these filing fees will be waived if the applicant is able to demonstrate sufficient reasons that he is unable to pay. The estimated cost of adjudicating each asylum application is \$615. INS has avoided charging fees for asylum in the past by funding the program through a surcharge assessed on other immigration benefits. Funds collected through this surcharge are no longer sufficient to cover the asylum program.

Reduces Paperwork. The proposed regulations reduce asylum application paperwork in two primary ways. First, the Biographical Information Form (Form G-325A) is eliminated because the main asylum application (Form I-589) will be redesigned to request necessary information that is now sought in separate Form G-325A. Second, an alien must submit only three, not the currently required four, copies of the asylum application, and any supporting material.

February 21, 1994

CURRENT ASYLUM SYSTEM



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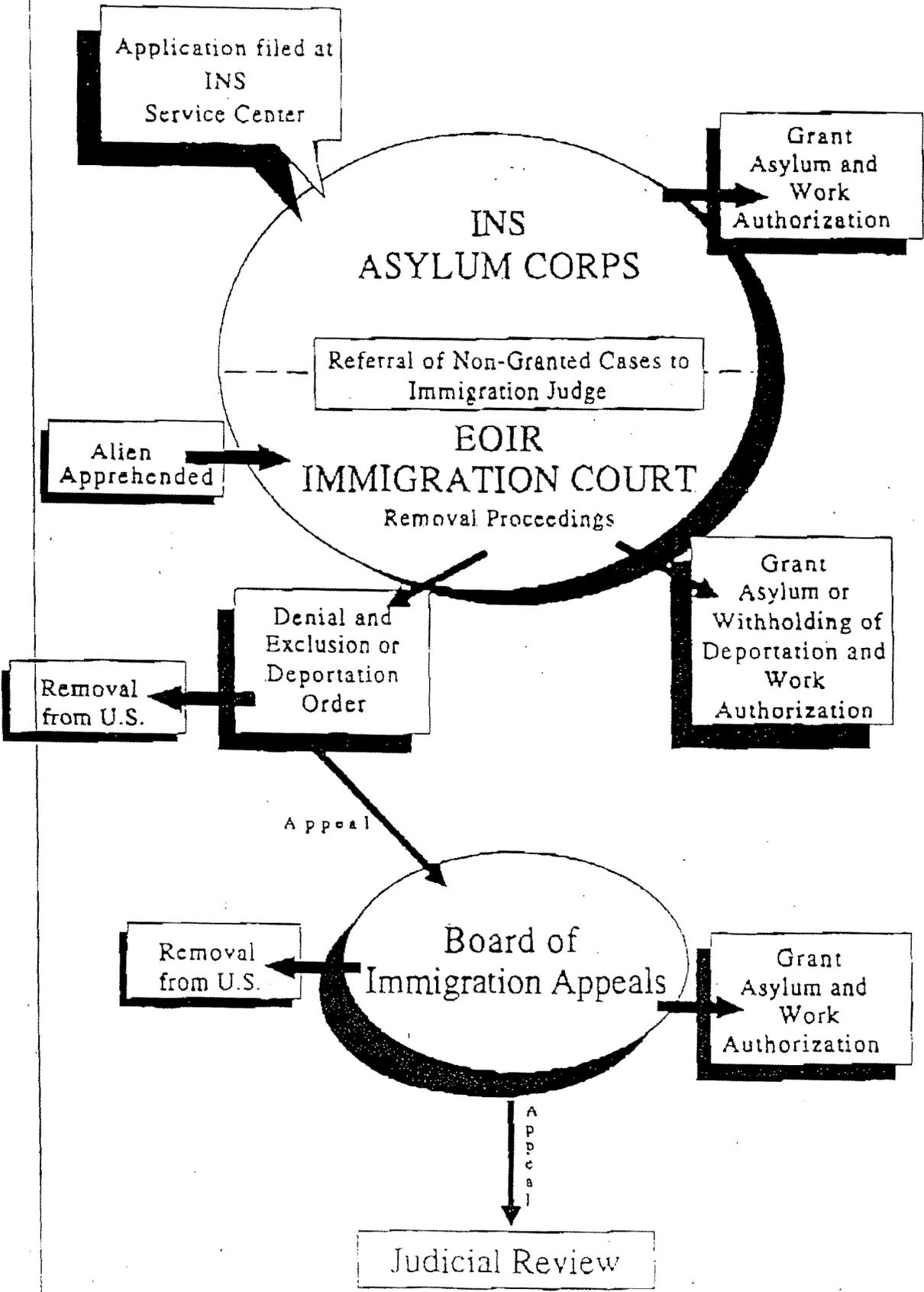
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SENT BY: INS-COMMR/CODEP/CO

PROPOSED ASYLUM REFORM

An Integrated Adjudication System





U.S. Department of
Transportation
Office of the Secretary
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.
Washington, D.C. 20590

March 7, 1994

Ms. Kumiki Gibson
Associate Counsel to the Vice President
The White House
Washington, DC 20501

Dear Ms. Gibson:

In response to your memorandum requesting the Department of Transportation's (DOT's) regulatory priorities for the coming year, we have enclosed the following general descriptions of:

- 1) DOT's effort to expedite rulemakings; this includes a number of actions to streamline our rulemaking process;
- 2) DOT's effort to enhance environmental protection from pipelines; these rulemaking actions will increase the protection of the public and the environment from pipeline ruptures; and
- 3) DOT's effort to implement the President's Initiative to Promote a Strong Competitive Aviation Industry; this package of potential rulemaking actions and rulemaking process modifications should result in rules that achieve our rulemaking objectives at less cost; and
- 4) DOT's implementation of the Climate Change Action Plan through "Car Talk," an effort to identify options for reducing car/light truck greenhouse gas emissions to 1990 levels by the early 21st century.

All of these items represent a programmatic effort involving several rulemakings or related projects addressing a general area of concern.

We would be happy to provide more detailed information on these items.

Sincerely,

Stephen H. Kaplan

Enclosure

Secretary Peña's Directives to Expedite Rulemaking in the Department of Transportation

Shortly after taking office, Secretary Peña asked for a report on steps that could be taken to expedite rulemaking in the Department of Transportation (DOT). Based on that report, the Secretary directed that a series of actions be taken. The Department has already begun to implement these directives and expects to complete action on all of them during the next year.

First of all, the Secretary stressed that senior officials must support DOT staff with the necessary resources and authority to ensure compliance with reasonable deadlines, while making it clear that unreasonable delay will not be accepted. To help implement this, the Secretary required that those rulemaking offices that do not already have such a system establish a tracking system for following all of their rulemakings. This will keep pressure on participants to meet deadlines or present reasonable explanations. It will also help identify points of delay. As part of this process, schedules will be required for each rulemaking. Finally, rulemaking offices will have to submit reports to the Secretary describing their systems for ensuring that deadlines are met and, every six months, they will have to provide reports on any delays. The expectation is that problems will be identified and corrected; those doing an effective job will not be required to continue reporting.

To further help in this regard, the Secretary authorized delegations of authority to concur on rulemaking documents submitted to the Secretary to whatever level the Assistant Secretaries or Administrators desire, while making it clear that they will be held responsible for the decisions so they will receive necessary briefings. In addition, the Secretary delegated to the General Counsel approval authority for a category of documents that experience has shown do not warrant the Secretary's attention. The Secretary also provided authority for expedited handling of such documents during the concurrence process. Finally, he has authorized the elimination from the rulemaking review process of offices deemed unnecessary.

The Secretary also ordered the use, where appropriate, of a large number of techniques that will help expedite the rulemaking process. For example, we are considering changes to public rulemaking petition procedures that should result in better petitions and, as a result, expedited responses by DOT. To permit a better understanding of the public's views on rulemakings, the Secretary has directed that regulatory negotiations be used more frequently and that DOT use more effective methods for public hearings, meetings, and workshops. For example, rather than simply holding hearings to receive testimony from the public, the Department will be using more informal meetings with the public where issues can be discussed with more interchange between

the Government and the public. We will also try to use telecommunications capability for public hearings and meetings to allow more members of the public in remote locations to participate. Finally, the Department is taking steps to create an electronic public rulemaking docket. Not only should such steps reduce space and personnel needs within the Department and provide Departmental personnel with a much more efficient way to use their dockets, but it will also provide the public with many advantages. The public should be able to submit documents electronically as well as be able to read the docket on their personal computers, making it possible for people anywhere in the country to more effectively participate in the Department's rulemaking process.

The Department will be making use of "direct" final rulemakings, a process that can, in appropriate cases, eliminate an unnecessary proposed rule. In addition we are exploring the use of special science or technical panels to resolve scientific issues that arise during the course of rulemakings. The Department will also be increasing the amount of internal training that is provided to its employees on such subjects as rulemaking process requirements, economic analyses, and environmental requirements. We also are exploring the use of contractors in the rulemaking process and addressing ways in which they can be used more effectively and efficiently. Finally, we are taking steps to improve our working relationship with appropriate congressional committees and exploring better approaches to fixing problems in legislation, irrespective of the Administration's overall position on the legislation.

PIPELINE ENVIRONMENTAL RULEMAKINGS

As the result of the spill of 400,000 gallons of diesel fuel from a pipeline in Fairfax County, VA, serious environmental damage was done to a tributary of the Potomac, and the water supply for the County was shut down. Immediately after the spill, Secretary Peña directed a review of the pipeline safety program to determine the extent to which it was carrying out its new environmental mission, and an action plan to address the risks posed by hazardous liquid pipelines. Under the action plan, the Secretary directed that the following pipeline rules be completed on an accelerated basis:

- o HYDROSTATIC TESTING OF OLDER HAZARDOUS LIQUID PIPELINES - Will require operators of older hazardous liquid (e.g., oil and petroleum products) and carbon dioxide pipelines, that were not pressure tested in accordance with current standards, to pressure test (with water) these lines to current standards within 7 years. The purpose of the rule is to assure that these older lines have an adequate margin of safety between their maximum operating pressure and the test pressure in order to remove flaws that would grow to failure over time.
- o REGULATING LOW STRESS HAZARDOUS LIQUID PIPELINES - This rule will require that certain hazardous liquid and carbon dioxide pipelines operating at very low pressure, which have been excepted from regulation, be brought under the Department's pipeline safety regulations. While the exception was originally granted based on the fact that these lines posed little threat to public safety, several recent accidents demonstrate the severe environmental effects that can be caused by leaks from these lines.
- o ASSURING THAT NEW AND REPLACED PIPELINES CAN BE "PIGGED" - This rule will require that new and replaced hazardous liquid, carbon dioxide, and natural gas transmission pipelines be constructed to permit the passage of instrumented internal inspection devices (commonly referred to as "smart pigs"). This requirement is a necessary precursor to an impending Departmental rulemaking that will determine the extent to which pipeline operators will have to use smart pigs to inspect their pipelines in environmentally sensitive and high population density areas. Pigging is an effective, and developing, technology for identifying and locating dents, gouges, and corrosion damage to a pipeline without having to excavate it.
- o IMPROVING THE DAMAGE PREVENTION PROGRAMS OF OPERATORS - This final rule, and an associated supplemental notice of proposed rulemaking, will extend excavation damage prevention rules to all areas of pipeline operation (e.g., rural as well as non-rural). Damage to pipelines by third parties such as excavators is the leading cause of pipeline failures, and this rule will place on operators of hazardous liquid and carbon

dioxide pipelines the same responsibilities for protecting their lines against damage as are currently imposed on operators of natural gas pipelines. The most effective element of a damage prevention program is participation by the pipeline operator in one-call damage prevention programs. Under these programs, operators file the locations of their facilities, and excavators can call, give notice of their intent to dig in a certain area, and receive from the one-call center the location of underground utilities in that area. This system affords the operator of the underground facility to opportunity to go to the scene of the excavation and mark exactly the location of its facility.

- o INSTALLING EMERGENCY FLOW RESTRICTING DEVICES ON HAZARDOUS LIQUID PIPELINES - This rulemaking addresses the equipment and procedures that can be used on a hazardous liquid pipeline to detect and control leaks on the pipeline. Equipment such as remotely controlled valves, and the spacing of those valves, and equipment and procedures for leak detection, will be considered in this rulemaking (an advance notice of proposed rulemaking was issued in February 1994). This rulemaking was a key provision in the Pipeline Safety Act of 1992, which formalized and increased the environmental responsibilities of the Department's pipeline safety program.

INITIATIVE TO PROMOTE A STRONG COMPETITIVE AVIATION INDUSTRY

In accordance with the Clinton Administration's Initiative to Promote a Strong Competitive Aviation Industry, with Executive Order 12866 on Regulatory Planning and Review, and with the Vice President's National Performance Review, the Federal Aviation Administration (FAA) has launched new regulatory initiatives and expedited others that are ongoing. The following are among the most significant of these regulatory initiatives: examining the current air traffic environment at high density airports by reevaluating the High Density Rule, reassessing existing regulations by conducting a comprehensive regulatory review, expediting an ongoing global effort to harmonize international regulations, improving cost-benefit analysis and data collection, and completing the outstanding drug and alcohol rulemakings. These initiatives are described in more detail below.

The High Density Rule

The Department currently is conducting a study of the air traffic environment at each of the four high density airports: Chicago O'Hare, New York's La Guardia and JFK International, and Washington National. This study includes, but is not limited to, the economic, environmental, competitive, and logistical aspects of the High Density Rule (HDR). The projected air traffic environment and its relationship to and integration with the current HDR is being carefully studied. Further, the study will examine the process for allocating domestic and international slots, access for small communities, and potential alternatives to the current regulatory scheme at the HDR airports. The requirements of each of the four airports will be reviewed separately but each airport's relation to the national air traffic system will be considered. Any changes to the HDR will be made through a rulemaking proceeding; in the case of Washington National, they would require a statutory change. The public is invited to participate in this study by submitting comments to the FAA. The study will be completed by November 1994.

The Regulatory Review

To enhance its ability to perform its statutory role without undue economic impact on the aviation industry, the FAA announced a comprehensive regulatory review on January 10, 1994. This review is aimed at eliminating or amending existing rules and regulations to reduce the compliance burden on industry, consistent with safety, environmental protection, and security considerations. The FAA has solicited public comment regarding ways to improve or streamline those regulatory areas where the regulatory burden exceeds benefits. To avoid wasting resources and duplicating efforts of prior reviews, the FAA has requested commenters to rank three regulations, in the priority order in which they believe they should be addressed, rather than provide a comprehensive list of regulations that need to be reevaluated. The comments provided in response to this notice will assist the agency in establishing its priorities for future regulatory changes. This review will include implementation schedules and periodic progress reports to the industry and the public. The comment period closes on March 11, 1994.

The Harmonization Effort

The harmonization of the U.S. Federal Aviation Regulations (FAR) with the European Joint Aviation Regulations (JAR) is the FAA's most comprehensive long-term rulemaking effort. The differences worldwide in certification standards, practices, and procedures, and operating rules and procedures must be identified and minimized to reduce the regulatory burden on the international aviation system and the economic burden on the aviation

March 7, 1994

CAFE and "Car Talk"

- o In October 1993, the Climate Change Action Plan was released, outlining a plan to return total United States greenhouse gas emissions to 1990 levels by the year 2000.
- o As the Climate Change Action Plan was being completed, one oft-expressed concern was that the transportation sector was not contributing enough to the program. In particular, many environmentalists were concerned that Corporate Average Fuel Economy (CAFE) standards were not a part of the plan. In the final version of the Action Plan, the Administration indicated that it would begin a one-year effort to identify policy options to reduce car/light truck greenhouse gas emissions to the 1990 level by the early 21st century. This effort is known as "Car Talk."
- o This effort is being led by three White House offices - the National Economic Council (NEC), the Office of Science and Technology Policy (OSTP), and the Office of Environmental Policy (OEP). Using a process analogous to regulatory negotiation, the goal is to develop a consensus among major stakeholders on the most cost-effective policy options.
- o The over-arching goal is to develop a plan to reduce greenhouse gas emissions by light vehicles to the 1990 level by some future (at this point undetermined) year. At this point, the years 2005, 2015, and 2025 are all to be considered.
- o Policy options under consideration would include both Vehicle-Miles-Traveled (VMT)-reduction and efficiency-enhancing approaches. These would include (1) vehicle-based regulatory strategies such as CAFE, (2) vehicle taxes and/or rebates, (3) market-based actions to reduce VMT (fuel taxes, congestion pricing, pay-at-the-pump insurance), and (4) other VMT-reduction strategies (land-use patterns, increased mass transit, telecommuting, IVHS).
- o In parallel with this activity, DOT is continuing its statutorily-mandated responsibility to set light truck CAFE standards for future model years.
- o DOT is about to issue light truck CAFE standards of 20.7 mpg for model years 1996 and 1997. The model year 1995 CAFE standard is 20.6 mpg. The limited leadtime available before the beginning of these model years precludes more significant increases in the light truck standard.
- o DOT also is about to issue an ANPRM on light truck CAFE standards for model years 1998-2006. Among the fuel economy levels being considered are the National Academy of Sciences estimates that levels of 26-28 mpg may be feasible by model year 2006.

industry. In addition, any unnecessary duplications in international certification processes must be eliminated.

To manage this effort, the FAA and the Joint Aviation Authorities (JAA) have jointly developed the FAA/JAA Harmonization Work Program that establishes specific prioritized objectives and sets milestones for the accomplishment of the harmonization tasks. This work program focuses the harmonization efforts of the FAA and JAA, and implements a harmonization strategy that is leading to significant progress. As part of the overall harmonization effort, the FAA and JAA are jointly developing Concurrent and Cooperative Certification Procedures with the goal of reducing all unnecessary duplications in the certification process. Changes in the FAR and JAR needed to effect harmonization are being negotiated through FAA and JAA participation in FAA's Aviation Rulemaking Advisory Committee (ARAC). Over 40 harmonization initiatives have been tasked to ARAC thus far. In addition, the FAA is currently processing three ARAC harmonization recommendations.

Improvement of Cost-Benefit Methodology and Data Collection

The FAA, assisted by the ARAC, is working to increase its options and opportunities to receive cost input early during the regulatory process. The steady increase of the Advisory Committee's participation in the FAA's rulemaking program has fostered an early exchange of accurate cost data so that the FAA can make informed decisions before proceeding with a rulemaking proposal.

The Office of the Secretary and the FAA also are participating in a working group, formed by the Office of Management and Budget (OMB) to improve cost-benefit methodologies. This working group, which includes analysts from the Department of Transportation, the Council of Economic Advisors, and OMB, is expected to expand and improve regulatory cost-benefit analysis and to resolve significant cost-benefit disputes.

Completion of Outstanding Drug and Alcohol Rulemakings

As promised in the Clinton Administration's Initiative to Promote a Strong Competitive Aviation Industry, the Department of Transportation has completed action on its proposal to require alcohol testing programs for the more than 7.4 million employees who perform safety-sensitive functions in transportation industries. In addition to adopting alcohol regulations, the Department amended its current drug testing procedures and proposed to lower the random rate for drug testing from the present 50 percent rate to 25 percent for those industries where the positive rate for random testing has been less than 1.0 percent for 2 consecutive years.

- o The rationale behind this advanced notice is that if manufacturers are provided with a longer leadtime they should be able to incorporate additional technological improvements into their vehicles to raise their fuel economy levels. Previous administrations have tended to set light truck CAFE standards only one to two years at a time, which has precluded substantial increases in these standards. (For example, the model year 1994 light truck CAFE standard of 20.5 mpg is only slightly higher than the model year 1984 light truck CAFE standard of 20.0 mpg.)
- o The passenger car CAFE standard remains at 27.5 mpg, unless DOT proposes to change it.
- o The results of "Car Talk" will be input to any decision to begin a rulemaking to amend the passenger car CAFE standard.
- o The results of the "Car Talk" discussion will implicitly be considered during the light truck fuel economy rulemaking process, along with all information submitted in response to the ANPRM.

DEPARTMENT OF THE TREASURY

MAJOR¹ REGULATORY INITIATIVES

Proposed or Final Rules Likely to be Issued
During Fiscal Year 1995

DEPARTMENTAL OFFICES

OFFICE OF FINANCIAL ENFORCEMENT

During FY 1995, the Office of Financial Enforcement in the Office of the Assistant Secretary (Enforcement) expects to issue a series of anti-money laundering regulations under the authority of the Bank Secrecy Act. These regulations will address wire transfers, the implementation of anti-money laundering measures by financial institutions, and the identification of customers by nonbank financial institutions.

INTERNAL REVENUE SERVICE

During FY 1995, the Internal Revenue Service expects to issue regulations providing guidance to taxpayers with respect to the following provisions in the Internal Revenue Code:

- § 7701, recharacterization of multi-party financing transactions
- § 882, computation of the amount of interest expense attributable to the U.S. trade or business of a foreign corporation
- § 197, election to amortize certain intangible assets
- § 162, disallowance of deductions for lobbying expenses
- § 475, market-to-market accounting for securities dealers

¹ It has not been determined whether any of the listed regulations are "significant regulatory actions" as defined in Executive Order 12866.

OFFICE OF THRIFT SUPERVISION

- Lending Limits. This rule will clarify the scope and application of lending limit requirements (including excessive loans to one borrower), address frequently asked questions, simplify the calculation of lending limits by relying primarily on quarterly reports, revise the definition of capital and surplus upon which lending limits are based, and codify the administrative exception allowing a thrift to advance funds to renew and complete funding of a loan commitment where the additional advance will protect the position of the thrift. The proposed rule is expected to be issued during FY 94, with the final rule issued in FY 95.
- Mutual to Stock Conversions. The rule will revise the existing regulations to address issues concerning depositor subscription rights. The proposed rule is expected to be issued during FY 94, with the final rule issued in FY 95.
- Service Corporations. The rule will revise the existing OTS regulations to clarify their scope and conform them to recent interagency policy agreements. The proposed rule is expected to be issued during FY 94, with the final rule issued in FY 95.
- Community Reinvestment Act. In December 1993, the Federal financial institutions regulatory agencies issued a proposed rule revising their regulations implementing the Community Reinvestment Act. If a final rule is not issued during FY 94, it will be a priority of the agencies for FY 95.

OFFICE OF THE COMPTROLLER OF THE CURRENCY

- Concentrations of Credit. This rule will establish additional capital requirements for institutions that have excessive concentrations of credit. The proposed rule is expected to be issued during FY 94, with the final rule issued in FY 95.
- Interest Rate Risk. This rule would establish additional capital requirements for institutions based on levels of interest rate risk. The proposed rule was issued on September 14, 1993; if a final rule is not issued during FY 94, it will be an OCC priority for FY 95.

- Derivatives. This rule will establish standards for the capital treatment of derivatives.
- Lending Limits. This rule will clarify the scope and application of lending limits requirements (including excessive loans to one borrower), reorganize current regulations into related subjects and update them to address frequently asked questions, simplify the calculation of lending limits by relying primarily on quarterly reports, revise the definition of capital and surplus upon which lending limits are based, and codify the administrative exception allowing a bank to advance funds to renew and complete funding of a loan commitment where the additional advance will protect the position of the bank. A proposed rule was issued in February 1994; the final rule may not be issued until FY 95.
- Community Reinvestment Act. In December 1993, the Federal financial institutions regulatory agencies issued a proposed rule revising their regulations implementing the Community Reinvestment Act. If a final rule is not issued during FY 94, it will be a priority of the agencies for FY 95.

FINANCIAL MANAGEMENT SERVICE

During fiscal year 1995, the Financial Management Service (FMS) expects to issue the following regulations to improve Federal cash management:

- Federal Payments Through Financial Institutions by the Automated Clearing House Method. The Automated Clearing House is a nationwide electronic system for the disbursement of Federal funds. FMS will revise its existing regulations to make them consistent with private sector rules governing electronic payments.
- Federal Tax Deposits. During the next several years, FMS will implement the new Electronic Federal Tax Payment System, which will accelerate the deposit of taxes to the Treasury. Existing FMS regulations governing Federal tax deposits will be revised to reflect the new system.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

- Trade Practices: The Federal Alcohol Administration Act imposes sanctions for unfair trade practices against wholesaler promotional activities that are "to the exclusion" of rival wholesalers. In a recent case, the United States Court of Appeals for the District of Columbia held that BATF's implementing regulations were deficient because they did not include adequate standards for the imposition of such sanctions. A proposed rule responding to the court's decision is expected to be published in May 1994; the final rule may not be issued until FY 95.

Note: On February 14, 1994, BATF issued temporary and proposed regulations implementing the 5-day waiting period and related provisions of the Brady Handgun Violence Prevention Act. If a final regulation is not issued during FY 94, it will be a BATF priority for FY 95.

U.S. CUSTOMS SERVICE

- Customs Automation. Pursuant to the authority of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act, Customs is considering a number of pilot programs to further automate aspects of Customs processing. Because the Act requires testing before full implementation, the necessary regulatory revisions may not occur until FY 95.
- General Agreement on Tariffs and Trade (GATT): During fiscal year 1994, Customs anticipates initiating a number of regulatory changes needed to implement the GATT, including valuation, preshipment inspection, rules of origin, and intellectual property rights. Final regulations are anticipated during FY 95.

Note: In December 1993 and January 1994, the U.S. Customs Service issued regulations to implement portions of the North American Free Trade Agreement, and regulations concerning the rules of origin applicable to imported merchandise. If these regulations are not finalized during FY 94, they will be Customs priorities for FY 95.



DEPARTMENT OF VETERANS AFFAIRS
Office of the General Counsel
Washington DC 20420

In Reply Refer To: 024K1

Ms. Kumiki Gibson (OEOB/268)
Associate Counsel to the Vice President
Office of the Vice President
Old Executive Office Building
Washington, D.C. 20501

Dear Ms. Gibson:

This is in response to your memorandum of February 15, 1994, in which you request that we submit a general description of the VA's major regulatory priorities for the upcoming year.

We project for the upcoming year that the VA's only major regulatory priority will concern rulemaking proceedings relating to the VA's participation in the health care reform program.

Sincerely yours,

A handwritten signature in cursive script that reads "Mary Lou Keener".

Mary Lou Keener
General Counsel

EPA'S 1994 REGULATORY PRIORITIES

EPA's Industry-By-Industry Approach: Striving for "Cleaner" and "Cheaper" Environmental Protection

The statutes that EPA administers address pollution in individual media, i.e. air, water, and waste. Consequently, EPA's own programs have been somewhat piecemeal and media-specific. Recently, Administrator Browner began work on an innovative project to address this problem.

EPA will be working with selected industries and environmental groups to improve environmental performance in more cost-effective ways. Through this project, EPA will review the regulation, permitting and reporting requirements affecting these industries, as well as their pollution prevention practices and compliance histories. The goal will be make the environmental management in these industries both "cleaner" and "cheaper." The industries that EPA will be working with will be selected this spring, and work on the project will begin immediately.

Empowering Citizens Through Expansion of the Toxics Release Inventory

In keeping with the President's commitment that the public have more information about toxic chemicals released into the environment, EPA is expanding the number of chemicals required to be reported as part of the Toxics Release Inventory (TRI). The information in the TRI allows citizens to get involved in protecting their own health, and encourages industries to voluntarily reduce their releases of toxics.

Under the Emergency Planning and Community Right-To-Know Act, manufacturing companies are required to report the quantities of toxic chemicals released into the environment. Currently, 340 chemicals and categories of chemicals are reported. In January 1994, EPA proposed the addition of 313 toxic chemicals. EPA plans to propose the expansion of TRI reporting to non-manufacturing sectors, based on profiles of industries that release large quantities of toxic chemicals.

Protecting Children from Lead Hazards

The Center for Disease Control (CDC) has stated that lead poisoning is the most serious environmental childhood illness, and it is entirely preventable. Inner city children, in particular, are bearing the brunt of childhood lead poisonings, making this a major issue for environmental justice advocates. EPA, in conjunction with the Department of Housing and Urban Development and CDC, is required to adopt regulations implementing the Lead-Based Paint Hazard Reduction Act which: set health standards; require certification of lead inspectors, contractors and laboratories;

require training of workers; and inform the parties to real estate transactions about potential lead hazards. EPA will propose the health standards regulation and finalize the other regulations this year.

Controlling Toxic Pollutants in the Great Lakes Ecosystem

Controlling persistent toxics that bioaccumulate is a major goal of EPA's Great Lakes initiative. The initiative began when the Great Lakes states requested that EPA assist them to establish consistent water quality standards for the Great Lakes ecosystem. EPA began the work, and subsequently Congress required EPA to complete it. The proposed standards, which EPA is under a court order to finalize by March 13, 1995, will be the first standards for the Great Lakes to specifically protect wildlife. The rule will be a culmination of a process in which EPA has made exceptional efforts to include the public, including over 100 public meetings.

Reducing Risks from Hazardous Waste Combustion

On May 18, 1993, the Administrator released a draft strategy on Waste Minimization and Combustion. This strategy is aimed at reducing the amount of hazardous waste generated in the United States and ensuring the safety and reliability of hazardous waste combustion in incinerators and industrial furnaces. This year, through a dialogue with environmental groups, waste-producing and waste management firms, states, and other interested parties, EPA will be gathering data on the best available technologies available in order to propose in 1995 tough controls on combustion facilities. EPA also intends to work with industry to reduce the demand for combustion and other forms of waste management by fostering waste minimization practices.

Focusing Hazardous Waste Regulations on the Riskiest Wastes

During 1994, EPA will be working with states, environmentalists, and industry to develop a rule which focuses its hazardous waste program on regulating wastes that are clearly hazardous and pose the greatest risk to human health, while deferring low-hazard, low-risk wastes to state regulatory and clean-up programs. When finalized, the Hazardous Waste Identification rule will streamline the regulation of hazardous wastes and, based on risk, safely control these wastes. Also, clean-ups of sites will be expedited.

Streamlining Air Quality Permitting for New Sources

The New Source Review permitting program of the Clean Air Act has been had tremendous success in reducing air emissions from new and expanding industrial facilities. However, this preconstruction permitting program has become extremely complicated and time-consuming for permit applicants and difficult for EPA to administer. In an effort to simplify and shorten the process, EPA

is undertaking the first comprehensive review of this program since its inception, nearly 20 years ago. All the major stakeholders are involved in the process, which is expected to result in EPA proposing a package of reform measures by the end of the year.

Protecting Public Health by Controlling Air Toxic Emissions

Through the Clean Air Act, EPA is identifying better environmental practices already being used by particular industries and requiring similar facilities to match these established performance levels. Our first major success in this approach was the regulation for the chemical industry finalized in February which alone reduces toxic air emissions by over half a million tons each year. In this manner, EPA will complete regulation of half of all major sources of toxic air emissions by 1997 and all major sources by 2000. EPA expects to propose 10 air toxics rules and promulgate 10 other toxic rules within the next year.

Regulation of air toxics emissions is a major regulatory priority for EPA because it is required by the Clean Air Act and because of EPA's continued commitment to environmental justice and protecting communities around facilities where toxic materials are used. We are concerned that these toxic emissions elevate the risk of cancer, developmental abnormalities, lung disfunction, other human health effects, as well as increasing the likelihood of ecological and biological damage. The good news is that reducing these emissions tends to reduce consumption of materials, save resources, and fosters engineering re-assessment.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, DC 20507

1994

Office of
the Chairman

MEMORANDUM

TO: Kumiki Gibson
Associate Counsel to the Vice President

FROM: Douglas A. Gallegos *DAG*
Executive Director
Regulatory Policy Officer, EEOC

SUBJECT: EEOC Regulatory Priorities for Fiscal Year 1995

In response to your memorandum of February 15, 1994, the Equal Employment Opportunity Commission is providing the following information on projected regulatory priorities for the upcoming year.

First, we must note that because the Commission is awaiting permanent political leadership, we cannot project regulatory priorities for the year commencing October 1, 1994, with any certainty.

We currently are preparing recommendations for Commission approval of two significant regulatory actions to be initiated in the current year; if approved, we anticipate that these actions would continue into the next fiscal year. These proposed actions and the justifications for taking them are as follows:

- I. Amendment to Regulations Implementing Title I of the Americans with Disabilities Act (ADA), to Interpret the Relationship between the ADA's Reasonable Accommodation Requirement and Employers' Collective Bargaining Obligations under the National Labor Relations Act (NLRA).

EEOC recognized a need to interpret the relationship between the reasonable accommodation requirements of the ADA and employers' collective bargaining obligations under the NLRA in its original notice of proposed rulemaking implementing Title I of the ADA, in February 1991. Responses to the Commission's request for public comment on several issues of potential conflict between the two laws reflected a wide divergence of opinion. In view of this divergence, the complexity of the

issues, and need for further research and analysis, the Commission decided to address these issues in future guidance. In the intervening period, Commission staff has consulted extensively with staff of the Office of General Counsel of the National Labor Relations Board (NLRB), seeking to resolve areas of potential conflict.

Initially, we thought the most effective way to resolve these issues would be to issue a joint Memorandum of Understanding (MOU) between EEOC and NLRB providing a common interpretation by both agencies. However, during our discussions with NLRB we learned that the Board's procedures do not provide for such joint issuances. We have concluded that EEOC must issue its interpretation of these issues to help employers meet their legal responsibilities. We plan to do so through amendment to our Title I ADA regulations and accompanying interpretative guidance.

In view of the diversity of opinion expressed, we anticipate use of expanded procedures to obtain public input, beyond normal APA notice and comment procedures, in developing this regulatory amendment. Such procedures were very helpful in producing Title I regulations that have been widely commended by diverse elements of the business and disability communities as responding to their major concerns, because of the inclusive process by which they were developed.

After consultation with the NLRB, we would publish an Advance Notice of Proposed Rulemaking (ANPRM) requesting comments on alternative options for EEOC guidance on key issues. Responses to the ANPRM would identify groups and viewpoints to be further consulted in a series of "input" meetings conducted by EEOC with participation of the NLRB and representatives of different employer, union and disability groups, providing an opportunity to consult with a wide spectrum of interests. Following these meetings and consultation with NLRB, EEOC would publish a Notice of Proposed Rulemaking, incorporating the options selected, and indicating its response to views expressed in the input consultations. When comments on the NPRM are received, further meetings can be held, if necessary, with major concerned groups before drafting the Final Rule.

II. Negotiated Rulemaking to Interpret Provisions of the Older Workers Benefit Protection Act of 1990 (OWBPA)

Title I of the OWBPA establishes complex rules for determining whether an employee benefit plan meets requirements of the Age Discrimination in Employment Act of 1967 (ADEA). Title II of this Act establishes criteria for evaluating the legality of unsupervised waiver agreements under the ADEA. The Commission has received a tremendous volume of written and telephone inquiries requesting further guidance on the application of these two Titles of the OWBPA. In 1992, the Commission published a Federal Register notice, asking for public comment

on a long list of significant policy and technical questions, to assist in developing suitable guidance.

In view of the diversity of comments received from identifiable major concerned parties, i.e. national organizations representing private employers, state and local government employers, unions and the insurance industry, the Commission is now considering initiating a negotiated rulemaking process to develop needed regulatory guidance. We believe that such a process will greatly aid the Commission's administration and enforcement of the ADEA by giving major parties who must comply with this guidance opportunity to fully advance their views, participate in and hopefully negotiate acceptable compromises, and thus have a strong stake in complying with the rule.

If there are any questions regarding the information provided in this memorandum, you may contact me at 663-4001 or Elizabeth M. Thornton, Acting Legal Counsel, at 663-4638.



FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20503

DEPUTY TO THE CHAIRMAN

March 3, 1994

Mr. Jack Quinn
Chief of Staff to the Vice President
Office of the Vice President
Washington, DC 20501

Dear Mr. Quinn:

We are pleased to respond to your request for a general description of the FDIC's major regulatory priorities for the upcoming year. We support efforts to streamline the regulatory process, and accordingly welcome the opportunity to participate in the meeting on April 5, 1994.

The FDIC's regulatory priorities in the coming year, as we know them at this point, can be summarized as follows:

1) Follow through on several initiatives designed to better protect the interests of bank consumers and their rights -- in particular, revise Community Reinvestment Act regulations and Fair Housing enforcement, improve disclosures and protections for consumers purchasing nondeposit investment products from FDIC insured institutions, and assure appropriate participation of depositors in the values that arise in conversion from mutual to stock form of ownership.

2) Review and revise as appropriate the formulation of the base on which FDIC deposit insurance is assessed.

Please contact Dennis Geer at (202) 898-6948 if you wish to discuss our regulatory priorities before the April 5 meeting.

Sincerely,

Roger A. Hood
Deputy to the Chairman

cc: Kumiki Gibson

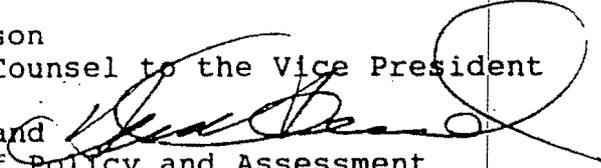


Federal Emergency Management Agency

Washington, D.C. 20472

MAR 7 1994

MEMORANDUM FOR: Kumiki Gibson
Associate Counsel to the Vice President

FROM: Harvey Ryland 
Director of Policy and Assessment

SUBJECT: Regulatory Meeting with the Vice President

Responding to your memorandum of February 15, 1994, the Federal Emergency Management Agency (FEMA) proposes the following two major regulatory priorities for the upcoming year:

- provision of public assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988;
- delegations of authority within FEMA to empower FEMA employees at all levels to accomplish our mission.

Our first regulatory priority will be to revamp and streamline FEMA's ability to provide public assistance, especially for damaged or destroyed public buildings, for example, public office buildings, hospitals, schools, and community centers, as swiftly as possible to promote the rebuilding and revitalization of communities as soon as possible after a natural or manmade disaster.

Our second regulatory priority would combine two goals: holding FEMA employees accountable for results; and giving FEMA employees the tools they need to do their jobs. It will entail implementation of the Government Performance and Results Act, developing and using measurable objectives, clarifying program objectives, delegating adequate and appropriate authority to employees to accomplish their objectives, and evaluating and reporting the results.

We look forward to working with the Vice President and other agencies to accomplish these important priorities.



Federal Housing Finance Board

March 4, 1994

MEMORANDUM

TO: Jack Quinn
Chief of Staff to the Vice President

Kumiki Gibson
Associate General Counsel to the Vice
President.

FROM: Nicolas P. Retsinas 
Federal Housing Finance Board

SUBJECT: Regulatory Priorities of the Federal Housing Finance
Board

The Federal Housing Finance Board ("Finance Board") is an independent agency that is statutorily charged with regulating and governing the Federal Home Loan Bank System ("FHLBank System"). The FHLBank System is a government sponsored enterprise consisting of 12 regional "wholesale" FHLBanks that provide loans, called advances, to "member" financial institutions for the purpose of housing finance.

The Finance Board's two major regulatory priorities, which are statutorily derived, are to ensure that the FHLBanks operate in a financially safe and sound manner and to ensure that they carry out their housing finance mission. Within each of these two "super" priorities, the Finance Board has a number of 1994 priority projects, only a few of which are expected to manifest themselves through specific Administrative Procedure Act ("APA")-adopted regulations in the 1994 calendar year. In addition, it is important to note that the Finance Board will be without authority to take action on regulations or new policy initiatives, until a quorum is restored to the Finance Board.

FHLBank Safety And Soundness

The Finance Board's highest priority is to continue to ensure the safety and soundness of the FHLBank System. This priority entails the ongoing safety and soundness examination and supervision of the 12 FHLBanks and the FHLBank System's funding agent, the Office of Finance, and all matters relating to safety and soundness. While all projects within this

priority may not entail the adoption of a regulation under the APA, the following interrelated matters are the most important components of this top priority for the agency:

-- The execution of the Finance Board-adopted strategic plan for on-site examination of the 12 FHLBanks and the Office of Finance;

-- The development, and adoption by the Finance Board, of the agency's examination handbook which will articulate the policies and procedures to be followed by examiners in conducting examinations;

-- In connection with a comprehensive project to review the capital standards and structure of the FHLBank System, further modifications to, and modernization of, the Financial Management Policy governing investments and other non-advance financial activities of the FHLBank System -- which modifications may include the development of a regulation in place of the existing unenforceable policy.

FHLBank Housing Finance Mission

The second major Finance Board regulatory priority for 1994 is to continue to ensure that the FHLBanks carry out their housing finance mission. Two 1994 projects, that were initiated in 1993 to achieve this priority, entail amending the Finance Board's existing Affordable Housing Program ("AHP") Regulation and Community Support Requirements ("Community Support") Regulation.

-- Amendments to the AHP Regulation. The Federal Home Loan Bank Act ("Bank Act") requires the Finance Board to promulgate regulations governing the Affordable Housing Program. Under the AHP, the FHLBanks provide funding to their member institutions at subsidized interest rates for the purpose of financing owner-occupied and rental housing for lower-income households. The Finance Board is currently revising its AHP Regulation to address operational issues that have arisen in the three years that the AHP has been in existence. In particular, the proposed amendments are intended to make the AHP more responsive to local low-income housing needs in each of the 12 FHLBank districts, increase efficiency in administration of the program, and enhance coordination of the AHP with other state and federal housing programs that provide funds in conjunction with the AHP.

-- Amendments to the Community Support Regulation. The Bank Act requires the Finance Board to adopt a regulation establishing standards of "community investment or service" that member institutions must meet in order to maintain continued access to long-term advances. Under the existing Community Support Regulation, the primary standard for evaluating the adequacy of a member's community support

activities is the evaluation of the member's compliance with the Community Reinvestment Act of 1977 ("CRA"), as evidenced by the CRA rating assigned to the member by its federal banking regulator. However, since the CRA does not apply to credit unions and insurance companies, these institutions do not receive CRA ratings. Therefore, the Finance Board is in the process of revising its Community Support Regulation to establish specific community support standards applicable to credit union and insurance company members.



Federal Maritime Commission

Washington, D.C. 20573

March 2, 1994

Office of the Chairman
(202) 523-5911

Ms. Kumiki Gibson
Associate Counsel to the Vice President
Office of the Vice President
OEOB #268
Washington, DC 20503

Dear Ms. Gibson:

Enclosed find a general description of three of the Federal Maritime Commission's major regulatory priorities for the upcoming year.

Mr. Joseph C. Polking, Secretary of the Federal Maritime Commission, shall attend the meeting on April 5, 1994 as my representative.

Sincerely,

A handwritten signature in black ink, appearing to read "W.D. Hathaway". The signature is stylized and written over a large, hand-drawn triangular shape that points downwards and to the right.

William D. Hathaway
Chairman

Guidelines Regarding Substantially Anticompetitive Agreements

The Shipping Act of 1984 ("Act") requires the filing with the Commission of agreements between common carriers by water governing rates, conditions of service or similar matters. These agreements, if properly filed, generally become effective automatically after forty-five days. The Commission has the power under section 6(g) of the Act to seek an injunction in federal district court against an agreement which is "likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost." This is the only way the Commission can prevent the operation of an agreement, either before or after it first goes into effect.

The Commission is considering whether it should issue regulations or guidelines that would describe the Commission's enforcement policy with respect to its administration of section 6(g). In furtherance of this endeavor the Commission has published an Advance Notice of Proposed Rulemaking which recounts the background and legislative history of section 6(g), describes the Commission's procedures for evaluating and monitoring agreements, sets forth a possible section 6(g) guideline, and seeks comment on whether published guidelines would be useful and appropriate and, if so, what form they should take. The goals of this effort are to provide a vehicle for increasing public awareness regarding the Commission's regulation of agreements under the Act and to provide a means for public input on what form that regulation should take.

Comments have recently been filed by numerous interests and they are now being reviewed by Commission staff.

Passenger Vessel Financial Responsibility Requirements

Public Law 89-777 requires passenger vessel operators to demonstrate to the Commission their financial responsibility to indemnify passengers for nonperformance of transportation. Commission regulations implementing this law currently require passenger vessel operators to file evidence of financial responsibility with the Commission in an amount equal to 110% of the operators unearned passenger revenue over a 2-year period, subject to a \$15 million ceiling. Operators meeting certain requirements are allowed lower coverage limits.

In an effort to ensure that cruise line passengers are adequately protected against nonperformance of transportation the Commission is considering the issuance of a proposal to remove the \$15 million coverage ceiling. This is prompted largely by the knowledge that some operators' unearned passenger revenue now greatly exceeds the current \$15 million ceiling -- in some instances by a factor of several times the current ceiling. In aggregate, there is about \$300 million in coverage presently on file for what we estimate to be approximately \$1 billion in unearned passenger revenue subject to Pub. L. 89-777, leaving something on the order of \$700 million without coverage; a substantial potential exposure to risk faced by the travelling public for its deposits and prepaid fares.

The Commission's proposal would afford greater protection to the travelling public by increasing the ceiling to 110% of the first \$25 million of unearned passenger revenue, with alternatives for a lesser percent for amounts exceeding \$25 million. The Commission also is considering tightening its requirements for an operator to qualify as a self insurer.

Domestic Offshore Trades Rate of Return Methodology

The Intercoastal Shipping Act of 1933 ("Act") charges the Commission with the responsibility to determine whether rates and charges of common carriers by water in the domestic offshore trades are just and reasonable. This Act also requires the Commission by regulation to prescribe guidelines for the determination of what constitutes a just and reasonable rate of return or profit for such carriers, and from time to time to review such regulations and make such amendments thereto as may be appropriate.

Pursuant to this mandate the Commission has in place regulations which determine an allowable rate of return based on a comparable earnings test. Under this test the Commission determines a carrier's projected rate of return on rate base utilizing projected revenue and cost figures reflective of a carrier's rates and compares this rate of return to an historical average of that earned by U.S. manufacturing corporations, with adjustments for current trends in cost of money and relative risks. Experience utilizing this test showed it to be less than satisfactory.

In keeping with the requirement of the Act for periodic review of its regulations, the Commission directed that an exhaustive staff review be made of the current methodology. It is expected that this review will be completed shortly and will result in the development of a proposed new methodology designed to result in the payment by the carrier's customers of the lowest cost for service in the long run.



Office of
the Chairman

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

March 10, 1994

The Vice President
United States Senate
Washington, D.C. 20510

Dear Mr. Vice President:

I am pleased to respond to your request for information about several of the Federal Trade Commission's regulatory priorities for 1994. In April, the Commission will be publishing its semi-annual regulatory agenda in the government-wide Unified Agenda listing those rulemaking proceedings that we expect to occur during the six months following publication. The agenda will list 8 active rulemakings and 7 rules under review.

Three of the listed rulemakings should be of particular interest. Two involve energy conservation rules that will implement statutory directives. The third addresses whether it is necessary to amend the Commission's rule requiring care labels for textile products to facilitate trade among the United States, Mexico and Canada, consistent with the goals of the North American Free Trade Agreement (NAFTA).

As you know, the FTC is primarily a law enforcement agency prosecuting violations of the FTC Act and other statutes that are the responsibility of the Commission. Although the Commission is a small agency, with some 950 workyears, it has wide-ranging responsibilities aimed at protecting consumers and industry against deceptive, unfair or anticompetitive practices.¹ The Commission's regulatory program, however, is an important complement to its case-by-case enforcement of existing laws and rules.

¹ In fiscal year 1993, the Commission's consumer protection mission resulted in 121 final Federal District Court or administrative orders prohibiting further misconduct. These orders also required almost \$16 million to be returned to consumers, more than \$1.8 million to be disgorged to the U.S. Treasury (because redress to consumers was not feasible), and more than \$1.3 million in civil penalties to be paid to the Treasury. The Commission also provisionally approved 19 administrative orders that were published for public comment, and initiated or continued litigation in 20 other cases.

The Vice President

Page 2

Energy Labels

The Commission's regulations generally are intended to ensure that consumers receive information they need to evaluate competing products on the basis of comparable information and thus make informed purchasing decisions.² The Commission is continuing the implementation of the Energy Policy Act of 1992 amendments to EPCA (EPA 92).³ The purpose of these rules, which will be in the form of amendments to the Appliance Labeling Rule, is to require that lamps be labeled with information necessary to enable consumers to select the most energy efficient lamps which meet their requirements.⁴ EPA 92 requires that a final rule be issued by April 25, 1994.⁵

² For example, pursuant to the Energy Policy and Conservation Act of 1975 (EPCA), the Commission issued the Appliance Labeling Rule, 16 C.F.R. Part 305, requiring labels for certain major household appliances and other products. Specifically, these rules require manufacturers to put "EnergyGuides" on most major appliances that disclose comparative energy efficiency or cost information that consumers can use in making purchases. In addition to helping consumers choose energy efficient appliances, the EnergyGuides have had the salutary effect of encouraging manufacturers to produce more efficient appliances.

³ Pub. L. No. 102-486, 106 Stat. 2776 (1992), establishes a comprehensive national energy strategy designed to increase U.S. energy security and improve the economy in cost effective and environmentally beneficial ways. H. Rep. No. 102-474(1), 102d Cong., 2d Sess. 132. Pursuant to other EPA 92 directives, the Commission amended the Octane Posting Rule, 16 C.F.R. Part 306, to include labeling requirements for alternative fuels, comparable to those for gasoline, 58 Fed. Reg. 41356 (Aug. 3, 1993), and the Appliance Labeling Rule to require certain plumbing products to carry disclosures about their water use. 58 Fed. Reg. 54955 (Oct. 25, 1993).

⁴ The potential for savings if consumers and businesses use highly efficient lamps, such as compact fluorescent, is substantial. See, e.g., Hamilton, Shedding Light, Cutting Consumption, Washington Post, Jan. 24, 1994, at F5.

⁵ The NPR the Commission published on November 15, 1993, 58 Fed. Reg. 60147, proposed requiring that package labels and catalogs from which lamps may be ordered disclose conspicuously certain basic information such as lumens (or another term such as "brightness" or "light output"); watts; and average life. The Commission also proposed requiring disclosure of an efficiency measure to help purchasers choose the most efficient lamp to meet their needs. To obtain additional public participation in the

(continued...)

The Vice President

Page 3

Alternative Fuels

Another priority rulemaking concerns alternative fuels (i.e., automotive fuels other than gasoline and diesel, such as compressed natural gas, ethanol, and electricity) and alternative fueled vehicles (AFV's). EPA 92 directs the Commission to establish uniform labeling requirements, if practicable, for alternative fuels and AFV's. It provides generally that the rule must require disclosure of "appropriate" cost and benefit information, to enable the consumer to make reasonable purchasing choices and comparisons. EPA 92 requires the Commission to issue a proposal by April 25, 1994, and a final rule by April 24, 1995.⁵

Care Labeling

The third priority involves possible amendments to the Commission's Care Labeling Rule. Care Labeling of Textiles, 16 C.F.R. § 423 (1994). This rule requires manufacturers and importers of textile wearing apparel to attach care labels to garments. The rule requires the instructions to be in words, but allows symbols to be used in addition to words. We intend to seek comment later this year on whether it would be desirable to allow the use of symbols in lieu of words on care labels. This could simplify labeling requirements and hence facilitate trade for manufacturers shipping garments to the United States, Mexico and Canada, consistent with NAFTA's goals.

Ten-Year Review of FTC Rules

In addition to considering whether to allow symbols only under the Care Labeling Rule, the Commission will be seeking information about, for example, the costs and benefits of the rule and whether there are changes that could minimize any adverse economic effects. This review will be occurring as part of the Commission's ongoing program to review all its rules and guides every ten years to determine whether they should be

⁵(...continued)

proceeding, on January 19, 1994, the Commission held a public workshop/forum, with a neutral facilitator who moderated the discussion.

⁶ The Commission published an advance notice of proposed rulemaking on December 10, 1993, 58 Fed. Reg. 64914. In April, after publishing the NPR, the Bureau of Consumer Protection plans to use a public workshop forum to obtain additional public input, as it did with the Lamp Rule proposals, because interaction among the interested parties may give the Commission better information on which to base the rules. Because of the diverse industries that will be affected by the rules, this proceeding will generate considerable interest.

modified or repealed.⁷ Thus far, as a result of this program, the Commission has repealed three guides and one rule.⁸

Other Regulatory Activities

The Commission also recently completed regulatory initiatives that address market adaptation of new technologies. For example, effective this month are the Commission's amendments to the Mail Order Rule, 16 C.F.R. Part 435, which governs shipment claims and refunds, to include merchandise ordered by telephone or by any means using the telephone such as a fax transmission or a computer using a modem.⁹ Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992, the Commission also issued another rule governing 900 number telephone sales, 16 C.F.R. Part 308, which regulates the advertising and operation of pay-per-call services, as well as billing and collection procedures for such services.¹⁰

Finally, the Commission may be given new responsibility this year to regulate telemarketing fraud. Two bills currently pending in Congress (H.R. 868, Consumer Protection Telemarketing Act, and S. 568, Telemarketing and Consumer Fraud and Abuse Prevention Act) would require the Commission to issue rules prohibiting deceptive and other abusive telemarketing activities and would empower state Attorneys General to prosecute violations of the rules the Commission issues under the Acts. If enacted into law, the subsequent required rulemaking will be complex and intensive.

⁷ See, e.g., 59 Fed. Reg. 2955 (Jan. 20, 1994) (identifying 11 rules and guides on which the Commission will seek comment this year, pursuant to the Commission's 10-year review plan).

⁸ See 59 Fed. Reg. 8527 (Feb. 23, 1994) (announcing repeal of the Guides for the Greeting Card Industry Relating to Discriminatory Practices, and the repeal of the trade regulation rule on Discriminatory Practices in Men's and Boy's Tailored Clothing Industry, 16 C.F.R. Parts 244 and 412); and 58 Fed. Reg. 68292 (Dec. 27, 1993) (announcing repeal of the Guides for Advertising Fallout Shelters, and Guides on Radiation Monitoring Instruments, 16 C.F.R. Parts 229 and 232).

⁹ The amended rule was announced in the Federal Register on September 21, 1993, 58 Fed. Reg. 49095.

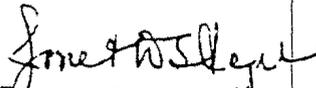
¹⁰ 58 Fed. Reg. 42364 (Aug. 9, 1993). The rule became effective on November 1, 1993.

The Vice President

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I hope this information is helpful. I look forward to our meeting on April 5, 1994, and providing further information about the Federal Trade Commission's regulatory activities.

Sincerely,


Janet D. Steiger

Regulatory Priorities of the General Services Administration

Reinventing Multiple Award Schedule Ordering Procedures

The General Services Administration (GSA) plans to deregulate, unify, and streamline its multiple award schedule ordering procedures. GSA's multiple award schedule contracts provide Federal agencies with a cost-effective mechanism for ordering commonly used commercial items. The proposed changes to the multiple award schedule procedures will result in a uniform set of principles that empower ordering activities to make "best value" buying decisions in a "de-monopolized" environment.

The proposed changes are consistent with National Performance Review recommendations to simplify Government regulations and eliminate complex administrative requirements. The proposed changes are part of GSA's plan to help create a Government that works better and costs less.

"Equivalent level of safety" in Federal buildings

The General Services Administration (GSA) plans to publish a final regulation in October 1994 defining the term "equivalent level of safety." The Federal Fire Safety Act of 1992 requires sprinklers or an "equivalent level of safety" in Federally owned and leased high-rise office buildings and certain Federally assisted housing. The Act also requires GSA to publish a Federal regulation defining the term "equivalent level of safety."

Since leased buildings and assisted housing are subject to local codes (a State and municipal responsibility), GSA has solicited comments from fire marshals. The fire service vehemently supports sprinklers and opposes equivalency as a loophole to safety. GSA sees equivalency as meeting the Congressional mandate to provide flexibility and recognize advances in technology. When GSA publishes the proposed equivalency regulation in spring 1994, significant protests from the fire service organizations are anticipated. These issues may be taken up by the Congressional Fire Service Caucus. On the other side, some housing authorities; e.g., New York City, strongly support the equivalency concept because they don't want sprinklers even though the level of safety in their housing may not be equivalent to sprinklers.

Delegations of Authority

The General Services Administration (GSA) grants delegations of authority to Federal agencies to acquire and manage space in buildings. GSA plans to increase delegations consistent with our guiding principles and National Performance Review recommendations supporting delegations when it is efficient and cost effective.

Lease acquisition authorities are specified in the Federal Property Management Regulations (FPMR), Part 101-18. The current delegations, which are primarily for special purpose space in non-urban areas, are being studied to identify how these authorities may be expanded. Space acquired pursuant to these delegations must be leased in accordance with applicable statutes and regulations.

Delegations of authority for buildings operation and maintenance are not currently in the FPMR and are issued through individual agreements with requesting agencies. These agreements specify that agencies are responsible for adhering to laws, regulations, and applicable operating procedures.

GSA reviews agencies' execution of delegated authorities on a regular basis to ensure their compliance with statutes, regulations, and other delegation requirements.

GSA is considering codifying the entire delegation program to include both lease acquisition and operational/maintenance authorities. This will clarify delegated agency accountability and responsibility under this program.

Amendment of Federal Information Resources Management Regulation (FIRMR) Provisions Regarding Delegations of Procurement Authority

In consonance with National Performance Review objectives, the General Services Administration (GSA) is amending the FIRMR to raise the levels of regulatory delegations of procurement authority for information technology resources. The new thresholds will provide more authority and flexibility to agencies and also shorten acquisition lead times.

Three categories of thresholds will be established based on the size of agency information technology budgets: \$50,000,000, \$20,000,000 and \$5,000,000. These higher authorities will be based on outcome measures developed by agencies and approved by GSA. Agency Designated Senior Officials are being encouraged to redelegate a minimum of 50% of the monetary value of the agency authority to lower organizational levels with sufficient expertise.

Implementing Procurement Streamlining Legislation.

The Congress is actively considering proposed legislation that would make major changes in the laws that impact the Federal procurement process in order to streamline procurement procedures. The legislation addresses many of the recommendation of the Section 800 Panel on streamlining the laws applicable to Defense procurement as well as recommendation of the National Performance Review. The Administration supports the legislation and is working hard to see that it is enacted as soon as possible. Once enacted major changes in the Federal Acquisition Regulation (FAR) and agency level supplemental acquisition regulations will be required in a variety of areas including but not limited to commercial products, purchases of less than \$100,000, and small business programs.

The General Services Administration (GSA) plans to work with the Department of Defense (DoD) and the National Aeronautics Administration (NASA) who are jointly responsible for the FAR to make the necessary changes to implement the procurement streamlining legislation as quickly as possible.

Timely implementation of the legislation at the Governmentwide and agency level will be critical to achieving the reductions in the Federal workforce and to creating a Government that work better and costs less.

Reforming the General Services Administration Acquisition Regulation (GSAR)

The General Services Administration(GSA) plans to publish a proposal to revise the entire GSA Acquisition Regulation. The proposal will redefine the objectives of the procurement system and its regulatory base, establish very narrow standards for the scope and nature of the regulation, eliminate provisions that impede productivity or unnecessarily increase administrative costs, reduce rigid rules in favor of guiding principles, delegate authority and accountability to the lowest level consistent with the competency, and reduce the overall volume of the regulation by at least 50 percent.

After consideration of public comments the entire regulation will be issued in final form.

Issuance of the final regulation will facilitate GSA's ability to operate in a competitive environment by enabling GSA contracting offices to deliver services in a more timely, efficient and cost effective manner.



Interstate Commerce Commission
Washington, D.C. 20423-0001

Office Of The Chairman

March 4, 1994

Kumiki Gibson
Associate Counsel to the
Vice President
OEOB #268
The White House
Washington, D.C.

Dear Associate Counsel Gibson:

In response to your request for our agency's major regulatory agenda for the upcoming year, I have listed below a general description of one of our agency's major regulatory priority for the upcoming year. This priority is in addition to the agency's ongoing effort to make the agency's regulatory program more effective, less burdensome and in greater alignment with the President's priorities and regulatory principles.

Electronic Tariff Filing (ETF), Ex Parte No. 444

The exponential increase in recent years in the number of regulated motor common carriers and in the number of tariffs filed at the Commission is well-documented.¹ In early 1989, the Commission eliminated the detailed tariff regulations formerly applicable to printed tariffs and authorized the filing of electronic tariffs.² However, the Commission declined to prescribe standards for data exchange, because the private sector had already invested significant resources in such projects, and because continued development through the marketplace rather than government regulation was considered to be preferable. In 1993, the Commission sought comments on the feasibility of its developing a comprehensive ETF system that would support automated functions such as electronic data interchange and rate analyses. Most comments received from the public supported ETF but provided little specific guidance due to the complex issues involved in ETF.

¹In 1980, there were approximately 17,000 regulated motor common carriers, which filed 393,149 tariffs at the Commission. H.R. Rep. No. 1069, 96th Cong., 2nd Sess. 2(1980); I.C.C. 1980 Ann. Rep., 113, App. B, Table 7. In 1992, the more than 50,000 motor carriers submitted 1,159,106 tariff filings. I.C.C. 1990 Ann. rep., 127, App. E, and 113, App. B, Table 2.

²Electronic Filing of Tariffs, 5 I.C.C.2d 279 (1989); 54 FR 6403 and 9052 (1989).

On February 16, 1994, the Commission unanimously voted to move forward with an ETF system, and indicated that industry involvement is needed before specific ETF system design decisions are made. The Commission announced its intention to establish a Negotiated Rulemaking Committee (Reg-Neg Committee) to be composed of representatives from all affected interests. The Reg-Neg Committee will be directed to identify the needs that an ETF system should serve and to recommend to the Commission appropriate ETF regulations and technology. The target date for completion of the steps required to form the Reg-Neg Committee is June 1, 1994. A chart of other proposed milestones is attached as Appendix A.

I look forward to working with you in advancing the President's regulatory priorities.

Sincerely,

A handwritten signature in cursive script that reads "Gail Mc Donald".

Gail C. McDonald

Attachment 1

Plan of Action
and
Milestones for Implementation
of
ELECTRONIC TARIFF FILING

<u>Milestone</u>	<u>Target Date</u>
Issuance of a notice by the Commission reopening Ex Parte No. 444, <u>Electronic Filing of Tariffs</u> , and inviting public comments on the advisability of developing and implementing a comprehensive ETF system	4/16/93
End of comment period for notice	9/13/93
Review of comments received in response to the notice	9/14/93 through 11/15/93
Staff recommendations to the Commission regarding the basic ETF design that should be implemented and the general processes that should be followed in developing and implementing it	2/1/94
Issue a Commission decision and notice describing the general ETF design under consideration. The notice will describe the scope of the rule to be developed; identify the interests likely to be affected; request comment on the use of Reg-Neg; and explain how a person may apply for membership on the committee	3/15/94
Retention of a contractor to provide technical expertise and to assist in consultations with the Reg-Neg Committee, in conducting industry conferences, and in design and refinement of ETF system specifications	3/31/94
Publish a 2nd Reg-Neg notice, which would identify the persons proposed for the Committee; request comment on whether all affected interests are represented; and invite additional applications for membership	5/1/94
Publish the notice establishing the Reg-Neg Committee and announcing the time and place for the initial meeting of the committee	6/1/94

Milestone	Target Date
Host industry conferences, consult with the Reg-Neg Committee and the contractor, and perform internal analyses regarding the design, implementation and operation of an ETF system	8/1/94 through 3/31/95
Reg-Neg Committee final report to the Commission	4/30/95
Commit funding to the contractor for the development of a pilot ETF system	5/31/95
Development of the pilot system	6/1/95 through 9/30/95
Issue a notice of proposed rulemaking to establish rules for the ETF system found to be required by the Commission	6/30/95
Acceptance testing of the pilot system by the Commission, and selected filers and users	10/1/95 through 12/31/95
Commit funds for the development and implementation of a fully operational ETF system	1/1/96
Development of the fully operational ETF system	1/1/96 through 4/30/96
Issuance of final rules for ETF	2/1/96
Acceptance testing of the fully operational ETF system by the Commission, and selected filers and users	5/1/96 through 7/31/96
Initial implementation of the fully operational ETF system	9/1/96

**National Archives and Records Administration (NARA)
Regulatory Priorities**

Electronic mail systems

This regulation will add the E-mail guidance developed in response to the Armstrong case as an appendix to 36 CFR part 1234, Electronic Records Management. Eventually, the guidance will be incorporated in the body of part 1234, but Armstrong constraints require publication as soon as possible. The notice of proposed rulemaking will allow a 90-day comment period. It is anticipated that the notice of proposed rulemaking will be published in March. OMB is reviewing the regulation under E.O. 12866.

This regulation has been recommended as a priority regulation because of the urgent need for guidance to Federal agencies in this area.

Audiovisual records management

This regulation will completely revise 36 CFR part 1232, Audiovisual Records Management, to provide audiovisual management policy formerly contained in OMB Circular A-114 and to update archival transfer requirements. OMB Circular A-114 was rescinded with the issuance of the revised OMB Circular A-130, Management of Federal Information Resources, in June 1993. The revised Circular A-130 does not contain the detailed guidance on management of audiovisual productions that Circular A-114 did; instead it tells agencies to establish an appropriate program in conformance with the requirements contained in NARA regulations.

This regulation has been recommended as a priority regulation because the Federal audiovisual community is anxious for updated NARA regulations to replace the guidance contained in Circular A-114. It is anticipated that the notice of proposed rulemaking will be submitted for OMB review under E.O. 12866 and Federal Register publication in May 1994..



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

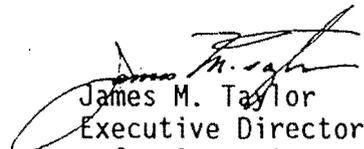
March 7, 1994

Ms. Kumiki Gibson
Associate Counsel to the Vice President
Office of the Vice President
Washington, DC 20510

Dear Ms. Gibson:

As requested in your memorandum of February 15, 1994, to Chairman Selin, enclosed are two Nuclear Regulatory Commission priority regulatory actions for the upcoming year. He will be prepared to discuss these actions at the April 5, 1994, regulatory meeting with the Vice President. Please feel free to call me if you have any questions (301-504-1700).

Sincerely,


James M. Taylor
Executive Director
for Operations

Enclosure:
As stated

NRC REGULATORY PRIORITIES IN 1994

Regulatory Action: Revise regulations governing radiological criteria for decommissioning (10 CFR Part 20)

Description: The NRC is revising 10 CFR Part 20 to provide specific radiological criteria for the eventual remediation and decommissioning of the approximately 24,000 licensed nuclear sites (8,000 licensed by NRC and 16,000 by the Agreement States). NRC licensees which will require decommissioning include 112 nuclear power plants (at 75 sites); 74 non-power (research and test) reactors; 14 fuel fabrication plants; 2 uranium hexafluoride production plants; 49 uranium mill facilities; and 9 independent spent fuel storage installations. The remaining NRC facilities are materials licensees (i.e. radioactive source manufacturers and individuals, universities, medical institutions, and companies that use radioisotopes).

These criteria are needed to provide a clear and consistent regulatory basis for determining the extent to which lands and structures must be remediated before a site can be considered decommissioned. Since current regulations do not explicitly address radiological criteria for decommissioning, the NRC presently allows decommissioning on a site-specific basis using existing guidelines. Codifying radiological criteria for decommissioning in the regulations through the rulemaking will enhance public participation in the decommissioning process.

To achieve widespread public participation in this rulemaking, the NRC conducted seven workshops at various places throughout the country from January through May, 1993. More than 180 persons participated in these workshops. In addition, the NRC has established an electronic bulletin board to allow members of the public to access information concerning the rulemaking and to comment on NRC staff proposals through use of personal computers. Over 700 individuals have used the bulletin board with over 2000 calls.

Concurrent with the NRC rulemaking, the Environmental Protection Agency (EPA) is proceeding to develop standards and guidance for Federal agencies in the area of radiation protection, including standards for the cleanup of contaminated sites. The NRC and EPA have coordinated their efforts in this area to ensure that effective and consistent site cleanup standards are established, while minimizing duplication of effort.

The next step for the NRC rulemaking is a proposed rule which is scheduled for summer 1994. The rule is expected to be final by the spring 1995.

Regulatory Action: Revise the regulation governing renewal of operating reactor licenses (10 CFR Part 51 and Part 54).

Description: There are 109 operating nuclear power plants whose 40 year operating licenses will expire between the years 2000 and 2033. These plants provide approximately 20% of the electric power produced in the U.S. NRC anticipates that application for renewal of the operating license will be submitted for many of these plants. The timely renewal of these operating licenses and the extension of the operating life of existing plants, where appropriate to do so, represents an important contribution to ensuring an adequate energy supply for the nation during the first half of the 21st century.

The license renewal rule (10 CFR Part 54) establishes the technical requirements that a license renewal applicant must satisfy, the nature of information to be provided in a renewal application, and the application procedures. In general, the industry and the Department of Energy have indicated that the license renewal process contained in the rule may be too burdensome and may not provide a stable and predictable regulatory process for license renewal. As a result, the NRC has undertaken another rulemaking effort to reduce the potential burden on renewal applicants by ensuring that appropriate credit can be given for existing licensee programs and to establish a more efficient and stable license renewal process while still maintaining the health and safety of the public.

The next step for the NRC rulemaking is a proposed rule which is scheduled for summer 1994. The rule is expected to be final by winter 1995.

In compliance with the National Environmental Policy Act of 1969 (NEPA) and our implementing regulations (10 CFR Part 51), the NRC must review the environmental impacts of license renewal for each application. The Commission has undertaken a Generic Environmental Impact Statement rulemaking for license renewal.

This rulemaking is a high priority due to the need to achieve efficiency and stability in the license renewal process. The objective of the rule is to generically address environmental impact issues to focus the site specific EIS on issues of real significance. This will be accomplished based on the extensive operation and refurbishment experience with nuclear power plants and the existing data on the associated environmental impacts.

The States, other Federal agencies, and the public have been active participants in the rulemaking. The staff held 3 regional public workshops with the States to discuss their concerns about redundancy between NRC's treatment of need for generating capacity and alternative energy sources under NEPA and a State's treatment in fulfilling its regulatory responsibilities relative to these matters. The staff has also consulted with Environmental Protection Agency, the Council on Environmental Quality, the Department of the Interior, and the Department of Energy.

The next step for the NRC rulemaking is to resolve state concerns which is scheduled for summer 1994. The rule is expected to be final by spring 1995.



UNITED STATES
OFFICE OF PERSONNEL MANAGEMENT
WASHINGTON, D.C. 20415

OFFICE OF THE DIRECTOR

MAR 4 1994

MEMORANDUM FOR KUMIKI GIBSON
ASSOCIATE COUNSEL TO THE VICE PRESIDENT

FROM: MICHAEL CUSHING
CHIEF OF STAFF

A handwritten signature in cursive script, appearing to read "Michael Cushing".

Subject: Regulatory Meeting with the Vice President

This is in response to your memorandum of February 15, 1994, concerning the April 5, 1994, meeting with the Vice President.

During the upcoming year, the Office of Personnel Management's primary focus will be implementation of the National Performance Review (NPR) recommendations. What regulatory actions are taken will, to a certain extent, depend on the status of civil service reform legislation introduced pursuant to the report of the National Partnership Council. If civil service reform passes, OPM's regulatory efforts will be immediately directed to its implementation.

Nevertheless, we will continue to implement those NPR recommendations not requiring legislation, as was the case in our accelerated sunset of the Federal Personnel Manual. Other such NPR recommendations that we are now addressing include the following:

- reforming the Federal Government's position classification system;
- eliminating the Government's time in grade restrictions for promotion to enable Federal managers to promote based on demonstrated ability;
- limiting to two years those temporary appointments that don't provide benefits to employees;
- allowing Federal employees to use accrued sick leave to care for sick or elderly dependents, and allow sick leave recredit to employees who separate from, and later return to, Federal service, regardless of the length of their separation;

Our other significant regulatory focus will be on implementation of the Hatch Act Reform Amendments of 1993. Hatch Act reform resulted in two two main areas requiring OPM regulatory action. First, our regulations will deal with political activities that

are permitted or prohibited for most Federal employees under the amended Hatch Act, as well as specific prohibitions which now apply to employees in certain positions and agencies. Second, the Act provided for the commercial garnishment of employee pay in the executive branch, and we are working with the Departments of Justice and Labor to incorporate their comments in developing the Act's implementing regulations.

If you have any questions in this regard or need further information, please contact me on (202) 606-1000.



UNITED STATES OF AMERICA
RAILROAD RETIREMENT BOARD
844 NORTH RUSH STREET
CHICAGO, ILLINOIS 60611-2092

GENERAL COUNSEL

APR 4 1994

Ms. Kumiki Gibson
Associate Counsel to the
Vice President
Office of the Vice President
Washington, D. C. 20501

Dear Ms. Gibson:

In a memorandum dated February 15, 1994, you requested a description of the major regulatory priorities of the Railroad Retirement Board for the upcoming year. This request is in connection with a meeting scheduled for April 5, 1994, concerning government-wide regulatory efforts.

The Railroad Retirement Board has three major regulatory initiatives for 1994.

1. The agency plans to promulgate a regulation to comply with amendments to the Railroad Unemployment Insurance Act defining how a contribution rate is determined in the case of merger, sale, or partition of two or more employers. The regulation being planned will carry out this mandate and describe generally how contribution rates are determined.
2. The agency plans to issue a final regulation dealing with the collection and waiver of overpayments under the Railroad Retirement Act. This regulation will clarify the agency's policy and practice with respect to debt collection.
3. The agency is considering revisions to the existing regulations defining entities covered as employers and individuals covered as employees under the Railroad Retirement and Railroad Unemployment Insurance Acts. These regulations need to be updated to reflect the case-by-case adjudications that have occurred since the regulations were originally promulgated.

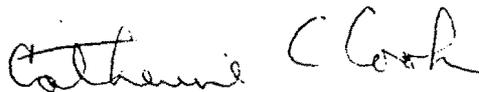
Ms. Kumiki Gibson

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In accordance with your instructions, a list containing the names, social security numbers, and dates of birth of those who will be attending is enclosed.

I trust the above provides the information you require.

Sincerely,

A handwritten signature in cursive script that reads "Catherine C. Cook".

Catherine C. Cook
Regulatory Policy Officer

Enclosure



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416



OFFICE OF GENERAL COUNSEL

March 2, 1994

Office of the Vice President
Attention: Kumiki Gibson
Old Executive Office Building, Room 268
17th and G Streets, N.W.
Washington, DC 20503

Dear Kumiki:

On behalf of Administrator Bowles, I am responding to your request of February 15, 1994 for a statement of the major regulatory priorities of the U.S. Small Business Administration (SBA) for calendar year 1994. In this regard, SBA hopes to promulgate the following regulations:

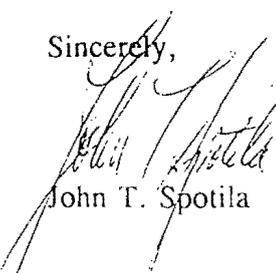
(1) A comprehensive set of regulations governing the Small Business Development Center (SBDC) Program, as authorized by Section 21 of the Small Business Act (15 U.S.C. 648). The SBDC program authorizes grants to be made by SBA to a nationwide network of entities which provide management and technical assistance to small businesses. It is expected that a notice of proposed rulemaking prescribing programmatic regulations will be published prior to May of 1994, and that final regulations will be published before year end.

(2) A comprehensive set of regulations governing the operations of the Small Business Investment Company (SBIC) program which is authorized by the Small Business Investment Act of 1958 (15 U.S.C. 661, *et seq.*). These regulations prescribe operational requirements for Small Business Investment Companies, a size standard for businesses in which SBICs may invest, and specific requirements regarding the funding of SBICs by the use of participating securities as prescribed by Public Law 102-366. It is expected that these final rules will be published by April 1, 1994.

SBA also anticipates that work will begin during calendar year 1994 with respect to preparation of regulations governing its minority small business and capital ownership development program and its surety bond guaranty program. These programs are authorized by Section 8(a) of the Small Business Act (15 U.S.C. 637 a) and Title IV of the Small Business Investment Act of 1958 (15 U.S.C. 694 (a)), respectively. The new regulations will provide complete revisions of present program rules. It is expected that work on these matters will continue throughout calendar year 1994.

We will be pleased to discuss these matters in more detail at the April 5 meeting.

Sincerely,


John T. Spotila

JTS/s