FOIA Number: 2012-0769-F

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Regulatory Review

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OUTLINE OF EXECUTIVE ORDER ON THE REGULATORY PROCESS

Sec. 1: Regulatory Philosophy and Principles

- Cost/benefit concepts tempered with express concern for (1) importance of accounting for difficult-to-quantify health and environmental damages, and (2) equity and distributional effects.

- Subsection (b) establishes several potentially difficult-to-satisfy "regulatory principles". Agencies shall --

  - assess the "significance" of the problem to be solved;
  - examine whether existing regulations or other law have contributed to the problem;
  - identify and assess available alternatives to direct regulation, including economic instruments;
  - consider the nature and degree of risk when setting regulatory priorities;
  - choose most cost-effective manner, considering various factors (including distributive impacts and equity);
  - recognizing difficulty of quantifying some costs and benefits, regulate only with "a reasoned determination" that benefits "justify" costs;
  - use the "best reasonably obtainable" information;
  - set standards as performance objectives whenever feasible;
  - consult with state, local, and tribal government, and minimize burdens that "uniquely or significantly" affect them;
  - avoid duplication or conflict with other agencies' regulations;
  - minimize burdens on individuals and small businesses, taking into account "the costs of cumulative regulations".

Sec. 2: Organization

- Agencies described as "the repositories of significant substantive expertise and experience" and "responsible for developing regulations and assuring that they are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order."
- OIRA given the function to review agency rulemaking "to ensure that regulations are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order."
- Vice President is "the principal advisor to the President" on development and presentation of recommendations on regulatory policy, planning, and review.

Sec. 3: Definitions

- OEP Director is one of 12 "regulatory advisors" to the President.

- Note definitions of "regulatory action" and "significant regulatory action".

  - "regulatory action" means each step towards a final regulation that is normally published in the Federal Register;
  - "significant regulatory action" means one that may have a $100 million annual effect on the economy or "adversely affect in a material way" the economy or a sector

thereof, or materially alter the budgetary impact of entitlements, etc. (note other criteria also).

Sec. 4: Planning Mechanism

- o Annual policy meeting.
- o Regulatory agenda and annual regulatory plan

  - each new significant regulation that an agency wants to develop must be listed in the plan before regulatory actions may be published;
  - each year each agency submits to OIRA its list of new actions to be included in the plan;
  - OIRA may comment but ultimate authority to decide which rule remains with agencies.

Sec. 5: Existing Regulations

- o Each agency must have a process of identifying and selecting existing rules that need change.

Sec. 6: Centralized Review of Regulations

- o Changes to prior OMB process emphasizing:
  - more openness regarding OMB-agency communications and changes;
  - restrictions on outside contacts;
  - time limits -- OMB cannot hold a rule after the time runs out unless it provides written objections;
  - any such objections go into public docket, and any changes made at OIRA's suggestion must be noted in the public docket.

Sec. 7: Resolution of Conflicts

- o Agencies can appeal to VP who frames recommendations for the President; they have 60 days to decide.

- o Outsiders (including Congress) cannot appeal. Any staff contacted by an outsider must tell the outsider that anything he or she wishes to discuss must be put in writing; only if that is done may there be a discussion.

Sec. 8: Publication

Sec. 9: Agency Authority

- o Restates agencies' authority to carry out the statutes delegated to them.

Sec. 10: Judicial Review

- o No new judicial review rights.

Sec. 11: <u>Revocations</u>

- o Two Reagan E.O.'s on reg review repealed.

Other memoranda:

- o OIRA ordered to report to President in six months on its actions under the order.
- o Each agency instructed to undertake at least one regulatory negotiation each year or explain why it is not feasible.
- o Each agency ordered to simplify its internal regulatory development procedures.
- o Rules for other White House staff are forthcoming. (See other memo.)

The National Performance Review
Creating a Government that Works Better and Costs Less

Regulatory Reform

A Fair, Open, Streamlined Process

Reforming our regulatory process is critical to creating a government that works better and costs less. Improving budget, personnel, and procurement systems will strip away a lot of red tape. But thousands of outdated, overlapping regulations will still remain in other areas -- inside and outside the government -- unless we act aggressively to reform the regulatory system. That system now is cumbersome and fails to ensure that rules issued are necessary and effective. What's needed, and what we propose, are sensible planning and a thorough, focused review of regulations to end the proliferation of unnecessary and unproductive rules.

This reform has already begun. President Clinton directed agencies to eliminate 50 percent of all internal regulations when he signed an executive order September 11 that was recommended by the National Performance Review. The next step is reforming the regulatory review process and eliminating outdated, obsolete, and duplicative regulations that affect people outside of government. The executive order the President signs September 30, will do just that and create a regulatory review process that works better while still providing needed health, safety, and environmental safeguards. The President also will direct each agency to review its internal procedures for developing and issuing regulations.

President Clinton is offering real reform. He shut down the Competitiveness Council during his first days in office, closing the back door special interests used to get out from under regulations they didn't like. In its place, President Clinton offers a regulatory review process that is dramatically different: open to the public, streamlined, responsive, coordinated, straightforward, and fair.

Putting People First

The President's plan provides a regulatory process that works for the American people, improving health, safety and well-being while encouraging economic growth, competitiveness, and job creation. It is aimed at producing regulations that are cost-effective, consistent, and understandable. And, it takes away the unfair advantage special interests enjoyed in the past thanks to the Competitiveness Council.

Consider just a few examples of the Competitiveness Council's work: meeting secretly with builders to undermine implementation of the fair housing accessibility law that prohibits discriminatory housing practices; blocking a rule banning the burning of lead acid car batteries (the single largest source of lead emissions), an action later overturned by a federal court; and allowing a major pharmaceutical company to review a proposed drug-approval policy before it was made public.

Under this new Executive Order, there will be no special access for special interests. The review process will exist only to resolve intergovernmental disputes, not to provide an avenue for special interest appeals of regulatory decisions. Decisions on rules will be based on the public record, not on political paybacks. During the review process, outside contacts will be on the record and the status of regulations will be public knowledge. Rules will be reviewed at the Vice Presidential level *only* at the request of an agency head or the Office of Management and Budget.

Eliminating Regulatory Overkill

President Clinton's regulatory review reforms reflect his commitment to ensuring that executive branch agencies produce effective and sensible regulations, relieving businesses of unnecessary regulatory burdens and ending special access for special interests. The process created by the executive order will ensure that agencies regulate only when necessary and makes clear that alternatives, such as market incentives, are preferable to command-and-control regulations. A regulatory working group of representatives from agencies with major domestic regulatory responsibility will meet regularly to consider new, creative, and more effective alternatives and approaches to regulating. And , when regulations are needed, the order will ensure that they are designed and implemented in the most cost-effective manner, so as to maximize benefits to society and to place the smallest necessary burden on those being regulated. The President's plan uses a sensible, balanced definition of costs and benefits to ensure a realistic assessment of impacts on the economy, the environment, and public health and safety.

Sensible Planning

President Clinton's plan will streamline the regulatory review process, open it up to the public, improve planning and coordination, ensure more agency and public involvement at the beginning of the process (instead of simply at the end), and provide for the review of duplicative or outdated regulations.

A new planning process that starts at the beginning of rule making will improve inter-agency coordination and help ensure a clear and common understanding of innovative and effective regulatory approaches across the government. This process provides early guidance about administration priorities, minimizing conflicts and inconsistent regulatory activities among agencies. Agencies will set priorities and assemble annual regulatory plans, improving their own planing and ensuring that other agencies and the public are informed of their activities. And, the new process will help agencies craft alternatives to command-and-control regulations. In many cases, such advance planning can remove the need for federal mandates.

Reviewing New Regulations

The executive order recognizes the primacy of agencies in the regulatory review process. It also makes clear that the Office of Information and Regulatory Affairs (OIRA) will be the central, day-to-day entity in the process of reviewing, not writing, federal regulations. And that process will be conducted in the open. There will be public disclosure of OIRA's meetings with people outside the Executive Branch and the status of regulations, including whether there is Presidential or Vice Presidential review. OIRA and the agencies will prepare and make public written explanations of any differences between their views on particular regulations. And, any changes made to regulations during the OIRA review process will be made public.

The OIRA review process will be more focused and streamlined because OIRA will be authorized to review only the most significant regulations, not every regulation, as the current system allows. This will ensure that OIRA reviews fewer regulations. Its review will be more credible because it will consider a broad definition of costs and benefits to include a realistic assessment of impacts on the economy, the environment, and public health and safety. And, its review will be timely, driven by clear and appropriate time limits on review that will prevent delay from effectively killing important protections or creating uncertainty that disrupts business planning cycles.

Reviewing Existing Regulations

Too often, cumulative and unnecessary regulations hamper economic growth and job creation.

We will begin an ongoing review of existing regulations so that those that are cumulative, obsolete, duplicative, or inconsistent will be identified for reconsideration and, where appropriate, revision or elimination. This process is carefully structured to ensure that it is meaningful and that it produces results. The agencies will be asked to prepare a specific program for ongoing review of existing regulations and laws mandating such regulations, and to receive comments from the public about regulations to be reviewed. In addition, the Vice President, in consultation with the White House policy advisors, will conduct reviews of existing regulations with a cross-agency perspective, and may identify regulations to the agency for appropriate review.

Resolving Disputes

A clear and open process for resolving the rare regulatory disputes that develop between agencies or OMB and an agency will replace the inconsistent and closed-door process of the past. Such disputes will be reviewed by the President or the Vice President *only* at the request of an agency head or the Office of Management and Budget. The President and Vice President will *not intervene at the request of private parties*, be they from business or from public interest communities. The Vice President, aided by the White House policy advisors, will advise the President in resolving these disputes.

Enhanced Accountability

Openness is the best way to restore credibility to the regulatory review process. The new process encourages more public participation in the development and promulgation of regulations. It encourages agencies to consult with the public before taking any regulatory actions. The process also encourages the development of regulations through the use of negotiated rulemaking, a consensual mechanism for developing new regulations. The President will direct each agency to identify, within 90 days, at least one rulemaking which the agency will, within the upcoming year, develop through the use of negotiated rulemaking or explain why this process will not be feasible. The new executive order also makes clear that the public should be afforded a meaningful opportunity to comment on proposed regulations.

The OIRA review process will be open and timely. And, the order makes clear that it is OIRA that is responsible for the review of individual regulations and that review must occur within tight time limits. To ensure that the process is more selective and streamlined, OIRA will be directed to report to the Vice President and President its review activities during the first six months under these new procedures. This report will include a list of the regulatory actions reviewed by OIRA; whether OIRA selected the action for review; and the time dedicated to review.

The new process also ensures that the White House no longer serves as a conduit for special interests. The back-room, closed-door operations of the Competitiveness Council have left a legacy of mistrust that can only be erased by an open, fair, and balanced process. The President's plan provides a clear statement describing the review process and comprehensive disclosure provisions for greater public accountability. The concerns and interests of outside parties must be on the record, in writing, to be considered by White House staff in the rulemaking or review process.

The new executive order revokes existing orders on regulatory review. In addition, the Administration will undertake a thorough review of the related orders, for example, on takings, federalism, and civil justice reform to determine what action, if any, should be taken with respect to those orders.

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NFIB SMALL BUSINESS NEWS

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The Guardian of Small Business for Fifty Years

Contact: Terry Hill or Angela Jones (202) 554-9000

SMALL BUSINESS LIKES PRESIDENT'S EFFORTS TO REVIEW REGULATORY BURDENS

WASHINGTON, Sept. 30---Federal regulations will soon get closer scrutiny from those they affect thanks to an a White House Executive Order President Clinton signed today.

"Small-business owners will be among the first people to benefit from the president's efforts to make government more open to the public," National Federation of Independent Business President Jack Faris said. "This executive order will ensure that all public sectors will get a fair opportunity to voice their concerns about federal regulations."

As a small-business concern, government regulation is rapidly climbing the ladder of entrepreneurial headaches. According to a 1992 NFIB-Visa Business Card study, The Problems and Priorities of Small Business, noted a leap of 11 spots to eighth place among Main Street's worries. Small-business researchers believe that regulation will, by the turn of the century, be first on the list.

Faris said the president's executive order takes an important step in requiring that both risk assessments and less-burdensome alternatives to regulations are thoroughly explored before a regulation is implemented. Most importantly, he said, it requires agencies to determine whether no regulation might be a better choice.

The small-business leader also commended the president for ensuring that the Office of Information and Regulatory Affairs remains the coordinating center for regulatory review. Faris lauded OIRA Director Sally Katzen, appointed by President Clinton, for her willingness to listen to all interested parties and make fair decisions.

NFIB, the nation's largest small-business advocacy organization, represents more than 600,000 small and independent firms in all 50 states.

# # #

NATIONAL SMALL BUSINESS UNITED

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September 27, 1993

The President
The White House
Washington, D.C.

Dear Mr. President:

Having had an opportunity to review your Executive Order on regulatory procedures, we want to indicate our association's strong support for the approach you have outlined. We look forward to working with you as you implement this new structure, in order to place the least possible regulatory burden on small businesses.

The open and fair process created by your Order allows small business input to the process while closing the door on behind-the-scenes lobbying. The Order's emphasis on cost-benefit analysis, combined with identification of the most appropriate and efficient response, is encouraging to us. We are also glad to see a thorough review of existing regulations as an important component of the plan.

We think the plan you have laid out should work well, but we look forward to an opportunity to provide input about the overall process once we have all had some experience with it. There may be areas where targeted changes could improve the Order and the process. We hope you will invite our comments for potential modifications to the Order, at some defined point in the future.

Finally, we would like to emphasize the need for involvement of the Small Business Administration (SBA) during the regulatory process. The SBA's Chief Counsel for Advocacy has a statutory responsibility--unique among the agencies--to review regulations for compliance with the Regulatory Flexibility Act (RFA), arguably the most important law governing the regulation of small businesses. Involving the SBA Chief Counsel in the Administration's regulatory review process could be a key step toward finally enforcing the RFA.

Again, thank you for allowing us to review the Executive Order and for carefully crafting a process that is open and fair for all.

Yours truly,

John C. Rennie
John C. Rennie
President

John P. Galles
John P. Galles
Executive Vice President

U.S. Chamber of Commerce
1615 H St., NW
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NEWS

FOR IMMEDIATE RELEASE

Contact: Thomas Love

COMMENT ON THE PRESIDENT'S REGULATORY REVIEW EXECUTIVE ORDER
BY RICHARD L. LESHER, PRESIDENT
U.S. CHAMBER OF COMMERCE

WASHINGTON, Sept. 30 -- The U.S. Chamber of Commerce is encouraged by the executive order on regulatory review signed today, but recognizes that its successful implementation will require constant vigilance by the business community.

The order provides a fair and balanced approach and affords the public substantial opportunity to comment on the potential impact of proposed regulations. We are particularly pleased that the central role of OMB's Office of Information and Regulatory Affairs is retained. The order provides a series of constructive hurdles that agencies must overcome before imposing new regulatory burdens, including the requirement for cost-benefit analysis. Special emphasis is placed on minimizing potential negative impacts on U.S. competitiveness, jobs and the economy.

For nine months, the U.S. Chamber has been working very hard to bring some common sense to the regulatory process. It is one thing to have a balanced executive order. It is another to fully implement its intent. Our position is simply put: "trust but verify." That is why we have established a regulatory watchdog committee.

The committee will focus on the day-to-day oversight of new and existing regulations imposed on our members with emphasis on cost-benefit analysis, paperwork reduction and flexibility for small business. We intend to get involved early in the regulatory process to oppose unnecessary regulations and minimize the burden of those mandated by statute. The committee also will focus on the legislative process to insure that economic implications are considered before new unfunded mandates are imposed.

We now call on the administration to support passage of the Paperwork Reduction Act of 1993 -- the Nunn version in the Senate -- and reauthorization of the Regulatory Flexibility Act with judicial review, which lessens the burden on small business by providing alternative means of implementing regulations.

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93-109

The Business Roundtable

For Immediate Release

THE BUSINESS ROUNDTABLE SUPPORTS PRESIDENTIAL EXECUTIVE ORDER ON GOVERNMENT REGULATION

Washington, D.C., September 30 -- The Business Roundtable said today that it supports President Clinton's new Executive Order on the management of government regulation.

The order was signed today by the President and establishes a process for managing the development of new Executive Branch regulations as well as a mechanism for the review of existing ones.

"The business community is vitally concerned about the impact of overly burdensome regulation that has resulted in job loss, higher prices, decreased productivity, and lack of competitiveness," said Edgar S. Woolard, Jr., Chairman and CEO of DuPont and Chairman of the Roundtable's Government Regulation Task Force. "It is our expectation that the President's Executive Order will lead to better management of the regulatory process and, therefore, help accelerate the pace of economic recovery."

Woolard said that business was "pleased" that the new Executive Order contains a cost-benefit requirement, requires priority-setting based upon risk, mandates the use of sound science, requires agencies to take into account the costs of cumulative regulation, encourages the use of performance standards, and requires agencies to consider alternatives to traditional regulation.

While Woolard expressed overall enthusiasm for the Executive Order, he cautioned that "having a well-articulated statement of process and intent is one thing, but effective implementation of the order will be absolutely necessary if we are to improve the quality of government regulation and reduce its burdens on the economy."

# # #

Contact: Lee Tashjian
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September 30, 1993

Public Citizen
NEWS RELEASE

HOLD FOR RELEASE UNTIL
Thrus., Sept. 30, 1993, 9:00 a.m.

CONTACT: David C. Vladeck
202/833-3000, x229

ADMINISTRATION'S REPEAL OF REPUBLICAN-ERA ORDERS WILL HELP RESTORE INTEGRITY TO THE REGULATORY PROCESS

WASHINGTON, D.C. -- Public Citizen applauds President Clinton's decision to repeal the two Reagan/Bush Executive Orders on White House review of agency regulations and replace them with a new Executive Order.

"With this stroke of President Clinton's pen, the Administration has swept away the back-room, behind-the-scenes deal making that was the hallmark of the Quayle Council and the Reagan/Bush Office of Management and Budget," said Joan B. Claybrook, President of Public Citizen.

"At the same time, the President has sent a strong signal to his agencies and the American people that the government is back in the business of protecting the health and safety of Americans, cleaning up the environment, and getting the economy on track," Claybrook added.

The Clinton Executive Order marks a substantial step forward from the Executive Orders issued during the Reagan/Bush Administration. "Public Citizen recognizes that the new Executive Order is only the first step on the road to real reform," said David C. Vladeck, a senior lawyer with Public Citizen Litigation Group. "But it is a critically important step, and Public Citizen is pleased that the Clinton Administration is heading in the right direction."

Public Citizen noted at least four significant improvements:

* **The Clinton Executive Order injects far greater accountability and openness into the regulatory review process.** The New Executive Order sweeps away the secrecy that previously cloaked the review process and turned the White House into the private preserve of well-heeled corporate lobbyists. Under the new Executive Order, the public will know when matters are pending before OMB, and outsiders seeking secretly to influence staff will be told that all contacts must be put in writing.

[more]

* **The Clinton Executive Order strengthens the ability of the Administration to coordinate regulatory activities.** Under the new Executive Order, the government can harness the power of the regulatory agencies to respond swiftly and comprehensively to emerging health, safety, environmental, economic and social problems.

* **The Clinton Executive Order should put an end to the lengthy delays that have plagued OMB review in the past.** By setting strict time limits on the review process, the Clinton Executive Order recognizes that delays in implementing needed regulations jeopardize the public's safety.

* **The Clinton Executive Order should significantly reduce the number of rules that will be subjected to review.** During the past 12 years, OMB tried to review each of the over 2,000 rules issued each year, creating endless, wasteful paperwork with little purpose. The new Executive Order seeks to focus OMB's efforts on only those regulatory matters that have overarching significance, and leaves the business of running the regulatory agency to the Presidential appointees who head them.

Public Citizen is pleased with the positive steps in President Clinton's Executive Order, although Public Citizen has never endorsed the concept of Presidential review of agency regulatory actions. Moreover, according to Vladeck, "past experience has taught us that the manner in which a regulatory review program is implemented is as important as the wording of an executive order. For that reason, the proof of this Administration's commitment to true reform will be in how it implements the new Executive Order."

Public Citizen will continue to monitor carefully the performance of OMB and the White House to ensure that this carries forward on its commitment to let agencies carry out their statutorily mandated roles free from undue political interference.

# # #

Public Citizen, founded by Ralph Nader in 1971, is a nonprofit consumer advocacy group with over 150,000 members.

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Statement of
Gary D. Bass
Executive Director
OMB Watch
on
September 30, 1993
Regarding
President Clinton's Regulatory Planning and Review Process

Today, President Clinton has taken a significant step toward making the regulatory review process more responsive to public need. The President's Executive Order refines the regulatory review process so that it will be open and accountable, and ensures that it will be based on selective, well-coordinated assessments for effectiveness and fairness in achieving the agency's mission. We endorse those goals.

The regulatory review process of the last twelve years has repeatedly put private, special interests ahead of Congressionally and judicially mandated efforts to clean up the environment, protect worker health and safety, and enforce consumer protections. Because the Office of Management and Budget operated in secret, it was able to interminably delay agency rulemakings, circumvent legislative and judicial deadlines, and usurp agency decision-making authority while remaining unaccountable to the public and Congress. Lower level civil servants at OMB with little or no substantive experience in areas they reviewed were able to dictate policy to agency officials.

The new regulatory review process is an attempt to fix the problems of the Reagan/Bush era and construct a balance between the interests of government agencies, businesses, and the public. There are at least four ways in which the new regulatory review process is significantly better than the Reagan/Bush years:

- **The Clinton approach seeks an end to an era of back door dealings that allowed the rich and powerful special access.** The new Order requires notable disclosure procedures that will result in greater openness and accountability. The Office of Information and Regulatory Affairs has already begun implementing the new disclosure requirements in the Order, making it possible for the public to track when rules have been submitted to OMB, to identify non-governmental entities that have contacted OMB regarding regulations, and to review actions that OMB has taken on regulations. Additionally, White House employees are now instructed to inform all non-governmental entities that in order to seek regulatory redress they should put their concerns in writing. These written comments will be placed in the agency rulemaking record -- an attempt to end non-documented, behind-the-scenes wheeling and dealing.

- **The Clinton Administration is committed to ending the delays that plagued the regulatory process during the past years.** The cost of delayed regulatory action is significant. Delay can cost lives when important rules are held up, like chemical plant safety guidelines, where hundreds of lives can be lost in a preventable plant accident. Delay can also disrupt the business planning cycles. The trickle down effect of this uncertainty can hurt businesses saddled with inventory and can lead to job loss. Enforcement of the timetables in the new Order will rectify these problems.

- **The Clinton Administration is committed to reducing the number of regulations it reviews, using its limited resources to target the most significant regulations.** OMB currently reviews more than 2,000 regulations each year. The process is neither economical nor efficient.

- **The Clinton approach creates a process where agency heads and the public are better informed about the regulatory plans of each agency.** Agencies will continue to publish in the *Federal Register* in October their regulatory agendas, providing a timetable for all regulations that are expected. Additionally, a more comprehensive description of planned regulatory actions for the most significant regulations will also be published, giving the public a more timely and better understanding of what an agency plans to undertake and how it will do it. Furthermore, instead of OMB clearing each plan, as in the past, OMB will share these plans with agency heads in order to seek their input and promote improved coordination of regulatory plans.

We do have some concerns about the Order, but we want to see how the process is implemented before we pass judgment. After all, the ultimate test of today's Executive Order will be whether in practice it improves government efficiency and makes agencies and regulations more responsive to public need. The public interest community will continue to monitor and report on the effectiveness and equity of implementation of the new process.

We are, nonetheless, hopeful that today's Executive Order is an important first step in moving toward improving the regulatory review process in government.

OMB Watch is a non-affiliated nonprofit research and advocacy organization founded in 1983. OMB Watch is secretariat of a Regulatory Policy Working Group, comprised of representatives from organized labor, environmental, health, educational, consumer, and other public interest organizations, that has recommended changes in the regulatory review and planning process. OMB Watch has also lead efforts to promote greater regulatory accountability and to stop the secrect substantive regulatory interference waged by Vice President Quayle's Council on Competitiveness.

CONGRESSMAN
HENRY A. WAXMAN
NEWS

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Comments of Henry A. Waxman on the Clinton Administration's New Regulatory Review Executive Order:

"For many years, I have worked to prevent abuses of the regulatory review process at the Reagan and Bush White House -- abuses which became particularly brazen when Vice President Dan Quayle's Council on Competitiveness used its influence to weaken regulations for special interests.

"With today's order, President Clinton and Vice President Gore have made a giant stride toward better and more responsible government by assuring that decisions are made in the light of full disclosure, and not through the secret back channels that played so large a role in past White Houses.

"I have never been a fan of OMB review of agency regulations. Nevertheless, I am pleased that today's executive order on regulatory review includes reforms long sought by the public interest community to assure that the abuses of past years do not reoccur. With the issuance of this order and a memorandum that we are informed the White House counsel will issue soon, communications between special interests and White House personnel on regulatory matters will be allowed only in limited situations where there are safeguards to protect against abuses by special interests."

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STATEMENT BY CAROL TUCKER FOREMAN[1] ON PRESIDENT CLINTON'S EXECUTIVE ORDER ON FEDERAL REGULATION PLANNING AND REVIEW

The twentieth century began with an era of regulatory activism that spawned anti-trust, minimum wage and pure food and drug laws. The century may end with an era of regulatory renewal. After twelve years of attack on regulation, the nation has moved beyond the misconception that all of society's needs can be met by the unfettered pursuit of private interest. It is clear that the American people want clean air and water, safe food and drugs, stable financial institutions and fair treatment for women and minorities and the disabled. And Americans believe government can help achieve those goals. Rather than abandoning government generally and regulation in particular, we need to make them work better.

Today, President Clinton has signed an Executive Order that holds the promise of making regulation work better, be more effective and less burdensome in achieving intended goals.

The Executive Order on Federal Regulation Planning and Review has the capacity to impose a new discipline on all elements of the regulatory system, requiring agencies to provide notice of their regulatory plans and coordinate rulemaking. The Order should also help end the regulatory delays that have cost lives on the one hand and often left business unable to undertake effective planning on the other.

Finally, the Executive Order institutes changes that should effectively end an era in which the Office of Management and Budget became a secret society that practiced ritual sacrifice on health and safety regulation for the entertainment of the rich and powerful.

---

[1]Carol Tucker Foreman served as Assistant Secretary of Agriculture for Food and Consumer Services, 1977-81. She is editor of Regulating for the Future: The Creative Balance, Center for National Policy Press, 1991. Foreman is president of Foreman & Heidepriem, Inc., a public policy consulting firm.

SIERRA CLUB
408 C Street, N.E. Washington, D.C. 20002 202-547-1141

Statement of A. Blakeman Early
Washington Director
Pollution and Toxics Program
Sierra Club

Regarding President Clinton's Executive Order on Regulatory Review

September 30, 1993

The Clinton Administration has ended an ugly era in American history during which the Quayle Competitiveness Council pursued a policy of killing and weakening regulations intended to protect public health, safety, and the environment. In the name of regulatory review, the Quayle Council, aided by secret meetings with powerful special interests, substituted its own view of which regulations were in the public interest for that of Congress.

The Executive Order signed by President Clinton creates a new regulatory review process that, if properly implemented, should contribute to good government by being open, fair, and limited.

The new executive order requires regulatory review to be conducted with much more openness than in the past. The public will be informed what regulations are being written, reviewed, and re-written. Changes suggested by OMB reviewers are to be so identified.

The new executive order establishes a regulatory review process that should operate with much more fairness. Special interests and other members of the public who try to influence OMB reviewers must submit their views on the record. White House employees are required to document their contacts with outside parties on regulatory matters, as well.

The new executive order establishes a regulatory review process that is intended to be limited. OMB review is intended to focus on the most significant regulations to assure that they are written to accomplish their goals efficiently and effectively.

The American public has long believed that government regulation is supposed to protect the powerless from the excesses of the powerful. The Quayle Council turned regulatory review into a process that sought only to protect the powerful from government regulation and ignored the powerless. The Clinton Administration has clearly cast aside this process. But we in the Sierra Club are concerned that under the new executive order regulators will be asked too often if they are over-regulating the powerful and too seldom whether they are protecting the powerless well enough.

The new executive order establishes a regulatory review process that seeks to help regulators write regulations that protects the public interest without regulating too much. We are hopeful that a year from today, the regulatory review process established today is recognized throughout the nation as a real contribution to the continuing effort by President Clinton to make government work fairly, effectively, and efficiently on behalf of the public interest and not the special interests. Balanced implementation of this executive order with due consideration to the needs of those whom regulations seek to protect and the needs of the regulated community can make this goal a reality.

The National Performance Review

Creating a Government that Works Better and Costs Less

Regulatory Reform

A Fair, Open, Streamlined Process

Reforming our regulatory process is critical to creating a government that works better and costs less. Improving budget, personnel, and procurement systems will strip away a lot of red tape. But thousands of outdated, overlapping regulations will still remain in other areas -- inside and outside the government -- unless we act aggressively to reform the regulatory system. That system now is cumbersome and fails to ensure that rules issued are necessary and effective. What's needed, and what we propose, are sensible planning and a thorough, focused review of regulations to end the proliferation of unnecessary and unproductive rules.

This reform has already begun. President Clinton directed agencies to eliminate 50 percent of all internal regulations when he signed an executive order September 11 that was recommended by the National Performance Review. The next step is reforming the regulatory review process and eliminating outdated, obsolete, and duplicative regulations that affect people outside of government. The executive order the President signs September 30, will do just that and create a regulatory review process that works better while still providing needed health, safety, and environmental safeguards. The President also will direct each agency to review its internal procedures for developing and issuing regulations.

President Clinton is offering real reform. He shut down the Competitiveness Council during his first days in office, closing the back door special interests used to get out from under regulations they didn't like. In its place, President Clinton offers a regulatory review process that is dramatically different: open to the public, streamlined, responsive, coordinated, straightforward, and fair.

Putting People First

The President's plan provides a regulatory process that works for the American people, improving health, safety and well-being while encouraging economic growth, competitiveness, and job creation. It is aimed at producing regulations that are cost-effective, consistent, and understandable. And, it takes away the unfair advantage special interests enjoyed in the past thanks to the Competitiveness Council.

Consider just a few examples of the Competitiveness Council's work: meeting secretly with builders to undermine implementation of the fair housing accessibility law that prohibits discriminatory housing practices; blocking a rule banning the burning of lead acid car batteries (the single largest source of lead emissions), an action later overturned by a federal court; and allowing a major pharmaceutical company to review a proposed drug-approval policy before it was made public.

Under this new Executive Order, there will be no special access for special interests. The review process will exist only to resolve intergovernmental disputes, not to provide an avenue for special interest appeals of regulatory decisions. Decisions on rules will be based on the public record, not on political paybacks. During the review process, outside contacts will be on the record and the status of regulations will be public knowledge. Rules will be reviewed at the Vice Presidential level *only* at the request of an agency head or the Office of Management and Budget.

Eliminating Regulatory Overkill

President Clinton's regulatory review reforms reflect his commitment to ensuring that executive branch agencies produce effective and sensible regulations, relieving businesses of unnecessary regulatory burdens and ending special access for special interests. The process created by the executive order will ensure that agencies regulate only when necessary and makes clear that alternatives, such as market incentives, are preferable to command-and-control regulations. A regulatory working group of representatives from agencies with major domestic regulatory responsibility will meet regularly to consider new, creative, and more effective alternatives and approaches to regulating. And , when regulations are needed, the order will ensure that they are designed and implemented in the most cost-effective manner, so as to maximize benefits to society and to place the smallest necessary burden on those being regulated. The President's plan uses a sensible, balanced definition of costs and benefits to ensure a realistic assessment of impacts on the economy, the environment, and public health and safety.

Sensible Planning

President Clinton's plan will streamline the regulatory review process, open it up to the public, improve planning and coordination, ensure more agency and public involvement at the beginning of the process (instead of simply at the end), and provide for the review of duplicative or outdated regulations.

A new planning process that starts at the beginning of rule making will improve inter-agency coordination and help ensure a clear and common understanding of innovative and effective regulatory approaches across the government. This process provides early guidance about administration priorities, minimizing conflicts and inconsistent regulatory activities among agencies. Agencies will set priorities and assemble annual regulatory plans, improving their own planing and ensuring that other agencies and the public are informed of their activities. And, the new process will help agencies craft alternatives to command-and-control regulations. In many cases, such advance planning can remove the need for federal mandates.

Reviewing New Regulations

The executive order recognizes the primacy of agencies in the regulatory review process. It also makes clear that the Office of Information and Regulatory Affairs (OIRA) will be the central, day-to-day entity in the process of reviewing, not writing, federal regulations. And that process will be conducted in the open. There will be public disclosure of OIRA's meetings with people outside the Executive Branch and the status of regulations, including whether there is Presidential or Vice Presidential review. OIRA and the agencies will prepare and make public written explanations of any differences between their views on particular regulations. And, any changes made to regulations during the OIRA review process will be made public.

The OIRA review process will be more focused and streamlined because OIRA will be authorized to review only the most significant regulations, not every regulation, as the current system allows. This will ensure that OIRA reviews fewer regulations. Its review will be more credible because it will consider a broad definition of costs and benefits to include a realistic assessment of impacts on the economy, the environment, and public health and safety. And, its review will be timely, driven by clear and appropriate time limits on review that will prevent delay from effectively killing important protections or creating uncertainty that disrupts business planning cycles.

Reviewing Existing Regulations

Too often, cumulative and unnecessary regulations hamper economic growth and job creation.

We will begin an ongoing review of existing regulations so that those that are cumulative, obsolete, duplicative, or inconsistent will be identified for reconsideration and, where appropriate, revision or elimination. This process is carefully structured to ensure that it is meaningful and that it produces results. The agencies will be asked to prepare a specific program for ongoing review of existing regulations and laws mandating such regulations, and to receive comments from the public about regulations to be reviewed. In addition, the Vice President, in consultation with the White House policy advisors, will conduct reviews of existing regulations with a cross-agency perspective, and may identify regulations to the agency for appropriate review.

Resolving Disputes

A clear and open process for resolving the rare regulatory disputes that develop between agencies or OMB and an agency will replace the inconsistent and closed-door process of the past. Such disputes will be reviewed by the President or the Vice President *only* at the request of an agency head or the Office of Management and Budget. The President and Vice President will *not intervene at the request of private parties*, be they from business or from public interest communities. The Vice President, aided by the White House policy advisors, will advise the President in resolving these disputes.

Enhanced Accountability

Openness is the best way to restore credibility to the regulatory review process. The new process encourages more public participation in the development and promulgation of regulations. It encourages agencies to consult with the public before taking any regulatory actions. The process also encourages the development of regulations through the use of negotiated rulemaking, a consensual mechanism for developing new regulations. The President will direct each agency to identify, within 90 days, at least one rulemaking which the agency will, within the upcoming year, develop through the use of negotiated rulemaking or explain why this process will not be feasible. The new executive order also makes clear that the public should be afforded a meaningful opportunity to comment on proposed regulations.

The OIRA review process will be open and timely. And, the order makes clear that it is OIRA that is responsible for the review of individual regulations and that review must occur within tight time limits. To ensure that the process is more selective and streamlined, OIRA will be directed to report to the Vice President and President its review activities during the first six months under these new procedures. This report will include a list of the regulatory actions reviewed by OIRA; whether OIRA selected the action for review; and the time dedicated to review.

The new process also ensures that the White House no longer serves as a conduit for special interests. The back-room, closed-door operations of the Competitiveness Council have left a legacy of mistrust that can only be erased by an open, fair, and balanced process. The President's plan provides a clear statement describing the review process and comprehensive disclosure provisions for greater public accountability. The concerns and interests of outside parties must be on the record, in writing, to be considered by White House staff in the rulemaking or review process.

The new executive order revokes existing orders on regulatory review. In addition, the Administration will undertake a thorough review of the related orders, for example, on takings, federalism, and civil justice reform to determine what action, if any, should be taken with respect to those orders.

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NFIB

NFIB SMALL BUSINESS NEWS

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The Guardian of Small Business for Fifty Years

Contact: Terry Hill or Angela Jones (202) 554-9000

SMALL BUSINESS LIKES PRESIDENT'S EFFORTS TO REVIEW REGULATORY BURDENS

WASHINGTON, Sept. 30---Federal regulations will soon get closer scrutiny from those they affect thanks to an a White House Executive Order President Clinton signed today.

"Small-business owners will be among the first people to benefit from the president's efforts to make government more open to the public," National Federation of Independent Business President Jack Faris said. "This executive order will ensure that all public sectors will get a fair opportunity to voice their concerns about federal regulations."

As a small-business concern, government regulation is rapidly climbing the ladder of entrepreneurial headaches. According to a 1992 NFIB-Visa Business Card study, The Problems and Priorities of Small Business, noted a leap of 11 spots to eighth place among Main Street's worries. Small-business researchers believe that regulation will, by the turn of the century, be first on the list.

Faris said the president's executive order takes an important step in requiring that both risk assessments and less-burdensome alternatives to regulations are thoroughly explored before a regulation is implemented. Most importantly, he said, it requires agencies to determine whether no regulation might be a better choice.

The small-business leader also commended the president for ensuring that the Office of Information and Regulatory Affairs remains the coordinating center for regulatory review. Faris lauded OIRA Director Sally Katzen, appointed by President Clinton, for her willingness to listen to all interested parties and make fair decisions.

NFIB, the nation's largest small-business advocacy organization, represents more than 600,000 small and independent firms in all 50 states.

# # #

September 27, 1993

NATIONAL SMALL BUSINESS UNITED

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The President
The White House
Washington, D.C.

Dear Mr. President:

Having had an opportunity to review your Executive Order on regulatory procedures, we want to indicate our association's strong support for the approach you have outlined. We look forward to working with you as you implement this new structure, in order to place the least possible regulatory burden on small businesses.

The open and fair process created by your Order allows small business input to the process while closing the door on behind-the-scenes lobbying. The Order's emphasis on cost-benefit analysis, combined with identification of the most appropriate and efficient response, is encouraging to us. We are also glad to see a thorough review of existing regulations as an important component of the plan.

We think the plan you have laid out should work well, but we look forward to an opportunity to provide input about the overall process once we have all had some experience with it. There may be areas where targeted changes could improve the Order and the process. We hope you will invite our comments for potential modifications to the Order, at some defined point in the future.

Finally, we would like to emphasize the need for involvement of the Small Business Administration (SBA) during the regulatory process. The SBA's Chief Counsel for Advocacy has a statutory responsibility--unique among the agencies--to review regulations for compliance with the Regulatory Flexibility Act (RFA), arguably the most important law governing the regulation of small businesses. Involving the SBA Chief Counsel in the Administration's regulatory review process could be a key step toward finally enforcing the RFA.

Again, thank you for allowing us to review the Executive Order and for carefully crafting a process that is open and fair for all.

Yours truly,

John C. Rennie
John C. Rennie
President

John P. Galles
John P. Galles
Executive Vice President

U.S. Chamber of Commerce
1615 H St., NW
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NEWS

FOR IMMEDIATE RELEASE

Contact: Thomas Love

COMMENT ON THE PRESIDENT'S REGULATORY REVIEW EXECUTIVE ORDER
BY RICHARD L. LESHER, PRESIDENT
U.S. CHAMBER OF COMMERCE

WASHINGTON, Sept. 30 -- The U.S. Chamber of Commerce is encouraged by the executive order on regulatory review signed today, but recognizes that its successful implementation will require constant vigilance by the business community.

The order provides a fair and balanced approach and affords the public substantial opportunity to comment on the potential impact of proposed regulations. We are particularly pleased that the central role of OMB's Office of Information and Regulatory Affairs is retained. The order provides a series of constructive hurdles that agencies must overcome before imposing new regulatory burdens, including the requirement for cost-benefit analysis. Special emphasis is placed on minimizing potential negative impacts on U.S. competitiveness, jobs and the economy.

For nine months, the U.S. Chamber has been working very hard to bring some common sense to the regulatory process. It is one thing to have a balanced executive order. It is another to fully implement its intent. Our position is simply put: "trust but verify." That is why we have established a regulatory watchdog committee.

The committee will focus on the day-to-day oversight of new and existing regulations imposed on our members with emphasis on cost-benefit analysis, paperwork reduction and flexibility for small business. We intend to get involved early in the regulatory process to oppose unnecessary regulations and minimize the burden of those mandated by statute. The committee also will focus on the legislative process to insure that economic implications are considered before new unfunded mandates are imposed.

We now call on the administration to support passage of the Paperwork Reduction Act of 1993 -- the Nunn version in the Senate -- and reauthorization of the Regulatory Flexibility Act with judicial review, which lessens the burden on small business by providing alternative means of implementing regulations.

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93-109

The Business Roundtable

For Immediate Release

THE BUSINESS ROUNDTABLE SUPPORTS PRESIDENTIAL EXECUTIVE ORDER ON GOVERNMENT REGULATION

Washington, D.C., September 30 -- The Business Roundtable said today that it supports President Clinton's new Executive Order on the management of government regulation.

The order was signed today by the President and establishes a process for managing the development of new Executive Branch regulations as well as a mechanism for the review of existing ones.

"The business community is vitally concerned about the impact of overly burdensome regulation that has resulted in job loss, higher prices, decreased productivity, and lack of competitiveness," said Edgar S. Woolard, Jr., Chairman and CEO of DuPont and Chairman of the Roundtable's Government Regulation Task Force. "It is our expectation that the President's Executive Order will lead to better management of the regulatory process and, therefore, help accelerate the pace of economic recovery."

Woolard said that business was "pleased" that the new Executive Order contains a cost-benefit requirement, requires priority-setting based upon risk, mandates the use of sound science, requires agencies to take into account the costs of cumulative regulation, encourages the use of performance standards, and requires agencies to consider alternatives to traditional regulation.

While Woolard expressed overall enthusiasm for the Executive Order, he cautioned that "having a well-articulated statement of process and intent is one thing, but effective implementation of the order will be absolutely necessary if we are to improve the quality of government regulation and reduce its burdens on the economy."

# # #

Contact: Lee Tashjian
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September 30, 1993

Public Citizen

NEWS RELEASE

HOLD FOR RELEASE UNTIL
Thrus., Sept. 30, 1993, 9:00 a.m.

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ADMINISTRATION'S REPEAL OF REPUBLICAN-ERA ORDERS WILL HELP RESTORE INTEGRITY TO THE REGULATORY PROCESS

WASHINGTON, D.C. -- Public Citizen applauds President Clinton's decision to repeal the two Reagan/Bush Executive Orders on White House review of agency regulations and replace them with a new Executive Order.

"With this stroke of President Clinton's pen, the Administration has swept away the back-room, behind-the-scenes deal making that was the hallmark of the Quayle Council and the Reagan/Bush Office of Management and Budget," said Joan B. Claybrook, President of Public Citizen.

"At the same time, the President has sent a strong signal to his agencies and the American people that the government is back in the business of protecting the health and safety of Americans, cleaning up the environment, and getting the economy on track," Claybrook added.

The Clinton Executive Order marks a substantial step forward from the Executive Orders issued during the Reagan/Bush Administration. "Public Citizen recognizes that the new Executive Order is only the first step on the road to real reform," said David C. Vladeck, a senior lawyer with Public Citizen Litigation Group. "But it is a critically important step, and Public Citizen is pleased that the Clinton Administration is heading in the right direction."

Public Citizen noted at least four significant improvements:

* **The Clinton Executive Order injects far greater accountability and openness into the regulatory review process.** The New Executive Order sweeps away the secrecy that previously cloaked the review process and turned the White House into the private preserve of well-heeled corporate lobbyists. Under the new Executive Order, the public will know when matters are pending before OMB, and outsiders seeking secretly to influence staff will be told that all contacts must be put in writing.

[more]

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* **The Clinton Executive Order strengthens the ability of the Administration to coordinate regulatory activities.** Under the new Executive Order, the government can harness the power of the regulatory agencies to respond swiftly and comprehensively to emerging health, safety, environmental, economic and social problems.

* **The Clinton Executive Order should put an end to the lengthy delays that have plagued OMB review in the past.** By setting strict time limits on the review process, the Clinton Executive Order recognizes that delays in implementing needed regulations jeopardize the public's safety.

* **The Clinton Executive Order should significantly reduce the number of rules that will be subjected to review.** During the past 12 years, OMB tried to review each of the over 2,000 rules issued each year, creating endless, wasteful paperwork with little purpose. The new Executive Order seeks to focus OMB's efforts on only those regulatory matters that have overarching significance, and leaves the business of running the regulatory agency to the Presidential appointees who head them.

Public Citizen is pleased with the positive steps in President Clinton's Executive Order, although Public Citizen has never endorsed the concept of Presidential review of agency regulatory actions. Moreover, according to Vladeck, "past experience has taught us that the manner in which a regulatory review program is implemented is as important as the wording of an executive order. For that reason, the proof of this Administration's commitment to true reform will be in how it implements the new Executive Order."

Public Citizen will continue to monitor carefully the performance of OMB and the White House to ensure that this carries forward on its commitment to let agencies carry out their statutorily mandated roles free from undue political interference.

# # #

Public Citizen, founded by Ralph Nader in 1971, is a nonprofit consumer advocacy group with over 150,000 members.

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OMB WATCH

Statement of
Gary D. Bass
Executive Director
OMB Watch
on
September 30, 1993
Regarding
President Clinton's Regulatory Planning and Review Process

Today, President Clinton has taken a significant step toward making the regulatory review process more responsive to public need. The President's Executive Order refines the regulatory review process so that it will be open and accountable, and ensures that it will be based on selective, well-coordinated assessments for effectiveness and fairness in achieving the agency's mission. We endorse those goals.

The regulatory review process of the last twelve years has repeatedly put private, special interests ahead of Congressionally and judicially mandated efforts to clean up the environment, protect worker health and safety, and enforce consumer protections. Because the Office of Management and Budget operated in secret, it was able to interminably delay agency rulemakings, circumvent legislative and judicial deadlines, and usurp agency decision-making authority while remaining unaccountable to the public and Congress. Lower level civil servants at OMB with little or no substantive experience in areas they reviewed were able to dictate policy to agency officials.

The new regulatory review process is an attempt to fix the problems of the Reagan/Bush era and construct a balance between the interests of government agencies, businesses, and the public. There are at least four ways in which the new regulatory review process is significantly better than the Reagan/Bush years:

- **The Clinton approach seeks an end to an era of back door dealings that allowed the rich and powerful special access.** The new Order requires notable disclosure procedures that will result in greater openness and accountability. The Office of Information and Regulatory Affairs has already begun implementing the new disclosure requirements in the Order, making it possible for the public to track when rules have been submitted to OMB, to identify non-governmental entities that have contacted OMB regarding regulations, and to review actions that OMB has taken on regulations. Additionally, White House employees are now instructed to inform all non-governmental entities that in order to seek regulatory redress they should put their concerns in writing. These written comments will be placed in the agency rulemaking record -- an attempt to end non-documented, behind-the-scenes wheeling and dealing.

- **The Clinton Administration is committed to ending the delays that plagued the regulatory process during the past years.** The cost of delayed regulatory action is significant. Delay can cost lives when important rules are held up, like chemical plant safety guidelines, where hundreds of lives can be lost in a preventable plant accident. Delay can also disrupt the business planning cycles. The trickle down effect of this uncertainty can hurt businesses saddled with inventory and can lead to job loss. Enforcement of the timetables in the new Order will rectify these problems.

- **The Clinton Administration is committed to reducing the number of regulations it reviews, using its limited resources to target the most significant regulations.** OMB currently reviews more than 2,000 regulations each year. The process is neither economical nor efficient.

- **The Clinton approach creates a process where agency heads and the public are better informed about the regulatory plans of each agency.** Agencies will continue to publish in the *Federal Register* in October their regulatory agendas, providing a timetable for all regulations that are expected. Additionally, a more comprehensive description of planned regulatory actions for the most significant regulations will also be published, giving the public a more timely and better understanding of what an agency plans to undertake and how it will do it. Furthermore, instead of OMB clearing each plan, as in the past, OMB will share these plans with agency heads in order to seek their input and promote improved coordination of regulatory plans.

We do have some concerns about the Order, but we want to see how the process is implemented before we pass judgment. After all, the ultimate test of today's Executive Order will be whether in practice it improves government efficiency and makes agencies and regulations more responsive to public need. The public interest community will continue to monitor and report on the effectiveness and equity of implementation of the new process.

We are, nonetheless, hopeful that today's Executive Order is an important first step in moving toward improving the regulatory review process in government.

OMB Watch is a non-affiliated nonprofit research and advocacy organization founded in 1983. OMB Watch is secretariat of a Regulatory Policy Working Group, comprised of representatives from organized labor, environmental, health, educational, consumer, and other public interest organizations, that has recommended changes in the regulatory review and planning process. OMB Watch has also lead efforts to promote greater regulatory accountability and to stop the secrect substantive regulatory interference waged by Vice President Quayle's Council on Competitiveness.

CONGRESSMAN
HENRY A. WAXMAN
NEWS

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Comments of Henry A. Waxman on the Clinton Administration's New Regulatory Review Executive Order:

"For many years, I have worked to prevent abuses of the regulatory review process at the Reagan and Bush White House -- abuses which became particularly brazen when Vice President Dan Quayle's Council on Competitiveness used its influence to weaken regulations for special interests.

"With today's order, President Clinton and Vice President Gore have made a giant stride toward better and more responsible government by assuring that decisions are made in the light of full disclosure, and not through the secret back channels that played so large a role in past White Houses.

"I have never been a fan of OMB review of agency regulations. Nevertheless, I am pleased that today's executive order on regulatory review includes reforms long sought by the public interest community to assure that the abuses of past years do not reoccur. With the issuance of this order and a memorandum that we are informed the White House counsel will issue soon, communications between special interests and White House personnel on regulatory matters will be allowed only in limited situations where there are safeguards to protect against abuses by special interests."

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STATEMENT BY CAROL TUCKER FOREMAN[1] ON PRESIDENT CLINTON'S EXECUTIVE ORDER ON FEDERAL REGULATION PLANNING AND REVIEW

The twentieth century began with an era of regulatory activism that spawned anti-trust, minimum wage and pure food and drug laws. The century may end with an era of regulatory renewal. After twelve years of attack on regulation, the nation has moved beyond the misconception that all of society's needs can be met by the unfettered pursuit of private interest. It is clear that the American people want clean air and water, safe food and drugs, stable financial institutions and fair treatment for women and minorities and the disabled. And Americans believe government can help achieve those goals. Rather than abandoning government generally and regulation in particular, we need to make them work better.

Today, President Clinton has signed an Executive Order that holds the promise of making regulation work better, be more effective and less burdensome in achieving intended goals.

The Executive Order on Federal Regulation Planning and Review has the capacity to impose a new discipline on all elements of the regulatory system, requiring agencies to provide notice of their regulatory plans and coordinate rulemaking. The Order should also help end the regulatory delays that have cost lives on the one hand and often left business
unable to undertake effective planning on the other.

Finally, the Executive Order institutes changes that should effectively end an era in which the Office of Management and Budget became a secret society that practiced ritual sacrifice on health and safety regulation for the entertainment of the rich and powerful.

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[1]Carol Tucker Foreman served as Assistant Secretary of Agriculture for Food and Consumer Services, 1977-81. She is editor of Regulating for the Future: The Creative Balance, Center for National Policy Press, 1991. Foreman is president of Foreman & Heidepriem, Inc., a public policy consulting firm.

SIERRA CLUB

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Statement of A. Blakeman Early
Washington Director
Pollution and Toxics Program
Sierra Club

Regarding President Clinton's Executive Order on Regulatory Review

September 30, 1993

The Clinton Administration has ended an ugly era in American history during which the Quayle Competitiveness Council pursued a policy of killing and weakening regulations intended to protect public health, safety, and the environment. In the name of regulatory review, the Quayle Council, aided by secret meetings with powerful special interests, substituted its own view of which regulations were in the public interest for that of Congress.

The Executive Order signed by President Clinton creates a new regulatory review process that, if properly implemented, should contribute to good government by being open, fair, and limited.

The new executive order requires regulatory review to be conducted with much more openness than in the past. The public will be informed what regulations are being written, reviewed, and re-written. Changes suggested by OMB reviewers are to be so identified.

The new executive order establishes a regulatory review process that should operate with much more fairness. Special interests and other members of the public who try to influence OMB reviewers must submit their views on the record. White House employees are required to document their contacts with outside parties on regulatory matters, as well.

The new executive order establishes a regulatory review process that is intended to be limited. OMB review is intended to focus on the most significant regulations to assure that they are written to accomplish their goals efficiently and effectively.

The American public has long believed that government regulation is supposed to protect the powerless from the excesses of the powerful. The Quayle Council turned regulatory review into a process that sought only to protect the powerful from government regulation and ignored the powerless. The Clinton Administration has clearly cast aside this process. But we in the Sierra Club are concerned that under the new executive order regulators will be asked too often if they are over-regulating the powerful and too seldom whether they are protecting the powerless well enough.

The new executive order establishes a regulatory review process that seeks to help regulators write regulations that protects the public interest without regulating too much. We are hopeful that a year from today, the regulatory review process established today is recognized throughout the nation as a real contribution to the continuing effort by President Clinton to make government work fairly, effectively, and efficiently on behalf of the public interest and not the special interests. Balanced implementation of this executive order with due consideration to the needs of those whom regulations seek to protect and the needs of the regulated community can make this goal a reality.