

**Echols, Mabel E.**

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**From:** ANNE BRANNIGAN-KELLY  
**Sent:** Monday, March 16, 2009 5:25 PM  
**To:** FN-OMB-OIRA-Submission  
**Subject:** Regulatory reform success also requires Congressional action

Suggestions for revision of EO12866 and overall regulatory process

I believe that it is essential that the Administration, in addition to reforming the regulatory review process under its direct control, also prod Congress to address the statutory root problems such as inconsistent regulatory standards and misdirected regulatory analysis. Several other comments contain recommendations like "The president should establish a blue ribbon commission of experts on federal regulation to identify existing regulatory requirements imposed by statute, by executive branch policies, and by organizational barriers." Any such commission should be sure to look at SUBSTANTIVE statutes (the FFDCA, CWA, CAA, etc.), not just procedural ones (the RFA, PRA, CRA, etc.) and compare their standards for decision-making, the level of risk that justifies action, and the role of benefit-cost approaches in decisions. Congress is perfectly free to adopt different standards/levels for different aspects of the world -- but they haven't acknowledged that there IS no consistent standard, or discussed it on-stage.

Within the scope of EO12866, the new text could:

- In the transparency language, specifically state that OMB will establish a single web-based information source recording the date an agency sends material to OMB (either a rule or a request for significant/nonsignificant classification of an upcoming rule), the date OMB responds, and the nature of the response.
- Provide that OMB will not review final rules if no substantive or adverse comments were received on the proposed rule.
- Peg the existing \$100 million threshold for determining economic significance to inflation, or at least update this dollar value (set in 1978).
- Do not require formal peer review for economic or regulatory impact analyses.

Richard Kelly