



March 19, 2009

Office of Information and Regulatory Affairs
Records Management Center
Office of Management and Budget
Attn: Mabel Echols
Room 10102
NEOB
725 17th Street, NW
Washington, DC 20503

Via electronic mail: oira_submission@omb.eop.gov

Re: Request for Public Comment on Improving the Process and Principles Governing Regulation; 74 Fed. Reg. 8819, Feb. 26, 2009

The Center for Science in the Public Interest¹ (CSPI), would like to thank the Obama Administration for the opportunity to provide comments on ways to improve the process and principles governing the review of agency regulations by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA). Previous executive orders have given OIRA undue discretion to override policy decisions that were based on sound science and the exhaustive work of federal agency experts, and we welcome the new Administration's commitment to ensuring the integrity of the administrative process.

We also commend the President's revocation of Executive Order (E.O.) 13422 on January 30, 2009. The rescinded order contained a number of troubling provisions that greatly diminished the deference that should be given to agency experts and scientists in rulemaking decisions.

Overall, we agree with the comments of OMB Watch and other groups in the public interest community that any new executive order on regulatory review should be based on a greatly diminished role for OIRA and should remove OIRA's authority to review every regulation released by federal agencies. We also agree that cost-benefit analysis has played an overly significant role in rulemaking, and that the cost of a regulation to industry is not a valid consideration if the agency has a mandate that does not require economic factors to be considered. To the extent that OIRA retains a role in agency rulemaking, we believe the

¹ CSPI is a non-profit health advocacy organization specializing in nutrition, food safety, food labeling and other food policy matters. CSPI is a completely independent organization supported by nearly 900,000 individual members who subscribe to the Nutrition Action Healthletter, as well as charitable donations and foundation grants. CSPI accepts no funding from the food industry or other industry, and does not accept funding from any local, state or federal government agencies.

transparency provisions already contained in E.O. 12866 are of the utmost importance and should be strengthened.

In addition, we urge that agencies be instructed more forcefully to document any changes to their draft rules or pre-rule framework made at OIRA's suggestion at whatever point in the rulemaking process those changes occurred. In 2003, the Government Accountability Office (GAO)² found that the documentation required by E.O. 12866 was present for only about one quarter of the regulations they reviewed. Documentation of all communications should clearly indicate which regulation is the subject of those communications, as well as the name and affiliations of all parties to the communication.

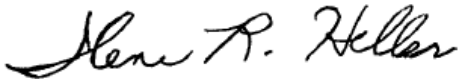
A complete public docket, which is updated regularly and documents when and by whom all suggestions to modify a rule are made, will be a strong deterrent to the kinds of political and corporate interference in agency rulemaking that have too often prevailed during the previous Administration.

We thank the Obama Administration for its efforts to improve the transparency and integrity of the regulatory review process and for the opportunity to contribute to those efforts.

Sincerely,



Kirsten Stade
Program Manager, Integrity in Science



Ilene Ringel Heller
Senior Staff Attorney

² Government Accountability Office (GAO), *Rulemaking: OMB's Role in Reviews of Agencies' Draft Rules and the Transparency of those Reviews*, GAO 03-929, September 2003.