

Echols, Mabel E.

From: John Strylowski
Sent: Thursday, March 26, 2009 3:48 PM
To: FN-OMB-OIRA-Submission
Subject: Cooments for proposed new Executive Order on regulations
Attachments: EO 12866 - Suggestions for reg process.2009.03.02.doc

To Kevin F. Neyland -

I have written and reviewed regulations for a number of years. As a rule reviewer and writer I am very interested in reforming the regulatory review process and in ensuring that we publish clear and readable rules. As a member of the public, I feel that each Federal regulation should be clearly written and easily understood by those who are regulated.

In rewriting the Executive Order on regulatory review, I urge you to -

- Limit OMB review to significant rules and eliminate "informal" reviews
- Provide written comments to agencies and the public on each rule that OMB reviews
- Simplify and make transparent the process of designating rules as significant
- Establish and enforce plain language standards for all rules to ensure that the public can understand rules that we publish

I'm attaching more detailed comments that expand upon the points I've made above. Please note that I am commenting as an individual and not as a representative of my agency.

Sincerely,

A. Reiter

Suggestions for New Executive Order On Regulations

Retain the current structure of E.O. 12866, but make significant changes as outlined below.

A. Definition of “Significant Regulation”

1. **Definition mentions notice.** Revise the current definition of “significant regulatory action” to read, “any regulatory action that OMB determines to meet one of the following criteria and for which OMB publishes a notice of review in the Federal Register:” This will reinforce the requirement in B 2, below.

2. **Retain significance criteria.** Retain the four criteria for significance from E.O. 12866.

B. Determining Which Rules Are Significant

1. **Agencies no longer submit lists of regulations.** OMB determines from the semiannual agenda which rules it considers significant. (Currently, agencies must submit separate lists of their regulations to OMB “periodically.” These lists duplicate the listings in the semiannual agenda.)

2. **OMB publishes review list.** OMB must publish with each semiannual agenda a list of all the rules that it will review under the Executive Order, together with an explanation of why OMB considers each rule significant. (OMB can make this determination by reviewing an advance copy of the semiannual agenda. Alternately, OMB can publish the list of rules it will review within 60 days of the publication of the semiannual agenda.)

3. **Ad hoc determinations.** If an agency needs to publish a rule that was not included in the semiannual agenda, it must ask OMB in writing for a determination of whether the rule is significant. If OMB determines that a rule submitted on this basis is significant, it must publish a notice of this determination in the Federal Register.

C. How OMB Reviews Rules

1. **Review period.** OMB has 90 days to review a rule. If the review is to be extended, OMB must ask the agency in writing to extend the review. It must also publish a notice in the Federal Register stating that it is extending the review and giving the reason for the extension. OMB can extend review only one time. (Currently, the agency asks OMB to extend the review. There is no Federal Register notice to inform the public of the extension.)

2. **No “informal” reviews.** If a rule is not listed in the semiannual list or in a separately published Federal Register notice, OMB cannot review it. *No “informal” reviews are allowed.*

3. **Published review lists.** OMB must publish in the Federal Register every month a list of regulations that it has under review. It must also publish as list of regulations that it has

reviewed in the past month and describe what changes were made as a result of the review. (The lists that are currently posted on the web and linked to the OMB web site are hard to find.)

4. *Written approvals.* OMB must provide the agency with a written approval or disapproval letter, in the same way that it does for information collections. OMB must also state whether the rule meets the plain language criteria in this order and may require revisions if necessary to ensure that the criteria are met. If OMB requires changes in a significant rule, OMB must post the changes on the OMB web site.

D. Cost/Benefit Analyses

OMB guidance. OMB must publish within 120 days revised criteria for determining costs and benefits of regulations that include specific guidelines on how to determine:

- (a) The costs associated with threats to human health, the integrity of the food supply, and the quality of the environment.
- (b) The benefits of preventing threats to human health, the integrity of the food supply, and the quality of the environment.
- (c) The costs of not regulating activities that may pose risks to health, the environment, or the economic system.

E. Plain Language

Include criteria in order. Require that each regulation be written in plain language, with the object of requiring only one reading for comprehension. OMB should review significant regulations for readability. All regulations must -

- (a) Be logically organized
- (b) Use common, everyday words, except for necessary technical terms
- (c) Be written in the active voice
- (d) Use “you” and other pronouns where possible
- (e) Use short sentences
- (f) Use lists and tables where possible

Incorporate the above criteria into the Executive Order. Each OMB review of a significant regulation should include a critique of the rule’s readability.

F. Regulatory Plan

Abolish or reduce the plan. Abolish the regulatory plan; it has little utility. If you retain the plan, require each agency to include in the Fall regulatory agenda a regulatory plan that describes in 500 words or less the agency's regulatory priorities for the coming year. Limiting the plan to 500 words ensures that it will be a useful overview and free of the padding that characterizes current plans.