

## AS PREPARED FOR DELIVERY

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Thank you, Chris, for that generous introduction. You have been a friend and colleague for many years, and I greatly appreciate the hospitality that you and AEI have offered me not only today, but also on numerous occasions in the past.

I am also grateful for the excellent work on regulatory policy that has been done at AEI for many years. For a long period, AEI and Brookings operated a joint center for regulatory studies, and the careful research done by the center, and by both AEI and Brookings since that time, has helped to illuminate a wide range of regulatory problems.

Such research is a valuable corrective to a national debate over regulation that has become far too polarized and stylized.

In recent months, some people have stressed the crucial importance of regulatory safeguards -- including rules that reduce deaths on the highways, prevent fraud and abuse, keep our air and water clean, and ensure that the food supply is safe.

Other people have objected to expensive regulations and burdensome mandates that impair growth, competitiveness, and innovation -- and that cost jobs.

In the abstract, both sides have legitimate points. But we can't solve serious problems in the abstract, and in important ways, the polar positions are stuck in outmoded and decreasingly helpful debates from decades ago.

In recent years, we have learned a great deal about regulation. As a result of conceptual and empirical advances, we know far more than during the New Deal and the Great Society, and we have also learned a great deal since the 1980s and 1990s.

We are now equipped with state-of-the-art techniques for anticipating and cataloguing the consequences of regulation, including both benefits and costs.

We know that risks are part of systems, and that efforts to reduce a certain risk may increase other risks, perhaps even deadly ones, thus producing ancillary harms -- and that efforts to reduce a certain risk may reduce other risks, perhaps even deadly ones, thus producing ancillary benefits.

We know that flexible, innovative approaches, maintaining freedom of choice, are often desirable, both because they preserve liberty and because they cost less.

We are aware that large benefits can come from seemingly modest and small steps -- including simplification of regulatory requirements, provision of information, and sensible default rules, such as automatic enrollment for retirement savings.

We know, more clearly than ever before, that it is important to allow public participation in the design of rules, because members of the public will have valuable and dispersed information about likely effects, existing problems, creative solutions, and possible unintended consequences.

We know that if carefully designed, disclosure policies can promote informed choices and save both money and lives.

We know that intuitions and anecdotes are both unreliable, and that advance testing of the effects of rules, as through pilot programs or randomized controlled experiments, can be highly illuminating.

We know that it is important to explore the effects of regulation in the real-world, to learn whether they are having beneficial consequences or producing unintended harm.

To go beyond an increasingly stale and unhelpful debate, we need to begin with these understandings. Above all, we need to obtain a careful and objective analysis of the anticipated and actual effects of regulations, whether positive or negative. We need to look at evidence and data. We need careful assessments before rules are issued, and we need continuing scrutiny afterwards.

Of course it is true that people's values differ, and in some cases, the relevant values will lead in a certain direction even if the evidence is clear. What I want to emphasize here is the opposite possibility – that when the evidence is clear, it will often lead in a certain direction even there are differences with respect to underlying values.

If, for example, a regulation would save a lot of lives and cost very little, people are likely to support it regardless of their party identification; and if a regulation would produce little benefit but impose big costs on real people, citizens are unlikely to favor it, regardless of whether they like elephants or donkeys.

On January 18<sup>th</sup> of this year, President Obama offered a fresh approach to federal regulation – an approach that reflects a lot of new thinking about regulation. The very first paragraph of the executive order he issued on this topic emphasizes that our regulatory system “must measure, and seek to improve, the actual results of regulatory requirements.”

In Executive Order 13563, the President laid the foundations for a regulatory system that protects public health and welfare while also promoting economic growth, innovation, competitiveness, and job creation. The President's approach promises to eliminate unnecessary regulatory burdens and costs on individuals, businesses both large and small, and state and local governments.

Among other things, the President called for an unprecedented government-wide “lookback” at federal regulation. The lookback requires all agencies to reexamine their significant rules, and to streamline, reduce, improve, or eliminate them on the basis of that examination.

Today, I am able to announce the initial results of this review.

Thirty departments and agencies have risen to the President's challenge and released action plans to remove what the President has called unjustified rules and “absurd and unnecessary paperwork requirements that waste time and money.”

We are taking immediate steps to eliminate hundreds of millions of dollars in annual regulatory burdens. Over the next several years, these steps have the potential to eliminate billions of dollars in regulatory burdens on individuals, small businesses, and state and local governments.

In fact, over \$1 billion in savings are anticipated from just a few initiatives from the Department of Transportation, the Department of Labor, and EPA. And all in all, the plan's initiatives will save tens of millions of hours in annual paperwork burdens on individuals, businesses, and state and local governments. Eliminating paperwork burdens can make a big difference for individuals and small businesses, which can find it hard to grow if there is too much red-tape.

The sheer range of the plans is truly extraordinary. Some plans list well over fifty reforms. DOT offers seventy regulations on which action will be taken and fifty-five for further study. EPA put forward sixteen high-priority initiatives, intended for completion in the short-term; it also offers fifteen high-priority initiatives for the longer term.

Many of the proposals focus on small business. Indeed, a number of the initiatives are specifically designed to reduce burdens on small business and to enable them to do what they do best, which is to create jobs. Going forward, the Transportation department specifically identifies 19 reforms that would reduce burdens on small business.

Some of the proposed initiatives represent a fundamental rethinking of how things have long been done – as, for example, with numerous efforts to move from paper to electronic reporting. For both private and public sectors, those efforts can save a lot of money. Over the next five years, the Department of Treasury's paperless initiative will be saving \$400 million and 12 million pounds of paper.

Other efforts at updating are a bit less fundamental, practically speaking, but in their way historic – as, for example, with efforts to ensure that the Code of Federal Regulations does not refer to, or impose obligations with respect to, nations that no longer exist, such as Yugoslavia.

We are also rethinking regulations that require use of outdated technologies such as film radiography (which is being phased out at many medical facilities).

Many of the reforms will have a significant economic impact.

Consider this one.

Since the 1970s, milk has been defined as an "oil" and subject to costly rules designed to prevent oil spills. In response to feedback from the agriculture community and the President's directive, EPA recently concluded that the rules placed unjustifiable burdens on dairy farmers -- and exempted them. The exemption gives whole new meaning to the phrase "don't cry over spilled milk." And over the next decade, the exemption will save the milk and dairy industries, including small business in particular, as much as \$1.4 billion.

And that is just one example.

- Today, the Occupational Safety and Health Administration is announcing a final rule that will remove over 1.9 million annual hours of redundant reporting burdens on employers and save more than \$40 million in annual costs. Businesses will no longer be saddled with the obligation to fill out unnecessary government forms, meaning that their employees will have more time to be productive and do their real work.
- OSHA plans to finalize a proposed rule projected to result in an annualized \$585 million in estimated savings for employers. This rule would harmonize U.S. hazard classifications and labels with those of a number of other nations by requiring the adoption of standardized terms.
- To eliminate unjustified economic burdens on railroads, the Department of Transportation is reconsidering parts of a rule that requires railroads to install equipment on trains. DOT plans to refine the requirements so that the equipment is installed only where it is really needed on grounds of safety. DOT expects initial savings of up to \$400 million, with total 20-year savings of up to \$1 billion.
- EPA will propose to eliminate the obligation for many states to require air pollution vapor recovery systems at local gas stations, on the ground that modern vehicles already have effective air pollution control technologies. The anticipated annual savings? About \$67 million.
- The Departments of Commerce and State are undertaking a series of steps to eliminate unnecessary barriers to exports, including duplicative and unnecessary regulatory requirements, thus reducing the cumulative burden and uncertainty faced by American companies and their trading partners. These steps will make it a lot easier for American companies to reach new markets, increasing our exports while creating jobs here at home.
- To reduce administrative burdens and increase certainty, the Department of the Interior is reviewing outdated regulations under the Endangered Species Act to streamline the process, to reduce requirements for written descriptions, and to clarify and expedite procedures for approval of conservation agreements.
- To promote flexibility, the Department of Health and Human Services will be reconsidering burdensome regulatory requirements now placed on hospitals and doctors, to ask whether these requirements are redundant and whether they really benefit patients. For example, the Department will be asking whether transplant hospitals should be required to spend time documenting blood type information that has already been entered into relevant medical databases.

It's important to note that we couldn't have come up with these and other reforms were it not for public input from the people that these rules affect. Many of the initiatives come not from Washington, but directly from the American public.

Of course, we don't only need to look back; we also need to look ahead about how we regulate in the future.

That is why in his Executive Order, the President issued a series of new directives to govern future rulemaking. Those directives are consistent with, and informed by, what we have learned about regulation in recent years.

Let me emphasize four key points.

First, the President made an unprecedented commitment to promoting public participation in the rulemaking process – with a central goal of ensuring that rules will be informed, and improved, by the dispersed knowledge of the public.

Agencies are not merely required to provide the public with an opportunity to comment on their rules; they must also provide timely online access to relevant scientific and technical findings, thus allowing them to be scrutinized.

The President's Executive Order directs agencies to act, even in advance of rulemaking, to seek the views of those who are likely to be affected. This group explicitly includes “those who are likely to benefit from and those who are potentially subject to such rulemaking.” Among other things, this emphasis on early involvement is an effort to acquire relevant information and to avoid unintended harmful consequences.

Second, the new Executive Order specifically directs agencies to take steps to harmonize, simplify, and coordinate rules. It emphasizes that some sectors and industries face redundant, inconsistent, or overlapping requirements. In order to reduce costs and to promote simplicity, it requires greater coordination. The order also explicitly connects the goal of harmonization with the interest in innovation, directing agencies to achieve regulatory goals in ways that promote that interest.

Third, the Executive Order firmly stresses the importance of quantification. It directs agencies “to use the best available techniques to quantify anticipated present and future benefits as accurately as possible” – and to proceed only on the basis of a reasonable determination that the benefits justify the costs

Fourth, the Executive Order directs agencies to identify and to consider flexible approaches that reduce burdens and maintain freedom of choice for the public. Such approaches may include, for example, public warnings, appropriate default rules, or provision of information “in a form that is clear and intelligible.”

The reference to “appropriate default rules” signals the possibility that important social goals can be obtained through simplification – as, for example, in the form of automatic enrollment. We know that automatic enrollment plans in the domain of savings can greatly increase participation. With respect to savings, the Administration has taken numerous steps to promote such plans.

We also know that simplification of existing requirements can often promote compliance and participation and that complexity can have serious unintended consequences. In many domains – including education, where we have radically simplified the Free Application for Federal Student Aid form – we have taken strong steps toward greater simplicity. Indeed, we have recently issued a call to all agencies to reduce reporting burdens on small business and to eliminate unjustified complexity.

Reflecting a clear commitment to these principles, the lookback plans are now being offered to the public for comments and ideas. Agencies will be carefully assessing the available evidence and those comments before they finalize their plans.

Finally, this pragmatic, cost-effective, evidence-based approach to regulation is what has informed our practices for the past two and a half years.

We have launched initiatives that have helped drive highway deaths to their lowest level in sixty years; promoted airline safety while protecting passengers from tarmac delays, overbooking, and hidden charges, in part through disclosure policies; sharply reduced the risk of salmonella from eggs; dramatically increased the fuel economy of the fleet, thus promoting energy independence while saving consumers a lot of money; and protected against air pollution that kills thousands of people each year.

At the same time, and there is absolutely no contradiction here, we are eliminating unnecessary regulatory burdens and tens of millions of hours in annual red-tape.

The focus of the plans released today is on continuing scrutiny of costly requirements, with close reference to evidence and data – and to the experience and wisdom of the American people.

To protect taxpayer dollars, and our future safety and prosperity, we will change the regulatory culture of Washington by constantly exploring what is working and what isn't. Agencies are creating teams to continue to review their rules – to make sure that this is not just a one-time event.

The announcement of today's plans is unquestionably a defining moment. But it is just the start. And I hope that this process might inaugurate a broader, less polarized, more evidence-based conversation about how we might promote economic growth and job creation while protecting the health and safety of the American people. I know that you will be participating in that conversation.

When Alexander Hamilton inaugurated another and even larger conversation, with a series of papers that came to be known as *The Federalist*, he wrote, *The Federalist* No. 1:

“It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.”

Of course the current process does not of course have anything like the momentousness of the decisions made by We the People in the late 1700s.

But the process is also in its way an effort not to depend on accident and force, but to promote good government by reason and choice. In that sense, it might be seen as an effort, in one domain, to honor our founders' extraordinary achievement.

Thank you.