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ADMINISTRATOR
OFFICE OF
INFORMATION AND
REGULATORY AFFAIRS

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MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Cass R. Sunstein *CAS*
Administrator

SUBJECT: Implementation of Retrospective Review Plans

Executive Order 13563, “Improving Regulation and Regulatory Review,” emphasizes that our “regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.” To promote this goal, Executive Order 13563 requires agencies to develop plans to review their existing significant regulations in order to explore “whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency’s regulatory program more effective or less burdensome in achieving the regulatory objectives.”

In response to this requirement, this Administration has taken steps to save billions of dollars in regulatory costs and to eliminate millions of hours in annual paperwork burdens. Over two dozen agencies have produced retrospective review plans, now available for public review, outlining hundreds of reform proposals.

Executive Order 13563 calls not for a single exercise, but for a continuing process of scrutiny of existing rules, with careful attention to existing evidence. As stated in that Order, our regulatory system “must measure, and seek to improve, the actual results of regulatory requirements.” This statement points to the need for empirical assessment of the consequences of rules. In the current economic period, it is especially important for regulatory agencies to continue their commitment to periodic review of existing regulations, with careful attention to economic consequences and regular input from members of the public.

When implementing their retrospective review plans, agencies should give high priority to those reforms that will promote economic growth, innovation, competitiveness, and/or job creation. These high-priority reforms should include those with the greatest potential to produce significant quantifiable cost savings and significant quantifiable reductions in paperwork burdens. Agencies should give special consideration to reforms that would reduce, simplify, or harmonize regulatory or reporting requirements imposed on small businesses.

Because members of the public, including those affected by regulations, are likely to have important information and perspectives, agencies shall regularly seek the views of the public and invite suggestions on possible reforms. In accordance with Section 6(a) of Executive Order

13563, retrospective analyses of regulations, including supporting data, should be released online whenever possible.

In addition, agencies shall regularly report on the status of their retrospective review efforts to the Office of Information and Regulatory Affairs (OIRA). Agency reports should describe past progress, anticipated accomplishments, and proposed timelines for relevant actions, with an emphasis on high-priority reforms. Agencies shall submit such reports to OIRA on the second Monday of January, May, and September for the period of a year from the date of this memorandum, and semi-annually on the second Monday of January and July for each year thereafter. Agencies shall make these reports available to the public within a reasonable period (not to exceed two weeks from submission). It is recommended that agencies publish their reports online on the agency's Open Government Webpage (www.agency.gov/open).¹

A suggested template for agency reports is attached.

¹ See Memorandum for the Heads of Executive Departments and Agencies, M-10-06, Open Government Directive (Dec. 8, 2009) (requiring each agency to create an "open" webpage), available at http://www.whitehouse.gov/sites/default/files/omb/assets/memoranda_2010/m10-06.pdf.

Suggested Template for Agency Retrospective Review Plan Reports

Agency/ Sub- agency	RIN /OMB Control Number	Title of Initiative/ Rule/ICR	Brief Description	Actual or Target Completion Date	Anticipated savings in costs and/or information collection burdens, together with any anticipated changes in benefits (please quantify, to the extent feasible, and also specify baseline, time horizon, and affected groups)	Progress updates and anticipated accomplishments	Notes

RIN/OMB Control Number: Regulation Identifier Number (RIN) for regulatory actions² or Office of Management and Budget (OMB) Control Number for information collection requests³

ICR: Information Collection Request under the Paperwork Reduction Act⁴

Anticipated savings: Agencies should describe, and to the extent feasible, should quantify and monetize anticipated savings in terms of dollars, burden-hours, or both. (Burden reduction estimates should use currently approved burden estimates associated with the ICR.) In doing so, agencies should specify the baseline used to calculate the numbers. For example, are these estimates based on full compliance/implementation or actual real-world enforcement/compliance/implementation of the existing rule? If self-implementing statutes are involved, are the estimates based on a pre-statute or post-statute baseline?⁵ Agencies are also encouraged to specify the relevant time horizon of their estimates. For example, are the savings expected to occur annually or only once? Finally, whom does the agency expect to benefit from the cost-savings or burden reductions (e.g., small businesses, specific sub-populations, the government, society as a whole)?

Notes: Any explanatory notes the agency deems appropriate with respect to any of the previous columns

² See Memorandum for the President’s Management Council, “Increasing Openness in the Rulemaking Process – use of the Regulation Identifier Number (RIN)” (April 7, 2010), available at http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/IncreasingOpenness_04072010.pdf.

³ The OMB Control Number is two four-digit codes separated by a hyphen. The first four digits identify the sponsoring agency and bureau, and the second four digits identify the particular information collection. The public can find OMB’s inventory of currently approved collections, with OMB control numbers, online at <http://www.reginfo.gov>.

⁴ See Memorandum for the Heads of Executive Departments and Agencies, and Independent Regulatory Agencies, “Information Collection under the Paperwork Reduction Act” (April 7, 2010), available at http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/PRAPrimer_04072010.pdf

⁵ See p. 4 of “Regulatory Impact Analysis: Frequently Asked Questions,” available at http://www.whitehouse.gov/sites/default/files/omb/circulars/a004/a-4_FAQ.pdf (“What is a baseline and how do I identify it?”).