

January 26, 2001

M-01-09

MEMORANDUM FOR THE HEADS AND ACTING HEADS OF EXECUTIVE  
DEPARTMENTS AND AGENCIES

FROM: Mitchell E. Daniels, Jr.  
Director

SUBJECT: Effective Regulatory Review

To ensure effective implementation of the memorandum of January 20, 2001, from the Chief of Staff, entitled "Regulatory Review Plan," and to coordinate that implementation with Executive regulatory review carried out under Executive Order No. 12866, we ask you to take the following steps:

1. Promptly withdraw from review by the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) under E.O. 12866 any regulatory action submitted to OIRA on or before January 20, 2001. In accordance with the January 20<sup>th</sup> memorandum, this will assure that the action is reviewed and approved by an agency head (or delegate) appointed by President Bush. "Regulatory action" is defined in section 3(e) of E.O. 12866.

If you believe that any regulatory action pending at OIRA should continue under OIRA review, identify the action to the appropriate OIRA Desk Officer (with a short summary of the action and the exception category). OIRA will discuss with the agency whether the action should continue under review or be withdrawn.

2. All regulatory actions subject to this memorandum are actions that must either (1) be reviewed and approved by an official appointed by President Bush; or (2) fall into several categories of exception, including actions that respond to emergencies or other urgent situations relating to health and safety; actions that impact critical health and safety functions of your agency; or are actions promulgated pursuant to statutory or judicial deadlines. In the case of regulatory actions that fall into the exception categories, agencies should strive to apply the agency review and approval criteria of the January 20<sup>th</sup> memorandum if at all practicable.
3. For all regulatory actions referred to in paragraph 2, the procedures and practices of E.O. 12866 continue to apply. Agencies should submit to OMB for E.O. 12866 review only those "significant" regulatory actions (as defined by section 6(a)(3)(A) of E.O. 12866) that (1) have been reviewed and approved by an official appointed by President Bush, or (2) are otherwise excepted by the January 20<sup>th</sup> memorandum.

4. For regulatory actions referred in paragraph 2 that are not considered “significant” under E.O. 12866, agencies should send a list identifying such regulatory actions to OIRA prior to submitting such actions to the *Federal Register* for publication. The list should be sent to the appropriate OIRA Desk Officer and should include a short summary of each regulatory action and a statement of the need for publication (with reference, as appropriate, to the categories for exception described in the January 20<sup>th</sup> memorandum). Agencies should not submit such actions to the *Federal Register* until OIRA has conferred with the agency. OMB will work closely and expeditiously with agencies regarding their regulatory actions.

If emergency circumstances make the procedures in paragraph 4 impractical, agencies should submit the regulatory action for publication by the *Federal Register*, and should simultaneously notify OIRA. Paragraph 4 does not apply to regulatory actions that are exempt from centralized regulatory review (as provided in OMB Memorandum M-94-3, “Guidance for Implementing E.O. 12866” (October 13, 1993), Appendices A and C).

Thank you.