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Memo from President George W. Bush Chief of Staff Joshua Bolten on Midnight Regulations

Memorandum for: The Heads of Executive Departments and Agencies
The Administrator of the Office of Information and Regulatory Affairs
From: Joshua B. Bolten
Subject: Issuance of Agency Regulations at the End of the Administration

Over the last seven years, our Administration has worked to achieve through regulation important public benefits while minimizing regulatory costs on the American people. The President has emphasized that the American people deserve a regulatory system that protects and improves their health, safety and environment, secures their rights, and ensures a fair and competitive economic system, while respecting their prerogative to make their own decisions and not imposing unnecessary costs. We need to continue this principled approach to regulation as we sprint to the finish, and resist the historical tendency of administrations to increase regulatory activity in their final months. We must recognize that the burden imposed by new regulations is cumulative and has a significant effect on all Americans.

Every regulatory agency and department has a responsibility for continuing to ensure regulations issued in this final year are in the best interests of the American public. To the extent permitted by law, the heads of executive departments and agencies should continue to minimize costs and maximize benefits for each of their upcoming regulations, and should avoid issuing regulations that are unnecessary. Except in extraordinary circumstances, regulations to be finalized in this Administration should be proposed no later than June 1, 2008, and final regulations should be issued no later than November 1, 2008.

To ensure we continue to serve the American people through carefully-designed regulations, the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) will coordinate an effort to complete Administration priorities in this final year while providing for an appropriately open and transparent process and controlling regulatory costs. In this effort, OIRA will work closely with the heads of the President's policy councils, and rely on its centralized review authority under Executive Order 12866.

Pursuant to Executive Order 12866, agencies shall continue to assess the need for regulation, examine alternatives, design regulations in the most cost-effective manner to achieve regulatory objectives, and assess both the costs and benefits of intended regulations. Circular A-4 provides guidance to agencies for analyzing the effects of regulation. Agencies should view each regulation as part of a broader regulatory framework and, in cooperation with OIRA, make careful and coordinated policy choices that do not impose undue regulatory burdens on the American people.

Agencies should examine the regulations they intend to promulgate before the end of this Administration for compliance with this memorandum and provide all information and assistance requested by the Administrator of OIRA in this important endeavor. In identifying priorities and establishing schedules, agencies should provide adequate time for necessary analysis, interagency consultation, robust public comment, and a careful evaluation of and response to those comments. However, I also want to emphasize that nothing in this memorandum alters or impedes the ability of the executive departments and agencies to perform their responsibilities under existing law.

Finally, the OIRA Administrator will report on a regular basis regarding agency compliance with this memorandum.

cc:

Chairman of the Council on Environmental Quality
Chairman of the Council of Economic Advisors

Director, Office of Science and Technology Policy
Assistants to The President



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