



President Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

January 8, 2014

Dear President Obama:

Over the course of your presidency, you have repeatedly stated your commitment to advancing public safeguards, from improving the safety of our food supply and our consumer products to protecting the stability of financial markets and addressing climate change. Progress has been made, but there is an enormous amount left to do, and only three years left in your term to accomplish a long list of vital public protection objectives.

We believe that a transparent, streamlined process is needed for issuing the rules that will be at the heart of this agenda. While recent improvements at the Office of Information and Regulatory Affairs (OIRA) in reducing rule review delays are laudable, we believe that there remain substantial procedural and process issues with respect to the transparency and effectiveness of OIRA's involvement in the regulatory review process that require fundamental reform.

The accounts in the December 15 *Washington Post* of politically motivated delays to important public health, worker safety and other rules prior to the 2012 elections are deeply troubling. The article cites a recent report by the Administrative Conference of the United States (ACUS), "Improving the Timeliness, Transparency, and Effectiveness of OIRA Regulatory Review," which documents dramatic and unprecedented increases in both the average time for completion of OIRA regulatory reviews as well as in the number of rules for which reviews exceeded the 90-day limit established by Executive Order 12866, for the period of 2011 through the first half of 2013.

Though acknowledging improvements by OIRA in recent months in reducing rule review delays, the ACUS report identifies several potential causes of delay and highlights a number of troubling practices based on interviews with senior officials at 11 federal agencies. These practices include Executive Office political interference with potentially controversial rules, broadening the definition of what constitutes a "significant" regulatory action subject to OIRA review, inappropriately lengthy reviews by other agencies and offices, OIRA directing submitting agencies to request unlimited review extensions that effectively nullify executive order deadlines, and unreasonable information and analysis requests by OIRA desk officers that have delayed public protections.

The accounts of several agency officials in the report also indicate that a key factor contributing to regulatory delays is the increased use of extensive, informal OIRA review of rules that often

last many months or even years. Informal reviews can have a significant impact on the development of rules, yet neither the existence of these informal meetings nor the OIRA-agency interactions and changes to rules that occur during this informal process are disclosed to the public. In addition, several federal agency officials indicated that they have been required to obtain permission from OIRA before submitting a rule for review, which further delays and distorts the rule review process. These practices go well beyond the general coordination envisioned under E.O. 12866 and reduce transparency and accountability.

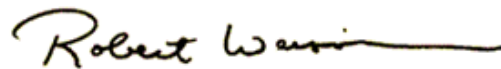
We urge you to direct OIRA to accelerate efforts to reduce the regulatory review backlog and prioritize timeliness in reviews going forward. We ask you to confirm whether or not OIRA is continuing the recent practice of requiring agencies to get permission to submit individual rules for review, and if the policy is continuing, to direct OIRA to cease it. Further, more comprehensive reforms are needed to correct the systematic delay, opacity and politicization that have been pervasive issues in the OIRA review process. The ACUS report notes that “the timeliness of at least some of OIRA’s regulatory reviews has been a concern virtually since the office began those reviews under EO 12291 in early 1981.” We ask that you direct OIRA to adhere to the deadlines established by E.O. 12866 and inform the public of the reasons for delays beyond the review deadlines. OIRA should also commit to obeying all existing transparency requirements under E.O. 12866 and increase efforts to proactively disclose information concerning reviews. In addition, OIRA should examine current review practices and improve efficiency and effectiveness in the regulatory development process by eliminating extraneous information and analysis requests by OIRA officers that delay rules, and by providing greater deference to agency scientific and technical expertise in regulatory decision-making.

Your administration has the opportunity to meet its commitment by finalizing a range of new regulatory actions and public safeguards that will bring enormous benefits to the American public. We ask that you direct OIRA to address concerns about timeliness, transparency and effectiveness in the regulatory review process and to expedite critically important public protections through review in an open and accessible manner. The public is depending on your leadership to ensure the administration accomplishes these important objectives.

Sincerely,



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