CSS Fact Sheet on OMB's Streamlining of Deregulation

The Trump Administration's memo issued on October 21, 2025, "Streamlining the Review of Deregulatory Actions," is a continuation of the administration's radical attempt to distort the regulatory process and swiftly strip away protections that keep consumers, workers, and the environment safe and healthy. The memo largely reiterates prior directives from President Trump, but it also makes clear the difficulty agencies have had in implementing these lawless directives. The memo directs agencies to create a different set of procedures for rolling back safeguards than for issuing them, a distinction which violates the law and rigs the regulatory process in favor of deregulation.

By law, federal agencies must follow the same process when putting forth new regulations or repealing existing regulations. This fundamental legal requirement is crucial to preserving the integrity and legitimacy of the regulatory process. Specifically, this memo includes three directives to agencies that upend the neutrality of the regulatory process by fast-tracking regulatory rollbacks, bypassing notice and comment for repeal of purportedly "unlawful regulations," and directing agencies to develop "better deregulatory records" for their planned rollbacks that rely on ideological talking points instead of sound policy analysis.

First, it creates new expedited review procedures that only apply to "deregulatory" actions at the Office of Information and Regulatory Affairs (OIRA), the agency within the White House Office of Management and Budget that coordinates Executive Branch review of the most important regulations before they are proposed or finalized. The new fast-track review procedures establish a presumption that OIRA will take no longer than 14 days to review regulatory rollbacks that are determined to be "facially unlawful" (more below on that designation) and no longer than 28 days for regulatory rollbacks that have a "factual record" (*i.e.*, regulations based on policy arguments). This is an entirely new process not reflected in prior Trump Administration directives.

The new OIRA review periods for regulatory rollbacks are much faster than under Executive Order 12866, which generally provides for up to 90 to 120 days to review regulations. The memo carves out the deregulatory actions that are Trump Administration political priorities from the longer EO 12866 review periods which would still govern any regulations that protect the public. In other words, OIRA will have a fast-track for dangerous deregulatory actions that the Trump Administration supports.

Second, the memo reiterates a prior direction to agencies in Executive Order 14219 and a supplemental April 9 presidential memorandum to roll back "facially unlawful regulations" that ostensibly violate certain Supreme Court decisions without taking any comment from the public, so as to eliminate those regulations faster. This rests on a misinterpretation of the "good cause" exemption under the Administrative Procedure Act (APA). This exemption allows agencies to skip the legally required notice-and-comment process but only under very narrow circumstances that are often limited to emergency situations. Indeed, agency reliance on "good cause" to skip notice and comment is the rare exception, not the rule. No prior administration has ever claimed

regulations it considers potentially unlawful qualify for the “good cause” exemption. Courts have generally found that the exemption applies to narrow circumstances in which the purpose of the rule would be defeated if notice-and-comment procedures were followed.

The memo’s misuse of the “good cause” exemption will have the disastrous consequence of blocking the public from having any say on many of the most significant Trump Administration regulatory rollbacks. The Trump Administration does not want its deregulatory agenda to go through the normal regulatory process for multiple reasons. Agencies can finalize rollbacks faster and with less objection if they do not give the public the chance to raise concerns about how rollbacks affect their health, safety, security, or broader community. Thwarting notice and comment prevents members of the public from sharing how they will be directly harmed by rolling back regulations that protect them. Certainly, the Trump Administration would prefer to silence the critics of its deregulatory agenda and prevent the public from hearing about the real human costs of its regulatory rollbacks.

Third, the memo seeks to direct agencies to develop “better deregulatory records” to roll back regulations by encouraging the use of certain qualitative “benefits of deregulation” when conducting cost-benefit analysis. This provision is premised upon the memo’s characterization of deregulation as distinct from, and inherently preferable to, regulation -- a flawed and legally unsupported dichotomy. Specifically, the memo directs agencies to include qualitative factors in their analysis, such as the impact on private freedom, collective value of grouping deregulatory actions, actual costs and benefits compared to prospective analyses at the onset of a regulation, and enforcement history and discretion. At the same time, the memo ignores competing factors, such as how stronger safeguards can promote individual freedom, too. Including these dubious and legally indefensible factors into the cost-benefit analysis is an effort to skew the analysis and justify deregulation.

More broadly, the memo shows the difficulty agencies have had to date in implementing the Administration’s unlawful orders to deregulate without regard to the potential harm inflicted on Americans. As noted, the memo is largely a recapitulation of prior directives from the Trump Administration, along with an exhortation to actually follow them. In particular, the memo notes that with respect to the direction to repeal regulations without notice and comment, agencies “do not appear to be fully maximizing their energy in carrying out these directives.” While this is an extraordinary admission to make in an Administration document, the difficulty in implementation should come as no surprise; as noted above, the directive ignores decades of practice and case law. Should agencies respond to this further push to speed up deregulation, even ignoring the law to do so, it will be incumbent on courts to enforce the law and strike down any such rules.