

January 20, 2001~~19~~

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

FROM: ~~ANDREW H. CARD, JR.~~ Rahm Emanuel, Assistant to the President and Chief of Staff

SUBJECT: Regulatory Review ~~Plan~~

The President Obama has asked me to communicate to each of you his plan for managing the Federal regulatory process at the ~~outset~~ beginning of his Administration. ~~In order to ensure it is important~~ that ~~the President's~~ President Obama's appointees and designees have the opportunity to review and approve any new or pending regulations; ~~I ask on behalf. Therefore, at the direction~~ of the President, I am requesting that you immediately take the following steps:

1. Subject to any exceptions the Director or Acting Director of the Office of Management and Budget (the "OMB Director") allows for emergency situations or other urgent ~~situations-circumstances~~ relating to health ~~and~~, safety, ~~send~~ environmental, financial, or national security matters, or otherwise, no proposed or final regulation should be sent to the Office of the Federal Register (the "OFR") for publication unless and until it has been reviewed and approved by a department or agency head appointed or designated by the President after noon on January 20, ~~2001, reviews and approves~~ 2009, or in the regulatory action case of the Department of Defense, the Secretary of Defense. The department or agency head may delegate this ~~power of~~ review and approval power to any other person so appointed or designated by the President, consistent with applicable law.

2. ~~With respect to~~ Withdraw from the OFR all proposed or final regulations that have not been ~~sent to the OFR but not~~ published in the Federal Register, ~~withdraw them from OFR for review so that they can be reviewed~~ and ~~approval~~ approved by a department or agency head as described in paragraph 4, ~~I. This withdrawal is~~ subject to ~~exception as the exceptions~~ described in paragraph 1. ~~This withdrawal and~~ must be conducted consistent with ~~the~~ OFR procedures.

3. ~~With respect to~~ Consider extending for 60 days the effective date of regulations that have been published in the ~~OFR~~ Federal Register but ~~have not yet~~ taken effect, ~~temporarily postpone the effective date of the regulations for 60 days~~, subject to ~~exception as the 2 exceptions~~ described in paragraph 1, ~~for the purpose of reviewing questions of law and policy raised by those regulations. Where such an extension is made for this purpose, you should immediately reopen the notice and comment period for 30 days to allow interested parties to provide comments about issues of law and policy raised by those rules. Following the 60-day extension:~~

a. for those rules that raise no substantial questions of law or policy, no further action needs to be taken; and

b. for those rules that raise substantial questions of law or policy, agencies should notify the OMB Director and take appropriate further action.

4. ~~Exclude from the~~ The requested actions set forth in paragraphs 1-3 do not apply to any regulations ~~promulgated pursuant~~ subject to statutory or judicial deadlines ~~and identify such exclusions to. Please immediately notify~~ the OMB Director as soon as

~~possible of any such regulations.~~

5. Notify the OMB Director promptly of any regulations that, ~~in your view, impact you believe should not be subject to the directives in paragraphs 1-3 because they affect critical health and, safety, environmental, financial, or national security functions of the agency and therefore should be also excluded from the directives in paragraphs 1-3. The department or agency, or for some other reason. The OMB~~ Director will review ~~anyall~~ such notifications and determine whether ~~an~~ exception is appropriate ~~under the circumstances.~~

6. Continue in all instances to comply with ~~Executive Order 12866, pending our review of that order, as well as any other~~ any applicable Executive Orders concerning regulatory management. As used in this memorandum, "regulation" has the meaning set ~~outforth~~ in section 3(e) of Executive Order 12866. ~~That is, of September 30, 1993, as amended;~~ this ~~plan~~ memorandum covers "any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking."

This regulatory review will be implemented by the ~~OMB Director or Acting Director of the OMB. Communications, and communications~~ regarding ~~exceptions any matters pertaining to the review, or questions regarding the review generally,~~ this review should be addressed to that ~~individual official.~~

~~Finally, in the interest of sound regulatory practice and the avoidance of costly, burdensome, or unnecessary regulation, independent agencies are encouraged~~ The OMB Director is authorized and directed to ~~participate voluntarily in this review.~~

~~This~~ publish this memorandum ~~shall be published~~ in the Federal Register.