

**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503
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**Testimony of
The Honorable Cass R. Sunstein
Administrator, Office of Information & Regulatory Affairs**

**Before the Committee on Energy and Commerce
Oversight and Investigations Subcommittee
U.S. House of Representatives**

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Mr. Chairman and Members of the Committee:

I am grateful to have the opportunity to appear before you today to discuss Executive Order 13563, “Improving Regulation and Regulatory Review,” and the Presidential Memorandum, “Regulatory Flexibility, Small Business, and Job Creation.”

As the President has made clear, these documents are meant to lay the foundations for a regulatory system that protects public health and welfare while promoting economic growth, innovation, competitiveness, and job creation. They require a number of concrete steps to achieve that overriding goal.

Let me begin with a few words by way of background. Since September 30, 1993, the process of regulatory review has operated under Executive Order 12866, issued by President Clinton, which builds in turn on the framework established by Executive Order 12291, issued by President Reagan on February 17, 1981. Executive Order 12866 sets out a number of principles and requirements. Among other things, it calls (to the extent permitted by law) for careful consideration of costs and benefits, for tailoring regulations to impose the least burden on

society, for selection of the approach that maximizes net benefits, for consideration of alternatives, and for a process of interagency review, coordinated by the Office of Information and Regulatory Affairs. Such a process has been in effect for nearly thirty years.

Executive Order 13563, issued on January 18, has six provisions designed to supplement and to improve that process. First, it reaffirms the principles, structures, and definitions established by Executive Order 12866. In doing so, it stresses the need for predictability and certainty and for using the “least burdensome tools for achieving regulatory ends.” It emphasizes the need to “measure, and seek to improve, the actual results of regulatory requirements.”

Second, Executive Order 13563 calls for public participation. It directs agencies to promote an open exchange with State, local, and tribal officials; experts in relevant disciplines; affected stakeholders; and the public in general. Attempting to bring rulemaking into the twenty-first century, it requires use of the Internet to promote such an exchange. It also directs agencies to act, even in advance of rulemaking, to seek the views of those who are likely to be affected.

Third, Executive Order 13563 directs agencies to take steps to harmonize, simplify, and coordinate rules. It emphasizes that some sectors and industries face redundant, inconsistent, or overlapping requirements. In order to reduce costs and to promote simplicity, it calls for greater coordination.

Fourth, Executive Order 13563 directs agencies to consider flexible approaches that reduce burdens and maintain freedom of choice for the public. Such approaches may include, for example, public warnings or provision of information.

Fifth, Executive Order 13563 calls for scientific integrity. It asks each agency to ensure the objectivity of the information on which it relies to support its regulatory actions.

Sixth, and finally, Executive Order 13563 calls for retrospective analysis of existing rules. It asks for “periodic review” to identify “rules that may be outmoded, ineffective, insufficient, or excessively burdensome.” It directs agencies to produce preliminary plans for periodic review of significant rules and to submit them to OIRA within 120 days. In this way, Executive Order 13563 is aimed at the “stock” of existing regulations as well as the “flow” of new requirements.

The Presidential Memorandum on Regulatory Flexibility, Small Business, and Job Creation is focused especially on the “essential role” of small businesses in the American economy. It directs agencies to consider methods “to reduce regulatory burdens on small business.” Under the Regulatory Flexibility Act (RFA), agencies may consider such flexibilities as extended compliance dates, simplified reporting and compliance requirements, and partial or total exemptions. The Memorandum specifically requires agencies to explain any failure to offer such flexibilities in proposed or final rules. As the President wrote in the Wall Street Journal, “today I

am directing federal agencies to do more to account for—and reduce—the burdens regulations may place on small businesses.”

Taken as a whole, Executive Order 13563 and the Presidential Memorandum create strong foundations for improving regulation and regulatory review. I look forward to answering any questions that you may have.