

**PREPARED TESTIMONY OF
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BEFORE THE
HOUSE ENERGY AND COMMERCE COMMITTEE
OVERSIGHT AND INVESTIGATIONS SUBCOMMITTEE
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Mr. Chairman and Members of the Subcommittee:

I am grateful to have the opportunity to appear before you today to discuss issues relating to regulation and Executive Order 13563, "Improving Regulation and Regulatory Review." I will focus in particular on retrospective review of existing rules.

With Executive Order 13563, issued on January 18, 2011, the President laid the foundations for a regulatory system that is designed to protect public health and welfare while also promoting economic growth, innovation, competitiveness, and job creation. Executive Order 13563 provides a series of directives and requirements. Among other things, and to the extent permitted by law, the Executive Order:

- *Requires agencies to consider costs and benefits, to ensure that the benefits justify the costs, and to select the least burdensome alternatives.* In this regard, the Executive Order places an emphasis on the need to "measure, and seek to improve, the actual results of regulatory requirements."
- *Requires increased public participation.* The order 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.
- *Directs agencies to take steps to harmonize, simplify, and coordinate rules.* The order 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 within and across agencies.
- *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.

As you are aware, the Executive Order also requires a government-wide “lookback” at existing Federal regulations. The requirement of retrospective analysis directs agencies to review their significant rules and to decide, on the basis of that review, which of such rules should be streamlined, reduced, improved, or eliminated. One of the goals of this approach is to eliminate unnecessary regulatory burdens and costs on individuals, businesses both large and small, and State, local, and tribal governments.

Last week, and in compliance with the Executive Order, thirty departments and agencies released their preliminary plans. Some of the steps outlined in the plans have already eliminated hundreds of millions of dollars in annual regulatory costs, and over \$1 billion in savings can be expected in the near future. Over the coming years, the reforms have the potential to eliminate billions of dollars in regulatory burdens.

Many of the proposed initiatives represent a fundamental rethinking of how things have long been done – as, for example, with numerous efforts to move from paper to electronic reporting. For both private and public sectors, those efforts can save a great deal of money. Over the next five years, for example, the Department of the Treasury’s paperless initiative will save more than \$500 million and twelve million pounds of paper. The plans also reflect efforts to rethink regulations that require the use of outdated technologies such as film radiography (which is being phased out at many medical facilities).

Many of the reforms are expected to have a significant economic impact. One example is EPA’s decision to exempt milk and milk product containers, piping, and appurtenances from the Spill Prevention Control and Countermeasure requirements. Since the 1970s, milk has been defined as an “oil” (because it contains animal fats) and was therefore subject to rules designed to prevent oil spills. In response to concerns from the agricultural community and the President’s directive, EPA recently concluded that the rules placed unjustifiable burdens on dairy farmers -- and exempted them. Over the next decade, the exemption will save the milk and dairy industries, including small businesses in particular, as much as \$1.4 billion.

A few additional illustrations:

- Last week, the Occupational Safety and Health Administration (OSHA) announced a final rule that will remove over 1.9 million annual hours of recordkeeping burdens on employers and save more than \$40 million in annual costs.
- OSHA also plans to finalize a proposed rule projected to result in an annualized \$585 million in estimated savings for employers. This rule would harmonize U.S. hazard classifications and labels with those of a number of other nations by requiring the adoption of standardized terms.
- To eliminate unjustified economic burdens on railroads, the Department of Transportation is reconsidering parts of a rule that requires railroads to install certain equipment on trains. DOT expects initial savings of up to \$400 million, with total 20-year savings of up to \$1 billion.

- EPA will propose to eliminate the obligation for many states to require air pollution vapor recovery systems at local gas stations, given that modern vehicles already have effective air pollution control technologies. The anticipated annual savings are about \$67 million.
- The Department of Commerce, with assistance from the Department of State, is taking a series of steps to eliminate unnecessary barriers to exports, including duplicative and unnecessary regulatory requirements such as licensing restrictions on lower-risk exports. These steps will protect national security while reducing the cumulative burden and uncertainty faced by American companies and their trading partners.
- To reduce administrative burdens and increase certainty, the Department of the Interior, along with the Department of Commerce’s National Oceanic and Atmospheric Administration, is reviewing and streamlining outdated regulations under the Endangered Species Act, to simplify descriptions of critical habitat designation and to clarify and expedite procedures for approval of conservation agreements.
- To promote flexibility, the Department of Health and Human Services will be reconsidering burdensome regulatory requirements now placed on hospitals and doctors, to determine whether these requirements are redundant and whether they really benefit patients.

Importantly, agencies are eliminating all these burdens while continuing to protect public health, safety, and the environment—because, as the President said in his January editorial in the *Wall Street Journal*, “We can make our economy stronger and more competitive, while meeting our fundamental responsibilities to one another.”

It is important to emphasize that while a great deal has been accomplished in a short time, and substantial savings have already been achieved, the agency plans are preliminary. As such, they are being offered to the public, and to elected representatives at all levels, for their views and perspectives. Suggestions are eagerly welcome. Agencies will be carefully assessing all comments and suggestions before they finalize their plans.

While the current retrospective review is important, Executive Order 13563 reflects a broader ambition. To protect public and private dollars, and our future safety and prosperity, we are seeking to change the regulatory culture of Washington by eliminating unjustified burdens and constantly exploring what is working and what is not, with close reference to evidence and data. Many of the plans emphasize the need for careful empirical investigation of rules, to be undertaken in advance if possible, and retrospectively as well. To quote the opening words of Executive Order 13563, the overall goal of the plans is to “protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.”

I greatly look forward to working with you in this endeavor. I would be happy to answer your questions.