

January 20, 200917

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: ~~Rahm Emanuel~~Reince Priebus

Assistant to the President and Chief of Staff

SUBJECT: Regulatory Freeze Pending Review ~~President~~

~~Obama~~The President has asked me to communicate to each of you his plan for managing the Federal regulatory process at the beginning~~outset~~ of his Administration. ~~It is important~~In order to ensure that ~~President Obama's~~the President's appointees ~~and/or~~ designees have the opportunity to review ~~and approve~~ any new or pending regulations. ~~Therefore, at the direction, I ask on behalf~~ 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 circumstances relating to health, safety, ~~environmental~~, financial, or national security matters, or otherwise, send 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~~until a department or agency head appointed or designated by the President after noon on January 20, ~~2009, or in~~2017, reviews and approves the ~~case of the Department of Defense, the Secretary of Defense regulation.~~ 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. ~~Withdraw from the OFR all proposed or final~~With respect to regulations that have ~~not~~ been ~~sent to the OFR but not~~ published in the Federal Register ~~so that they can be reviewed, immediately withdraw them from the OFR for review and approved by a department or agency head~~approval as described in paragraph 1. ~~This withdrawal is~~1, subject to the exceptions described in paragraph 1 ~~and~~. This withdrawal must be conducted consistent with OFR procedures.

3. ~~Consider extending for 60 days the effective date of~~With respect to regulations that have been published in the ~~Federal Register~~OFR but ~~have~~ not ~~yet~~ taken effect, as permitted by applicable law, temporarily postpone their effective date for 60 days from the date of this memorandum, subject to the ~~2~~ exceptions described in paragraph 1, for the purpose of reviewing questions of fact, law, and policy ~~raised by those regulations they raise.~~ Where ~~such an extension is made for this purpose~~appropriate and as permitted by applicable law, you should ~~immediately reopen the consider proposing for notice and comment periods~~ rule to delay the effective date for 30 days to allow interested parties to provide comments about issues of law and policy raised by these rules. ~~regulations beyond that 60-day period. In cases where the effective date has been delayed in order to review questions of fact, law, or policy, you should consider potentially proposing further notice-and-comment rulemaking.~~ Following the ~~60-day extension~~delay in effective date:

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

(b.) for those rulesregulations that raise substantial questions of law or policy, agencies should notify the OMB Director and take further appropriate ~~further~~ action in consultation with the OMB Director.

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

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

6. Continue in all ~~instances~~circumstances to comply with any applicable Executive Orders concerning regulatory management.

As used in this memorandum, "regulation" has the meaning set forth given to "regulatory action" in section 3(e) of Executive Order 12866 ~~of September 30, 1993, as amended,~~ and also includes any "guidance document" as defined in section 3(g) thereof as it existed when Executive Order 13422 was in effect. That is, the requirements of this memorandum ~~covers~~apply to "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," and also covers any agency statement of general applicability and future effect "that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue."

This regulatory review will be implemented by the OMB Director, ~~and communications,~~ Communications regarding any matters pertaining to this review should be addressed to ~~that official.~~the OMB Director.

The OMB Director is authorized and directed to publish this memorandum in the Federal Register.

REINCE PRIEBUS