



March 16, 2009

*Submitted via email: oira\_submission@omb.eop.gov*

Mr. Peter R. Orszag  
Director  
Office of Management and Budget  
725 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20503

***Re: Request for Comments on Possible New Executive Order on Regulatory Review;  
74 Fed. Reg. 8819 (Feb. 26, 2009)***

Dear Mr. Orszag:

The Consumer Specialty Products Association (CSPA) supports the important mission of the Office of Information and Regulatory Affairs (OIRA) in the White House Office of Management and Budget (OMB), as directed under Executive Order (E.O.) 12866, to assist in making the federal regulatory process more efficient through its review of agency rulemaking and through the guidance it supplies to the agencies during this process. We appreciate the opportunity to submit comments on possible modifications of E.O. 12866; however, CSPA urges that the basic structure of executive review it originally established be retained.

CSPA is the premier trade association representing the interests of approximately 240 companies engaged in the manufacture, formulation, distribution and sale of approximately \$80 billion annually in the U.S. of hundreds of familiar consumer products that help household, institutional and industrial customers create cleaner and healthier environments. Our products include disinfectants that kill germs in homes, hospitals and restaurants; candles, fragrances and air fresheners that eliminate odors; pest management products for home and garden; cleaning products for use throughout the home; products used to protect and improve the performance and appearance of automobiles; and a host of other products used everyday. Through its product stewardship program Product Care<sup>SM</sup>, scientific and business-to-business endeavors, CSPA provides its members a platform to effectively address issues regarding the health, safety, sustainability and environmental impacts of their products. For more information, please visit [www.cspa.org](http://www.cspa.org).

E.O. 12866, originally established in 1993 by President Clinton, provides a strong foundation for the appropriate oversight by the executive branch over significant agency actions and incorporates principles and procedures for review that have become a standard emulated throughout the world. This review process serves to enhance planning and coordination with

respect to both new and existing regulations; reaffirm the primacy of Federal agencies in the regulatory decision-making process; restore the integrity and legitimacy of regulatory review and oversight; and make the process more accessible and open to the requirements and with due regard to the discretion that has been entrusted to the Federal agencies. To achieve this, E.O. 12866 lays out several principles followed throughout the regulatory process that need to be retained in any amendments of the order. These essential principles include the use of cost-benefit analysis in the regulatory review process and the importance of transparency.

Transparency is a key characteristic of the federal regulatory review process as outlined under E.O. 12866. The safeguards that are established by E.O. 12866 make sense and should be retained. Making OMB the focal point for regulatory review allows for greater transparency in the process because it makes it more difficult for undocumented communications to occur between executive branch officials and the agencies, or between outside parties and the executive branch, on regulatory review transactions. Care should be taken that any amendments to E.O. 12866 do not allow intervention in agency regulatory activities to occur with little or no accountability. Nonetheless, we recognize the importance and need for staff in the executive branch to confer internally on a particular issue and the need to speak frankly with each other. All final rules of an agency must be supported by a record that explains the legal and factual basis for administrative decisions and ensure that all actions were transparent.

E.O. 12866 operates to avoid agency regulations and guidance documents that are inconsistent, incompatible, or duplicative with its other regulations and guidance documents or those of other Federal agencies. The complexity of the American regulatory structure lends itself to the potential for interagency overlaps on similar issues. As currently structured under E.O. 12866, OMB serves as the sole source of review and opportunity to reconcile such overlaps. This review becomes even more important at times like the present when the economic status of our country continues to decline.

E.O. 12866 allows for a 90-day review on behalf of OMB. It has been CSPA's experience that OMB has generally operated within this prescribed time period. Failure of agencies to meet internal deadlines to provide OMB draft rules for review may create the impression of unreasonable delay on the part of OMB. Any amendments made to E.O. 12866 should focus both on the timeliness with which agencies deliver draft regulations to OMB, as well as OMB's adherence to internal deadlines to review such documents. Additionally, amendments should not create incentives for agencies to cut into OMB review by not providing adequate time for OMB's review.

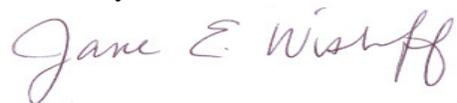
CSPA supports the structure of E.O. 12866 and would request that the regulatory review under this order be expanded to all agencies. As currently written, E.O. 12866 does not apply to "independent agencies" such as the Consumer Product Safety Commission and the Federal Trade Commission. It is essential that any federal agency that regulates matters that have significant impacts on government finances and society be subject to OMB review. Independent agencies are not constitutionally or statutorily immune from regulatory oversight; therefore, OMB should review significant regulatory actions of those agencies and, when appropriate, guide the agency's exercise of policy discretion on behalf of the executive branch.

In summary, CSPA recommends the following:

1. Retain the key principles outlined in E.O. 12866, such as the use of cost-benefit analysis and the importance of transparency.
2. Ensure that any amendments to E.O. 12866 focus both on the timeliness with which agencies deliver draft regulations to OMB, as well as OMB's adherence to internal deadlines to review those documents.
3. Require that significant regulatory actions being proposed by "independent agencies" to undergo the same regulatory review by OMB as mandated under E.O. 12866.

Once again, we appreciate OMB's solicitation of stakeholder comments on this very important issue. If you have any questions regarding these comments, please do not hesitate to contact me at [REDACTED]

Sincerely,

A handwritten signature in purple ink that reads "Jane E. Wishneff". The signature is written in a cursive, flowing style.

Jane E. Wishneff  
Regulatory Counsel & Director of International Affairs