



March 31, 2009

Ms. Mabel Echols
Office of Information and Regulatory Affairs
Records Management Center
Office of Management and Budget
10th Floor, NEOB
725 17th Street, NW
Washington, DC 20503

Re: Federal Regulatory Review

Dear Ms. Echols:

The Washington Metropolitan Area Transit Authority (WMATA) is the largest public transportation provider in the Washington, D.C. metropolitan area and the second largest subway and seventh largest bus system nationally. On average, WMATA provides 727,000 rail trips, 443,000 bus trips, and 4,900 paratransit trips every weekday. We are pleased to provide the following comments in response to the request for comments by the Office of Management and Budget (OMB) on how to improve the process and principles governing regulation published February 26, 2009 (at 74 Fed. Reg 8819).

WMATA applauds OMB for taking this initiative to solicit comments from the public. As a federally regulated agency, WMATA closely monitors federal regulatory actions and routinely submits comments to federal regulatory dockets. Based on our experience with the federal regulatory process, we make the following comments:

1) Disclosure and transparency: It has been our experience that federal agencies routinely determine that a proposed action is not a "significant regulatory action," which would require regulatory review by OMB and trigger the requirements of Executive Orders 12866 (Regulatory Planning and Review) and 13132 (Federalism). At the same time, those federal agencies fail to provide any research or data to support such a determination.

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Metropolitan Area
Transit Authority**

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A District of Columbia,
Maryland and Virginia
Transit Partnership

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2) The role of cost-benefit analysis: WMATA (like other regulated agencies) often realizes that proposed actions will, indeed, have significant cost implications and/or will adversely affect in a material way local governments or communities. However, once a federal agency has determined that a proposed action is not a "significant regulatory action," there is no mechanism for a regulated governmental entity to engage the federal agency in any meaningful dialogue on cost implications of its proposed actions and no requirement for the federal agency to substantiate its determination by a quantifiable cost-benefit analysis.

Based on the above observations, WMATA recommends that when a federal agency makes a determination that a proposed action is not "significant," the *Federal Register* notice of the proposal should include the agency's cost-benefit analysis or, when one has not been completed, a disclosure of the analysis or research conducted by the agency that led it to make that determination.

We appreciate the opportunity to provide these comments to OMB on the important issue of Federal Regulatory Review.

Sincerely,



Sarah Kline
Director
Office of Policy and Government Relations