

The Executive Memorandum

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MUZZLING OIRA: AN ATTEMPT TO THWART BUSH'S WAR ON REGULATIONS

George Bush's commitment to reducing the federal regulatory burdens on business is being put to the test. At issue is an important but little-known division within the Office of Management and Budget (OMB). It is the Office of Information and Regulatory Affairs (OIRA) – pronounced oh-EYE-rah – and was created by the Paperwork Reduction Act of 1980 to minimize federal paperwork requirements. Later it was tasked to head off regulations promulgated by the Executive Branch when alternatives are available that are less costly to the economy.

OIRA's ability to be a whistle-blower on regulatory excess is now in jeopardy. Senator John Glenn, the Ohio Democrat, has introduced legislation (S. 1044) that would weaken the ability of OMB and OIRA to halt unjustified paperwork requirements. In addition, this legislation would saddle OIRA with massive extra paperwork, reporting responsibilities, red tape, and crippling restrictions. It also would impose on OIRA public disclosure requirements that Congress does not apply to itself or to the agencies OIRA oversees. The reason, apparently, is to destroy OIRA's independence and make it more responsive to the special interest concerns of individual Congressmen and Senators. In the process the Glenn bill will impair OIRA's ability to act and thus the President's ability as chief executive to control the regulatory process in the agencies for which he is responsible. Bush should resist these attempts to limit the office in the Executive Branch that is doing the most to free American businesses of red tape. If OIRA is bound and gagged, American goods and services will become more costly, jobs will be destroyed and the economy weakened and made less competitive.

Crushing Burden. Federal government "information collection requests," that is, paperwork and red tape, impose a crushing burden on American enterprise. Estimates of the total annual cost to businesses of filling out federal government forms run as high as \$330 billion, with \$100 billion falling on small businesses that have the least resources for handling federal paperwork. OIRA's original job was to control and limit such "information collection requests," and in particular to eliminate those which are unnecessary or which duplicate other requests. OIRA has reduced the time spent filling out government paperwork by almost 600 million man-hours per year since 1981, generating total annual savings to the economy of at least \$6 billion.

Ronald Reagan, in a 1981 executive order, gave OIRA responsibility for reviewing all regulations promulgated by Executive Branch departments and agencies to minimize the costs of such regulations, and head off regulations whose costs would exceed potential benefits. Usually OIRA simply reviews regulations to insure that they use the least costly means of achieving statutory goals. Sometimes, however, when regulations serve no real function, OIRA blocks them altogether.

Example: OIRA prevented the Occupational Safety and Health Administration (OSHA) from requiring all hard hats worn at industrial sites to be disinfected, at a cost to businesses of some \$60 million a year. OSHA has demanded this even though hard hats have never been known to transmit diseases.

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Example: OIRA changed an OSHA regulation that would have applied the complex, step-by-step safety standards followed by workers repairing large industrial machinery to a mechanic opening the hood of a car or to an electrician unplugging a lamp.

Example: OIRA headed off a Department of Housing and Urban Development regulation that would have required all balconies in multi-housing units to be flush with the inside floor level. This would have caused the units to flood whenever it rained.

Despite OIRA's fine record, Glenn and other members of Congress want to restrict its power to review regulations promulgated by the agency and department heads who are subordinate to the President. These Congressmen would prefer that these agencies and departments, whose staffs consist mostly of career bureaucrats who often are more responsive to Congress than to the President, be able to promulgate burdensome new regulations on their own, free of presidential interference.

Many other members of Congress, however, understand the need to continue freeing American entrepreneurs from the burdens of unnecessary government red tape and regulations. A bipartisan coalition of Senators, including Democrats Sam Nunn of Georgia and Dale Bumpers of Arkansas, and Republican Robert Kasten of Wisconsin, has introduced the Paperwork Reduction Act of 1991 (S. 1139) to strengthen OIRA.

This legislation would reauthorize OIRA for five years. It also would close a loophole in OIRA's jurisdiction. Under current law, as interpreted by the Supreme Court last year in *Dole v. United Steelworkers of America*, OIRA has authority only to review "requests" that call on individuals and business to provide information directly to government agencies. Yet some one-third to one-half of the paperwork burden on businesses is imposed by agency regulations that "request" businesses to provide information to third parties, such as employees or customers. These requests are not covered by the 1980 Paperwork Reduction Act. The Nunn bill would close this loophole, making clear that the Paperwork Reduction Act applies to indirect as well as direct paperwork requirements. The Glenn bill would leave the loophole intact.



Freeing American Businesses. As Vice President, George Bush led a Task Force on Regulatory Relief and has often expressed his personal commitment to lifting unnecessary regulatory burdens off the backs of businesses. Now as President, Bush must protect the gains of the past, and must also protect the legitimate constitutional powers of his office. To help free American businesses from unneeded paperwork and costly regulations, and to preserve the President's ability to control the agencies and departments he oversees, OIRA must be left free to carry out its responsibilities.

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For further information:

David J. Porter, "Beware the Reregulation of America." *Citizens for Sound Economy Capital Comment* No. 68, October 24, 1990.

"The Reregulation President," *The Wall Street Journal*, June 17, 1991, p. A 10.