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WASHINGTON, D.C. 20503

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MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Cass R. Sunstein *CRS*
Administrator

SUBJECT: Clarifying Regulatory Requirements: Executive Summaries

On January 18, 2011, the President issued Executive Order 13563, "Improving Regulation and Regulatory Review," which states that regulations must be "accessible, consistent, written in plain language, and easy to understand." Executive Order 13563 also directs that regulations "shall be adopted through a process that involves public participation," including an "open exchange of information and perspectives." Public participation cannot occur if the requirements of rules are unduly complex and if members of the public are unable to obtain a clear sense of the content of those requirements.

In accordance with Executive Order 13563 and OMB Circular A-4, regulations should be written clearly and simply. To promote public understanding and to ensure an "open exchange of information and perspectives," regulatory preambles for lengthy or complex rules (both proposed and final) should include straightforward executive summaries. These summaries should separately describe major provisions and policy choices. Such executive summaries should generally be placed at the start of regulatory preambles. A suggested template is attached to this memo as an appendix.

This guidance is effective immediately.

Appendix

Suggested Template for Executive Summaries (generally 3-4 pages of a double-spaced Word document maximum, although unusually complex or lengthy regulatory actions may require longer executive summaries)

I. Purpose of the Regulatory Action

- a. The need for the regulatory action and how the action will meet that need
- b. Succinct statement of legal authority for the regulatory action
(explaining, in brief, the legal authority laid out later in the preamble)

II. Summary of the Major Provisions of the Regulatory Action In Question

(Each major provision should be described clearly and separately, along with a brief justification)

III. Costs and Benefits

(For economically significant regulatory actions, please include a table summarizing the assessment of costs and benefits, both quantitative and qualitative¹)

¹ See 2010 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities, 52, available at: http://www.whitehouse.gov/sites/default/files/omb/legislative/reports/2010_Benefit_Cost_Report.pdf (“For all economically significant regulatory actions, we recommend that agencies should clearly and prominently present, in the preamble and in the executive summary of the regulatory impact analysis, one or more tables summarizing the assessment of costs and benefits required under Executive Order 12866 Section 6(a)(3)(C)(i)-(iii). The tables should provide a transparent statement of both quantitative and qualitative benefits and costs of the proposed or planned action as well as of reasonable alternatives. The tables should include all relevant information that can be quantified and monetized, along with relevant information that can be described only in qualitative terms. It will often be useful to accompany a simple, clear table of aggregated costs and benefits with a separate table offering disaggregated figures, showing the components of the aggregate figures. To the extent feasible in light of the nature of the issue and the relevant data, all benefits and costs should be quantified and monetized. To communicate any uncertainties, we recommend that the table should offer a range of values, in addition to best estimates, and it should clearly indicate impacts that cannot be quantified or monetized. If nonquantifiable variables are involved, they should be clearly identified. Agencies should attempt, to the extent feasible, not merely to identify such variables but also to signify their importance.”).