



**AGRICULTURAL
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June 6, 2023

Administrator Richard Revesz
Office of Information and Regulatory Affairs
Office of Management and Budget
Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

RE: Proposed OMB Circular A-4; “Regulatory Analysis”; Docket # OMB-2022-0014; 88 Fed. Reg. 20915, April 7, 2023

Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs; Docket # OMB-2023-001188 Fed. Reg. 20913, April 7, 2023

Guidance Implementing Section 2(e) of the Executive Order of April 6, 2023 (Modernizing Regulatory Review); Docket # OMB-2022-0011; 88 Fed. Reg. 20916, April 7, 2023

Dear Administrator Revesz:

The Agricultural Retailers Association (ARA) is submitting comments on the Office of Management and Budget (OMB) draft guidance documents issued on April 7, 2023, on “Modernizing Regulatory Review”. These draft documents propose significant and fundamental changes to the regulatory review and cost-benefit analysis requirements that will have a profound impact on the nation’s economy.

Statement of Interest

ARA is a not-for-profit trade association that represents America's agricultural retailers and distributors. ARA members provide goods and services to farmers and ranchers which include fertilizer, crop protection chemicals, seed, crop scouting, soil testing, custom application of pesticides and fertilizers, and development of comprehensive nutrient management plans. Retail and distribution facilities are scattered throughout all 50 states and range in size from small family-held businesses or farmer cooperatives to large companies with multiple outlets.

COMMENTS

Federal agencies and their regulations impact all sectors of American businesses. The guidance documents being proposed by OMB will have far-reaching and lasting impact on how businesses

operate, their employees, and consumers. The decision to raise the threshold of “economically significant” regulatory proposals from \$100 million to \$200 million is very concerning. It further directs OIRA to adjust that level for inflation every three years. ARA opposes this revision as it believes any proposed federal regulation that has an economic impact of at least \$100 million is economically significant to most industries, especially America’s agricultural retailers and their farmer customers. For example, when OSHA attempted to move forward with revisions to the agency’s Process Safety Management (PSM) regulations through a Guidance Document that would impact the nation’s agricultural retail-distribution industry by over \$100 million, ARA challenged OSHA in the DC Circuit Court of Appeals with the court issuing a decision to strike down OSHA’s regulatory action due to its failure to properly following the Administrative Procedures Act (APA). In addition, OSHA failed to conduct a proper cost-benefit analysis regarding the economic impact it would have on the nation’s agricultural industry. This proposal will weaken the regulatory review process rather than strengthen it. ARA recommends OMB maintain the definition of a “major rule” or “economically significant” rule as any federal rule or regulation that may result in an annual effect on the economy of \$100 million or more; a major increase in the costs or prices for consumers, individual industries, government agencies, government industries, or geographic regions, or imposes a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based companies or enterprises to compete with foreign-based companies or enterprises.

According to the American Action Forum, the Biden Administration has implemented more than \$200 billion in regulatory costs with approximately 131 million hours in new annual paperwork¹. On May 24, 2023, Douglas Holtz-Eakin, President of the American Action Forum and former director of the non-partisan Congressional Budget Office, testified before Congress that from 2005 to today, agencies have recorded cumulative totals of \$1.5. trillion in regulatory costs and approximately 1.3 billion annual hours of paperwork². Federal regulations and the burdens they impose on agricultural retailers, farmers, their rural communities, and other essential American industries is growing at an alarming rate. Excessive regulation severely impedes economic growth and creates inflationary pressures that ultimately increases costs on consumers.

ARA recommends OMB ensure all regulatory analyses, including economic analysis, focus on the benefits and costs to United States (U.S.) citizens and residents, including U.S. citizens residing abroad. In any regulatory analysis that includes effects experienced by noncitizens residing abroad, federal agencies should fully assess the impacts on U.S. citizens and residents based inside the United States and abroad. In consideration of any analysis of distributional effects and incidence, the proposal needs to include the importance of America’s agribusinesses. Agricultural retailers and their farm and ranch customers are essential to the nation’s economic growth, energy security, and food security. Any federal agency analysis, including conducted by OMB, should fully take into account the impact of the nation’s agribusinesses. The OMB proposal includes ambiguous and

¹ <https://www.washingtonexaminer.com/policy/economy/regulatory-costs-soar-as-biden-adds-rules-faster-than-predecessors>

² https://budget.house.gov/hearing/reigniting-american-growth-and-prosperity-series_removing-the-burdens-of-government-overreach

vague terms related to “distributional fairness” and “advancing equity” that should be eliminated from the proposal. Many of the other proposed sections include terms that are also difficult to understand such as “ecosystem services” and should not be included in any final regulatory review updates.

CONCLUSION

ARA recommends OMB withdraw these proposals and work with Congress and impacted stakeholders to ensure federal agencies do not issue excessive, unnecessary, and costly regulations that lead to increased compliance costs, economic losses, and adversely impact American industries and consumers. Thank you for your review and consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Gupton". The signature is written in a cursive style with a large initial 'R' and 'G'.

Richard D. Gupton
Senior Vice President, Public Policy & Counsel