



# RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2018-000052

1

RESPONSE TYPE  INTERIM  FINAL

**REQUESTER:**

Julian Tarver

**DATE:**

FEB 22 2018

**DESCRIPTION OF REQUESTED RECORDS:**

The first 100 released pages in FOIA 2017-0305.

### PART I. - INFORMATION RELEASED

You have the right to seek assistance from the NRC's FOIA Public Liaison. Contact information for the NRC's FOIA Public Liaison is available at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>.

- Agency records subject to the request are already available on the Public NRC Website, in Public ADAMS or on microfiche in the NRC Public Document Room.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

### PART I.A - FEES

### NO FEES

AMOUNT\*

\$0.00

\*See Comments for details

- You will be billed by NRC for the amount listed.
- You will receive a refund for the amount listed.
- Fees waived.

- Minimum fee threshold not met.
- Due to our delayed response, you will not be charged fees.

### PART I.B - INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"), 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
  - We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
  - Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 90 calendar days of the date of this response by sending a letter or e-mail to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or [FOIA.Resource@nrc.gov](mailto:FOIA.Resource@nrc.gov). Please be sure to include on your letter or email that it is a "FOIA Appeal." You have the right to seek dispute resolution services from the NRC's Public Liaison, or the Office of Government Information Services (OGIS). Contact information for OGIS is available at <https://ogis.archives.gov/about-ogis/contact-information.htm>

### PART I.C COMMENTS ( Use attached Comments continuation page if required)

Signature - Freedom of Information Act Officer or Designee

**Vietti-Cook, Annette**

**From:** McCathran, William W. EOP/WHO (b)(6)  
**Sent:** Thursday, January 26, 2017 5:15 PM  
**To:** Castleman, Patrick; Bullock, Katja EOP/WHO  
**Cc:** Kalbaugh, Dave E. EOP/WHO; DL-WHO-Exec Clerk; Vietti-Cook, Annette  
**Subject:** [External\_Sender] Delivery to the NRC

Mr. Castleman,

Thank you. We'll have our messenger attempt to deliver again tomorrow morning. They will call the number you have provided.

William McCathran  
Assistant Executive Clerk  
The White House Office  
Room 2, EEOB  
Tel. (b)(6)

—Original Message—

**From:** Castleman, Patrick [mailto:Patrick.Castleman@nrc.gov]  
**Sent:** Thursday, January 26, 2017 5:09 PM  
**To:** McCathran, William W. EOP/WHO (b)(6); Bullock, Katja EOP/WHO (b)(6)  
**Cc:** Kalbaugh, Dave E. EOP/WHO (b)(6); DL-WHO-Exec Clerk (b)(6); Vietti-Cook, Annette <Annette.Vietti-Cook@nrc.gov>  
**Subject:** RE: RE: FW:

The Secretary's phone number is 301-415-2599. Do you plan to send it by courier? If so, when? Thanks.

—Original Message—

**From:** McCathran, William W. EOP/WHO [mailto:(b)(6)]  
**Sent:** Thursday, January 26, 2017 5:03 PM  
**To:** Castleman, Patrick <Patrick.Castleman@nrc.gov>; Bullock, Katja EOP/WHO (b)(6)  
**Cc:** Kalbaugh, Dave E. EOP/WHO (b)(6); DL-WHO-Exec Clerk (b)(6)  
**Subject:** [External\_Sender] RE: FW:

Could please provide a telephone number as well.

Thanks.

—Original Message—

**From:** Castleman, Patrick [mailto:Patrick.Castleman@nrc.gov]  
**Sent:** Thursday, January 26, 2017 4:51 PM  
**To:** McCathran, William W. EOP/WHO (b)(6); Bullock, Katja EOP/WHO (b)(6)  
**Cc:** Kalbaugh, Dave E. EOP/WHO (b)(6); DL-WHO-Exec Clerk (b)(6)  
**Subject:** RE: FW:

Thank you, Mr. McCathran.

As for the delivery of the original, please send it to:

US Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Attention: Office of the Secretary

Patrick Castleman

—Original Message—

From: McCathran, William W. EOP/WHO [mailto: (b)(6)]  
Sent: Thursday, January 26, 2017 4:35 PM  
To: Bullock, Katja EOP/WHO (b)(6); Castleman, Patrick  
<Patrick.Castleman@nrc.gov>  
Cc: Kalbaugh, Dave E. EOP/WHO (b)(6); DL-WHO-Exec Clerk (b)(6)  
(b)(6)  
Subject: [External\_Sender] FW:

Per your request, the attached copy of the Svinicki Chairman Order is provided for your information.

William McCathran  
Assistant Executive Clerk  
The White House Office  
Room 2, EEOB  
Tel. (b)(6)

**Vietti-Cook, Annette**

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**From:** Castleman, Patrick  
**Sent:** Thursday, January 26, 2017 4:46 PM  
**To:** Vietti-Cook, Annette; Doane, Margaret  
**Subject:** FW: FW:  
**Attachments:** 20170126155241162.pdf

-----Original Message-----

**From:** McCathran, William W. EOP/WHO (mailto: [redacted] (b)(6))  
**Sent:** Thursday, January 26, 2017 4:35 PM  
**To:** Bullock, Katja EOP/WHO ( [redacted] (b)(6) ); Castleman, Patrick  
<Patrick.Castleman@nrc.gov>  
**Cc:** Kalbaugh, Dave E. EOP/WHO ( [redacted] (b)(6) ); DL-WHO-Exec Clerk ( [redacted] (b)(6) ); [redacted] (b)(6)  
**Subject:** [External\_Sender] FW:

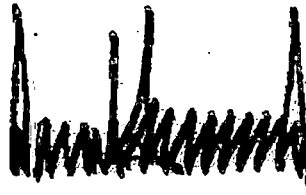
Per your request, the attached copy of the Svinicki Chairman Order is provided for your information.

William McCathran  
Assistant Executive Clerk  
The White House Office  
Room 2, EEOB  
Tel. [redacted] (b)(6)

ORDER

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I hereby designate Kristine L. Svinicki as Chairman of the Nuclear Regulatory Commission, until such time as I make a subsequent designation or her appointment terminates by operation of law.

A handwritten signature in black ink, appearing to be the name of the President, is centered on the page below the main text.

THE WHITE HOUSE,  
January 23, 2017.

**Vietti-Cook, Annette**

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**From:** Castleman, Patrick  
**Sent:** Thursday, January 26, 2017 4:32 PM  
**To:** Vietti-Cook, Annette; Doane, Margaret  
**Subject:** FW: Delivery of Chairman Order to the Nuclear Regulatory Commission  
**Attachments:** 20170126134618945.pdf

-----Original Message-----

**From:** Bullock, Katja EOP/WHO [mailto: (b)(6)]  
**Sent:** Thursday, January 26, 2017 4:26 PM  
**To:** Castleman, Patrick <Patrick.Castleman@nrc.gov>  
**Cc:** McCathran, William W. EOP/WHO (b)(6)  
**Subject:** [External\_Sender] Delivery of Chairman Order to the Nuclear Regulatory Commission

Hi Bill: Mr. Castleman is Kristin Svinicke's Asst (she is on travel) who will work out with you how to get the original to them. In the meantime would you please send him a copy of the signed order. Thank you both for your help.

-----Original Message-----

**From:** McCathran, William W. EOP/WHO [mailto: (b)(6)]  
**Sent:** Thursday, January 26, 2017 2:57 PM  
**To:** Bullock, Katja EOP/WHO (b)(6)  
**Cc:** Kalbaugh, Dave E. EOP/WHO (b)(6) DL-WHO-Exec Clerk (b)(6)  
(b)(6)  
**Subject:** Delivery of Chairman Order to the Nuclear Regulatory Commission

Katja,

We need your help. Our Messengers have attempted to deliver to Kristine L. Svinick's Chairman Order to the Nuclear Regulatory Commission 3 times, since yesterday morning.

Ed Thomas in our office spoke to Jason Zorn at the Rockville, MD, address (see attached receipt) yesterday who was expecting delivery. We have not been able to reach anyone since by phone.

Thanks for anything you can do.

William McCathran  
Assistant Executive Clerk  
The White House Office  
Room 2 EEOB  
Tel. (b)(6)

# Office of the Executive Clerk Receipt

TO: Nuclear Regulatory Commission  
WASHDC 20555

1/25/17  
(Date)

*1555 Rockville Pike Rockville, MD Attn: Jason Zarr* 301-415-1822

Received From The White House: Chairman Order (SVINICKI) signed by the  
President on 1/23/17.

Delivered by \_\_\_\_\_

Received by \_\_\_\_\_

Time Received \_\_\_\_\_

**THE WHITE HOUSE  
WASHINGTON**

**January 20, 2017**

**MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**

**FROM: Reince Priebus  
Assistant to the President and Chief of Staff**

**SUBJECT: Regulatory Freeze Pending Review**

The President has asked me to communicate to each of you his plan for managing the Federal regulatory process at the outset of his Administration. In order to ensure that the President's appointees or designees have the opportunity to review any new or pending regulations, I ask on behalf of the President that you immediately take the following steps:

1. Subject to any exceptions the Director or Acting Director of the Office of Management and Budget (the "OMB Director") allows for emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters, or otherwise, send no regulation to the Office of the Federal Register (the "OFR") until a department or agency head appointed or designated by the President after noon on January 20, 2017, reviews and approves the regulation. The department or agency head may delegate this power of review and approval to any other person so appointed or designated by the President, consistent with applicable law.

2. With respect to regulations that have been sent to the OFR but not published in the *Federal Register*, immediately withdraw them from the OFR for review and approval as described in paragraph 1, subject to the exceptions described in paragraph 1. This withdrawal must be conducted consistent with OFR procedures.

3. With respect to regulations that have been published in the OFR but have not taken effect, as permitted by applicable



law, temporarily postpone their effective date for 60 days from the date of this memorandum, subject to the exceptions described in paragraph 1, for the purpose of reviewing questions of fact, law, and policy they raise. Where appropriate and as permitted by applicable law, you should consider proposing for notice and comment a rule to delay the effective date for regulations beyond that 60-day period. In cases where the effective date has been delayed in order to review questions of fact, law, or policy, you should consider potentially proposing further notice-and-comment rulemaking. Following the delay in effective date:

(a) for those regulations that raise no substantial questions of law or policy, no further action needs to be taken; and

(b) for those regulations that raise substantial questions of law or policy, agencies should notify the OMB Director and take further appropriate action in consultation with the OMB Director.

4. Exclude from the actions requested in paragraphs 1 through 3 any regulations subject to statutory or judicial deadlines and identify such exclusions to the OMB Director as soon as possible.

5. Notify the OMB Director promptly of any regulations that, in your view, should be excluded from the directives in paragraphs 1 through 3 because those regulations affect critical health, safety, financial, or national security matters, or for some other reason. The OMB Director will review any such notifications and determine whether such exclusion is appropriate under the circumstances.

6. Continue in all circumstances to comply with any applicable Executive Orders concerning regulatory management.

As used in this memorandum, "regulation" has the meaning given to "regulatory action" in section 3(e) of Executive Order 12866, and also includes any "guidance document" as defined in section 3(g) thereof as it existed when Executive Order 13422 was in effect. That is, the requirements of this memorandum apply to "any substantive action by an agency (normally published in the *Federal Register*) that promulgates or is expected to lead to the promulgation of a final rule or

regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking," and also covers any agency statement of general applicability and future effect "that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue."

This regulatory review will be implemented by the OMB Director. Communications regarding any matters pertaining to this review should be addressed to the OMB Director.

The OMB Director is authorized and directed to publish this memorandum in the *Federal Register*.

A large, stylized handwritten signature in black ink, likely belonging to the OMB Director mentioned in the text above. The signature is fluid and cursive, with a prominent initial 'R'.

**McCloskey, Bridin**

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**Attachments:**

**170120 - Final COS Regulatory Freeze Memo.pdf**

**From: "Mancini, Dominic J. EOP/OMB"**

(b)(6)

**Subject: [External\_Sender] RE: Memorandum from the Chief of Staff: "Regulatory Freeze Pending Review"**

**Date: 21 January 2017 11:25**

**To:**

(b)(6)

(b)(6)

(b)(6)

Hello again all,

As these things go, as soon as I hit send I received the attachment. Also pasted below for your convenience.

Best Regards,  
Dom

**THE WHITE HOUSE**  
**Office of the Press Secretary**

**For Immediate Release**

**January 20,**

**2017**

**MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS  
AND AGENCIES**

**FROM: Reince Priebus**  
**Assistant to the President and Chief of Staff**

**SUBJECT: Regulatory Freeze Pending Review**

The President has asked me to communicate to each of you his plan for managing the Federal regulatory process at the outset of his Administration. In order to ensure that the President's appointees or designees have the opportunity to review any new or pending regulations, I ask on behalf of the President that you immediately take the following steps:

1. Subject to any exceptions the Director or Acting Director of the Office of Management and Budget (the "OMB Director") allows for emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters, or otherwise, send no regulation to the Office of the Federal Register (the "OFR") until a department or agency head appointed or designated by the President after noon on January 20, 2017, reviews and approves the regulation. The department or agency head may delegate this power of review and approval to any other person so appointed or designated by the President, consistent with applicable law.

2. With respect to regulations that have been sent to the OFR but not published in the Federal Register, immediately withdraw them from the OFR for review and approval as described in paragraph 1, subject to the exceptions described in paragraph 1. This withdrawal must be conducted consistent with OFR procedures.

3. With respect to regulations that have been published in the OFR but have not taken effect, as permitted by applicable law, temporarily postpone their effective date for 60 days from the date of this memorandum, subject to the exceptions described in paragraph 1, for the purpose of reviewing questions of fact, law, and policy they raise. Where appropriate and as permitted by applicable law, you should consider proposing for notice and comment a rule to delay the effective date for regulations beyond that 60-day period. In cases where the effective date has been delayed in order to review questions of fact, law, or policy, you should consider potentially proposing further notice-and-comment rulemaking. Following the delay in effective date:

(a) for those regulations that raise no substantial questions of law or policy, no further action needs to be taken; and

(b) for those regulations that raise substantial questions of law or policy, agencies should notify the OMB Director and take further appropriate action in consultation with the OMB Director.

4. Exclude from the actions requested in paragraphs 1 through 3 any regulations subject to statutory or judicial deadlines and identify such exclusions to the OMB Director as soon as possible.

5. Notify the OMB Director promptly of any regulations that, in your view, should be excluded from the directives in paragraphs 1 through 3 because those regulations affect critical health, safety, financial, or national security matters, or for some other reason. The OMB Director will review any such notifications and determine whether such exclusion is appropriate under the circumstances.

6. Continue in all circumstances to comply with any applicable Executive Orders concerning regulatory management.

As used in this memorandum, "regulation" has the meaning given to "regulatory action" in section 3(e) of Executive Order 12866, and also includes any "guidance document" as defined in section 3(g) thereof as it existed when Executive Order 13422 was in effect. That is, the requirements of this memorandum apply to "any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking," and also covers any agency statement of general applicability and future effect "that sets

forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue."

This regulatory review will be implemented by the OMB Director. Communications regarding any matters pertaining to this review should be addressed to the OMB Director.

The OMB Director is authorized and directed to publish this memorandum in the Federal Register.

REINCE PRIEBUS

###

[Unsubscribe](#)

The White House · 1600 Pennsylvania Avenue, NW · Washington DC 20500 · 202-456-1111

From: Mancini, Dominic J. EOP/OMB  
Sent: Saturday, January 21, 2017 11:09 AM

To:

(b)(6)

(b)(6)

(b)(6)

**Subject: Memorandum from the Chief of Staff: "Regulatory Freeze Pending Review"**

**Dear Colleagues,**

**I hope everyone is having a good day. Last evening, the Chief of Staff issued a Memorandum for the heads of Executive Departments and Agencies regarding pending regulations. Due to technical glitches I don't yet have a version I can attach here, but I will send that as soon as possible. In summary, the memorandum asks agencies to:**

- 1) Not send any regulation to the Federal Register unless a department or agency head appointed or designated by the President after noon on January 20, 2017, reviews and approves the regulation.**
- 2) Immediately withdraw proposed and final regulations that have been sent to the Federal Register, but have not yet been published.**
- 3) Consistent with applicable law, extend the effective dates of rules that have been published in the Federal Register, but are not yet effective.**

**Of course, please refer to the memorandum, and not my summary, for the official actions. I also understand the transition team is working on drafts of the withdrawal letters from each agency to the Federal Register, and is arranging for the necessary signatures. OMB is working on further implementing guidance, particularly on item 3, and we hope to share that with you soon. In the meantime, please let us know if you have any questions.**

**Best Regards,  
Dom**

**Dominic J Mancini  
Deputy and Acting Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget**

(b)(6)



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

January 24, 2017

M-17-16

MEMORANDUM FOR THE HEADS AND ACTING HEADS OF EXECUTIVE  
DEPARTMENTS AND AGENCIES

FROM: Mark Sandy *Mark Sandy*  
Acting Director

SUBJECT: Implementation of Regulatory Freeze

This Memorandum provides guidance on implementing the Memorandum of January 20, 2017, entitled "Regulatory Freeze Pending Review" ("Freeze Memo").

Postponement of Effective Dates of Certain Published Regulations

Paragraph 3 of the Freeze Memo instructs your departments and agencies ("agencies") as follows:

With respect to regulations that have been published in the [*Federal Register*] but have not taken effect, as permitted by applicable law, temporarily postpone their effective date for 60 days from the date of this memorandum, subject to the exceptions described in paragraph 1, for the purpose of reviewing questions of fact, law, and policy they raise. Where appropriate and as permitted by applicable law, you should consider proposing for notice and comment a rule to delay the effective date for regulations beyond that 60-day period. In cases where the effective date has been delayed in order to review questions of fact, law, or policy, you should consider potentially proposing further notice-and-comment rulemaking.

Your agency staff has identified or should promptly identify regulations<sup>1</sup> that have been published in the *Federal Register* but have not yet taken effect. For such regulations, paragraph 3 of the Freeze Memo instructs your agency to undertake several actions.

First, absent applicable exceptions (discussed below), postpone for 60 days the effective dates of regulations that have been published but have not yet taken effect for the purpose of reviewing questions of fact, law, and policy "as permitted by applicable law." To the maximum extent possible, your explanations for postponement should be individualized to the regulation being postponed. In addition, the Administrative Procedure Act generally establishes procedural requirements for agencies promulgating rules, subject to certain exceptions and exemptions. Please consult with your agency's Office of General Counsel as you implement the Freeze Memo and this Memorandum.

Second, consider postponing the effective date beyond 60 days where appropriate. If such a postponement is appropriate, seek comment on the extended postponement, in accordance with the Freeze

<sup>1</sup> In accordance with the Freeze Memo, this Memorandum uses a broad definition of "regulation." Please see the Applicability section below for more information.



Memo.<sup>2</sup> If your agency takes comment on the initial 60-day postponement, e.g., by issuing a notice of proposed rulemaking, consider using the same action to take comment on an extended postponement. In addition, please consider taking comment on the regulation itself, including about questions of fact, law, and policy that the agency should recognize as it considers whether the regulation raises any substantial questions.

Finally, if during your review you determine a regulation raises no substantial question of fact, law, or policy, please provide your Office of Information and Regulatory Affairs (OIRA) Desk Officer a list of such regulations on which you plan to take no further action no later than two weeks prior to the postponed effective date for those regulations. Alternately, if you determine a regulation raises a substantial question of fact, law, or policy, please notify your OIRA Desk Officer promptly and consider whether you agency should perform additional rulemaking or take other further actions. If your agency determines it should take further actions, please consult with your OIRA Desk Officer in accordance with the Freeze Memo.

#### Actions Related to the Federal Register and OIRA

Subject to any exceptions, withdraw all regulations that have been sent to the Office of the Federal Register (OFR) but have not yet been published. This will allow review of those regulations as the Freeze Memo envisions. To facilitate such withdrawals, please see an example withdrawal letter in Appendix A.

Note that the OFR's specific requirements for the withdrawal of documents depend on whether those documents have been filed for public inspection. Some of those requirements are particularly time sensitive. Specifically, for those regulations that have been filed for public inspection but not published, Chapter 4.3 of the Federal Register Document Drafting Handbook requires the following for withdrawals:

If we have filed the document for public inspection, your [Federal Register] Liaison Officer may withdraw it from publication only by submitting a letter requesting the withdrawal . . . . An official with authority to sign Federal Register documents or the Liaison Officer must sign this letter.

The Liaison Officer must e-mail the OFR at [fedreg.liaison@nara.gov](mailto:fedreg.liaison@nara.gov) as soon as possible to confirm that the letter has been sent. In addition:

The letter must reach the OFR during regular office hours (8:45 a.m. to 5:15 p.m. ET) before noon on the workday before the document's scheduled publication date. We will not withdraw the document until we receive your letter.

Thus, if it has not already done so, your agency should submit withdrawal letters to the OFR as soon as possible.

In addition, subject to any exceptions, send no further regulations to the OFR until an agency head appointed or designated by the President after noon on January 20, 2017, reviews and approves the regulations.<sup>3</sup> Also, consistent with the Freeze Memo's direction to comply with applicable Executive Orders (EOs) concerning regulatory management, please continue to follow the process outlined in EO

<sup>2</sup> For guidance documents, as referenced in the Applicability section, it may not be appropriate to go through notice and comment for a postponement, e.g., when the initial guidance did not go through notice and comment.

<sup>3</sup> The Freeze Memo indicates that such a department or agency head may delegate this power of review and approval to any other person so appointed or designated by the President, consistent with applicable law.

12866 to determine whether any such approved regulation is significant and therefore subject to OIRA review.

Finally, consistent with the Freeze Memo's broad scope, and to ensure that OIRA reviews only those regulations that have already been reviewed by the appropriate person at each agency, I am requesting that your agency withdraw any regulations currently at OIRA.

#### Exceptions

There are two exceptions to the above directions. First, exclude from those actions any regulations "subject to statutory or judicial deadlines." These are regulations where performing the otherwise required review actions would endanger compliance with an operative statutory or judicial deadline. For example, agency civil monetary penalty adjustments that were due this month<sup>4</sup> and were not significant regulatory actions under EO 12866 likely fall within this exception. After you have identified such regulations, please contact your OIRA Desk Officer with a list of those regulations as well as a brief explanation of your determination that provides a reference to the statutory or judicial deadline.

Second, the Freeze Memo authorizes the Director or Acting Director of the Office of Management and Budget to make exceptions from the Freeze Memo's requirements under paragraphs 1-3 "for emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters, or otherwise." Please send your OIRA Desk Officer a list of such regulations, if any; the type of regulatory action each regulation is; which paragraphs of the Freeze Memo those regulations should be excepted from; and a brief explanation for each such regulation of the emergency situation or urgent health, safety, financial, national security, or other matter that forms the basis of the requested exception. The Office of Management and Budget will review your justification promptly and provide further guidance.

#### Applicability

As used in this Memorandum, "regulation" has the meaning given to "regulatory action" in section 3(e) of EO 12866, and also includes any "guidance document" as defined in section 3(g) of EO 12866 as it existed when EO 13422 was in effect. In other words, "regulation" means:

1. [A]ny substantive action by an agency (normally<sup>5</sup>) published in the *Federal Register*) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking, and
2. Any agency statement of general applicability and future effect, other than a regulatory action as defined in EO 12866, "that sets forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statutory or regulatory issue."

If you have any questions about this Memorandum, the Freeze Memo, or the review process, please contact your OIRA Desk Officer.

<sup>4</sup> See Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. No. 101-410, 104 Stat. 890 (amended 2015) (codified as amended at 28 U.S.C. § 2461 note).

<sup>5</sup> Note there may be circumstances where a substantive action of the type EO 12866 contemplates is not published in the *Federal Register*.

**APPENDIX A**

**[AGENCY LETTERHEAD]**

**January [XX], 2017**

**Oliver Potts, Director  
Office of the Federal Register (F)  
The National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740-6001**

**Dear Mr. Potts:**

**Please withdraw from publication the rule [NAME OF REGULATORY ACTION and RELEVANT IDENTIFYING INFORMATION], which is currently [on public inspection and] scheduled to publish in the Federal Register on January [YY], 2017.**

**This request is made in compliance with the White House Chief of Staff Memorandum titled Regulatory Freeze Pending Review, signed on January 20, 2017, by White House Chief of Staff Reince Priebus.**

**Sincerely,**

**[SIGN]**

**Type name,  
Title**

**McCloskey, Bridin**

**Attachments:**

**170120 - Final COS Regulatory Freeze Memo.pdf; 4113\_001.pdf**

**From: "Mancini, Dominic J. EOP/OMB"**

**(b)(6)**

**Subject: [External\_Sender] OMB Guidance on Implementation of the Regulatory Freeze**

**Date: 24 January 2017 23:09**

**To:**

**(b)(6)**

**(b)(6)**

Dear Colleagues,

Please see attached OMB Memorandum M17-16, from OMB Acting Director Mark Sandy, titled "Implementation of Regulatory Freeze."

This Memorandum provides further guidance on implementing the Chief of Staff Memorandum of January 20, 2017, titled "Regulatory Freeze Pending Review", which is also attached. In summary, the OMB Memorandum provides guidance on the postponement of the effective dates of final regulations that have been published in the *Federal Register* but are not yet in effect, further guidance on withdrawing rules that have been submitted to the *Federal Register* but have not been published, and more information on potential exceptions.

In addition, M17-16:

- Asks that agencies withdraw all rules that are currently under OIRA review; and
- Clarifies that once an agency receives clearance to move forward on a rulemaking, agencies should still follow the significance determination process outlined in EO 12866.

Finally, the OMB Memorandum includes a general statement that civil monetary penalty adjustment regulations that were due this month pursuant to the 2015 amendments to the Federal Civil Penalties Inflation Adjustment Act of 1990, and were not significant regulatory actions under EO 12866, can be considered to fall within the "statutory or judicial deadline" exception to the Regulatory Freeze Memorandum.

Please let us know if you have any questions regarding the implementation of this Memorandum.

Best Regards,  
Dom

Dominic J Mancini  
Deputy and Acting Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget

(b)(6)



U.S. Office of  
Management & Budget

U.S. Office of  
Personnel Management



January 31, 2017

M-17-18

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: MARK SANDY *Mark Sandy*  
ACTING DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET  
KATHLEEN McQUETTIGAN *Kathleen McQuettigan*  
ACTING DIRECTOR, OFFICE OF PERSONNEL MANAGEMENT

SUBJECT: Federal Civilian Hiring Freeze Guidance

1. **Purpose.** This memorandum provides additional guidance regarding the freeze on the hiring of Federal civilian employees as directed by the President on January 23, 2017, via Presidential Memorandum (PM) entitled "Hiring Freeze." This guidance is in addition to the initial implementation guidance issued by the Acting Director of the Office of Management and Budget (OMB) on January 25, 2017. This guidance provides information on the types of exemptions authorized under this hiring freeze as well as instructions on how departments and agencies can request exemptions from the Director of the Office of Personnel Management (OPM) for critical situations where additional exemptions may be warranted.
2. **Coverage.** This memorandum applies to all Executive departments and agencies regardless of the sources of their operational and programmatic funding and to all types of Federal civilian appointments, regardless of the length of the appointment, except as provided for below or otherwise provided in law. No vacant positions existing at noon on January 22, 2017, may be filled and no new positions may be created, except in limited circumstances. For the purposes of this memorandum, a position is not considered vacant if an individual has been given an offer of employment prior to noon on January 22, 2017, has accepted the position, and has a designated start date on or before February 22, 2017.

Contracting outside the Government to circumvent the intent of the PM shall not be permitted. For example, agencies shall not acquire by contract with a commercial vendor services that are substantially similar to those that would have been provided by a Federal civilian in a vacancy covered by the PM. However, nothing in this memorandum is intended to restrict agencies from continuing, modifying, or entering into service contracts for other purposes, consistent with law, regulation, and any applicable management direction.

The guidance in this memorandum should be implemented consistent with any lawful collective bargaining obligations that may apply.

3. **Exemptions.** The following exemptions to the Federal civilian hiring freeze are permitted:
- a. Military personnel in the armed forces and all Federal uniformed personnel, including the U.S. Coast Guard, the Commissioned Corps of the U.S. Public Health Service, and the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration.
  - b. Filling of positions under programs where limiting the hiring of personnel would conflict with applicable law.
  - c. Nomination and appointment of officials to positions requiring Presidential appointment, with or without Senate confirmation.
  - d. Appointment of officials to non-career positions in the Senior Executive Service or to Schedule C appointments in the Excepted Service, or the appointment of any other officials who serve at the pleasure of the appointing authority (i.e., "appointed" positions of a political/non-career nature).
  - e. Appointment of seasonal employees and short-term temporary employees necessary to meet traditionally recurring seasonal workloads, provided that the agency informs its OMB Resource Management Office in writing in advance of its hiring plans.
  - f. Hiring by the U.S. Postal Service.
  - g. Federal civilian personnel hires made by the Office of the Director of National Intelligence (ODNI) and the Central Intelligence Agency (CIA).
  - h. Appointments made under the Pathways Internship and Presidential Management Fellows programs (this does not include the Recent Graduates program). Agencies should ensure that such hires understand the provisional nature of these appointments and that conversion is not guaranteed.
  - i. Conversions in the ordinary course to the competitive service of current agency employees serving in positions with conversion authority, such as Veteran's Recruitment Act (VRA) and Pathways programs.
  - j. Appointments made under 5 C.F.R. § 213.3102(r) (time limited positions in support of fellowship or professional/industry exchange programs) provided that the total number of individuals employed under this authority does not exceed the number of employees onboard (hired under this authority) on January 22, 2017.

- k. Placement of persons with restoration rights accorded by law, such as restoration after absence with injury compensation and restoration after military duty.
- l. Job offers made prior to January 22, 2017, for which the individual has a confirmed start date on or before February 22, 2017. Those individuals should report to work according to their respective designated start dates.
- m. Job offers made prior to January 22, 2017, but for which the individual has a confirmed start date that is later than February 22, 2017 (or does not have a confirmed start date), should be decided on a case-by-case basis and must go through an agency-head review. The agency head should review each position to determine whether the job offer should be revoked, or whether the hiring process should continue. Agency heads should consider essential mission priorities, current agency resources, and funding levels when making determinations about whether or not to revoke job offers.
- n. Internal career ladder promotions.
- o. Reallocations (i.e., noncompetitive reassignments and details) of current Federal civilian employees within an agency to meet the highest priority needs (including preservation of national security and other essential services) are not affected. Details (reimbursable and non-reimbursable) between agencies are also not affected; however, agency leadership should ensure that any reimbursable details between agencies are not being used to circumvent the intent of the hiring freeze.
- p. Term and temporary appointments of existing Federal employees may be extended up to the maximum allowable time limit, consistent with the conditions/requirements of the legal authority originally used to appoint the employee.
- q. A limited number of voluntary transfers of current SES between agencies, as necessary to secure the leadership capacity of agencies, and where needs cannot be met by reallocation of resources within an agency's current workforce; however, filling of such vacancies is subject to OPM approval in accordance with section 4 below.
- r. The head of any agency may exempt any positions that it deems necessary to:
  - i. Meet national security (including foreign relations) responsibilities, or
  - ii. Meet public safety responsibilities (including essential activities to the extent that they protect life and property). Agencies may refer to longstanding guidance, which provides examples of such activities in OMB Memorandum, Agency Operations in the Absence of Appropriations, dated 11/17/1981 [see examples 3(a) to 3(k)].

Agency heads should consult with appropriate personnel, including the agency Chief Human Capital Officer (CHCO) or equivalent and agency counsel when



determining what positions to exempt from the hiring freeze. Agency heads are also required to consult with OPM and the agency's OMB Resource Management Office on their intent to exempt positions using their agency head authority before implementing these exemptions. Note that in the case of an Inspector General's (IG) office, the Inspector General is considered the agency head for the purposes of determining which positions in the IG office are exempt based on the definitions above, as well as for the purposes of the agency-head review of job offers in the IG office that either do not have a start date or have a designated start date beyond February 22, 2017.

4. **Exemptions Granted by the Director of OPM.** The Director of OPM may grant additional exemptions from the hiring freeze for critical situations. Accordingly, if an agency head assesses that circumstances warrant additional exemptions to the hiring freeze other than those specified above, a request must be made in writing to the Director of OPM and signed by the agency head. The request must:
  - Explain the critical need and how it relates to essential services or critical mission requirements.
  - Explain why reallocation (reassignment/detail) of existing staff within the agency is not possible to meet the needs outlined in the request.
  - Explain the urgency of the need and the consequences of not filling the position within a 3 to 6 month timeline.

Agencies must also notify their respective OMB Resource Management Office of exemption requests to OPM under this provision.

5. **Effective Dates.** The guidance in this memorandum is effective immediately. Within 90 days of the publication of the PM issued on January 23, 2017, the Director of OMB, in consultation with the Director of OPM, shall recommend a long-term plan to reduce the size of the Federal Government's workforce through attrition. The hiring freeze will expire upon implementation of the OMB plan.
6. **Inquiries.** Questions from departments and agencies regarding the instructions and guidance in this memorandum should be addressed to agency OMB Resource Management Officers and OPM contacts provided to Chief Human Capital Officers and HR Directors.

**NRCExecSec Resource**

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**Sent:**  
**To:**

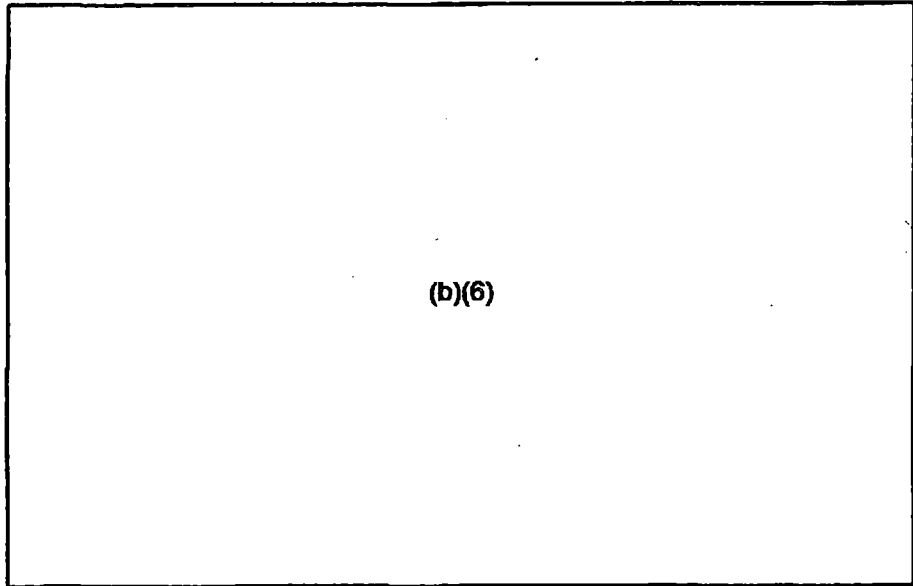
White, Arnette C. EOP/OMB

(b)(6)

Tuesday, January 31, 2017 5:33 PM

(b)(6)

**To:**



**Cc:**

**Subject:**

**Attachments:**

OMB\_ALL

[External Sender] M-17-18 Federal Civilian Hiring Freeze Guidance

M-17-18.pdf

This memorandum provides additional guidance regarding the freeze on the hiring of Federal civilian employees as directed by the President on January 23, 2017, via Presidential Memorandum (PM) entitled "Hiring Freeze."

To view this memo, please see the attachment.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

February 2, 2017

ADMINISTRATOR  
OFFICE OF  
INFORMATION AND  
REGULATORY AFFAIRS

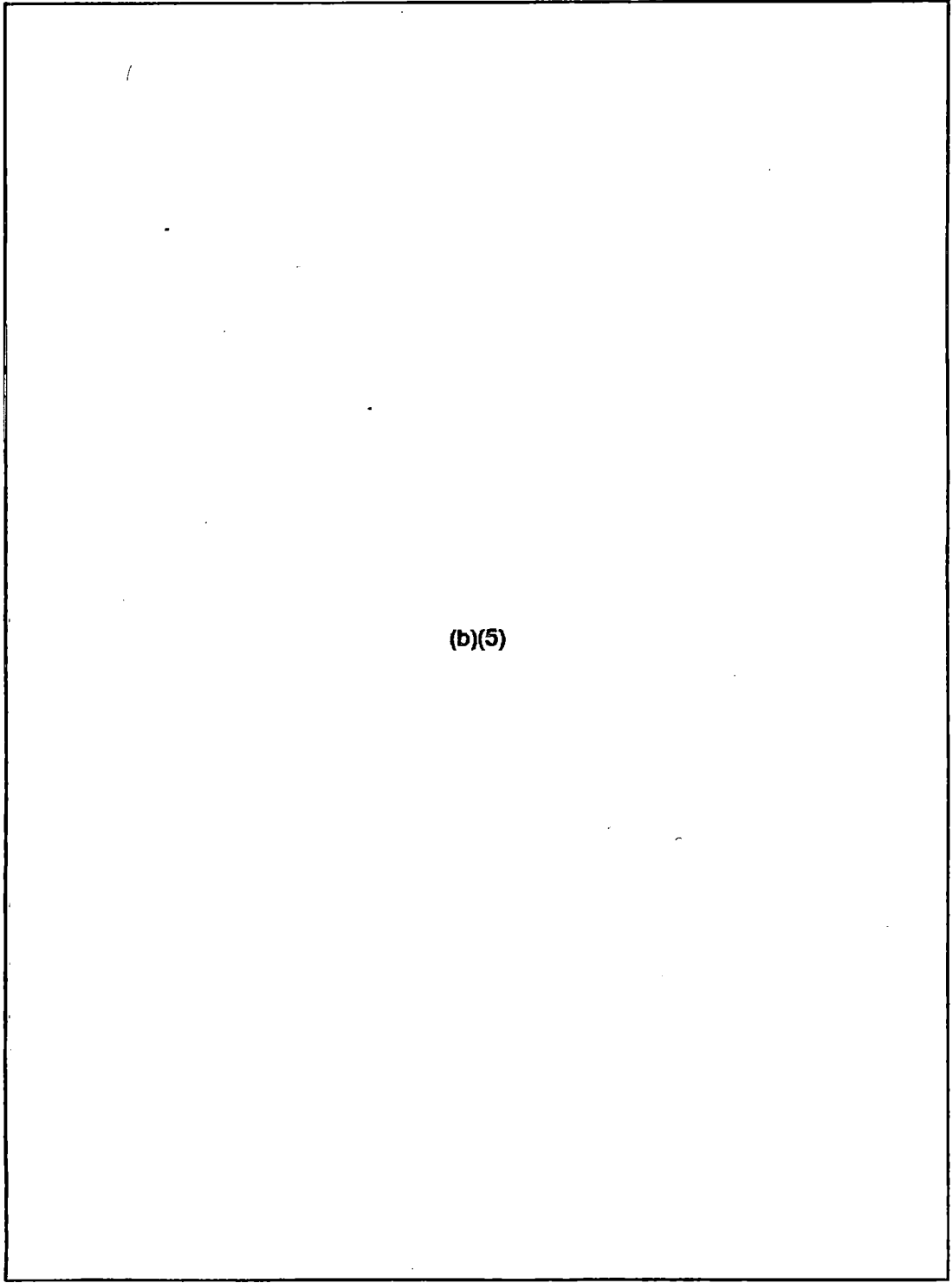
**MEMORANDUM FOR: REGULATORY POLICY OFFICERS AT EXECUTIVE DEPARTMENTS AND AGENCIES AND MANAGING AND EXECUTIVE DIRECTORS OF CERTAIN AGENCIES AND COMMISSIONS**

**FROM:** Dominic J. Mancini, Acting Administrator  
Office of Information and Regulatory Affairs

**SUBJECT:** Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, Titled "Reducing Regulation and Controlling Regulatory Costs"

(b)(5)

**DRAFT. DELIBERATIVE. PREDECISIONAL.**

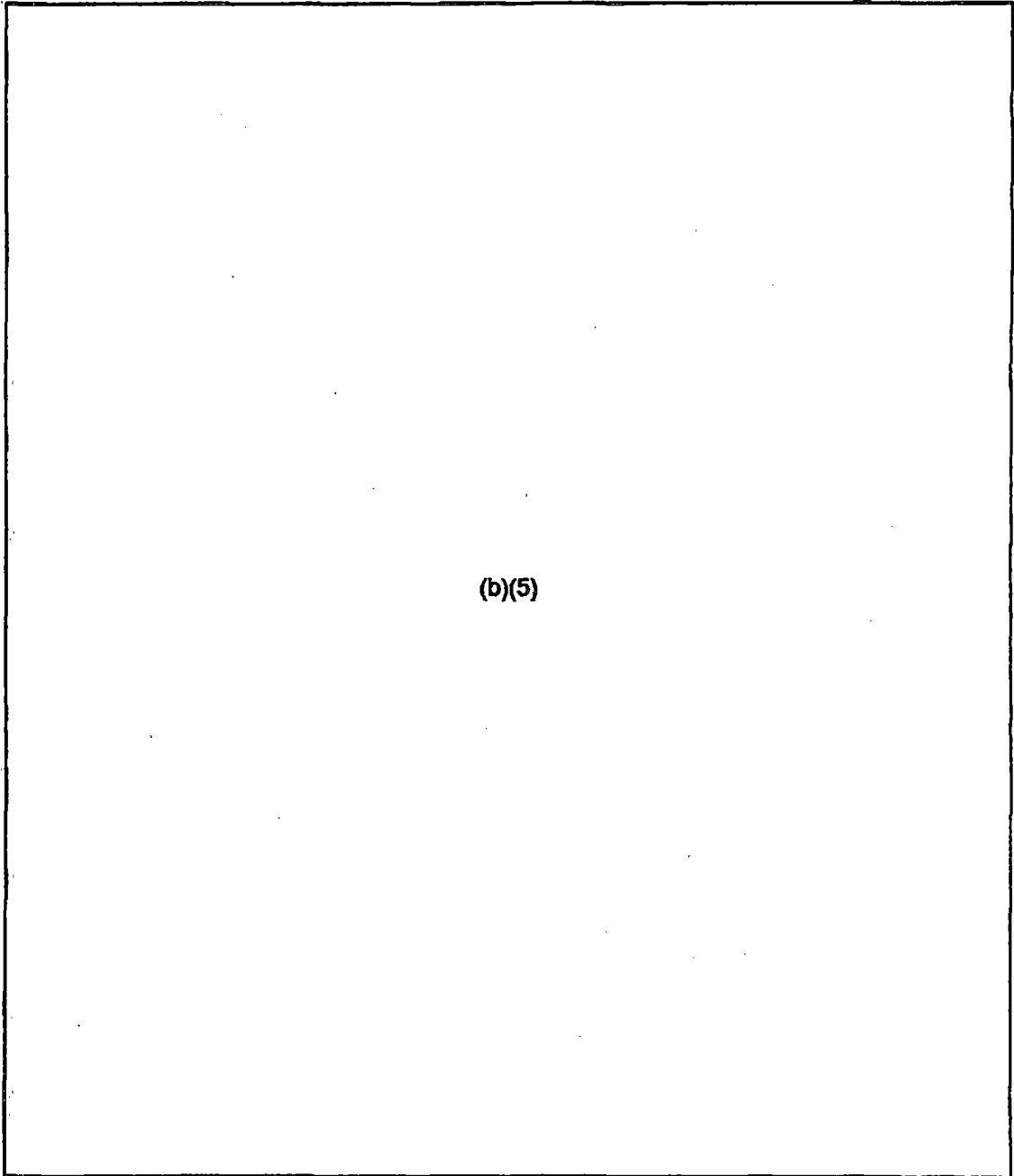


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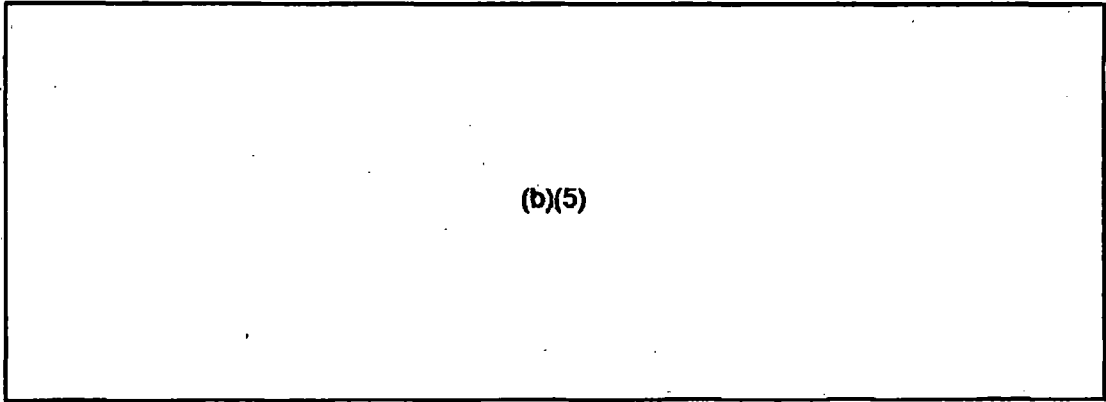
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**DRAFT. DELIBERATIVE. PREDECISIONAL.**

**(b)(5)**

**DRAFT. DELIBERATIVE. PREDECISIONAL.**



**McCloskey, Bridin**

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**Attachments:** Interim guidance on Reducing Regulations EO.pdf

**From:** Pearson, Laura  
**Sent:** Thursday, February 02, 2017 12:32 PM  
**To:** Albert, Michelle <Michelle.Albert@nrc.gov>; Vietti-Cook, Annette <Annette.Vietti-Cook@nrc.gov>  
**Subject:** FW: Follow On Guidance on the Executive Order "Reducing Regulation and Controlling Regulatory Costs"

FYI

Laura Pearson  
Chief, Intelligence Liaison & Threat Assessment Branch  
Office of Nuclear Security and Incident Response  
U.S. Nuclear Regulatory Commission  
301-492-3933

**From:** Mancini, Dominic J. EOP/OMB [mailto: ] (b)(6)  
**Sent:** Thursday, February 02, 2017 12:02 PM  
**To:** (b)(6)

(b)(6)

**Subject:** [External\_Sender] Follow On Guidance on the Executive Order "Reducing Regulation and Controlling Regulatory Costs"

Dear Colleagues,

Please see attached the first round of guidance on the January 30, 2017, Executive Order titled "Reducing Regulation and Controlling Regulatory Costs." For this interim guidance, OIRA is focusing on implementation of Section 2 of the Executive Order, which covers Fiscal Year 2017.

Note that we are requesting comment on this interim guidance. They should be provided to

(b)(6) by February 10, 2017. Our goal is to continue to answer your questions, and provide at least one further round of guidance, as we continue to implement the EO.

Please let Rich Theroux (b)(6) or me know if you have any questions.

Best Regards,  
Dom

Dominic J Mancini  
Deputy and Acting Administrator  
Office of Information and Regulatory Affairs  
Office of Management and Budget

(b)(6)