

January 31, 1980

REASONS FOR LOCATING REGULATORY OVERSIGHT IN OMB

Enforcement Mechanisms

1. OMB has the only complete arsenal of tools to implement and enforce Regulatory Reform measures. These tools include:

- Approval of requests for funds
- Legislative clearance
- Forms clearance

Regulatory reform measures must be performed in concert with actions taken on appropriation requests and forms clearance.

2. Off-Budget Resource Allocation

The Federal Government "spends" funds in three ways:

- (1) Direct appropriations
- (2) Tax expenditures and loan guarantees
- (3) Compliance with Federal regulations.

OMB is moving in the direction of unifying these elements into one consolidated budget. To remove Federal regulations from OMB oversight is to remove one corner of the triangle of Federal expenditures.

3. An Alternative to Legislative and Presidential Vetoes

Present information indicates that if a regulatory reform bill emerges from Congress it will contain either a legislative or Presidential veto.

Our present position of opposing both of these instruments without a workable alternative will, in all probability, result in a regulatory reform being placed, in October, on the President's desk with a legislative veto.

By giving OMB the authority to perform any or all of the functions below, there is a chance to deter inclusion of a legislative veto or a Presidential veto. These measures include giving OMB the authority --

- To require a regulatory analyses on a proposed rule.
- To prohibit (on the record, subsequent to the issuance of the proposed rule) the promulgation of a final rule if an agency has not performed a regulatory analyses.
- To prohibit the promulgation of a final rule if the regulatory analyses is incomplete.

4. Staff Capability

OMB is well equipped to analyze regulatory proposals as part of its ongoing review of agency budget and legislative proposals.

5. Reasons Against an RPB

- Will be criticized as "The fox in the chicken coop"
- Gives the regulatory agencies more votes than the EOP agencies.
- Does not identify one person, confirmed by the Congress, as being responsive for oversight of the regulatory process.