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MEMORANDUM

FROM: Henry E. Beal, Director
Standards & Regulations
Division (PM-223)

Henry E. Beal

TO: Diane Steed, Acting Deputy Associate
Director for Regulatory Policy,
Office of Management and Budget

Diane, I am afraid I have to write a cover note that sounds a bit legalistic and bureaucratic. I am doing it to avoid creating a misunderstanding about the reasons for sending you the attached materials.

I think EPA (and other agencies) should be as open as possible in distributing to anyone who asks at any time they ask copies of any regulation we are writing. The one caveat I can imagine are the resource problems that might hurt us if lots of people asked for lots of copies at odd intervals, but this is a small point. Sending people material has nothing to do with, as far as I can tell, ex parte communications.

So why am I writing you? Because your note implies quite a bit more than a simple request for a copy of the regulation. You say that:

- the regulation "must be submitted to OMB" (emphasis added) so you can see if anything in it requires FRA clearance; and
- you want a copy of the "decision package."

Let me start with the easier item. "Decision package" is a term of art in EPA that covers the regulation, preamble, Action Memo to the Administrator and any comment memos

from the Assistant Administrators. I can send you (and anyone else) a copy of the preamble and regulation. The other materials I cannot send (and I think you would agree, I should not).

As for the other item, I am sure you know my position. There is nothing in the FRA or any other law that says EPA must submit any regulation to OMB for any purpose. We will submit for clearance any information collection covered by the FRA that any regulation will impose on the public.

There is quite a difference between submitting an information collection and submitting a regulation. This is one misunderstanding we cannot allow to even sprout.