

## **Explanation of Proposed Moratorium on Increased Regulation of Agriculture**

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### **Impacts from Farm to Table**

Agricultural production supplies the US and many other countries with a wide variety of food products and non-food products such as fibers, energy feedstocks and nursery items. Agricultural production encompasses three primary subsectors—crop production, animal production and agricultural support activities. Crop production includes farms that mainly grow crops used for food and fiber, while animal production includes farms and ranches that raise animals for sale or for animal products. The agricultural support activities subsector includes establishments that perform any number of agricultural-related activities, such as soil preparation, planting, fertilization, pest and disease control, harvesting, drying, initial processing, or management on a contract or fee basis.

At a recent farm bill hearing in Kansas, Senate Agriculture Committee Chairman Debbie Stabenow (D-MI) recognized that the upcoming farm bill will “not only impact farmers and ranchers; it will also affect those workers who process, package and market agricultural products and services.” In fact, there are over 21 million jobs tied directly to the U.S. Agriculture industry. Many of these jobs are in rural areas where employment opportunities are often limited.

### **Increases Net Costs to Agricultural Production**

In order for us to have the safest, most abundant, and lowest cost source of food and fiber in the world, the U.S. must ensure that our public policy does not hurt the economic viability of farm and ranch families across the country.

All rules subject to OMB review as significant regulatory actions are required to include a regulatory impact analysis that identifies the cost to the regulated community as well as the benefits of the rule. These documents can be used to identify the regulatory actions that would increase the net costs of agricultural production.

### **In Effect Until We Achieve Full and Robust Economic Recovery.**

The legislation should include a threshold of GDP growth and falling unemployment rates to define economic recovery.

### **Significant Regulatory Action**

Under Executive Order 12866, “an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is defined to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirement so an agency” are considered regulations. All regulatory actions that are identified by the agency or OIRA as significant regulatory actions are subject to review by OIRA.

Significant regulatory actions are defined as regulatory actions likely to:

1. Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
2. Create a serious inconsistency or otherwise interfere with an action planned or taken by another agency;
3. Materially alter the budgetary impact of entitlements, grants, user fees or loan programs or the rights and obligations of recipients thereof; or
4. Raise novel legal or policy issues.

As noted by a March 4, 2009, memorandum from then OMB Director Peter Orszag to heads of agencies, significant policy and guidance documents are subject to OMB review under Executive Order 12866.

### **Discretionary Action**

OMB's Unified Agenda of Regulatory and Deregulatory Actions, as well as OMB's website tracking rules that are under review by OIRA, indicates whether an action is subject to a legal deadline. The intent of the moratorium is to exclude actions that are subject to statutory or judicial deadlines. However, deadlines included in out-of-court settlement agreements would not be considered to be judicial deadlines.

Nineteen of the 23 EPA regulatory actions under review by OIRA in September 2011 are not subject to any legal deadline.

### **Actions Exempt from the Moratorium**

The proposed moratorium borrows the standard used under the Congressional Review Act (CRA) to exempt a rule from disapproval. Under the CRA, a rule can still take effect even if Congress disapproves it if the President makes a determination by Executive Order that the rule is:

1. necessary because of an imminent threat to health or safety or other emergency;
2. necessary for the enforcement of criminal laws;
3. necessary for national security; or
4. issued pursuant to any statute implementing an international trade agreement.

### **Reach-back**

The members may wish to include a reach-back in the moratorium to either capture rules issued after a certain date or to capture rules that are not yet effective, or if effective, rules that have compliance dates that have not yet occurred.