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Title 3— The President **Executive Order _____** of _____, 2016

Application of Vision Zero Principles to Highway Safety Regulatory Review

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve regulation and regulatory review which impacts highway safety and thereby the preservation of human life and health, it is hereby ordered as follows:

Section 1. Statement of Vision Zero Regulatory Philosophy and Principles . (a) Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

(b) However, in the review of highway safety regulations having an impact upon human life and health, agencies must apply a Vision Zero Policy which expresses the imperative that,

"It can never be ethically acceptable that people are killed or seriously injured when moving within the road transport system."
Such a policy must apply these core principles: "Life and health can never be exchanged for other benefits within the society." and "Whenever someone is killed or seriously injured, necessary steps must be taken to avoid a similar event."
http://www.monash.edu.au/miri/research/reports/papers/visionzero.html

(c) This Vision Zero Policy should replace the more conventional approach which compares costs and benefits, where a monetary value is placed on life and health, and where that value is then used to determine whether those benefits (human life and health) justify (outweigh) the costs.

(d) This order is supplemental to and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866 of September 30, 1993 (http://www.archives.gov/federal-register/executive-orders/pdf/12866.pdf), as well as Executive Order 13563 of January 18, 2011 (https://www.whitehouse.gov/the-press-office/2011/01/18/executive-order-13563-improving-regulation-and-regulatory-review), with the difference that, in the process of selecting among alternative regulatory approaches those which maximize net benefits, the agency will not make decisions at the expense of human life and health. Toward that end: (1) Human life and health, as benefits of a regulation, will be assigned a higher priority over any costs of that regulation; (2) to the extent feasible, performance objectives or standards will be specified which have as their outcome the preservation of human life and health; and (3) when a regulation has been disregarded or not properly adhered to, so that the performance objectives have not been met, there will be a civil fine imposed and criminal charges filed where appropriate.

Sec. 2. Public Participation (a) Regulations shall be adopted through a process that involves public participation. To that end, regulations shall be based, to the extent feasible and consistent with law, on the open exchange of information and perspectives among State, local, and tribal officials, experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole.

(b)To promote that open exchange, each agency which impacts highway safety, consistent with Executive Order 12866 and other applicable legal requirements, shall endeavor to provide the public with an opportunity to participate in the regulatory process. To the extent feasible and permitted by law, each agency shall afford the public a meaningful opportunity to comment through the Internet on any proposed regulation, with a comment period that should generally be at least 60 days. To the extent feasible and permitted by law, each agency shall also provide, for both proposed and final rules, timely online access to the rulemaking docket on regulations.gov, including relevant scientific and technical findings, in an open format that can be easily searched and downloaded. For proposed rules, such access shall include, to the extent feasible and permitted by law, an opportunity for public comment on all pertinent parts of the rulemaking docket, including relevant scientific and technical findings.

(c) Before issuing a notice of proposed rulemaking, each agency, where feasible and appropriate, shall seek the views of those who are likely to be affected, including those who are likely to benefit from and those who are potentially subject to such rulemaking.

Sec. 3. Integration and Innovation. Some sectors and industries face a significant number of regulatory requirements, some of which may be redundant, inconsistent, or overlapping. Greater coordination across agencies could reduce these requirements, thus reducing costs and simplifying and harmonizing rules. In developing regulatory actions and identifying appropriate approaches, each agency shall attempt to promote such coordination, simplification, and harmonization. Each agency shall also seek to identify, as appropriate, means to achieve regulatory goals that are designed to promote innovation.

Sec. 4. Flexible Approaches. Where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. These approaches include warnings, appropriate default rules, and disclosure requirements as well as provision of information to the public in a form that is clear and intelligible.

Sec. 5. Science. Consistent with the President's Memorandum for the Heads of Executive Departments and Agencies,"Scientific Integrity" (March 9, 2009), and its implementing guidance, each agency shall ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions.

Sec. 6. Administrative Procedures for Adhering to a Vision Zero Policy. (a) As required by Executive Order 12866, for each matter identified as, or determined by the Administrator of OIRA to be, a significant regulatory action, the issuing agency shall provide to OIRA: (i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and (ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President’s priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

(b) For those matters identified as, or determined by the Administrator of OIRA to be, a significant regulatory action within the scope of section 3(f)(1), the agency shall also provide to OIRA the following additional information developed as part of the agency's decision-making process (unless prohibited by law):

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

(iv) An assessment of the impact of the proposed regulatory action on Human Life and Health and a explanation of how the regulatory action will ensure that Vision Zero outcomes will be adequately achieved.

(c) Within 120 days of the date of this order, each agency shall develop and submit to the Office of Information and Regulatory Affairs (OIRA) a preliminary plan, consistent with law and its resources and regulatory priorities, under which the agency will submit its administrative plan for achieving the regulatory objectives outlined by this Vision Zero mandate for human life and health as the priority outcome measures.

Sec. 7. Retrospective Analyses of Existing Rules. (a) To facilitate the review of existing significant regulations, agencies shall consider how best to promote retrospective analysis of rules that may be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with this Vision Zero mandate. Such retrospective analyses, including supporting data, should be released online whenever possible.

(b) Within 120 days of the date of this order, each agency shall develop and submit to the Office of Information and Regulatory Affairs (OIRA) a preliminary plan, consistent with law and its resources and regulatory priorities, under which the agency will review its existing significant regulations to determine whether any such regulations should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective in achieving the regulatory objectives with this Vision Zero mandate for human life and health as the priority outcome measures.

Sec. 8. General Provisions. (a) For purposes of this order, "agency" shall have the meaning set forth in section 3(b) of Executive Order 12866, although this order is intended specifically for regulations which impact highway safety.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) authority granted by law to a department or agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Drafted by Marianne Karth, October 2015