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ONE HUNDRED SEVENTH CONGRESS

# Congress of the United States

## House of Representatives

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December 10, 2001

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INDEPENDENT

The Honorable Tom Ridge  
Director  
Office of Homeland Security  
The White House  
Washington, DC 20500

Dear Governor Ridge:

According to a recent article in the *Washington Post*, on September 26, 2001, Republican Subcommittee staff of the House Government Reform Committee solicited "key lobbyists" for input on a list of "overly burdensome" regulations the business community wants changed.<sup>1</sup> According to Republican Subcommittee staff, this consultation was made pursuant to a request from John D. Graham, Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB). We have written Mr. Graham and requested a copy of the list referenced in the *Washington Post* article. In addition, we have obtained through other sources what we believe is a copy of the list (attached).

We are writing because a number of the regulations on the list appear to be relevant to efforts to address terrorist threats facing our nation.

For example, one of the items listed is a Nuclear Regulatory Commission regulation regarding "licensing of production and utilization facilities." As you know, these facilities include commercial nuclear reactors, as well as reactors used primarily for the formation of plutonium. They are a prime terrorist target since an attack could devastate the surrounding area. Additionally, these facilities produce radioactive materials that potentially could be used by terrorists to make radiological weapons. Although the industry may find the licensing requirements burdensome, their repeal would jeopardize national security. Simply stated, licensing regulations are necessary to ensure that facilities are sited, designed, and operated safely.

Another example of supposedly "burdensome" regulations are Environmental Protection Agency regulations concerning "RCRA [Resource Conservation and Recovery Act] hazardous

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<sup>1</sup>*Business Lobbyists Asked To Discuss Onerous Rules*, Washington Post (Dec. 4, 2001).

waste manifest.” These are also regulations that are important for national security. There is evidence that terrorists are interested in gaining access to hazardous waste material, which could be used as a potent weapon. On September 25, 2001, for example, Justice Department officials said that individuals that may be linked to perpetrators of the September 11 attacks had been charged with fraudulently obtaining licenses to transport hazardous materials.<sup>2</sup> The regulations require a “cradle to grave” chain-of-custody record to track who is handling hazardous waste and where such material travels. Therefore, the regulations help prevent terrorists from obtaining access to such materials and help law enforcement determine the sources from which terrorists may have obtained such materials.

In addition, the list targets “community right to know” regulations issued pursuant to the Emergency Planning and Community Right-to-Know Act (EPCRA). As you know, EPCRA was enacted by Congress as the national legislation on community safety. This law was designed to help local communities protect public health, safety, and the environment from chemical hazards. The “right-to-know” regulations ensure that information regarding hazardous chemicals at local facilities is available for the individuals involved with emergency planning, as well as for the general public. Such information is essential to ensure that local officials can respond effectively to any efforts to attack or release harmful substances from such hazardous chemical facilities. It also provides communities with tools they need to be vigilant about possible terrorist activities.

Also on the list of regulations are Department of Labor regulations concerning “bloodborne pathogen/needlestick safety.” The bloodborne pathogen regulations protect health care workers who would be on the front line of any bioterrorist attack. Specifically, the needlestick safety rules aim to help prevent the transmission of bloodborne diseases through needlestick injuries. Such diseases could include anthrax, smallpox, or others that have been identified as potential bioterrorist weapons.

Because several of the “burdensome” regulations on the list impact on the fight against terrorism, we request that you provide us with information about the Administration’s deliberations on these regulations. Please respond to the following questions:

- (1) Has OMB consulted with the Office of Homeland Security regarding any of the regulations targeted by this list?
- (2) Has the Office of Homeland Security played any role to date in any deliberations regarding the regulations identified by this list?

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<sup>2</sup>*FBI Alerts Hazardous Material Haulers; Authorities Charge 20 People with Fraudulently Obtaining Trucking Licenses*, Washington Post (Sept. 26, 2001).

The Honorable Tom Ridge

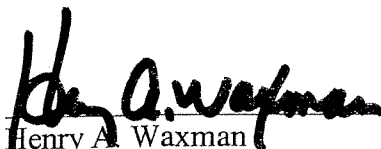
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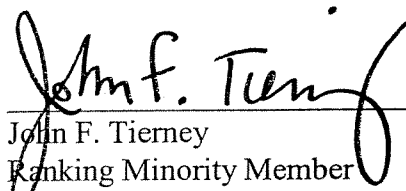
- (3) Is there a process in place for ensuring that the Office of Homeland Security is involved in deliberations by OMB or any other executive agency regarding changes to existing regulations? If so, please describe this process.

Thank you in advance for your attention to these questions.

Sincerely,



Henry A. Waxman  
Ranking Minority Member  
Committee on Government Reform



John F. Tierney  
Ranking Minority Member  
Subcommittee on Energy Policy, Natural  
Resources, and Regulatory Affairs  
Committee on Government Reform

cc: The Honorable Dan Burton  
The Honorable Doug Ose

57 Possible Sunset Review Candidates  
(with 1 million or more paperwork hours)

Department/Agency	Program/Rule	Paperwork Burden in millions of hours
USDA/AMS	use of restricted pesticides	2
DOD	acquisition management info in support of acquisition solicitation	53 24
HHS/CMMS	Medicare/Medicaid common claim form	44
HHS/CMMS	clinical laboratory improvement (CLIA)	10
HHS/CMMS	hospital cost reports	4
HHS/FDA	investigational new drugs (IND)	17
HHS/FDA	application to market a new drug	2
HHS/FDA	food labeling	2
DOL/INS	employment eligibility	13
DOL/ESA	OFCCP recordkeeping & reporting	11
DOL/ESA	payroll under Davis-Bacon	9
DOL/ESA	construction recordkeeping & reporting	5
DOL/ESA	Family & Medical Leave Act (FMLA)	3
DOL/MSHA	ventilation in underground coal mines	3
DOL/PWBA	ERISA annual report	1
DOL/OSHA	hazardous chemicals/PSM	73
	bloodborne pathogens standard	13
	bloodborne pathogen/needlestick safety	1
	respiratory protection	9
	hazard communication	8
	asbestos in construction	6
	noise	5
	injury/illness recordkeeping & reporting	2
	permit-required confined spaces	2
	personal protection equipment	2
	lead in construction	2
	lead in general industry	1
	hazardous energy sources (lockout/tagout)	1
	hazardous waste (HAZWOPER)	1
	mechanical power presses	1
DOT/motor carrier	hours of service of drivers	12

\*OMB's inventory shows only 695,625 paperwork hours for FMLA.

Department/Agency	Program/Rule	Paperwork Burden in millions of hours
		53
DOT/motor carrier	inspection, repair & maintenance	7
DOT/RSPA	hazardous materials shipping	4
DOT/railroad	hours of service	
Treasury/IRS	US partnership income (1065)	1,196
	US income tax for a corporation (1120S)	439
	US corporation tax for PSC (1120)	437
	employer's quarterly Federal tax (941)	316
	employee's withholding allowance certificate	116
	sales of business property	69
	employer's annual FUTA tax returns (940)	19 - 52
	FICA recordkeeping	30
EPA/air	NESSAP aerospace, dry cleaning & hazardous	4 + 1 + 2
EPA/air	non-attainment area new source review/NSR	5
EPA/air	ambient air quality surveillance	2
EPA/water	use or disposal of sewage sludge	12
EPA/water	safe drinking variance/exemption applications	10
EPA/water	storm water discharges under a NPDES permit	5
EPA/water	water quality inventory reports (TMDL)	4
EPA/water	drinking water rule for lead & copper	2
EPA/poisonous-toxic	toxic chemical release reporting (TRI)	9
EPA/pesticides-toxic	residential lead-paint hazard disclosure	7
EPA/solid waste	underground storage tanks	6
EPA/solid waste	RCRA hazardous waste manifest	3
EPA/solid waste	community right-to-know (EPCRA)	2
NRC	licensing of production & utilization facilities	5