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Congress of the United States

House of Representatives

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STAFF DIRECTOR

May 16, 2012

Mr. Jim Tozzi
Director
Center for Regulatory Effectiveness
1601 Connecticut Avenue, NW, Suite 500
Washington, DC 20009

Dear Mr. Tozzi:

The House Committee on Oversight and Government Reform continues to examine existing and proposed regulations that negatively impact jobs and the economy. Over the past fifteen months, the Committee has received valuable information from job creators and business organizations, like yours, that have informed efforts to highlight burdensome regulations. Some relief from regulatory burdens has been achieved, but the economy continues to struggle as job growth has slowed and small businesses continue to be hesitant to hire. It is clear that more must be done. Therefore, the Committee's work remains, and I write to renew the Committee's request for information.

On December 8, 2010, the Committee launched a major effort to discover burdensome regulations by requesting information from nearly 100 job creators and business groups. Shortly thereafter, the Committee launched AmericanJobCreators.com as another avenue to solicit feedback. As a result of these initiatives, the Committee issued two staff reports—*Assessing Regulatory Impediments to Job Creation*¹ and *Broken Government: How the Administrative State has Broken President Obama's Promise of Regulatory Reform*,²—held seven full committee hearings, nearly 20 subcommittee hearings, and sent a number of letters to agencies inquiring about their regulatory policies. President Obama's chief regulatory officer, Cass Sunstein, has called the Committee's work on this subject "constructive" and "important."³

¹ H. Comm. on Oversight & Gov't Reform Preliminary Staff Report, *Assessing Regulatory Impediments to Job Creation*, 112th Cong. (2011) available at http://oversight.house.gov/wp-content/uploads/2012/02/Preliminary_Staff_Report_Regulatory_Impediments_to_Job_Creation.pdf.

² H. Comm. on Oversight & Gov't Reform Staff Report, *Broken Government: How the Administrative State has Broken President Obama's Promise of Regulatory Reform*, 112th Cong. (2011) available at http://oversight.house.gov/wp-content/uploads/2012/01/9.13.11_Broken_Government_Report1.pdf.

³ "How a Broken Process Leads to Flawed Regulations": Hearing Before the H. Comm. on Oversight & Gov't Reform, 112th Cong. (2011) (testimony of Cass Sunstein, Administrator, Office of Information and Regulatory Affairs).

More importantly, several regulations that job creators brought to the Committee's attention were subsequently struck down by the courts or significantly scaled back by federal agencies. For example, Federal courts vacated a Securities Exchange Commission (SEC) "proxy access rule" because the court found the SEC acted "arbitrarily" in its analysis of costs and benefits,⁴ overturned an Environmental Protection Agency's (EPA) decision to revoke a mining permit in West Virginia because the court found EPA's action was "contrary to the language, structure, and legislative history of section 404 [of the Clean Water Act],"⁵ and delayed implementation of a notice posting rule because it was found the National Labor Relations Board (NLRB) "lack[ed] authority ... to promulgate the rule."⁶ Moreover, the Department of Transportation altered its hours of service rule to cut the costs nearly in half,⁷ the Department of Agriculture scrapped the most controversial parts of its "GIPSA rule,"⁸ and the Department of Interior reduced the number of species proposed to be covered by the Lacey Act which will help limit the impact on small businesses specializing in the reptile industry.⁹

Unfortunately, burdensome regulations continue to plague the economy. A recent Gallup poll found that nearly half of small businesses are not hiring because they are worried about new government regulations,¹⁰ and 44 percent of likely voters believe EPA regulations and actions hurt the economy.¹¹ Disturbingly, the "regulatory tsunami" does not appear to be slowing down. In the past decade, the number of economically significant rules in the federal regulatory agenda, meaning those that could cost more than \$100 million annually, has increased by more than 137 percent—rising from 56 in the spring of 2001 to 133 in the fall of 2011.¹² Due, in part, to the Dodd-Frank Act, Obamacare, and the EPA, hundreds of costly new rules are in the pipeline.

⁴ *Business Roundtable and Chamber of Commerce of the United States v. SEC*, No. 10-1305 (D.C. Cir. July 22, 2011).

⁵ Alan Kovski, *Federal Court Strikes Down EPA Decision To Retroactively Veto Dredge-and-Fill Permit*, BNA (Mar. 26, 2012) available at <http://www.bna.com/federal-court-strikes-n12884908597/>.

⁶ *Chamber of Commerce of the United States and South Carolina Chamber of Commerce v. National Labor Relations Board*, Order, No. 2: 11-cv-02516-DCN (SC Dist. Ct. Apr. 13, 2012).

⁷ News Release, U.S. Department of Transportation Takes Action to Ensure Truck Driver Rest Time and Improve Safety Behind the Wheel, Dec. 22, 2011.

⁸ Capital Update, *New GIPSA Rule Issued*, National Pork Producers Council, Dec. 9, 2011.

⁹ News Release, Salazar Announces Ban on Importation and Interstate Transportation of Four Giant Snakes that Threaten Everglades, Jan. 17, 2012.

¹⁰ Dennis Jacobs, *Health Costs, Gov't Regulations Curb Small Business Hiring*, Gallup, Feb. 15, 2012 available at <http://www.gallup.com/poll/152654/health-costs-gov-regulations-curb-small-business-hiring.aspx>.

¹¹ 44% Think EPA Actions Hurt The Economy, Rasmussen Reports, Apr. 10, 2012 available at http://www.rasmussenreports.com/public_content/politics/current_events/environment_energy/44_think_epa_actions_hurt_the_economy.

¹² James Gattuso and Diane Katz, *Red Tap Rising: Obama-Era Regulation at the Three-Year Mark*, The Heritage Foundation (Mar. 13, 2012).

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As a trade organization comprised of members that must comply with numerous regulations, I ask for your assistance in identifying additional existing and proposed regulations that continue to negatively impact job growth in your members' industry. To the extent applicable, please include examples of rules and regulations where it is believed a federal agency did not fully and effectively comply with the rulemaking process. Please submit your response as soon as possible, preferably by June 1, 2012. If you have any questions, please feel free to contact Kristin Nelson or Kristina Moore with the Committee staff at (202) 225-5074.

Sincerely,



Darrell Issa
Chairman



Jim Jordan
Chairman, Subcommittee on
Regulatory Affairs, Stimulus
Oversight and Government Spending

cc: The Honorable Elijah Cummings, Ranking Minority Member

The Honorable Dennis Kucinich, Ranking Minority Member,
Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending