



January 18, 2011

The Honorable Darrell E. Issa  
Chairman  
Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, DC 20515

Dear Mr. Chairman:

I am writing in response to your December 8, 2010 letter regarding existing and proposed federal regulations that negatively impact the economy, the investment climate in the United States, and job creation and maintenance. You have raised a critical issue; one that is becoming more widely recognized as reflected by President Obama's comments in this morning's *Wall Street Journal* noting his interest in ensuring that regulations do not create an unreasonable burden on U.S. businesses.

The American Chemistry Council (ACC), representing America's chemical manufacturers, believes our ability as an industry to compete in a growing global market, drive innovation throughout the value chain, and preserve and create the high-skilled, high-paying domestic manufacturing jobs of the future is directly related to our ability as a nation to strike the right balance with respect to government regulation. We share your concern about the potential impact of recent and new regulatory proposals on the nascent economic recovery and American jobs. As an example, ACC has estimated that just one of the Environmental Protection Agency's proposed regulations -- for industrial boilers and heaters (the so-called "Boiler MACT" rules) -- would jeopardize some 60,000 jobs and impose capital costs on the order of \$3.8 billion in the chemical industry alone.

There are several recent regulations that deserve scrutiny because of their anticipated consequences, including the "Boiler MACT" rules mentioned above and EPA's rules regulating greenhouse gas emissions from stationary sources. But these individual rules should be viewed as symptoms of a larger problem that must be addressed in order to ensure more transparent, fully-informed and balanced rulemakings in the future.

Two serious root problems exist in the process used by federal regulatory agencies to develop and evaluate potential new regulations. First, the quality and scope of economic assessments to measure financial and employment impacts of proposed rules must be improved by ensuring that the costs of overlapping rules and economy-wide costs are measured. Second, regulatory agencies must establish clear standards for scientific data used to develop rules in order to ensure its objectivity and credibility.

**We believe EPA's economic models and approach to evaluating scientific information are flawed and deserve examination by the committee. Addressing these two fundamental problems will help ensure that rules better reflect costs and benefits and will provide greater clarity about the true consequences of proposed regulations.**

Federal agency assessments of the likely economic impacts of specific proposed rules are important determinants of the value of regulatory action. Unfortunately, the assessments vary widely in quality, and the assessment process itself is not entirely transparent. For example, the Department of Commerce has reportedly conducted an assessment of the potential job implications of EPA's proposed Boiler MACT rules that differs significantly from EPA's own assessment. Despite requests from then-Senator Carte Goodwin; Reps. Upton and Whitfield (attached); and Senators Snowe, Pryor, Vitter and Begich (attached), the Commerce Department's study has not been publicly released and therefore, we do not have a full picture of what the true impact of the rules is likely to be.

Not only does the administration's failure to make public the Commerce Department's study prevent affected industries and elected officials from understanding regulation's consequences, it also is in contradiction to its stated principles of transparency, another issue that we would encourage the Committee to examine. We note that EPA has asked the U.S. Court of Appeals for the District of Columbia Circuit for more time to review and assess the Boiler MACT rule, a review which we believe is warranted given the economic impacts and incomplete data upon which the proposal was based.

As the Committee is no doubt aware, Executive Order 12866 requires agencies to ensure that the benefits of major regulatory actions justify their costs. In addition, the Order specifically requires agencies to take into account the costs associated with cumulative regulations, although the typical agency cost and benefit assessment does not comport with this requirement. Executive Order 12866 also applies to significant policy and guidance documents that may have cost implications across the economy, according to a March 4, 2009 memorandum from Peter Orszag, then Director of the Office of Management and Budget. Yet in some cases, such as EPA's Dioxin Preliminary Remediation Goals, no impact assessment has been conducted.

A flawed economic model leads to flawed conclusions. For example, Administrator Jackson recently asserted that increased regulation will actually create jobs. As the representative of a highly regulated industry, I can tell you that the rules proposed by the Environmental Protection Agency in the past two years will put tens of thousands of high-paying manufacturing jobs at risk. Any economic model that comes to an alternative conclusion should be reexamined.

A similar concern exists with respect to chemical specific risk assessments and guidance documents that do not reflect the best available science – and which in turn may have significant economic and job impacts. In ACC's view, it is critical that the science relied on in agency risk-based decision-making comport with the highest standards of quality, reliability, and credibility.

To that end, we believe uniform criteria for the relevance, quality and reliability of data relied on by all federal agencies need to be established, so that irrespective of funding source or affiliation of investigators the government has a well-founded scientific basis for decisions. More importantly, there is a need for direction and guidance on assessing the overall weight of the scientific evidence, including a structured evaluative framework that can be broadly applied by government agencies and research institutions.

ACC would be happy to provide additional information related to both of these concerns. In the meantime, I have attached a copy of a 2009 report by Resources for the Future, "Reforming Regulatory Impact Analysis." This report outlines a number of improvements that might be considered to enhance the technical quality, relevance, and transparency of impact analyses. While ACC cannot endorse every recommendation made in the report, we believe it is a valuable assessment of a key analytical tool in the regulatory process – and perhaps a key starting point in the Committee's evaluation of regulatory impacts.

Thank you very much for your attention to this important issue.

Sincerely,

A handwritten signature in black ink that reads "Cal Dooley". The signature is written in a cursive, slightly slanted style. The first name "Cal" is written in a smaller, more compact script, while "Dooley" is written in a larger, more flowing script.

Cal Dooley

Attachments

cc: The Honorable Elijah E. Cummings