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ONE HUNDRED TWELFTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074

FACSIMILE (202) 225-3974

MINORITY (202) 225-5051

<http://oversight.house.gov>

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May 16, 2012

Mr. David Raymond
President and CEO
American Council of Engineering Companies
1015 15th Street, NW, Suite 802
Washington, DC 20005

Dear Mr. Raymond:

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 Jacobo, 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.

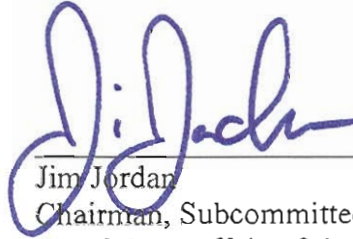
¹² James Gattuso and Diane Katz, Red Tap Rising: Obama-Era Regulation at the Three-Year Mark, The Heritage Foundation (Mar. 13, 2012).

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

2012-05-16 DEI & Jordan to Trades - regulations due 6-1 (183 letters) sent to:

Activision Blizzard, Inc.	Association of Home Appliance Manufacturers
Adhesive and Sealant Council, The	Global Automakers
Advanced Medical Technology Association	Association of the Wall and Ceiling Industry
Aerospace Industries Association of America	Automotive Aftermarket Industry Association
Agricultural Retailers Association	Biotechnology Industry Organization
Air Movement and Control Association Int'l	The Boeing Company
Air Transport Association of America, Inc.	Brick Industry Association
Air-Conditioning, Heating and Refrigeration Institute	Bumble Bee Foods, LLC
Aircraft Owners and Pilots Association	Business Coalition for Fair Competition
Alliance of Automobile Manufacturers	Business Roundtable
Aluminum Association, Inc.	Carpet and Rug Institute
America Composites Manufacturers Association	CEMEX USA
American Architectural Manufacturers Association	Center for Regulatory Effectiveness
American Association of Advertising Agencies	CF Industries Holdings, Inc.
American Bakers Association	Channellock, Inc.
American Bearing Manufacturers Association	Charlotte Pipe & Foundry Company
American Beverage Association	Color Pigments Manufacturers Association
American Chemistry Council	Commodity Markets Council
American Cleaning Institute	Competitive Enterprise Institute
American Coatings Association	Composite Panel Association
American Coke and Coal Chemicals Institute	CompTIA
American Council of Engineering Companies	ConocoPhillips, Inc.
American Council of Independent Laboratories	Construction Industry Round Table
American Express	Consumer Electronics Association
American Farm Bureau Federation	Consumer Specialty Products Association
American Fiber Manufacturers Association	Cotton Council International
American Financial Services Association	Council of Industrial Boiler Owners
American Forest and Paper Association	Craft and Hobby Association
American Frozen Food Institute	Credit Union National Association
American Gas Association	CropLife America
American Gear Manufacturers Association	CTIA--The Wireless Association
American Hardware Manufacturers Association	DBA International
American Home Furnishings Alliance	Direct Selling Association
American Hospital Association	Distilled Spirits Council of the US
American Iron and Steel Institute	Door and Hardware Institute
American Land Title Association	Duke Energy Corporation
American Lighting Association	Edison Electric Institute
American Meat Institute	Electric Reliability Coordinating Council
American Petroleum Institute	Fabricators and Manufacturers Association, International
American Trucking Association	Financial Services Forum
American Welding Society	Financial Services Roundtable
American Wire Producers Association	Flexible Packaging Association
APA - The Engineered Wood Association	Fluid Sealing Association
Architectural Woodwork Institute	Ford Motor Company
ARIPPA	Futures Industry Association
Associated Builders & Contractors, Inc.	Generic Pharmaceutical Association
Associated General Contractors of America	Grocery Manufacturers Association
Association for Manufacturing Technology	Health Industry Distributors Association
Association of American Railroads	HR Policy Association
Association of Equipment Manufacturers	Independent Bakers Association

Independent Community Bankers of America
 Independent Petroleum Association of America
 Industrial Energy Consumers of America
 Industrial Minerals Association, N.A.
 Institute of Makers of Explosives
 Institute of Scrap Recycling Industries
 Interlocking Concrete Pavement Institute
 International Bottled Water Association
 International Dairy Foods Association
 International Housewares Association
 International Safety Equipment Association
 International Sign Association
 International Sleep Products Association
 IPC, The Association Connecting Electronics Industries
 Kitchen Cabinet Manufacturers Association
 Manufactured Housing Institute
 Manufacturers' Agents National Association
 Manufacturing Jewelers & Suppliers of America
 Mazda North American Operations
 McGuireWoods Consulting, LLC
 Mercatus Center
 Metal Treating Institute
 Motor and Equipment Manufacturers Association
 Motorcycle Industry Council
 Murray Energy Corporation
 NanoBusiness Alliance
 National Alliance of Forest Owners
 National Asphalt Pavement Association
 National Association of Broadcasters
 National Association of Chain Drug Stores
 National Association of Clean Water Agencies
 National Association of Homebuilders
 National Association of Manufacturers
 National Association of Water Companies
 National Automobile Dealers Association
 National Black Chamber of Commerce
 National Community Pharmacists Association
 National Concrete Masonry Association
 National Council of Textile Organizations
 National Electrical Manufacturers Association
 National Federation of Independent Business
 National Fluid Power Association
 National Glass Association
 National Lumber & Building Material Dealers
 National Marine Manufacturers Association
 National Mining Association
 National Oilseed Processors Association
 National Petrochemical and Refiners Association
 National Restaurant Association
 National Stone, Sand and Gravel Association

National Telecomm. Cooperative Assoc.
 Non-Ferrous Founders' Society
 National Tooling and Machining Association
 Nuclear Energy Institute
 Owner Operator Independent Drivers Association
 Plumbing Manufacturers Institute
 Portland Cement Association
 Precision Machined Products Association
 Precision Metalforming Association
 Printing Industries of America
 The George Washington University Regulatory Studies Center
 Renewable Fuels Association
 Resources for the Future
 Responsible Industry for a Sound Environment
 Roaring Springs Water
 Salt Institute
 Silver Nanotechnology Working Group
 Small Business & Entrepreneurship Council
 Society of Chemical Manufacturers and Affiliates
 Society of the Plastics Industry, Inc.
 Textile Rental Services Association
 The Fertilizer Institute
 The Heritage Foundation
 The Methanol Institute
 The Rural Cellular Association
 Tire Industry Association
 Toyota Motor Sales, U.S.A., Inc.
 U.S. Chamber of Commerce
 US Nuclear Infrastructure Council
 US Telecom Association
 Western Growers Association
 Window & Door Manufacturers Association
 Job Creators Alliance