DIRECT FROM THE SOURCE: UNDERSTANDING REGULATION FROM THE INSIDE OUT

Senator Ron Johnson, Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate

114th Congress
December 17, 2015

MAJORITY STAFF REPORT
As you know, one of my priorities for the Committee is to develop and pass bipartisan solutions to improve the federal government’s approach to regulations—easing the burden on the private sector by cutting red tape, while balancing the public interests to ensure health and safety.

President Obama has expressed his support for commonsense regulatory reform, including the need to “weed out regulations that aren’t contributing to the health and public safety of our people.”\(^1\) Clearing out the regulatory “underbrush”, as the President put it, is truly “something that should be non-ideological.”\(^2\)

I couldn’t agree more. And I am proud of the work that our committee is doing to find areas of bipartisan agreement on this issue.

Since January, we have held four full committee hearings – including a joint hearing with the Senate Budget Committee and a field hearing – to help us better understand the impact of regulations and the need for reform. The Subcommittee on Regulatory Affairs and Federal Management has also held several more hearings and roundtables. In September, we had the opportunity to hear from our colleagues who are offering legislative proposals for regulatory reform. And in October, we passed out of committee several proposals aimed at reforming the regulatory process, all with bipartisan support.

This is just the start of our important work on regulatory issues. I hope to continue to make progress on regulatory improvement in 2016, working with my Senate colleagues to move reform proposals forward in the legislative process. Though we may disagree on specific points, many of us fundamentally agree that the current regulatory system is just too burdensome to the American economy and in need of commonsense changes.

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\(^1\) Ezra Klein, “President Obama lays out his second term,” Washington Post, October 24, 2012.

\(^2\) Ibid.
To that end, I wanted to share with you the results of bipartisan outreach that our committee conducted earlier this year to help inform your views about the need for updating the regulatory process.

In March, Senators Carper, Lankford, Heitkamp and I sent a letter to private sector stakeholders soliciting their input about the regulatory process. We solicited feedback from a wide range of parties, including organizations representing industry, labor unions, and environmental advocates. My staff worked together to follow up with these groups to collect their responses. We received over fifty responses.

Included with this memo is an overview of the responses prepared by my committee staff, including representative quotes from each of the respondents. Also attached is an appendix that contains a copy of all of the responses to our inquiry. I hope that you will find them informative as you consider legislative proposals related to regulatory reform.

We’ve also collected feedback through other more informal outreach efforts like individual conversations, submissions through our Committee website and the #CutRedTape initiative. One thing we’ve learned through these efforts is that federal rules touch every sector and every part of our lives. To take one example, I’ve heard from representatives from universities who point out that up to 25 percent of research spending is on regulatory compliance, and up to 42 percent for federally-funded projects.

In my view, the federal government’s current approach to regulations and rulemaking is one of the reasons why our economy continues to struggle six years after the Great Recession, and why so many of our fellow citizens remain out of work, underemployed, or struggling to make ends meet.

I understand that some of us have different views about specific regulations. But I know that we all share the goal of a more efficient and effective regulatory process.

As Michael Mandel of the Progressive Policy Institute told the Committee back in February, “[I]f policymakers allow the regulatory burden to become too heavy, innovation and entrepreneurial energy can be suppressed. So the long-term performance and competitiveness of the American economy and the long-term growth of living standards depends on periodically

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lightening the regulatory load—the equivalent of scraping the barnacles off the bottom. This is a goal where Democrats and Republicans can find common ground.\textsuperscript{6}

I want to thank Tom, Heidi, and James for working with me on this bipartisan effort. And I thank each of you for your time and hard work on this important issue over the past year.

I look forward to what we will accomplish together next year.

Senators’ Outreach Letter on Regulations
March 18, 2015

Dear XXXXXXX,

The U.S. Senate Committee on Homeland Security and Governmental Affairs is initiating a review of the impact of federal regulations. The Committee, which has jurisdiction over federal regulatory policies and programs, is interested in understanding their real-world effects. As a part of this effort, it is important that we hear directly from a wide range of those affected by federal regulations every day.

The significant impact of regulations has been acknowledged by officials across the political spectrum. For example, President Obama has recognized that they “play an indispensable role in protecting public health, welfare, safety, and our environment, but they can also impose significant burdens and costs.” While those of us signing this letter may have different views about specific regulations, we all share the goal of an efficient and effective regulatory process that allows input by those affected by that process.

As we heard repeatedly in a recent Committee hearing, there is no central venue where businesses and citizens can voice their thoughts about regulations across the federal government. Our hope is that as we continue to hold hearings, conduct investigations, and examine potential improvements, our committee will be a place where Americans feel their concerns are heard.

To that end we are requesting your assistance in identifying existing and proposed regulations that have had or will have a real impact on your organization. We ask that you identify concerns with the regulatory process, using where appropriate a description of how specific rules affect your organization or its members, the rules that you believe merit attention by the Committee, along with a description of how the rules affect your organization. In particular, the Committee is very interested in older regulations that may warrant modification or even revocation, the impact any significant delays in the regulatory process have had on your business or members of your organization, and any views you may have on the cumulative impact of regulations. The Committee also welcomes suggestions you may have to improve the regulatory process.

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1 Executive Order No. 13610, May 14, 2012.
Additionally, as part of the larger effort to gain better insight into how regulations affect everyday Americans, we are launching the #CutRedTape online portal. A project of the Subcommittee on Regulatory Affairs and Federal Management, the portal will be accessible through the Committee website and facilitate ongoing input from the wider public.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate “the efficiency, economy, and effectiveness of all agencies and departments of the Government.” Additionally, S. Res. 253 (113th Congress) and S. Res. 73 (114th Congress) authorize the Committee to examine “the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.”

We ask that you please submit your response as soon as possible, preferably no later than April 17, 2015 to: U.S. Senate, Committee on Homeland Security and Governmental Affairs, Dirksen 340, Washington, DC 20510. If you have any questions, please feel free to contact [redacted] or [redacted]. Thank you for your prompt attention to this important request.

Sincerely,

Ron Johnson
Chairman

Thomas R. Carper
Ranking Member

James Lankford
Chairman
Subcommittee on Regulatory Affairs and Federal Management

Heidi Heitkamp
Ranking Member
Subcommittee on Regulatory Affairs and Federal Management

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3 S. Rule XXV(k); see also S. Res. 445, 108th Cong. (2004).
Overview of Responses to Senators’ Outreach Letter on Regulations

On March 18, 2015, the Senate Homeland Security and Governmental Affairs Committee sent a letter to trade associations, industry leaders, and non-profit organizations seeking to better understand the real-world effects of federal regulations. The aim of this bipartisan outreach effort was to better understand the effect of current and potential regulations on the private sector as well as health and public safety.

Senators Johnson, Carper, Heitkamp, and Lankford sent letters to a broad spectrum of stakeholders, including trade associations, businesses, think tanks, and advocacy organizations. In all, the Committee received forty-nine responses. A copy of the Senators’ letter and each of the responses received is provided in the attached appendix.1

These responses offered varying perspectives on the issues of regulatory reform. The following are key findings of the stakeholder perspectives. Attached is a 26-page document with representative quotes from each response that the committee received.2

- Environmental regulations are a top concern of industry leaders. Concerns stem from varying groups and industries over a wide range of environmental regulations including more strict National Ambient Air Quality Standards (NAAQS)3, the redefining of “Waters of the United States,”4 and greenhouse gas reporting and reduction rules.5

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1 Included with the letters are also any additional materials that may have been included in the submission. All quotes are taken verbatim from direct responses to the committee’s letter, with contextual inserts indicated in brackets, with all emphasis in the original and without corrections. The names listed below each quote are limited to signatories (if any) to the letter to the Committee. In some cases, quotes are taken from supplemental material included in the submission, which may or may not have been authored by the signatories. Additionally, footnotes and other references were removed but can be found by referring to the original letter included in the appendix.3 Fifteen responses noted concerns about the National Ambient Air Quality Standards (NAAQS). For example, in December 2014, the EPA proposed lowering the ozone NAAQS from the current 75ppb standard to between 65ppb and 70ppb. According to a 2015 National Association of Manufacturers (NAM) study, the currently a 65ppb standard could reduce U.S. GDP by $140 billion annually, and lead to 1.4 million fewer jobs. [Letter from Jay Timmons, President and CEO, National Association of Manufacturers, to Ron Johnson, Chairman, Comm. on Homeland Sec. and Governmental Affairs, (May 1, 2015).] 4 The proposed EPA/Army Corps of Engineers definition of “waters of the United States” (WOTUS) drew criticism because it expands the current definition to include temporary waters and other features that are not downstream. Twelve respondents commented negatively on the WOTUS definition. The definition vastly expands the regulatory scope of the federal government beyond protectable downstream U.S. waters. 5 Greenhouse gas (GHG) reporting requirements and attempts to reduce GHG emissions were a concern for twelve respondents. [Edison Electric Institute raised concern over the feasibility of reductions by 2020 because the EPA did not recognize the time required to design, site, permit, and build the necessary infrastructure to achieve the reductions. Letter from Thomas R. Kuhn, President, Edison Electric Institute, to Ron Johnson, Chairman, Comm. on Homeland Sec. and Governmental Affairs, (April 16, 2015).] American Iron and Steel Institute (AISI) is concerned that the new regulations will lead to a less affordable and reliable electricity supply. [Letter from Thomas J. Gibson, President and CEO, American Iron and Steel Institute, to Ron Johnson, Chairman, Comm. on Homeland Sec. and Governmental Affairs, (June 5, 2015).]
• Industry representatives note that new workplace regulations and rules promulgated will harm businesses due to increased compliance costs and additional burdens placed on employers while failing to achieve the intended effects of the regulations.  

• Respondents routinely stated that agencies frequently underestimate the implementation costs and broader effects, both costs and benefits, of rules and regulations they implement. Respondents contend this deficiency is the result of either improper calculations from using old data or outdated information, or seeking to maximize the benefits though counting obscure, tangential benefits while ignoring or underestimating the concrete effects.

• Financial regulations arising from Dodd-Frank continue to affect how businesses operate and banking regulations may have a ripple effect on the economy as a whole. Many respondents call for a modernization and streamlining of the regulatory regime, including codifying cost-benefit directives and ensuring sound science is used in agency decision making principles.

• Respondents representing labor organizations, environmental protection, consumers, and progressives expressed strong support for the value of many regulations to protect health, public safety, the public, and the environment. Several of the organizations also raised concerns about the regulatory process, including the timelines of implementation, pointing to instances when delays led to adverse impacts.

The outreach effort underlying this report was an attempt to hear directly from private sector and non-governmental stakeholders. By asking them about their own regulatory priorities, the respondents told the committee in their own words about the positive and negative effects of federal

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6 Nine industry leaders also mentioned tightening OSHA Permissible Exposure Levels (PELs) for varying substances, namely crystalline silica, and OSHA’s failure to update PELs for other substances for decades, despite new scientific information and advances in risk assessment. Between 2003 and 2009, thirty percent of general industry was not in compliance and the remaining seventy percent will likely find themselves out of compliance upon implementing the new standard. [Letter from Thomas J. Gibson, President and CEO, American Iron and Steel Institute, to Ron Johnson, Chairman, Comm. on Homeland Sec. and Governmental Affairs, (June 5, 2015).] Five respondents suggest OSHA’s proposed injury and illness reporting rule would burden employers, present privacy issues, and provide misleading information about workplace safety. The proposal would require employers to report worker injuries and illnesses, even if injuries are not work-related.

7 For example, The DOT finalized its Trucking Hours of Service rule in December of 2011. The Federal Motor Carrier Safety Administration (FMCSA) estimated $133 million in net benefits, but an industry analysis of the FMCSA resulted in a $189 million net loss. Letter from Thomas J. Donohue, President and CEO, Chamber of Commerce of the United States, to Ron Johnson, Chairman, Comm. on Homeland Sec. and Governmental Affairs, (April 17, 2015).

8 Section 953(b) of Dodd-Frank requires business to disclose the ratio of CEO pay to the pay of the median worker of the company. Respondents are concerned that this provision will add “significant” data collection burdens on companies, considering many companies have operations overseas. A 2014 Chamber of Commerce report estimated that the rule would impose over $700 million in costs on the economy—one-tenth of what the SEC estimated. [Letter from Thomas J. Donohue, President and CEO, Chamber of Commerce of the United States, to Ron Johnson, Chairman, Comm. on Homeland Sec. and Governmental Affairs, (April 17, 2015).

9 For example, the responses included letters from the AFL-CIO, the Center for Effective Government, the National Resources Defense Council, the Center for Progressive Reform, Coalition for Sensible Safeguards, Consumer Federation of America, the Environmental Defense Fund, and the Waterkeeper Alliance. These responses cited many examples about the value of existing regulations and raised concern about regulatory compliance, as well as raising questions about the effects of potential regulatory reforms.
regulations. The responses provide a meaningful input to the committee’s regulatory reform work—adding a much-needed real world perspective on the effect of regulation on the private sector, the American public, and the nation as a whole.
Representative Excerpts from Stakeholders’ Responses to the Committee’s Bipartisan Letter

The Aluminum Association

“The United States aluminum industry supports 670,000 jobs, generating $152 billion in economic output – nearly 1% of U.S. Gross Domestic Product – and contributes more than $6 billion in state and local revenue and another $9 billion for the federal government.”

[Regarding Air Permitting for Aluminum Facilities] “State implementation plans and conflicting federal statutes result in a regulatory patchwork of requirements which culminate in permitting processes that drag out into years-long negotiations. The regulatory uncertainty resulting from the process has a chilling effect on investment.”

- Heidi Brock, President and CEO, April 30, 2015

American Association of Advertising Agencies, Association of National Advertisers, and Interactive Advertising Bureau

“The undersigned associations believe that the appropriate approach to address consumer online privacy is through industry self-regulation and education. Existing and emerging robust self-regulatory principles address privacy concerns while ensuring that the Internet can thrive, thereby benefitting consumers and the U.S. economy. In contrast, attempts to develop ‘one size fits all’ consumer privacy legislation and broaden FTC regulatory discretion will hinder U.S. competitiveness.”

“In particular, the undersigned associates are concerned that legislation should not establish prescriptive requirements for when or how consumer notice and control should be provided. While we are committed to promoting consumer transparency and control related to data practices, the Administration’s Consumer Privacy Bill of Rights and other specific legislative mandates in this area would thwart innovation and ultimately disadvantage consumers by reducing companies’ ability to communicate effectively with their customers.”

- Letter signed by the above associations, April 30, 2015

American Chemistry Council

“ACC is America’s oldest trade association of its kind, representing companies engaged in the business of chemistry—an innovative, $812 billion enterprise that is helping solve the biggest challenges facing our nation and the world.”

“ACC appreciates the priority the Committee has given to improving the federal regulatory system. We acknowledge that federal regulations provide substantial benefits to the country...”
and its citizens, including an important measure of certainty to the regulated community. These benefits, however, are not distributed evenly across all regulatory programs. The cost of regulation is also significant and growing.”

“Legislation to modernize the regulatory process is clearly within the Committee’s jurisdiction. Two good examples include streamlining the federal permitting process and institutionalizing retrospective review.”

- Michael P. Walls, Vice President, Regulatory & Technical Affairs, April 30, 2015

American Composites Manufactures Association

“On behalf of the approximately 3,000 U.S. companies using fiber reinforced polymer composites to manufacture a wide variety of important and beneficial products…

“We take this opportunity to describe how certain EPA regulations and regulatory processes under the Clean Air Act (CAA) are harming our industry without providing any real improvement in the health and welfare of Americans.”

“For example…[s]tate implementation of EPA requirements to address ozone concentrations in excess of its ambient air quality standard will cause considerable uncertainty for smaller manufacturers. Even when companies are able to show on case-by-case basis that there are no feasible options for additional emissions reductions, successfully making this showing can be an especially time-consuming and costly exercise for smaller companies.”

- Tom Dobbins, President, April 29, 2015

American Farm Bureau Federation

“While we have attempted to cover a range of regulations that create real costs and substantive burdens to our members, the examples we cite should in no way be considered an exhaustive list. Federal regulations – as well as the state and local regulations that often flow from them – permeate virtually every phase of agricultural production. It would probably be the work of a lifetime to annotate all of the implications of Federal rules.”

[On Waters of the United States] “The EPA and the Army Corps of Engineers are now engaged in a sweeping regulatory proposal that would redefine what constitutes a ‘water of the United States’ (WOTUS), bringing with any such designation a legal obligation and legal exposure to citizen lawsuits…. [I]t is worth noting that the agency has received nearly 1 million comments on the proposal; of those, an estimated 20,000 or more of the filed complaints were viewed as substantive – and of those substantive comments, over half opposed to the agencies’ proposal. Yet the agency appears to be little concerned with those substantive concerns and has just sent its final proposal to OMB for final inter-agency review…. We find it astonishing that the agencies intend to move forward on a rule that has raised bipartisan concerns in Congress and among other Federal agencies, and which has
met with opposition from over half the states. Perhaps more than any other proposal, this entire proceeding amply demonstrates how agencies can ignore stakeholder input and even simple fairness when they have set their sights on expanding their regulatory reach.”

- Dale More, Executive Director, Public Policy, April 16, 2015

American Federation of Labor and Congress of Industrial Organizations

[Regarding OSHA standards] “I have witnessed first-hand how these rules have made a difference, changing conditions and practices in workplaces, significantly reducing exposures, preventing injuries and illnesses and savings workers’ lives. At the same time, over the past three decades, I have seen the system and process for developing and issuing worker safety rules devolve from one that worked to produce needed rules in a relatively timely manner to the current broken and dysfunctional system which is failing to protect American workers and costing workers’ lives.”

“The cost of job injury, illness and death are staggering. A 2012 study by Dr. J. Paul Leigh estimated the total annual cost at $250 billion a year, similar to estimates by the National Safety Council and the Liberty Mutual Safety Index when both direct and indirect costs are taken into account.

“The failure to regulate and control workplace hazards is falling squarely on the backs of the American workers and their families. Unfortunately, these cost impacts are rarely taken into account in any of the economic analyses that are conducted on regulations. The only costs that are considered are on regulated entities.”

[Regarding OSHA silica standard] “The failure to regulate silica has allowed uncontrolled exposure and more unnecessary disease and death. According to OSHA’s risk assessment prepared for the proposed rule, a new silica standard of 50 ug/m3 would prevent 688 deaths and 1,600 cases of silicosis a year. This translates into 12,384 deaths that could have been prevented since rulemaking began in 1997, if the standard had been in effect.”

- Peg Seminario, Director, Safety and Health Department, May 1, 2015

American Forest & Paper Association and American Wood Council

“Poorly designed regulations unintentionally can cause more harm than good, waste limited resources, undermine sustainable development, and erode the public’s confidence in government.”

“The forest products industry is heavily regulated. Under one statute alone, the Clean Air Act, our industry faces a dozen major regulations over the next 5 to 8 years that are projected to cost between $10 and 19 billion in capital.”

“Congress should codify into statute the longstanding presidential directive that the benefits of regulation justify its costs. This would ensure that regulators balance trade-offs and
ensure that regulators balance trade-offs and ensure that regulations do more harm than
good.”

- Donna A. Harman, President and CEO, American Forest & Paper Association, May 1, 2015

American Gas Association

“There are more than 72 million residential, commercial, and industrial natural gas
customers in the United States, of which 92 percent – more than 68 million customers –
receive their gas from AGA members.”

“Regulations pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act
were intended to protect natural gas utilities, which are nonfinancial, non-speculating end-
users of commodity products in the financial and physical energy markets. Costs borne by
utilities are largely passed to consumers through rates set by state regulatory authorities.
Key rules need significant overhaul because they are raising costs and reducing liquidity for
utilities. In the long run, inaction will hurt American energy consumers, and raise the price
of reliable, affordable, and abundant natural gas.”

- George Lowe, Vice President, Federal Affairs, April 17, 2015

American Iron and Steel Institute

“AISI serves as the voice of the North American steel industry in the public policy arena and
is comprised of 19 member companies, including integrated and electric furnace
steelmakers, and approximately 125 associate members who are suppliers to or customers of
the steel industry.”

“A consistent theme throughout many of the regulations that concern AISI members is the
fact that the actions of the EPA are driven by court imposed deadlines from citizen suits
brought by environmental groups. These deadlines bind the agency to rush through the
regulatory process in a less than transparent manner and often result in new rules that were
not well thought out or given the benefit of rigorous review and consideration from all
interested stakeholders.”

- Thomas J. Gibson, President and CEO, June 5, 2015

American Petroleum Institute

“API is the only national trade association representing all facets of the oil and natural gas
industry, which supports 9.8 million U.S. jobs and 8 percent of the U.S. economy.”

“API actively engages with regulatory agencies and the White House Office of Management
and Budget (OMB) to provide appropriate input in the regulatory process. Nevertheless,
agencies often move forward with rulemakings that stifle the economic well-being of the nation.”

[Regarding the EPA’s proposed new Ozone rules] “Restricting the standards to 60 ppb would place 94% of the U.S. population out of compliance. Even at 65 ppb, 45 of the lower 48 states would have areas deemed in non-attainment, including pristine areas like Yellowstone National Park. To comply with standards approaching or below naturally occurring peak levels of ozone, states could be required to restrict everything from manufacturing and energy development to infrastructure projects like roads and bridges….the new regulations could cost as much as $270 billion per year and put millions of jobs at risk.”

- Jack Gerard, President and CEO, May 4, 2015

Associated Builders and Contractors, Inc.

“A large percentage of ABC’s members are small businesses, and as you know, small businesses are the backbone of our nation’s economy. Their ability to operate efficiently and free of unnecessary regulatory burdens is critical for our county’s economic recovery.”

[Regarding Department of Labor (DOL) prevailing wage rules under Davis-Bacon] “As a result of flawed, unscientific wage calculation methodology, federal ‘prevailing’ wages in construction fail to reflect actual local wages. An April 2011 Government Accountability Office (GAO) report found that the Davis-Bacon wage survey process does not produce true prevailing wages, and DOL’s efforts to improve wage determinations to date have not addressed key issues with accuracy, timeliness, and overall quality…. Absent full repeal, employers and employees in the construction industry would be well-served by requiring the use of job descriptions and earnings data from the Bureau of Labor Statistics (BLS)—which is acquired through proven statistical sampling technique—to calculate and set these wages in a transparent manner.”

- Geoffrey Burr, Vice President, Government Affairs, May 1, 2015

The Associated General Contractors of America

“The complexity of the rulemaking process and the regulations promulgated through it are a constant topic of frustration for our members. The construction industry uses a lot of labor, materials, equipment and acreage, so we are governed by regulations that deal with personnel, production, process and the environment. As such, we are very sensitive to rules, regulations and enforcement efforts by federal agencies that seem impractical, imprudent or impossible to comply with.”

[Regarding Waters of the United States] “The proposed rule is a drastic expansion of federal [Clean Water Act] CWA jurisdiction….Expanding jurisdiction affects the entire Clean Water Act. EPA’s economic analysis has been limited to costs associated with section 404
of the Clean Water Act and fails to consider the full costs of implementing expanded jurisdiction.”

- Jeffrey D. Shoaf, Senior Executive Director, Government Affairs, May 1, 2015

**Association of American Railroads**

“The Association of American Railroads (AAR) is a trade association whose membership includes freight railroads that operate 83 percent of the line-haul mileage, employ 95 percent of the workers, and account for 97 percent of the freight revenues of all railroads in the United States.”

“AAR and its members urge consideration of the cumulative effect of regulatory burdens….This is a particularly material consideration for the railroad industry given its long history of regulation, which has resulted in an accumulated burden of overlapping, often outdated regulations, on top of which new rules are constantly being layered even as the industry is being transformed by changes in technology.”

“Railroads continue to encounter environmental permitting obstacles to infrastructure projects. There are a number of simple ways to make environmental permitting more efficient for the railroads without jeopardizing environmental interests.”

- Edward Hamberger, President and CEO, April 23, 2015

**The Brick Industry Association**

“Founded in 1934, the BIA represents the U.S. clay brick industry, which includes hundreds of manufacturers, distributors, and suppliers that provide employment for thousands of Americans in 44 states. Over 85 percent of the manufacturers are small businesses.”

“There are numerous regulations that could adversely impact our industry, including the national ambient air quality standards (NAAQS) and greenhouse gas (GHG) regulations currently being developed by the U.S. Environmental Protection Agency (EPA), and the recent state implementation plan (SIP) call to reform start-up and shutdown requirements in many State SIP programs.”

“Our industry is committed to doing our share to protect both the environment and our employees; however, we believe that the two rules discussed above represent more than our share. Either one of these rules individually has the potential to threaten the viability of our industry. Together, they appear to be an insurmountable obstacle. If our nation is to survive as a manufacturing force, we need regulators to understand that our ability to respond to one regulation is impacted by other regulations that we already have to meet. Manufacturers have finite resources. There needs to be some way to recognize the cumulative impact of these regulations and to identify priorities for manufacturer’s finite resources. We ask for your help in getting that message heard.”
Business Roundtable

“Business Roundtable’s CEO members lead companies with $7.2 trillion in annual revenues and nearly 16 million employees…. [and] invest $190 billion annually in research and development – equal to 70 percent of U.S. private R&D spending.”

“Federal regulation has provided substantial benefits to the country. These benefits, however, have come at a substantial cost.”

“Based on past member surveys, pending regulations of greatest concern include, but are not necessarily limited to, certain regulatory proposals or recently finalized regulations emanating from the Clean Air Act including changing the Ozone standard, reducing greenhouse gas emissions from the power sector, the Affordable Care Act, and the Wall Street Reform and Consumer Protection Act (e.g., derivatives trading used to reduce business risk, CEO pay ratio, conflict minerals).”

- John Engler, President, April 16, 2015

Caterpillar

“In 2014, Caterpillar employed some 114,000 people around the world with more than 51,000 of those in North America. In addition, Caterpillar dealers around the world accounted for nearly 162,000 employees. With more than 60 percent of our sales outside the United States, Caterpillar remains a leading exporter from the U.S. with more than $15 billion in exports in 2014.”

[Regarding Labor/Employment] “Caterpillar has spent significant time reviewing the impact of proposed regulations from the Department of Labor (DOL), the National Labor Relations Board (NLRB), and the Equal Employment Opportunity Commission (EEOC). To simply review proposed regulations and Executive Orders takes an employer such as Caterpillar hundreds of hours per year. For example, determining whether we have the systems and resources to track and comply with a rule like the Fair Pay and Safe Workplaces Executive Order, required substantial amounts of time from Caterpillar’s Legal, Human Resources and Governmental Affairs groups.

“In addition, federal agencies often grossly underestimate the cost of implementing a proposed rule. For example, the proposed rule and guidance stemming from the Fair Pay and Safe Workforces Executive Order was deemed ‘not economically significant’ by the Department of Labor and Federal Acquisition Regulatory Council. However, the business community provided their own cost analysis showing that the proposed rule will easily cost over the $100 million threshold required for a more rigorous, detailed economic review. Federal agencies could easily make a more accurate cost analysis by considering stakeholder input.”
Christopher J. Myers, Director, Federal Government Affairs, May 1, 2015

Center for Effective Government

“The Center for Effective Government is a national policy organization that works to ensure that government operations are open and transparent, that our regulatory system protects people and the environment, and that public officials advance the interests and priorities of all Americans.”

“We believe that an efficient and effective regulatory process is one that allows agencies to adopt safeguards that provide an adequate level of protection from hazards and harms before accidents happen. Delayed rules have real-world impacts—to public health, safety, and the environment, and to our national economy. But too often, our government acts only after a preventable tragedy has occurred—the global financial crisis, the chemical facility explosions in West, Texas, the General Motors auto recall, and exploding rail cars carrying crude oil are just a few examples.”

[Regarding ozone air quality standard] “EPA estimates that meeting a revised ozone standard of between 65 and 70 parts ppb by 2025 would avoid between 880 to 3,100 premature deaths, 360 to 1,100 respiratory hospital admissions, 1,100 to 3,500 emergency department visits for asthma attacks, and 300,000 to 910,000 asthma exacerbations in children, among other benefits, each year. EPA estimates the economic benefit from the avoided health effects at between $2 billion and $11 billion annually.”

Ronald White, Director of Regulatory Policy, May 1, 2015

Center for Progressive Reform

“We the undersigned are Member Scholars and Staff with the Center for Progressive Reform (CPR), a think tank and research institute that is composed of a network of sixty scholars across the nation and that is dedicated to protecting health, safety, and the environment through analysis and commentary.”

“The regulatory system has become heavily tilted in favor of powerful corporates so that it is now more attentive to their narrow interests, rather than the broad public interest in protecting people and the environment against unacceptable harms that the agencies were created to address. The result is that the Clean Air Act, the Federal Food, Drug, and Cosmetic Act, the Occupational Safety and Health Act, and other public interest laws that Congress has enacted over the past several decades are not being implemented as intended.”

“In its most recent report to Congress, the Office of Management and Budget (OMB) estimates that the total benefits of significant regulations for the past ten years exceeded theirs costs by a ratio as high as 16 to 1. The Environmental Protection Agency (EPA) estimates that the regulatory benefit of the Clean Air Act exceeds its cost by a ratio of 25 to 1. Similarly, a study of EPA rules issued during the Obama Administration found that their regulatory benefits exceeded costs by a ratio as high as 22 to 1.”
“As documented in a 2009 CPR white paper entitled The Hidden Human and Environmental Costs of Regulatory Delay, just the delays of rulemakings impose a serious cost on the public interest as well. Each year dozens of workers are killed, thousands of children are harmed, and millions of dollars wasted because of unjustifiable delays in federal regulatory action. The costs of regulatory delay accrue every time the federal protector agencies—those created by Congress to protect health, safety, and the environment—fail to take timely action to prevent the kind of serious and pressing threats Congress intended for them to address.”

- Rena Steizor, Professor of Law, University of Maryland Francis King Carey School of Law / Robert R.M. Verchick, Gauthier ~ St. Martin Eminent Scholar Chair in Environmental Law, Loyola University, New Orleans / James Goodwin, Senior Policy Analyst, May 1, 2015

Coalition for Sensible Safeguards

“The Coalition for Sensible Safeguards (CSS) is an alliance of more than 150 labor, environmental, public health, scientific, consumer, financial reform, small business, and public interest organizations joined in the belief that our country’s system of regulatory safeguards provides a stable framework that secures our quality of life and paves the way for a sound economy that benefits us all.”

“Cost-benefit analysis has become a staple of the regulatory process; however, the current methodology has significant intrinsic flaws and limitations. In addition to the ethical concerns about putting a price on human life or suffering, these analyses are highly dependent on the assumption upon which projections are based.”

“Historically, industries impacted by regulations have often overinflated predicted compliance costs. According to a study from the academics at the Center for Progressive Reform, agencies, especially the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA), primarily rely on industry to supply the estimated costs of proposed rules. Because companies know the purpose of the surveys, they have a strong incentive to overstate costs in order to skew the final cost-benefit analysis toward weaker regulatory standards. In some cases, OSHA and EPA regulation cost estimates have been inflated by at least 30% and generally by more than 100% of the actual cost of compliance.”

- Katherine McFate and Robert Weissman, Co-Chairs, May 1, 2015

ConocoPhillips

“We spend a tremendous amount of time, effort, and resources on understanding, and correctly applying regulations to our activities. Whenever we assess a business opportunity, the cost of regulatory compliance is one of the key drivers for determining whether to make an investment or not.”
[Regarding the National Environmental Policy Act] “Congress should consider streamlining the NEPA process so that individual projects do not have to go through more than one analysis….We have experienced agencies taking a completed NEPA analysis and each of them using their own internal evaluation criteria and processes to reach far different conclusions.”

[Regarding proposed waters of the United States rule]: “What is particularly troubling about this proposed rule is that it appears to be relying on one sentence of Justice Kennedy’s concurring opinion in Rapanos vs. the U.S., as opposed to the plurality opinion of the majority that sought to clearly limit the jurisdiction of water bodies governed….The impact of this proposal will be increased permitting costs, delays and risks of permit denials, citizen suits, and governmental enforcement actions for Exploration and Production operations.”

- Andrew Lundquist, Senior Vice President, Government Affairs, May 21, 2015

Construction Industry Round Table

“When the design/construction industry is burdened with unnecessary or ineffective mandates that often take valuable time they also cost jobs… thus, regulatory delays, redundancies, inefficiencies, and red tape collectively have a direct impact on costs and therefore the vitality and ability of our industry to remain profitable and hire more people.”

“The cacophony of laws, regulations, and rules that we insist on heaping on our private sector job creators is unprecedented and their cumulative burden is not really known or fully appreciated.

“In an effort to better understand the general impact or burden created by the ‘regulatory complex’ on the design/construction industry, CIRT undertook a series of steps to try to quantitatively measure the costs with its members…. The findings are extraordinary – when the answers were weighed the additional costs and time as the result of ‘red tape was 10 percent. If extrapolated out to cover the annual dollar activities of the industry (even at the sluggish levels of the past few years) – it still amounts to somewhere around $90-100 billion dollars in waste and inefficiency (per year) for infrastructure related projects.”

- Mark A. Casso, Esq., President, April 16, 2015

Consumer Federation of America

“Consumer Federation of America (CFA) is a nonprofit association of nearly 300 consumer groups that, since 1968, has sought to advance the consumer interest through research, advocacy, and education. Our members represent millions of people.”

[Regarding product safety] “Since June 2011, the new federal crib standard have stopped the sale, re-sale, manufacture, and distribution of drop-side cribs and also prohibits drop-side cribs at motels, hotels, and childcare facilities. Drop side cribs have resulted in the deaths of
at least 32 infants since 2011. The [Consumer Product Safety Commission’s] crib standards also made mattress supports stronger, crib hardware sturdier, and compliance testing more rigorous. This was the first time in nearly 30 years that federal crib standards have been updated. Thus, the benefits are profound for consumers but took an incredibly long time to be finalized with the vast cost of at least 32 infant deaths.”

[Regarding the cost of inadequate regulation of high cost lending] “Currently 35 states authorize triple digit interest rate loans with few, if any, consumer protections. As a result 81 percent of Americans live in states that would see a considerable improvement in consumer protections for payday loans if the [Consumer Finance Protection Bureau] rule is enacted. According to the CFPB, 75 percent of payday loan fees are generated by borrowers trapped in at least 11 loans per year and, according to the Center for Responsible Lending, this loan churning results in $3.5 billion in fees paid by payday loan borrowers and $3.6 billion in fees paid by title loan borrowers each year.”

- Rachel Weintraub, Legislative Director and General Counsel, May 1, 2015

Consumers Union

“Since our founding in 1936, Consumers Union and Consumer Reports have worked to promote a safe, fair, and just marketplace for consumers, and to empower consumers to protect themselves.”

“We have found in our experience that the rulemaking process – following the Administrative Procedures Act and other relevant statutes Congress has enacted over the years and developed more fully in each agency to fit the matters it regulates – has generally worked well to solicit and consider all viewpoints. The resulting rules often reflect careful and lengthy consideration of the ramifications of various alternative approaches.”

[Regarding review of existing regulations] “Regulated entities need to have a key role in the review, but their desire to minimize compliance burdens and costs needs to be carefully weighed against the more important objective of ensuring that the regulations continue to provide effective protection and accountability….Regulated entities are not always in the best position to objectively evaluate which costs are necessary.”

- George P. Solver, Senior Policy Council, William C. Wallace, Policy Analyst

Council of Industrial Boiler Owners

“In recent years, EPA has used the [Clean Air Act] as a battering ram to further the Administration’s ambitious environmental agenda. In the Agency’s rush to promulgate as many pollution control rules as possible in a short period of time, mistakes have been made and deliberate oversights have gone uncorrected.”

“CIBO recommends that Congress carefully examine EPA’s attempts to use environmental regulations to permanently alter U.S. energy trajectories. The CAA does not give EPA the
authority to establish its own national energy policy, regardless of that policy’s supposed or theoretical benefits.”

- Robert D. Bessette, President, May 1, 2015

Credit Union National Association

“Today, credit unions face a crisis of creeping complexity with respect to regulatory burden. The regulations to which credit unions are subject are ever increasing, never decreasing. While credit unions were already challenged by significant regulatory burden prior to the financial crisis, the changes to regulations coming as a result of the crisis have exacerbated the burden on credit unions, and are a key driver to consolidation within the credit union system. Since the beginning of the financial crisis, credit unions have been subjected to more than 190 regulatory change[s] from nearly three dozen Federal agencies totaling nearly 6,000 Federal Register pages. Credit union volunteers and executives are particularly frustrated that they are required to comply with these new and complex regulations notwithstanding the fact that they did not cause or contribute to the financial crisis.”

“Because many credit unions employ a small staff and have limited resources, the proportional impact of regulation on credit unions is greater than it is for large banks. Resources – both time and money – diverted to complying with rules designed for large banks are resources that cannot be used to serve credit union members.”

- Jim Nussle, President and CEO, April 16, 2015

Crop Life America

“CLA and its members share the Committee’s goals of a fair, efficient, and effective federal regulatory process that allows meaningful input by those affected.”

[Regarding EPA’s proposed revisions to the Agricultural Worker Protection Standard] “CLA’s cover letter and attached report lays out in detail serious flaws, gaps and erroneous presumptions in EPA’s economic and risk-benefit analyses used to justify the proposed revisions.”

“Four years ago now, when this effort was initiated on 22 regulations, policies, and processes and procedures relative to pesticide regulation where we felt there was room for improvement… At that time, the bewildering array of 15 separate dockets left some confusion about where comments should be submitted, and we are not certain that our comments made it to the right place. In reviewing that list from our 2011 comments, most are all still relevant to today’s discussion and still in need of improvement.”

- Beau Greenwood, Executive Vice President, May 1, 2015

Direct Selling Association
“Direct Sellers had more than $34 billion in domestic sales last year. The 18 million individual direct sellers who sell for direct selling companies are independent contractors; they frequently sell on a part-time basis to their neighbors, relatives and friends as a means of supplementing other income sources.”

“Unfortunately, over the years, numerous regulatory and legislative proposals at both the federal and state levels would have unintentionally hampered individual independent contractor direct sellers. Most recently among federal proposals, the Department of Labor (DOL) continues to consider a rule that would require burdensome disclosure requirements and documentation related to an independent contractor’s employment status.”

“Such an expansion of the authority of the DOL without prior Congressional hearings would be of concern as DOL’s proposed rulemaking could, whether intentionally or inadvertently, lead to the improper classification of independent sales personas and entrepreneurs as employees. Such an interpretation of DOL’s actions could lead to the demise of the direct selling industry and the opportunity it currently provides to 18 million Americans who generate over $34 billion in sales.”

- Joseph N. Mariano, President, May 1, 2015

Duke Energy

“The investor-owned electric power sector is highly regulated at the federal and state level and is an $840 billion industry that powers nearly 70 percent of America’s homes and businesses. Consequently, the regulatory process has the ability to profoundly affect Duke Energy, our customers (which include residential, commercial, manufacturing and industrial customers), the communities we serve, and our nation’s electric power sector.”

“The sometimes unnecessary layering of regulations across the industry, without the various federal agencies communicating amongst themselves, lead to inefficient investment and planning decisions, which ultimately affect the cost of supplying electricity to our customers.”

“It’s important for federal agencies to understand that certain rules and regulations may have unintended consequences. If left unaddressed, these unintended consequences will raise electricity rates and reduce capital expenditures that offer an important source of much-needed, high-quality job creation in many local towns and communities.”

[Regarding cybersecurity] “Cybersecurity is one of the most important and challenging issues facing electric utilities and other critical infrastructure industries. Industry regulations tend to rely on performance requirements instead of performance objectives. For example, the North American Electric Reliability Corporation Critical Infrastructure Protection (NERC CIP) regulations attempt to specify specific actions based on security principles, as opposed to asking electric utilities to implement cybersecurity programs that address security objectives. This results in burdensome regulatory requirements with sometimes limited benefit.”
Edison Electric Institute

“The Edison Electric Institute (EEI) is the association that represents all U.S. investor-owned electric companies. Our members provide electricity for 220 million Americans, operate in all 50 states and the District of Columbia, and directly employ more than 500,000 workers. With $90 billion in annual capital expenditures, the electric power industry is responsible for millions of additional jobs. Reliable, affordable, and sustainable electricity powers the economy and enhances the lives of all Americans.”

“We believe it is imperative that all environmental standards established by EPA are achievable, coordinated with other environmental requirements, and provide realistic timeframes in which to make changes to the complex electricity system necessary to achieve these goals. These environmental requirements also must not hamper the sector’s obligation and commitments to providing reliable and affordable electricity for all Americans.”

“EPA’s proposed guidelines for reducing GHG emissions from existing power plants under section 111(d) of the Clean Air Act (CAA) is potentially the most wide-ranging and impactful regulation affecting the electric power industry ever issued by the federal government….One major concern with the proposed guidelines is that reductions assumed by 2020 do not recognize the time required to design, site, permit and build the necessary infrastructure, including natural gas plants and pipelines, and transmission and distribution lines.”

- Thomas R. Khun, President, April 16, 2015

Environmental Defense Fund

“The Environmental Defense Fund (EDF) is a nonpartisan nonprofit organization with over a million members across our nation and is dedicated to working towards innovative, cost-effective solutions to the most serious environmental problems.”

“History has demonstrated that regulations like those established to protect Americans’ drinking water, reduce harmful toxic emissions, and rein in climate-destabilizing emissions have saved and improved countless lives. We also urge the Committee to carefully evaluate assertions of economic harm from environmental regulations; more often than not American businesses are able to innovate and find efficient, cost-effective solutions to curb pollution.”

[Regarding the Clean Air Act] “The net benefits of the Clean Air Acts from 1970 to 1990 are valued at over $21 trillion. By 2020, the Environmental Protection Agency (“EPA”) estimates the 1990 Clean Air Act Amendments will annually prevent a projected 230,000 deaths; 2.4 million asthma attacks; 200,000 heart attacks; and 5.4 million lost school
days….Additionally, EPA projects a net overall improvement in economic growth due to the benefits of cleaner air.”

- Elizabeth B. Thompson, Vice President, U.S. Climate & Political Affairs, May 1, 2015

**ExxonMobil**

“As the scope and complexity of regulations continue to increase in the U.S., so have the impacts to our business and to society. To compound the issue, underlying authorizing statutes often establish unreasonable deadlines, require unnecessary technology and risk reviews, and provide broad discretion to executive branch agencies. Many agencies have gone unchecked in their implementation actions, and are using regulatory hurdles to impede progress on even the most ordinary of projects.”

[Regarding the Renewable Fuel Standard] “The EPA regulations for the RFS are unrealistic, unworkable and should be repealed. For example, the Congressional Research Service estimates that by 2022, the RFS could increase food costs for Americans by $3 billion annually.”

“ExxonMobil believes regulatory reform is essential for the U.S. to maximize its productivity and fully realize its competitive advantage – both domestically and in the international marketplace.”

- Theresa M. Fariello, Vice President, Washington Office, June 1, 2015

**FIA**

“FIA is the leading trade association for the futures, options and cleared swaps markets.”

“Generally speaking, FIA encourages the Committee to review the various cost-benefit regimes applied across regulatory agencies. FIA supports efforts to subject regulations to both qualitative and quantitative cost and benefit analysis, such as the legislation passed by the House last year to ensure that the cost-benefit analysis conducted by the Commodity Futures Trading Commission closely tracks President Obama’s Executive Order No. 13563, which does not extend to independent regulatory agencies.”

- Walt L. Lukken, President and CEO, April 22, 2015

**Ford Motor Company**

“The regulatory process and its outcomes have a long-lasting and widespread impact on the millions of Ford customers, the tens of thousands of Ford employees and the thousands of Ford suppliers in the United States. Making sure we get these regulations right is essential to the health of not only Ford’s business, but the entire U.S. economy.
“To that end, it is essential that regulations and the regulatory process be based on meaningful, data-driven analysis of behavior, science, and engineering. It is also important that the process take into account both the societal and consumer costs and benefits of regulations, including alternatives. As new data becomes available, we must use it to reevaluate our initial regulatory assumptions to assure that the policy goals align with this new data and market conditions.”

“An example of a regulatory process that was not data driven can be found in EPA’s decision to allow up to 15 percent ethanol (E15) into fuel prior to the completion of critical vehicle testing. The vast majority of vehicles on the road today were designed, certified and warranted to only withstand up to 10 percent ethanol in gasoline (E10).”

- Curt Magleby, Vice President, Government Affairs, May 5, 2015

The Heritage Foundation

“We share your concern over the growing burden of regulation, and commend your efforts to address this critical issue.

“The regulatory burdens on Americans have increased at an alarming rate. Based on data from the Government Accountability Office, we have calculated that an unprecedented 184 major new regulations have been imposed by Washington since 2009, with additional costs to consumers and the economy in excess of $80 billion annually.”

“Increasingly, rulemaking is being conducted by independent agencies outside the direct control of the White House. Regulations issued by agencies such as the Federal Communications Commission, the SEC, and the Consumer Financial Protection Bureau are not subject to review by OIRA, or even required to undergo a cost-benefit analysis. This is a serious loophole in the rulemaking process.”

- Jim DeMint, President, May 1, 2015

Independent Community Bankers of America

“On behalf of the more than 6,000 community banks represented by ICBA, thank you for your interest in regulatory burden and an efficient and effective regulatory process.”

[Regarding data collection requirements] “The requirement compels the bank to create a separate bureaucracy within the bank that cannot be integrated with lending operations. When this mandate is not feasible, such as in organizations that are too small to accommodate firewall structures, additional notice requirements apply. The cost of these new requirements will be disproportionately high for community banks that do not have the scale to spread compliance costs over a large asset base.”

- Camden R. Fine, President and CEO, April 24, 2015
Independent Petroleum Association of America

“IPAA represents the thousands of independent oil and natural gas exporters and producers, as well as the service and supply industries that support their efforts, that have been, or will be, most significantly affected by regulatory actions. Independent producers drill about 95 percent of American oil and natural gas wells, produce about 54 percent of American oil, and more than 85 percent of American natural gas…. Based upon a 2012 survey of IPAA’s membership, the typical IPAA member employs 12 full-time and 2 part time employees and has been in business for 23 years.”

[Regarding hydraulic fracturing rulemaking] “This new rule requires pre-approval of hydraulic fracturing operations, regulations on well integrity, disclosure of chemicals used and storage of recovered fluids…. DOI has never made a compelling case that this rule is necessary or identified a state that has insufficient regulations in place to properly regulate hydraulic fracturing activities in their states. This rule will be difficult and costly for industry and the Bureau of Land Management (BLM) to implement and the agency has no clear plan on how to properly train field staff to act on the new measure. The rule is unnecessary and will add another layer of burden to independent producers already struggling to navigate the complex and confusing regulatory program governing federal lands.”

- Barry Ressell, President and CEO, Independent Petroleum Association of America, April 30, 2015

Murray Energy Corporation

“Murray Energy is the largest privately-held coal company in the United States. We own seventeen underground coal mines, which provide high paying, well-benefitted jobs to over 8,600 people in six states. We mine over 88 million tons of coal per year, which is used to provide reliable, low cost electric power to millions of Americans.”

“The availability, reliability, and cost of electric power, a stable of life, is being destroyed in America today. Our citizens on fixed incomes will not be able to pay their electric bills, and our manufacturers of products in our Country for the global marketplace will not be able to compete.”

[Regarding Clean Power Plan] “EPA’s treatment of coal under its proposed New Source Performance Standards for Electricity Generating Units (‘NSPS’), flouts congressionally-stated public policy by mandating a fuel-discriminatory standard that requires commercially unproven carbon capture and storage technologies to be used on all new coal plants, while requiring nothing of new gas plants. The effect of the proposal will be to prevent the construction of any new coal-burning units and to impede the very efforts to develop the clean coal technologies that Congress, the Department of Energy, and the power industry have worked so hard to foster. This regulatory approach to the power sector is also directly contrary to the public policy, declared by Congress, to ‘promote national energy policy and
energy security, diversity, and economic competitiveness benefits that result from the increased use of coal.”

- Robert E. Murray, Chairman, President, and CEO, April 21, 2015

National Association of Chain Drug Stores

“NACDS represents traditional drug stores and supermarkets and mass merchants with pharmacies. Chains operate more than 40,000 pharmacies, and NACDS’ 125 chain member companies include regional chains, with a minimum of four stores, and national companies. Chains employ more than 3.8 million individuals, including 175,000 pharmacists. They fill over 2.7 billion prescriptions yearly, and help patients use medicines correctly and safely, while offering innovative services that improve patient health and healthcare affordability.”

[Regarding DEA regulations] “The issue of lack of DEA transparency remains an ongoing concern among DEA registrants, including pharmacies. Often, the agency conducts its operations and implements policies in a relatively opaque manner, seemingly unaware of the impact on healthcare delivery…[T]he [Controlled Substances Act] requires pharmacists to take on diverse and sometimes conflicting roles. On the one hand, pharmacists have a strong ethical duty to serve the medical needs of their patients in providing neighborhood care. On the other hand, community pharmacists are also required to be evaluators of the legitimate medical use of controlled substances.”

- Steven C. Anderson, President and CEO, May 1, 2015

National Association of Manufacturers

“The NAM is the nation’s largest industrial trade association and voice for more than 12 million men and women who make things in America. The NAM is committed to achieving a policy agenda that helps manufacturers grow and create jobs.”

“According to the annual information collection budget, the paperwork burden imposed by federal agencies excluding the Department of Treasury increased from 1.509 billion hours in fiscal year (FY) 2003 to 2.446 billion hours in FY 2013, an increase of 62.1 percent. To put this number into perspective, federal agencies—not including the Department of Treasury—imposed more than 279,000 years’ worth of paperwork burden in FY 2013.”

[Regarding the EPA’s emission standards for industrial, commercial, and institutional boilers and process heaters] “In January 2013, the EPA published its final Boiler MACT (maximum achievable control technology) rule. The NAM and business and environmental groups filed legal challenges in a federal appeals court, and the agency received 10 petitions for reconsideration, including one filed by the NAM that also requested reconsideration of related rules involving air pollutants for area sources (Boiler GACT, or generally available control technology) and commercial and solid waste incineration units. The EPA estimates that the MACT portion of the rule alone will impose capital costs of near $5 billion, plus $1.5 billion more in annual operating costs. The NAM will continue to advocate for
achievable and affordable Boiler MACT regulations. While the rule itself has improved over time, there are still flaws and unsettled legal and regulatory issues that impose significant costs and uncertainty for manufacturers.”

- Jay Timmons, President and CEO, May 1, 2015

National Black Chamber of Commerce

“The number of regulations impacting American business is greater than ever and growing every day, but not all regulations are created equal with respect to the burden they impose on business. Thus, review and reform of regulations currently on the books makes sense, provided it targets the regulations that really impose the greatest burden. Further, the large number of regulations on the books that are harmful to Americans’ ability to start and run a business successfully is an indication that the system is broken, and attention should be focused on avoiding adding more bad regulations by fixing the regulatory process in addition to reforming and/or eliminating existing bad regulations.”

[Regarding FCC net neutrality rule] “The Open Internet rules open the possibility that the FCC will now regulate broadband internet service prices through a complex system of rate regulation and fees, including additional state and local fees, potentially raising prices to consumers, especially small business customers who generally buy internet service the same way home users do…. Use of broadband technology to start a business is one of the few ways that lower income individuals in urban areas possess to easily and quickly start a business based on their ideas and hard work, rather than their access to credit, credentials, and ability to navigate the world of permits and licensing.”

- Harry C. Alford, President and CEO, April 28, 2015

National Federation of Independent Businesses

“NFIB represents about 350,000 independent business owners who are located throughout the United States.”

“Small businesses are disproportionately burdened by federal regulations. Numerous studies have shown this to be true. The most recent study, performed for the National Association of Manufacturers, found that businesses with fewer than 50 employees spent about 29 percent more per employee per year complying with federal regulatory mandates than those businesses with 100 or more employees. A 2010 edition of this study, performed for the U.S. Small Business Administration’s Office of Advocacy, and which looked more specifically at smaller companies, found that small businesses with fewer than 20 employees spent 36 percent more per employee per year than their larger counterparts.”

“NFIB believes that agencies should waive fines and penalties for small-business owners the first time they commit a harmless error on regulatory paperwork. NFIB encourages Congress to explore requiring agencies to provide small businesses with a grace period to fix minor violations when the public and their employees are not in imminent danger.”
National Mining Association

“Our members supply energy, metals, minerals and materials used by every sector of our economy that are indispensable for the development of technology and manufacturing of products that improve and sustain our quality of life. The U.S. mining industry operates under a wide range of federal and state laws that cover the production, beneficiation, transportation and use of coal, metals, minerals, and materials.”

“Focused and efficient regulatory frameworks can produce tangible benefits for the public and business. However, poorly designed, inefficient, and antiquated rules divert capital from more productive use, impair economic and job growth, impede innovation and impede sustained performance and improvement. The burden of federal regulations as of 2012 exceeds $2 trillion, or 12 percent of GDP.”

[Regarding EPA Utility MATS rulemaking] “The MATS regulation—the most expensive in EPA history—is a poster child for unbalanced regulations that dismiss the real costs and inflate the benefits to convince the public that the enormous expense is justified. Even by EPA’s own calculation the rule will cost American consumers almost $10 billion each year, but bring, at most, only $4-$6 million in benefits. To make matters worse, more than half of the costs are attributable to imposing standards for emissions the agency found pose no danger to public health. EPA’s position is that while it was allowed to consider costs in choosing whether to regulate, it also retained the discretion to ignore them. And ignore them it did, with a rule that demands consumers pay $1,600 in exchange for $1 in benefits.”

National Stone, Sand & Gravel Association

“[NSSGA] members – stone, sand and gravel producers and the equipment manufacturers and service providers who support them – produce the essential raw materials found in homes, buildings, roads, bridges and public works projects and represent more than 90 percent of the crushed stone and 70 percent of the sand and gravel mined annually in the United States.”

“The government should consider cumulative impacts of compliance before more rules are imposed. This would allow capital costs and feasibility of compliance associated with a new rule to be more thoughtfully understood both by regulators and stakeholders.”

“Agencies regularly utilize ‘guidance’ to circumvent formal notice and comment rulemakings allow the government to avoid providing needed notice to the regulated and interested public. In these instances, industry and citizens are bereft of a suitable opportunity to analyze risk abatement, management and compliance costs.”

- Dan Danner, President and CEO, April 24, 2015

- Hal Quinn, President and CEO, May 6, 2015
Natural Resources Defense Council

“Since 1970, NRDC has participated in the legal and regulatory processes to promote public health and the environment. Our organization brings decades of expertise in regulations that protect the public and those that do not.”

“The Toxic Substances Control Act (TSCA) is widely considered to be the greatest failure of any of the environmental laws of the 1970s. The main reason that EPA has historically failed to regulate chemicals under TSCA is the provision requiring the agency to select the regulatory alternative that is ‘least burdensome’ on industry. In 1989, after spending 10 years and millions of dollars, to develop a 45,000 page record, EPA proposed to ban most uses of asbestos in the United States. Roughly 10,000 people die in the U.S. every year as a result of asbestos exposure. Yet in 1991, a federal court overturned EPA’s ban on existing uses of asbestos. The court held that EPA did not meet the ‘least burdensome’ test by conducting a thorough cost benefit analysis of each of the potential regulatory options at the agency’s disposal and demonstrating that the one it chose was the least costly effective approach.”

[Regarding BP’s Deepwater Horizon disaster] “Safety regulations were never updated to reflect the proliferation of specialized service contractors. These entities perform many critical well safety functions yet were not directly overseen by regulators….Regulations were also never updated to require better reporting of uncontrolled hydrocarbon releases or near accidents….The result was an obsolete regulatory framework configured towards a bygone era of oil and gas production.”

- [unsigned], May 1, 2015

Public Citizen

“For more than 40 years, Public Citizen has successfully advocated for stronger health, safety, consumer protection and other rules, as well as for a robust regulatory system that curtails corporate wrongdoing and advances the public interest.”

“Regulatory paralysis is the most important problem currently facing our regulatory process. The regulatory process is simply too inefficient and ineffective in developing and finalizing new standards to protect the public’s health, safety, and financial security.”

“Implementation of the bipartisan Food Safety Modernization Act (FSMA), passed in the wake of a string of food safety scandals in 2010 that sickened consumers, fatally in some instances, around the country, is another tragic example of regulatory delay. Despite Congress directing the Food and Drug Administration (FDA) to finalize the critical new food safety rules in seven key areas by 2012, all of those rules missed this mandated Congressional deadline and none have even been finalized to date.”

- Michael W. Johnson, President and CEO, April 30, 2015
Regulatory Studies Center [The George Washington University]

“An academic center of the Trachtenberg School of Public Policy and Public Administration, we are a network of scholars from around the globe with experience and credibility on regulatory matters who conduct objective, empirically-based analysis of regulatory policies and practice.”

“Presidents of both parties for over 30 years have supported ex ante impact analysis of regulations. Despite enjoying bi-partisan support, however, these requirements are not codified in statute. Codifying these requirements could have several advantages.”

“Agencies seldom look back to evaluate whether existing regulations are achieving their intended effects. While long-standing executive orders require agencies to conduct retrospective review of their rules, these initiatives have been met with limited success largely because they did not change underlying incentives.”

- Susan E. Dudley, Director, May 1, 2015

Schneider

[Regarding Drug Hair Testing] “Under applicable DOT regulations, motor carriers perform urine drug tests upon drivers in the following scenarios: pre-employment, random, and post-accident. Although the DOT does not prohibit testing hair for the presence of drugs, it does not recognize drug hair testing as a substitute. A number of leading motor carriers, including Schneider, are electing to test hair for drugs in the pre-employment and random test scenarios. Hair testing can detect drug use in the prior 90 day period, while urine testing can only detect usage over a much shorter period of time (48-72 hours), and is more easily circumvented, as many of the drugs of abuse are water soluble. At Schneider, the positive rate for hair testing is 3.56% compared to 0.30% for urine testing. In other words, about 12 times more drug users are identified through hair testing than urine testing. Schneider and other responsible motor carriers are spending literally hundreds of thousands of dollars annually on urine tests which are entirely duplicative of hair test, albeit with only a fraction of the efficacy of hair testing.”

[Regarding the Transportation Worker Identification Credential “TWIC”] “Duplicative background checks and redundant credential requirements are imposed upon drivers of hazardous materials. Currently, drivers who transport hazardous materials must submit to a finger-print based background check at a cost of approximately $90 to obtain an endorsement for their commercial driver’s license. Many of these drivers also access port facilities and therefore must obtain a TWIC at a cost of $105.25. The background checks for the hazardous material endorsement and the TWIC are identical.”

- Thomas E. Vandenburg, Director, Government Relations, April 29, 2015
SPI [The Plastics Industry Trade Association]


“SPI and the plastics industry have many concerns regarding the regulatory environment, and many concerns about specific regulations. Some of the specific areas of concern for SPI are the Food Material Safety regulations that are expected later this year, Green Buildings, National Ambient Air Quality Standards for Ozone, Conflict Minerals, and Third-Party Testing Requirements for Lead and Phthalate Content.”

[Regarding National Ambient Air Quality Standards for Ozone] “SPI’s concerns are that the ozone standard levels considered in EPA’s proposal could push the entire country into ‘nonattainment.’ Emissions have been cut in half since 1980, leading to a 33% drop in ozone concentrations, which is a major accomplishment.

“The negative impact of raising the air quality standards and pushing states into nonattainment is that it limits business expansion in nearly every populated region of the United States and impairs the ability of U.S. companies to create new jobs. Increased costs associated with restrictive and expensive permit requirements would likely deter companies from siting new facilities in a nonattainment area.”

- Robert Helminiak, Vice President, Science and Regulatory Affairs, April 23, 2015

SSM Coalition

“The SSM coalition is an ad hoc group of over 15 national trade associations concerned about how the Environmental Protection Agency regulates air emissions from sources that are undergoing startup, shutdown or malfunction (‘SSM’) events.”

[Regarding National Ambient Air Quality Standards] “EPA would require states to change their SIPs [State Implementation Plans] so that all exceedances of emission limitation during SSM events will be deemed violation of the Clean Air Act, even when those excess emissions are unavoidable despite proper design, maintenance, and operation of the source. EPA asserts that SIPs are substantially inadequate unless they match EPA’s latest view on how SSM events should be treated, without any attempt by EPA to tie current SIP SSM provisions to any failure to meet National Ambient Air Quality Standards.”

- Russell Frye, Counsel, May 1, 2015

Toyota
“Toyota’s economic impact in the US includes 10 manufacturing facilities, in addition to R & D and sales facilities. Our direct employment exceeds 32,000 and our direct investment over $20 billion, including 11 expansions since 2011 resulting in over 4,000 new jobs.

“Toyota is committed to manufacturing vehicles where we sell them. Over 70 percent of the vehicles we sell in the US are produced in North America. However, in order for automakers to continue to invest in the development and manufacture of vehicles that meet consumer expectations at an affordable price, it is important to maintain a strong focus on regulatory consistency, clarity, simplification and feasibility in order to minimize the cost and enhance the effectiveness of regulations.”

[Regarding motor vehicle fuel economy and greenhouse gas emissions] “Toyota believes that the construct of the ONP [One National Program] regulations are a step in the right direction toward minimizing the regulatory complexity that originally prompted the ONP agreements, but are not an optimal solution for the long-term given the considerable differences that remain between the EPA and NHTSA programs and regulations. Without addressing the underlying statutory differences between EPCA/EISA and the CAA, automakers have no certainty that we will not face the same untenable situation in the future, likely forcing all stakeholders to once again negotiate a way out from under the legislative overlap and inconsistency.”

- Stephen Ciccone, Group Vice President, Government Affairs, April 28, 2015

Union of Concerned Scientists

“At the Union of Concerned Scientists, our 450,000 members and supporters throughout the country are committed to science-informed regulation that makes a real difference in the lives of our families and the lives of future generations.”

[Regarding backover accidents] “Assuming that rear-view technology would eliminate just one-third the deaths and accidents caused because the driver did not see a pedestrian behind him, the statistics are dramatic: the seven-year delay of a regulation required by Congress to be implemented by 2011 means that up to 35,000 people were injured and an estimated 500 persons needlessly died in the intervening years.”

“The Food and Drug Administration is considering requiring food makers to report added sugars on the Nutrition Facts label, a move that would provide much needed information to consumers about the amount of sugar that has been added to their food….If enacted the rule could lead to better health outcomes because of both changes in consumer behavior and manufacturing practices. Such changes could mitigate Americans’ sugar overconsumption and lower their risks for diabetes, cardiovascular disease, and other adverse health effects.”

- Andrew Rosenberg, Ph.D., Director, Center for Science and Democracy, [undated]

United States Chamber of Commerce
“As the world’s largest business federation representing the interests of more than three million businesses and organizations of every size, sector, and region, the Chamber has been actively involved in analyzing—and raising concerns about—the long-term impacts from regulations.”

“The Chamber recognizes that regulations are essential for maintaining the health, safety, and prosperity of our society. It is essential, however, that agencies use adequate data to support new regulations, that they fully evaluate the impacts their rules have on people and communities, and that they hold themselves accountable to the people and Congress.”

“Agencies now routinely ignore or downplay the procedural requirements that apply to them. They fail to adequately explain why a new rule is needed. They make entirely unrealistic assumptions about the cost of new mandates and the ability of regulated parties to pay those costs or obtain bank loans. They ignore data that contradicts their preferred policy choice. They ignore less burdensome alternatives. They rely on inflated benefits estimates to offset high costs in their cost-benefit analyses.”

- Thomas J. Donahue, President and CEO, April 17, 2015

United Steelworkers (United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union)

“Our union is the largest industrial union in North America. We represent 850,000 workers in the US and Canada, in sectors across the economy including metals, rubber, chemicals, paper, oil refining, plus the service and public sectors.”

“For our members, regulations protect the safety and health of our members at work, protect their rights to collective action, and allow them to live in safer, cleaner communities across the country.”

[Regarding OSHA silica rule] “Our members are exposed to silica in foundries, shipyards, and glass manufacturing….The passage of time and the advances in science and technology have rendered the 1971 standard weak and inadequate to properly protect worker health….Unfortunately, the updated silica standard is a classic example of delays in the regulatory process that cost lives.”

- Anna Fendley, Legislative Representative, May 1, 2015

USTelecom

“USTelecom is the nation’s oldest and largest association for providers of wired communications, and the overwhelming majority of its members offer broadband in rural and urban areas across the United States.”

[Regarding Federal Communications Commission Title II regulation] “The imposition of 19th century railroad regulation on 21st century Internet is misguided policy that will harm
consumers, stifle innovation, and suppress investment. Indeed. By 1996 Congress has already repealed it for the traditional common carriers – rail carriers, motor carriers and air carriers – under the leadership of a Democratic Administration, House, and Senate.”

“Whether through the imposition of Title II common carrier regulations on broadband ISPs, or the continued application of outdated monopoly telephone regulations to the now-competitive voice market, such regulations hinder the national policy goals of broadband deployment and competition.”

- Walter B. McCormick, Jr., President and CEO, May 21, 2015

Waterkeeper Alliance

“Founded in 1996, Waterkeeper Alliance is a global movement uniting more than 250 Waterkeeper Organizations around the world in shared vision for clean water and strong communities. In the United States, Waterkeepers working in 156 distinct watersheds combine firsthand knowledge of their waterways with an unwavering commitment to the rights of their communities and to the rule of law.”

“While the federal laws and regulations have been very effective in controlling pollution in many respects, many of our major waterways remain polluted, and by some indications pollution appears to be increasing.”

“Waterkeeper organizations all over the country have been responding to an increasing number of major spills into waterways from the fossil fuel industry, including the following: [a] one billion gallon coal ash spill into the Emory River from the Tennessee Valley Authority Kingston coal-fired power plant in Tennessee” and “[a] 50,000 gallon crude oil spill from a CSX train derailment and explosion that set the James River on fire and caused the evacuation of downtown Lynchburg, Virginia.”

- Marc Yaggi, Executive Director, April 17, 2015
Appendix: Stakeholders’ Responses to the Committee’s Bipartisan Letter