

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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Office of Information and Regulatory Affairs,  
Records Management Center  
Office of Management and Budget  
Attn: Mabel Echols  
Room 10102, NEOB,  
725 17<sup>th</sup> Street, NW.  
Washington, DC 20503

**RE: Executive Order on Federal Regulatory Review**

Dear Sir/Madam:

The International Brotherhood of Teamsters (IBT) welcomes the opportunity to submit comments to the Office of Management and Budget concerning improving the process and principles governing regulation that will be considered by Agency as it develops recommendations to the President for a new Executive Order on Federal Regulatory Review.

The IBT represents 1.4 million workers who are employed in a wide variety of industry sectors and are exposed to a vast array of workplace hazards including diesel exhaust, combustible dust, diacetyl and other hazardous chemicals used in the artificial flavoring industry, and musculoskeletal stressors. Currently, the Occupational Safety and Health Administration (OSHA) either does not regulate exposure to these workplace hazards or the standards are severely inadequate. We are very concerned that any new Executive Order assure that OSHA and other regulatory agencies receive the support they require in order to move ahead on urgently-needed safety and health rules.

Teamster members who work as truck drivers, dock workers, warehouse workers, or in the sanitation industry experience very high rates of musculoskeletal disorders. However, there is little that can currently be done to protect workers from stressors that contribute to the development of MSDs. A study was conducted on current and former Teamster truck drivers and dock workers to determine the effect of exposure to diesel exhaust to workers in the transportation industry. The researchers found that the workers who were exposed to diesel exhaust have an elevated risk of lung cancer that increased as the number of years working in the

industry increased.<sup>1</sup> Although there is a substantial amount of evidence associating exposures with work-related illness or injury, there are no standards to protect these workers. The Teamsters represent several thousand workers who are employed in the industrial sectors where artificial flavorings are manufactured, mixed, or used. There is increasing evidence indicating that these workers are at risk of experiencing a potentially fatal lung disease, bronchiolitis obliterans as a result of their workplace exposures. Although OSHA has taken a positive step in removing a significant impediment to promulgating a Final Rule, i.e., rescinding an Advanced Notice of Proposed Rulemaking, there is currently no standard to protect workers from exposure to these compounds. There are tens of thousands of Teamster members who are exposed to another unregulated workplace hazard, combustible dust. Although there have been incidents involving combustible dust in the workplace that resulted in the loss of lives and a large number of injuries, these workers still are not afforded the protections that would be available in an OSHA standard.

With hazards like these in mind, it is our strong recommendation that the Executive Order incorporate the following principles:

- The deregulatory philosophy which has guided OIRA's role over the last 30 years must be rejected immediately, as a first step to moving forward with the agenda as set forth by the President, Congress, and the general public.
- OIRA must focus on the severe backlog at regulatory agencies, including DOL agencies, while also anticipating the new regulations that will be needed for the President's Recovery program
- OIRA should try to minimize or eliminate the myriad of problems arising from additional regulatory obstacles (Paperwork Reduction Act; Information Quality Act; etc.).
- OIRA should not serve as a laboratory for social philosophical experimentation.
- Economic issues should be relegated to their appropriate place within agency criteria, consistent with the relevant underlying statutes and basic principles of distributional fairness and justice.

In carrying out these principles, OIRA should give deference to agency expertise and only involve itself on larger issues which may address overarching problems that are cut across various agencies. OIRA must recognize that agencies deal with the detailed records of proposed rules, and it should not be OIRA's role to delve into details of agency proposals. The details of individual rules are not the appropriate place for carrying out the President's broad policies and

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<sup>1</sup> Garshick E., et al 2008. Lung Cancer and Vehicle Exhaust in Trucking Industry Workers. *Environmental Health Perspectives* 116 (10): 1327 – 1332.

priorities. Thus, there should be no overriding “second opinion” by OIRA on individual agency actions.

In addition, OIRA should require that White House agencies (including OIRA) should only be directly involved in rulemaking when that involvement itself is on the public record. Such agencies are free to offer their comments on agency proposals. But their comments should not be shielded from the same public scrutiny which other non-agency parties are subjected during regulatory proceedings. For these reasons, we do not believe that there is appropriate role for OIRA to engage in a highly centralized review of individual regulations. However, we do suggest that there could be a positive role for OMB to help the regulatory agencies deal with resource gaps and cross-agency issues, such as:

- Sharing models for facilitated rulemaking across agencies, including best practices on relevant economic analyses.
- Identifying existing resources – and the agencies’ needs for more resources – to assure that agencies move ahead on the important rules in their agenda.
- Identify other serious obstacles to effective and timely rulemaking, including currently applicable legislation which delays and otherwise impedes effective regulation, i.e. Paperwork Reduction Act; Information Quality Act; SBREFAAct; etc.)
- Review proposals or recommendations on regulatory issues from Congress, other agencies or comparable authorities to which the primary regulatory agencies have failed to respond, e.g. Government Accountability Office, NTSB, CSB, Inspectors General, Congressional committees, National Academy of Science/NRC/IOM, etc.
- Make appropriate use of the Unified Regulatory Agenda as a policy coordination tool.

#### Cost-Benefit Analysis

We oppose the use of Cost-Benefit Analysis (CBA) at the Department of Labor. Congress already made these basic choices regarding the costs and benefits of workplace safety and health regulation.

#### Minimize Delays in Rulemaking

Current requirements cause substantial delay under agencies’ routine process – even aside from obvious political/ideological obstacles (e.g. combustible dust). Recent examples include OSHA standards on cranes/derricks; silica; diacetyl; etc.

Other requirements also cause delay, such as redundant “peer review” rules.

Office of Information and Regulatory Affairs,  
Records Management Center  
March 31, 2009  
Page 4 of 4

We urge OIRA to use its resources and authority to determine the causes of regulatory delays, and to identify ways to eliminate the sources of delay wherever possible.

Finally, we understand the value of exploring innovative approaches to regulatory policy, including new "Regulatory Tools" as identified in the President's request. However, we wish to reiterate that information alone is not a substitute for actual protection. This is especially true in the workplace where "market forces", including appropriate information about hazards, have traditionally failed to overcome the extraordinary powers that employer have used to compel workers to submit to dangerous working conditions.

Sincerely,

A handwritten signature in blue ink, appearing to read "LaMont Byrd". The signature is fluid and cursive, with a large initial "L" and "B".

LaMont Byrd, Director  
Safety and Health Department

LB/knb