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October 29, 2007

**VIA FACSIMILE: 202-395-3047**

Susan Dudley  
Director, Office of Information and Regulatory Affairs  
Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

Dear Ms. Dudley:

We are writing to express our deep concern about the OMB Office of Information and Regulatory Affairs' (OIRA) review of the Occupational Safety and Health Administration's final standard on Employer Payment for Personal Protective Equipment (PPE) under Executive Order 12866. The draft final standard has been under review by OMB since September 10.

According to OMB's website, OIRA officials met with representatives of the U.S. Chamber of Commerce and National Association of Manufacturers on September 23, 2007 to discuss the PPE rule, without any representative from OSHA being present. Moreover, it is our understanding that no representative from OSHA was invited to attend.

This is in direct violation of Executive Order 12866 which requires that when meeting with "persons not employed by the executive branch of the Federal Government" OIRA officials must invite "a representative from the issuing agency." The purpose of this requirement is to ensure that the agency with the most knowledge of the purpose of the regulation can respond to issues raised by industry representatives.

We are therefore writing to express strong concern about this violation of EO 12866 and any attempt to issue a PPE rule that is weaker than the 1999 proposal.

For this reason, we have introduced H. R. 1327 which requires a PPE rule to be issued "which shall provide no less protection to employees and shall have no further exceptions from the employer payment requirement than the proposed rule published in the Federal Register on March 31, 1999." Similar requirements were incorporated into the FY08 Labor, Health and Human Services and Education Appropriations bill passed by the House of Representatives on July 19, 2007.

Susan Dudley  
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As you are aware, this rule was proposed in 1999 and final action has been delayed for many years. During that time, by OSHA's own estimates, more than 400,000 injuries and 50 fatalities have occurred that could have been prevented by this rule. Earlier this year, in response to litigation, the Department of Labor committed to issuing the final rule by the end of November 2007.

A strong comprehensive standard that codifies OSHA's longstanding policy and practice that employers pay for safety equipment is necessary to protect the health and safety of American workers. It should not be weakened through exclusive backdoor meetings between OMB and industry representatives.

We expect the Office of Management and Budget comply with the provisions of Executive Order 12866 and to conclude its review without delay. We also expect the Department of Labor to issue a strong protective rule by the court promised deadline of November 30, 2007.

Sincerely,

  
**GEORGE MILLER**  
Chairman

  
**LUCILLE ROYBAL-ALLARD**  
Member, Appropriations Committee