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April 1, 2008

The Honorable Susan E. Dudley
Administrator
Office of Information and Regulatory Affairs
725 17th Street, NW
Washington, DC 20503

Dear Ms. Dudley:

I am writing to reiterate my request that the Office of Management and Budget (OMB) cooperate voluntarily with the Committee's investigation into the new air quality standard for ozone.

On March 12, 2008, EPA Administrator Stephen Johnson rejected the specific recommendations of the Clean Air Scientific Advisory Committee (CASAC) in finalizing an updated national ambient air quality standard (NAAQS) for ozone. Despite CASAC's unanimous recommendation for a primary ozone standard no greater than 0.070 parts per million, he opted to set the standard at 0.075 parts per million. Moreover, according to press accounts and EPA staff, White House officials intervened to overrule EPA's efforts to establish a science-based secondary standard to protect forests, crops, and other plants from the damaging effects of ozone.¹

On March 14, 2008, I wrote to request that you provide the Committee with complete and unredacted copies of communications relating to the updated NAAQS for ozone made on or after February 22, 2008.² Jeffrey A. Rosen, General Counsel for the Office of Management and Budget, responded on March 26, 2008, by providing copies of a number of responsive documents, including two versions of the proposed rule, three pieces of correspondence between EPA and OMB, and records of two OMB meetings with outside parties. All of the documents provided by OMB are either part of the publicly available docket or are expected to be placed in the docket. In his letter, Mr. Rosen also stated that OMB would not be providing an unspecified

¹ See, e.g., *EPA Chief Lowers Smog Limit*, Los Angeles Times (Mar. 13, 2008).

² Letter from Chairman Henry A. Waxman to Ms. Susan Dudley, Administrator, Office of Information and Regulatory Affairs (Mar. 14, 2008).

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number of documents responsive to the Committee's request, citing "the confidentiality of the Executive Branch deliberative and consultative process."³

Mr. Rosen's response does not meet the Committee's needs, unfortunately. Unless the President intends to assert a valid claim of executive privilege over the withheld documents, the Committee is entitled to the documents responsive to its oversight request.

There are two options available to OMB if you wish to cooperate voluntarily with the Committee's request. One is to provide the responsive documents to the Committee by the close of business on April 7, 2008. The other is to bring the responsive documents to the Committee offices for a staff review, the purpose of which would be to assess whether the documents are relevant to the Committee's investigation and need to be produced. If OMB would prefer this alternative approach, then I ask that you provide a mutually agreeable schedule for the staff review by close of business on April 7, 2008.

I hope you will reevaluate your position and cooperate with the Committee.

If you have any questions concerning this request, please have your staff contact Greg Dotson, Jeff Baran, or Erik Jones of the Committee staff at (202) 225-4407.

Sincerely,



Henry A. Waxman
Chairman

cc: Tom Davis
Ranking Minority Member

³ Letter from Jeffrey A. Rosen, General Counsel, Office of Management and Budget, to Chairman Henry A. Waxman (Mar. 26, 2008).