



Union of Concerned Scientists
Citizens and Scientists for Environmental Solutions



July 22, 2007

Senator Kent Conrad
Chairman
Senate Budget Committee
530 Hart Office Building
Washington, DC 20510

Dear Chairman Conrad,

We are writing to urge the Committee to use the upcoming confirmation hearing for former Rep. Jim Nussle (R-IA) as an opportunity to focus on the increasing vulnerability of federal agencies to political interference. In particular, Mr. Nussle, nominated as director of the Office of Management and Budget, should be asked his views on the Bush Administration Executive Order 13422, amending Executive Order 12866, concerning “Regulatory Planning and Review.”

This Executive Order, which takes effect on July 24, the date of Mr. Nussle’s first confirmation hearing, threatens to further politicize the work of federal regulatory agencies. It would expand the power of OMB to oversee the work of agencies, and would ensure that only political appointees could serve as Regulatory Policy Officers (RPOs) within each agency. The amendments would divert the authority of approving regulations and agency guidance documents away from agency heads and place it in the hands of RPOs.

The Executive Order also requires agencies to prove to OMB that a regulation is justified because it addresses a “market failure,” – further expanding OMB’s authority and scope over agency rulemaking.

Equally troubling, the Executive Order does not specify whether RPOs must be confirmed by the Senate. And it leaves open the door to extending the RPO requirement to independent agencies such as the Federal Communications Commission and the Securities and Exchange Commission.

We urge you and the Committee to put Mr. Nussle on record on the following issues:

- How does he intend to implement and interpret the Executive Order?
- As a former member of Congress, does he have any concerns about the Executive Branch encroaching on the power of Congress to pass legislation directing agencies to promulgate certain rules and regulations?

- Does he believe that RPOs must be confirmed by the Senate?
- Does he believe that only agency rules and guidance that can address a “market failure” should be approved and implemented?
- If so, does that mean that health and safety regulations would be weakened or rejected because ultimately, the market will punish the makers of unsafe products?
- And how would he ensure that OMB oversight and the work of RPOs does not interfere with the work and findings of agency scientists?

The problem of political interference is significant. According to recent surveys of federal scientists undertaken by the Union of Concerned Scientists, hundreds of federal scientists working for federal agencies ranging from the U.S. Fish and Wildlife Service to the Food and Drug Administration and the National Oceanic and Atmospheric Administration have been pressured to change scientific data, suppress reports, or remain silent about critical scientific topics such as drug safety and global warming. This pressure largely comes from agency political appointees trying to fit the science to match the Administration’s public policy positions.

Indeed, so many scientists have been alarmed by political interference that more than 12,000 signed a statement urging the restoration of scientific integrity in policy making. Signers included 52 Nobel laureates, 63 National Medal of Science recipients, and senior science advisors to both Republican and Democratic administrations dating back to President Eisenhower.

The true impact of the Executive Order 13422 will depend on how it will be implemented by the Bush administration. We hope you will agree with us that Mr. Nussle should be on record about this important matter.

Very truly yours,

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OMB Watch

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