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To: Jennifer Wood Inforeg/OMB/EOP@EOP

cc:

Subject: Comments Regarding Federal Regulations Including Federal Regulations Affecting Small Business



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To whom it may concern:

Today, President Bush asked the small business community to send complaints about "nettleome regulations" to your office. The following is the most recent example from my long and growing list of similar complaints about burdensome regulations that have materially damaged my ability to operate a successful business.

I **am** the owner of a small business - a sole proprietorslup - in California. After struggling in the high-tech, aerospace sector for over 15 years, I am finally on the edge of some success. Now I am presented by my Government with a new, unanticipated, and unwelcome problem, namely dealing with the export laws as interpreted and enforced by the Department of State - the ITAR, International Traffic in Arms Regulations. These are onerous, costly and do nothing to promote national security when applied mindlessly, by-the-numbers.

In December 2001 my company won a competition to develop an aircraft simulator for the Brazilian Test Pilot School. This device is to be based on an existing design in use by the USAF Test Pilot School at Edwards AFB, CA. The USAF model can be seen on my web site:

<http://www.piofree.com>

This is a device for research & development support and for the training of test pilot candidates, all of whom are operational pilots (who already know how to fly), in the **art** and science of aircraft handling quality evaluation. This is an important issue for aircraft safety of flight that is applicable to *commercial* aircraft as much **as** military. Ours is a generic simulator that does not mimic the behavior of any specific airplane. It is not suitable for training a person to become a pilot, or to teach navigation, combat skills, or any of the other proscribed capabilities as defined by the United States Munitions List, Code of Federal Regulations, Title 22, Volume 1, Part 121.

Our simulator does not include aerodynamic models for any actual aircraft, as would be required for the simulation of operational mission profiles.

Our simulator does not have the flight instruments required for navigation. It also has no terrain models, as required for a training or operational flight simulation.

In short, our simulator is less capable as **an** instrument for flight instruction of an operational or tactical nature than would be Microsoft Flight Simulator, which is available anywhere in the world Without restriction on its sales.

What we do have is an absolutely unique scientific instrument designed to supplement academic instruction in aircraft stability and control and for teaching methods for the evaluation of aircraft handling qualities.

To say that our simulator is a "defense article", as defined by the ITAR, is preposterous. Our expected, dominant market is university labs and possibly R&D labs, mostly within the United States.

But the bureaucratic response from the DOS is that if it's an airplane simulator, and if we have a foreign military customer for it, then it must fall within the jurisdiction of the Munitions export laws.

So, I am forced to do two things, neither of which benefits anyone except the bureaucrats, but both of which cost me precious time and money that could be better spent to the benefit of my business:

1. Request a "Commodity Jurisdiction", defined by the ITARs (Sec. 120.4), to reexamine whether or not our simulator is, in fact, covered by the U.S. Munitions List. Based on my initial contact with the DOS controlling office, I already know what the answer to this will be, but have no choice but to proceed with the application. It will take (DOS estimate) six months to get a decision. I can then appeal an unfavorable decision to the same office that denied the request. That is a grotesque perversion of the concept of due process.
2. Apply for an export license which involves a license fee, time, paperwork, and more unproductive oversight. And by the way, the fee structure appears to be the same for an F-16 as for my simulator.

I do not know anyone who is against making our country safer. But knee-jerk application of regulations such as this serve

no valid national interest and only protect an uncreative bureaucracy.

Please consider that technology moves at a dazzling pace. Today's PC is yesterday's mainframe. My simulator was impossible twenty years ago. I can appreciate that not everyone understands that flight simulators are not all the same. But that perception is wrong and I should not be penalized for this.

Somewhere in this morass of regulation should be some common sense. I have been speaking only for my own self-interest. But just as I should not be penalized for design innovation, neither should those who are paid to enforce the laws be penalized for the exercise of common sense.

I request that your office consider the issue of export requirements, specifically the adverse effect of the ITAR implementation upon small businesses in the aerospace sector.

I request, also, that your office press for regulatory reform to promote, not hinder, the exportation of products that should not, by common-sense standards, be subject to the ITAR, but which currently and unfairly appear to be, due to sweeping inclusions in the wording of the regulations. See for example Sec. 121.1, Cat. IX -- Military Training Equipment, par. (a) which states that the equipment on the Munitions List is not limited to only the items listed.

If I had known about the ITAR regulations prior to the competition, I would not have written a proposal. That would have been a sensible, realistic response for a small business with limited resources. But is that really the response that Government regulations are intended to promote? The State of California is actively promoting product exportation for the creation of jobs and a means to broaden the tax base. There are actually CA State offices that are materially helpful to small business. Is it too much to ask that the Federal Government do the same?

Respectfully,

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Owner
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