

Lobbyists' Role in Food Rules Questioned

Industry Figures Attended 10 Meetings, Group Says

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Food industry lobbyists met privately with Bush administration officials 10 times while the government was crafting rules to protect the food supply from bioterrorism, and those congressionally required rules emerged in significantly weakened form as a result, a consumer group said yesterday after analyzing meeting records.

Most of the lobbyists had one meeting each with the Office of Management and Budget, but lobbyists for the Grocery Manufacturers of America and for Altria Group Inc., parent company of Kraft Foods, met with OMB officials three and four times each, according to records on the agency's Web site.

The meetings focused on proposed regulations to implement the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. The law requires companies importing food to give advance notice to the Food and Drug Administration about arriving shipments and to keep records of where the food came from and where it is going.

In the winter and spring of 2003, the FDA issued proposed regulations on both issues that consumer groups considered tough and effective. But the final rule on prior notice, issued in October 2003, greatly reduced the advance notice requirements on industry, and the final rule on record-keeping has not been released yet.

"It seems pretty obvious that the additional lobbying done by the industry had an impact," said Caroline Smith DeWaal, who has followed the issue for the Center for Science in the Public Interest. "Industry got another bite at the apple and, as far as we can tell,

none of the consumer groups did. And the result is regulations that the industry likes, but that don't fully protect the public interest."

Because of the changes, she said, "FDA may well not have the appropriate authorities to respond quickly if there was a terrorist attack using the food supply."

Chad Kolton, spokesman for OMB, said there was nothing unusual about the meetings between top agency figures and industry representatives. If consumer groups had requested similar meetings, he said, they would have been held.

Kolton said his agency had little to do with the changes in the FDA regulations after the industry meetings with OMB.

He said, for instance, that the prior-notice rule -- which initially required importers to notify the FDA about the contents of shipments by noon of the day before arrival -- had been significantly changed by the FDA before the proposal reached OMB. The final rule requires two hours' notice from truckers, four hours for cargo coming by air or rail, and eight hours for food coming in by ship.

Regarding the record-keeping provisions, Kolton said that "we have been engaged in informal conversations with relevant agencies, but a rule has not been submitted yet to OMB for interagency review." When the Bioterrorism Act was passed in 2002, the FDA was given 18 months to pass implementing regulations -- a deadline that passed in late 2003.

FDA spokesman Brad Stone agreed that the agency changed the prior-notice provision, and that the issue of record-keeping remains unresolved. He said "informal conversations" took place between OMB and FDA on prior notice in particular, but that "in a rulemaking context, we factor in lots of comments from lots of sources."

Stephanie Childs, spokeswoman for the Grocery Manufacturers of America, said that the group had problems with the FDA's initial regulations, and that those objections were conveyed to the FDA

and OMB.

She said that while the FDA did well in responding to the "enormous undertaking" regarding food and terrorism, the agency "did not have at its fingertips information on the reality of how business works to protect the food supply. . . . We all want regulations to protect against bioterrorism, but in a way to achieve the goals and still allow the business to operate in an efficient manner."

She said OMB was involved in developing the regulations because "OMB has a role in all regulation."

The issue of Bush administration meetings with industry groups has been controversial since the beginning of the president's term, when Vice President Cheney convened discussions on energy policy limited to industry figures. DeWaal likened the bioterrorism regulations to the energy policy process, in that the administration did not seek out the views of groups outside industry.

"In the past, we've been called by OMB and invited to come in to discuss particular regulations," she said. "On this issue, we got no calls and didn't know the regulation was in trouble until it was too late."

The 10 meetings with industry lobbyists took place from March 2003 to March 2004. In addition to GMA and Altria, industry participants included ConAgra Foods Inc., the World Shipping Council, the National Fisheries Institute Inc., Procter & Gamble, the National Food Processors Association, the Kroger Co. and Safeway Inc.

Among those taking part in some of the meetings was John D. Graham, administrator of the OMB's Office of Information and Regulatory Affairs. That office coordinates the federal government's regulatory reviews as well as statistical and information policy.