

Thanks for the opportunity to comment on the proposed recommendation on regulatory waivers and exemptions.

Footnote 2 on page 1 states that “[s]ome agencies may also derive authority to grant waivers or exemptions from Article II of the Constitution.” Please consider changing this to read, “[s]ome agencies may also derive authority to grant waivers or exemptions from presidential delegations under Article II of the Constitution.” Reason for proposed change: the immediate source of such waiver authority is not the Constitution itself but a presidential executive order, rule, or determination delegating the waiver authority to the agency.

Lines 33 and 34 on page 3 state that in certain circumstances “the agency should consider recommending appropriate revisions to the relevant committee in Congress.” Please consider striking “agency” and replacing it with “Administration.” Reason for proposed change: Executive agencies are generally not free to make substantive legislative recommendations to Congress without EOP coordination and review.

Lines 39 and 40 on page 3 state that “[a]gencies should endeavor, to the extent practicable, to provide public documents regarding the procedures for granting waivers and exemptions.” The phrase “public documents” as used in this sentence is unclear. Does it refer to furnishing documents to the “public?” Or does it refer to furnishing “public” documents -- as opposed to privileged, confidential, or classified documents -- to interested parties? A clarifying edit should be made.

Sincerely,

Robert J. Girouard