

Review of Draft 2010 Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities

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1. The Regulatory Right-to-Know Act requires an estimate of the annual benefits and costs “by major rule” (section (A)(3)), yet the figures for dozens of major rules are lacking (see Table 1-4 and Appendix A). The reason is apparently that the agencies did not supply the figures, but the Act requires OMB to make estimates, not to rely on the estimates (or lack of estimates) of the agencies. Accordingly, OMB should supply all missing figures for non-transfer regulations. In addition, OMB should audit the agencies’ estimates, and correct them when they are erroneous. The report does not comment on the agencies’ estimates except obliquely (for example, footnote 63), even though the academic literature makes clear that agencies’ estimates are often faulty and frequently rely on inconsistent assumptions.
2. The Report should contain a simple table with OMB’s point estimates of costs and benefits for all major rules, including an estimate of net benefits, so it is immediately clear whether a particular rule has passed the cost-benefit test. The aggregate figures supplied in most of the tables do not permit the reader to evaluate the agencies’ performance except in the grossest terms and, accordingly, are not helpful (although they may be required by statute). An agency that issues n rules that, in the aggregate, produce benefits greater than costs, has nonetheless done poorly if one or more of those rules are not cost-justified.
3. Although the statute does not require this, it would be useful if OMB provided information on the following:
 - (a) The discount rates used by agencies in every rule.
 - (b) The explicit or implicit valuation of life in every rule.
 - (c) The valuations of other hard-to-measure goods such as avoided morbidity and avoided harm to the environment.
 - (d) Information regarding whether agencies are internally consistent with respect to (a)-(c), and whether consistency exists across agencies with respect to (a)-(c).
4. On p. 31, the report discusses the impact of hypothetical regulations on wages and employment. Why doesn’t it discuss the impact of actual regulations—the major rules that are the subject of the report—on wages and employment? If that information is not available, the report should explain why it is not being collected.
5. Table 2-1, on p. 42, cannot be interpreted because the unit of analysis (for example, cost per metric ton) is not provided.
6. The recommendations in Chapter II seem largely sensible but are difficult to evaluate because they are vague. The “social cost of carbon” initiative is interesting but not adequately defended

in the report. The linked report is more informative but gives the impression of piling up imponderables. As long as there is no climate treaty and hence carbon leakage is a problem, the numbers are inaccurate, and should be adjusted to reflect the risk that industry will migrate to foreign countries. (In other words, a regulation that appears to reduce carbon emissions by one metric ton will not have that effect if the regulated industry moves overseas.)

7. Overall, I found it difficult to discover OMB's judgment of the quality of the cost-benefit analyses performed by agencies.