

David E. Ortman
7043 22nd Ave N.W.
Seattle, WA 98117
(206) 789-6136
Attorney-at-Law

May 12, 2010

Office of Information and Regulatory Affairs
Office of Management and Budget
Attn: Darcel D. Gayle
NEOB, Room 10202
725 17th Street NW
WA D.C. 20503

RE: Draft 2010 Report to Congress on the Benefits and Costs of Federal Regulations

I have reviewed the Office of Management and Budget's (OMB) Federal Register Notice, April 29, 2010 (75 FR 22630) requesting comments on OMB's Draft 2010 Report to Congress on the Benefits and Costs of Federal Regulations.

In general, the Federal Register Notice and Draft Report are deeply distressing and disturbing. OMB's task is to report on the benefits and costs of federal regulations. Nowhere does OMB provide any citations or authority from the Regulatory Right-to-Know Act to request regulatory changes to promote economic growth or to increase net exports. There are other Federal agencies charged with such missions.

As the Draft Report itself notes, "Measuring the effects of regulation on economic growth is a complex task." Indeed. One purpose of regulations is to capture the external costs that corporations impose on society and the environment. An invitation to attack regulations under the guise of promoting economic growth is nothing more than an invitation to allow corporations to increase profits by pushing costs on to labor and the public.

Similarly, production of goods for export too often does not capture the true labor or environmental costs of production. An invitation to attack regulations under the guise of increasing net export is nothing more than an invitation to allow corporations to increase profits by pushing costs on to labor and the public.

The Draft Report fails to account for the costs of regulations not imposed. The failure of the Bush Administration and Congress to regulate the home mortgage industry, the ratings agencies, and financial institutions is at least partially responsible for the Great Recession. For example, the Minerals Management Service's sex-fueled relationship with the oil industry and Congress and

the Obama Administration's failure to regulate off-shore oil drilling is directly responsible for the current BP disaster taking place in the Gulf of Mexico. (See: "How British oil giant BP used all the political muscle money can buy to fend off regulators and influence investigations into corporate neglect," Newsweek, May 7, 2010 <http://www.newsweek.com/id/237651>).

The Draft Report attempts to quantify the benefits and costs of regulations without an analysis of how much regulatory benefit is foregone due to lack of enforcement of regulations. Regulatory costs may be artificially inflated where the benefits of regulations are not realized due to failure to enforce and carry out those regulations. This should be of far greater concern to OMB than attempting to increase net exports.

The Draft Report fails to account for the costs to consumers and the public from corporate antitrust activities and increasing corporation consolidation, mergers and acquisitions or the costs to shareholders who are left holding the bag as corporate executive compensation soars to obscene levels.

The Draft Report fails to account for reduced costs to society from better governmental decision making due to the National Environmental Policy Act. NEPA is a fundamental act implemented through regulations promulgated by the Council on Environmental Quality and individual agencies. By assuring that agency decision makers are exposed to alternatives to a proposed action, the result when properly carried out is better decision making at less cost to society and the environment. When agencies circumvent the NEPA process, the result is often additional costs to society and the environment.

In summary, OMB's Federal Register notice is what would have been expected during the Bush Administration, an Administration hostile to regulations. OMB has exceeded its authority by attacking regulations under the guise of recommendations for reform.

Sincerely,

David E. Ortman
Attorney-at-Law