

Public Interest Comment on the Office of Management and Budget's *2014 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local and Tribal Entities*

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Christopher Carrigan
Assistant Professor of Public Policy and Public Administration
Scholar, GW Regulatory Studies Center
George Washington University
ccarrigan@gwu.edu

Cary Coglianese
Edward B. Shils Professor of Law
Director, Penn Program on Regulation
University of Pennsylvania
cary_coglianese@law.upenn.edu

Adam M. Finkel
Senior Fellow and Executive Director
Penn Program on Regulation
University of Pennsylvania
afinkel@law.upenn.edu

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We are submitting this comment in response to the Office of Information and Regulatory Affairs' (OIRA) release of its *2014 Draft Report to Congress on the Benefits and Costs of Federal Regulations and Unfunded Mandates on State, Local and Tribal Entities*.^{*} Our comment specifically focuses on the section of OIRA's draft report that reviews the impacts of regulations on wages and employment.

We applaud the attention OIRA continues to provide in its draft report to this important topic. Especially because we agree that economic theory does not provide a clear prediction for whether any particular regulation will have positive or negative net impacts on employment (p. 43), OIRA's continued interest in highlighting conceptual, analytical, and empirical research on the connection between regulation and employment strikes us as highly appropriate.

In this comment, we note several other papers OIRA may wish to consider adding to its already well-developed literature review, recognizing, of course, that the draft report explicitly states that its references "are meant to be illustrative rather than exhaustive" (p. 43). In addition, we suggest two additional issues not covered in its draft report that OIRA may wish to consider adding to its final report.

^{*} The opinions expressed in this comment reflect the views of its authors and do not represent the positions of any of their associated institutions. The authors' affiliations are listed for identification purposes only.

First, having edited a recently-published book on regulation and employment (Coglianese, Finkel, and Carrigan 2013), a half-dozen papers came to our minds in reviewing the draft report that OIRA might wish to consider including in its discussion of the empirical and policy-oriented literature:

- Morgenstern, Pizer, and Shih (2002). We fully realize that previous OIRA reports included references to this article. However, given that this study is often a benchmark against which more recent work has been conducted, some reference to it seems to us still warranted in the 2014 report. (To the extent you are not already aware, a subsequent analysis by Morgenstern and co-authors, using more recent data, was presented at the 2013 meeting of the Society for Benefit-Cost Analysis.)
- Aldy and Pizer (2013). As the draft report notes, regulations can have important effects upstream and downstream on employment – and not just within the industry which is the target of the regulation (pp. 43 and 44). However, the draft report does not cite any empirical research that measures these downstream effects, and it seems to suggest that these types of studies do not exist. Aldy and Pizer provide a simulation analysis of the downstream effects on employment of utility regulations. Among other things, their analysis suggests that more energy-intensive manufacturing industries would face greater negative employment effects from regulation- or tax-induced cost increases in the electricity sector.
- Bartik (2013). In this paper, Bartik presents an estimate of the social costs associated with the loss of a job due to environmental regulations. He finds that these costs range from somewhat under 10 percent to over 30 percent of the earnings from the lost job, with the effects being more pronounced when the economy is facing high unemployment or when regulations affect older workers. However, he also indicates that, even though the social costs of job losses may be large, they are unlikely to be sufficiently large to alter the benefit-cost balance associated with individual regulations.
- Färe, Grosskopf, Pasurka, Jr., and Shadbegian (2013). Using input and electricity generation data for a sample of coal-fired power plants, the authors study the employment effects of implementing a tradable permits scheme relative to a more rigid, traditional regulatory framework to reduce sulfur dioxide emissions. Through their examination of relative costs of compliance, the authors find that market-based regulatory instruments reduce the labor requirements needed to fulfill the regulatory standards.
- Hall (2013). This paper presents a conceptual discussion that outlines the need for agencies to consider employment costs more seriously when promulgating regulations. Given the substantial costs of job displacement, Hall argues that it is not sufficient to ignore those costs and assume that displaced workers will easily find similar jobs after the regulatory change. In accord with a point noted on page 41 of the draft report, Hall emphasizes that regulations have longer-run, dynamic, and macroeconomic effects that result from the accumulation of regulatory requirements, and, thus, may escape analyses which only focus on individual regulations.

- Masur and Posner (2012). In this widely-cited article, Masur and Posner build from existing research to estimate the social cost of job loss, estimating that the lifetime costs may be as much as \$100,000 per worker. Referencing a sample of agency benefit-cost analyses of existing rules, the authors argue that these sizable impacts can alter net-benefit estimates and, thus, they advocate for incorporating employment effects in such analyses.

Second, we note that the draft report largely addresses the empirical question of how many jobs might be gained or lost due to regulation. While this issue is undoubtedly important in any analysis of the effects of regulation on employment, in its final report OIRA may wish to explore the further, vital question of how to value the welfare effects of each job gain or loss induced by regulation. Several of the papers noted above offer suggestions about and analyses of the welfare effects of job losses (Masur and Posner 2012; Bartik 2013). In addition, several of the authors in our recently-published volume consider the analytic and conceptual challenges involved in estimating both wage effects and non-pecuniary effects associated with job losses or gains (e.g., Adler 2013; Finkel 2013; Masur and Posner 2013; Morgenstern 2013; Robinson 2013).

Finally, taking into account the literature on both the impacts of regulation on the number of jobs as well as the welfare effects associated with regulatory-induced changes in employment, OIRA would be well-positioned to offer guidance on the fundamental issue of whether to include job effects in benefit-cost analyses included in agencies' Regulatory Impact Analyses (RIAs). Shapiro (2013) offers findings from his study of 56 agency RIAs that indicate that agencies only infrequently consider job effects when analyzing new regulations. As noted, Masur and Posner (2012, 2013) have argued that estimates of the welfare effects of job changes should be included in agency benefit-cost analyses. However, others express caution, especially given limitations of current empirical research (e.g., Ferris and McGartland 2013). Mannix (2013) warns even further that including job effects in benefit-cost analyses might constitute double-counting of costs (and would thereby bias estimates of net benefits), because he argues that employment impacts are already subsumed into firms' compliance costs. In this comment, we take no position on the merits of these varied views; rather, our point is simply that OIRA might do well to consider using its Report to Congress – or another means – to offer more specific guidance to agencies about when and how to incorporate estimates of the welfare effects of employment changes into their RIAs.

In sum, we praise OIRA for its treatment of the employment effects of regulations in its *2014 Draft Report to Congress*. In a short space, this section of the draft report provides its readers with a good foundation of the state of the evidence and some of the challenges associated with gaining a better understanding of the connection between regulation and employment. We hope that our comments might help OIRA as it carries out its responsibility of informing Congress about the impact of regulation on employment.

References

- Adler, Matthew D. (2013) "Happiness, Health, and Leisure: Valuing the Nonconsumption Impacts of Unemployment." In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.

- Aldy, Joseph E., and William A. Pizer (2013) “The Employment and Competitiveness Impacts of Power-Sector Regulations.” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Bartik, Timothy J. (2013) “Social Costs of Jobs Lost Due to Environmental Regulations.” W.E. Upjohn Institute for Employment Research Working Paper 13-193, Kalamazoo, MI.
- Coglianese, Cary, Adam M. Finkel, and Christopher Carrigan, eds. (2013) *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Färe, Rolf, Shawna Grosskopf, Carl Pasurka, Jr., and Ronald J. Shadbegian (2013) “Environmental Regulatory Rigidity and Employment in the Electric Power Sector.” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Ferris, Anne E., and Al McGartland (2013) “A Research Agenda for Improving the Treatment of Employment Impacts in Regulatory Impact Analysis.” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Finkel, Adam M. (2013) “Emitting More Light than Heat: Lessons from Risk Assessment Controversies for the ‘Job-Killing Regulations’ Debate.” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Hall, Keith (2013) “The Employment Costs of Regulation.” Mercatus Center Working Paper 13-06, George Mason University, Arlington, VA.
- Mannix, Brian F. (2013) “Employment and Human Welfare: Why Does Benefit-Cost Analysis Seem Blind to Job Impacts?” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Masur, Jonathan S., and Eric A. Posner (2012) “Regulation, Unemployment, and Cost-Benefit Analysis.” *Virginia Law Review* 98: 579-634.
- Masur, Jonathan S., and Eric A. Posner (2013) “Unemployment and Regulatory Policy.” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Morgenstern, Richard D. (2013) “Analyzing the Employment Impacts of Regulation.” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Morgenstern, Richard D., William A. Pizer, and Jhih-Shyang Shih (2002) “Jobs Versus the Environment: An Industry-Level Perspective.” *Journal of Environmental Economics and Management* 43: 412-36.
- Robinson, Lisa A. (2013) “Toward Best Practices: Assessing the Effects of Regulation on Employment.” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.
- Shapiro, Stuart (2013) “Reforming the Regulatory Process to Consider Employment and Other Macroeconomic Factors.” In C. Coglianese, A. M. Finkel, and C. Carrigan, eds., *Does Regulation Kill Jobs?* Philadelphia, PA: University of Pennsylvania Press.