



Arthur G. Fraas  
06/10/2002 06:46:15

Record Type: Record

To: John Graham/OMB/EOP@EOP, John F. MorrallIII/OMB/EOP@EOP

cc:

Subject: review of Report to Congress

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06/03/2002 10:03:18 AM

Please respond to rmorgenst@ureach.com

Record Type: Record

To: Arthur G. Fraas/OMB/EOP@EOP

cc:

Subject: review of Report to Congress

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As requested, I have reviewed OMB's report to Congress on the Costs and Benefits of Federal Regulations. Currently, I am in Manila and I am having difficulty accessing my RFF email. Unfortunately, this has delayed my submission. In correspondence during the next two weeks please use both this address ('morgenst@ureach.com') and my normal address ('morgenst@rff.org').  
Thanks, dick

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Comments of Richard D. Morgenstern on the Draft Report to Congress on the Costs and Benefits of Federal Regulation, March 28, 2002.

Overall, this is a very informative and useful document. It goes well beyond the minimum legal requirements in providing using information to the Congress and to the general public on the costs and benefits of federal regulation. The Report describes a number of useful innovations recently undertaken by the Office of Management and Budget regarding the management of the federal regulatory process and it introduces into the public debate a number of new approaches to regulatory issues. My specific comments are as follows:

1. I commend the OMB's efforts (as described on pp 15017-8 of the Report) to develop a more transparent and open approach to centralized regulatory oversight. These are very welcome and constructive reforms of a process that for too long has been shrouded in a cloak of secrecy.
2. The so-called "prompt" letter is a novel approach to regulatory management. The potential advantages of this approach are described on page 15020 of the Report. Omitted from the Report, however, is a discussion of the disadvantages of the prompt letter, most notably the possibility that it would cloud the relationship and the roles of the OMB and the regulatory agencies. Arguably, a prompt letter in support of an initiative already underway within an Agency may actually serve to undermine the Agency's efforts to reach closure on the initiative, as it may become politicized as a response to OMB rather than as a genuine reform from within the Agency. Alternatively, a prompt letter in support of an initiative not already underway within an Agency may be seen as one more outside pressure – this one from within the Administration – on an Agency that is already facing many competing pressures. Fundamentally, I fail to see what public good is gained by issuing a formal "prompt" letter. If OMB has a good idea on how to advance an Agency's agenda they are free to communicate it in an informal way. In my judgment the disadvantages of creating a formal process for making such recommendations within the Administration outweigh the advantages.
3. I applaud the OMB's interest in refining its analytic guidelines as described on pp 15020-1. Overall, this is a healthy process and one can expect a set of useful recommendations for refinements to result from this activity, to be jointly chaired by the Administrator of OIRA and a Member of the CEA. In advance of any specific recommendations it seems premature to comment on the particulars. The one exception to that is the possible use of new methods to evaluate the risk of premature death, particularly the use of different statistical approaches, including the quality-adjusted-lifetime (QALY) approach. This is not really a new idea in the literature – it is simply an alternative to the conventional economic approach which has been used at the World Bank and other institutions. In general, I see it as subtracting rather than adding information to the process of analyzing federal regulations. Thus, I am skeptical that it could genuinely be considered a refinement. Nonetheless, I await the recommendation on this matter from the co-chaired group within the Administration.
4. The section on regulatory governance abroad is a useful addition to the Report. In the future it might be worthwhile to go beyond a simple citation/articulation of the regulatory policy approaches adopted in other nations and try to focus on the results of these policies. In this regard, the OMB might consider meeting with their international counterparts and developing a reporting framework – perhaps similar to the one adopted for reporting the costs and benefits of regulations in this Report – that could be used internationally. Development of such comparative (international) information on the costs and benefits of regulation would be a useful addition to the policy process, as well as to the academic literature on regulation.
5. The appendices contain some useful discussions, largely drawn from the academic literature, on the economic impacts of regulations and their implications for economic growth and other measures of economic well being. Absent from this discussion is any consideration of the potential discrepancies between the *ex ante* and the *ex post* estimates of either the costs or the benefits of regulation. While the economic analysis of proposed new federal regulation is necessarily based on *ex ante* estimates, the *ex post* costs and/or the benefits might look very different. At a minimum, a discussion of the small but growing literature on this issue would strengthen the analysis presented in the Appendices of this Report.