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March 18, 2003

BY FACSIMILE

The Honorable Mitch Daniels  
Director  
Office of Management and Budget  
Washington, DC 20503

Dear Director Daniels:

This letter constitutes the formal comments of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs on the draft sixth report to Congress by the Office of Management and Budget (OMB) on the costs and benefits of Federal regulations and paperwork. I congratulate you on its timely publication on February 3, 2003, the same day as release of the President's Budget. Unfortunately, the report was published in the Federal Register instead of with the Budget documents, as required by law. As a consequence, it will be harder for Congress to simultaneously review both the on-budget and off-budget costs associated with each Federal agency and each Federal agency program imposing regulatory or paperwork burdens on the public.

In toto, OMB's report is an improvement over its five previous regulatory accounting reports. For example, for the first time, it includes aggregate estimates of the costs and benefits of major rules for seven agency regulatory programs. However, the report is still not presented as an accounting statement and it still does not include complete aggregate data, including data on the costs and benefits of still active regulatory programs which were promulgated before 1992, or complete data by agency and by agency program.

In addition, the draft does not include the statutorily-required associated report on impacts even though new information continues to be available. At a minimum, I recommend that OMB include information from the 2001 Crain-Hopkins analysis, commissioned by the Small Business Administration, and the two 2002 workplace studies by Dr. Crain and Joseph M. Johnson.

To assist OMB in preparing estimates by agency and by agency program, in March 2002 and January 2003, I asked OMB to issue annual OMB Bulletins to the agencies like it does for

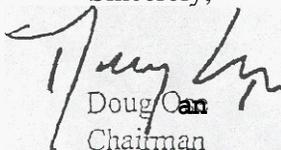
paperwork-reduction. OMB uses agency proposed estimates of aggregate and new paperwork burden to prepare a government-wide Information Collection Budget (ICB), a process which was patterned after the fiscal budget. In the past - and hopefully again in the future - OMB used the ICB process to prioritize proposed increases in paperwork, identify opportunities for interagency cooperation and data sharing, and manage paperwork burden on the public. OMB's regulatory accounting Bulletins should require each agency to submit costs and benefits estimates of its aggregate and new regulatory burden for the agency as a whole and for each of the agency's major regulatory programs. I recognize that, in the first few years, agency submissions will be incomplete; nonetheless, this discipline will result in more complete and better data in time.

Witnesses at my Subcommittee's March 11, 2003 hearing, entitled "How to Improve Regulatory Accounting: Costs, Benefits and Impacts of Federal Regulations," expressed support for a pilot test of regulatory budgeting. More complete and better agency data are essential to pursue such an approach.

I also applaud OMB's approach of changing from issuing nonbinding "best practices" guidance to the agencies to issuing an OMB Circular, which will both improve agency estimation practices and standardize agency presentation of the costs and benefits associated with proposed and revised regulatory programs.

Thank you for your attention to my concerns.

Sincerely,



Doug Can  
Chairman

Subcommittee on Energy Policy, Natural  
Resources and Regulatory Affairs

cc: The Honorable Tom Davis  
The Honorable John Tierney