106TH CONGRESS, 1st Session | HOUSE OF REPRESENTATIVES | REPORT 106–168

REGULATORY RIGHT-TO-KNOW ACT OF 1999

JUNE 7, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BURTON of Indiana, from the Committee on Government Reform, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany H.R. 1074]

[Including cost estimate of the Congressional Budget Office]

The Committee on Government Reform, to whom was referred the bill (H.R. 1074) to provide Governmentwide accounting of regulatory costs and benefits, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

		Page
I.	Purpose	4
II.	Need for Legislation	5
III.	Committee Action	9
IV.	Section-by-Section Analysis	9
V.	Oversight Findings	12
VI.	Budget Analysis and Projections	12
VII.	Congressional Budget Office Estimate	12
VIII.	Constitutional Authority Statement	13
IX.	Changes in Existing Law Made by the Bill, as reported	13
X.	Committee Recommendations	13
XI.	Congressional Accountability Act; Public Law 104–1	13
XII.	Unfunded Mandates Reform Act; Public Law 104–4, Section 425	14
XIII.	Federal Advisory Committee Act (5 U.S.C. App.) Sec. 5B	14
Minority Views		15
Additional Views		24

The amendment is as follows:

69–006

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Right-to-Know Act of 1999".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) promote the public right-to-know about the costs and benefits of Federal regulatory programs and rules;

(2) increase Government accountability; and

(3) improve the quality of Federal regulatory programs and rules.

SEC. 3. DEFINITIONS.

In this Act:

(1) IN GENERAL.—Except as otherwise provided in this section, the definitions under section 551 of title 5, United States Code, shall apply to this Act.

(2) BENEFIT.—The term "benefit" means the reasonably identifiable significant favorable effects, quantifiable and nonquantifiable, including social, health, safety, environmental, and economic effects, that are expected to result from implementation of, or compliance with, a rule.

(3) COST.—The term "cost" means the reasonably identifiable significant adverse effects, quantifiable and nonquantifiable, including social, health, safety, environmental, and economic effects, that are expected to result from implementation of, or compliance with, a rule.

(4) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(5) MAJOR RULE.—The term "major rule" has the meaning that term has under section 804(2) of title 5, United States Code.

(6) NONMAJOR RULE.—The term "nonmajor rule" means any rule, as that term is defined in section 804(3) of title 5, United States Code, other than a major rule.

(7) PAPERWORK.—The term "paperwork" has the meaning given the term "collection of information" under section 3502 of title 44, United States Code.

(8) PROGRAM COMPONENT.—The term "program component" means a set of related rules.

SEC. 4. ACCOUNTING STATEMENT.

(a) IN GENERAL.—Not later than February 5, 2001, and on the first Monday in February of each year thereafter, the President, acting through the Director of the Office of Management and Budget, shall prepare and submit to the Congress an accounting statement and associated report containing an estimate of the total annual costs and benefits of Federal regulatory programs, including rules and paperwork—

(1) in the aggregate;

(2) by agency, agency program, and program component; and

(3) by major rule.

(b) ADDITIONAL INFORMATION.—In addition to the information required under subsection (a), the President shall include in each accounting statement under subsection (a) the following information:

(1) An analysis of impacts of Federal rules and paperwork on Federal, State, local, and tribal government, the private sector, small business, wages, consumer prices, and economic growth, as well as on public health, public safety, the environment, consumer protection, equal opportunity, and other public policy goals.

(2) An identification and analysis of overlaps, duplications, and potential inconsistencies among Federal regulatory programs.

(3) Recommendations to reform inefficient or ineffective regulatory programs or program components, including recommendations for addressing market failures that are not adequately addressed by existing regulatory programs or program components.

(c) NET BENEFITS AND COSTS.—To the extent feasible, the Director shall, in estimates contained in any submission under subsection (a), quantify the net benefits or net costs of—

(1) each program component covered by the submission;

(2) each major rule covered by the submission; and

(3) each option for which costs and benefits were included in any regulatory impact analysis issued for any major rule covered by the submission.

(d) SUMMARY OF REGULATORY ACTIVITY.—The Director shall include in each submission under subsection (a) a table stating the number of major rules and the number of nonmajor rules issued by each agency in the preceding fiscal year.

(e) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement submitted under this section shall, at a minimum—

(1) cover expected costs and benefits for the fiscal year for which the statement is submitted and each of the 4 fiscal years following that fiscal year;

(2) cover previously expected costs and benefits for each of the 2 fiscal years preceding the fiscal year for which the statement is submitted, or the most recent revision of such costs and benefits; and

(3) with respect to each major rule, include the estimates of costs and benefits for each of the fiscal years referred to in paragraphs (1) and (2) that were included in the regulatory impact analysis that was prepared for the major rule.

(f) DELAYED APPLICATION OF CERTAIN REQUIREMENTS.—

(1) APPLICATION AFTER FIRST STATEMENT.—The following requirements shall not apply to the first accounting statement submitted under this section:

(A) The requirement under subsection (a)(2) to include estimates with respect to program components.

(B) The requirement under subsection (b)(2).

(2) APPLICATION AFTER SECOND STATEMENT.—The requirement under subsection (b)(1) to include analyses of impacts on wages, consumer prices, and economic growth shall not apply to the first and second accounting statements submitted under this section.

SEC. 5. NOTICE AND COMMENT.

(a) IN GENERAL.—Before submitting an accounting statement and the associated report to Congress under section 4, and before preparing final guidelines under section 6, the Director of the Office of Management and Budget shall—

(1) provide public notice and an opportunity of at least 60 days for submission of comments on the statement and report or guidelines, respectively; and

(2) consult with the Director of the Congressional Budget Office on the statement and report or guidelines, respectively.

(b) APPENDIX.—After consideration of the comments, the Director shall include an appendix to the report or guidelines, respectively, addressing the public comments and peer review comments under section 7.

(c) AVAILABILITY OF PEER REVIEW COMMENTS.—To ensure openness, the Director shall make all final peer review comments available in their entirety to the public.

SEC. 6. GUIDELINES FROM THE OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Council of Economic Advisers, shall issue guidelines to agencies to standardize—

(1) most plausible measures of costs and benefits;

(2) the means of gathering information used to prepare accounting statements under this Act, including information required for impact analyses required under section 4(b)(1); and

(3) the format of information provided for accounting statements, including summary tables.

(b) REVIEW.—The Director shall review submissions from the agencies to ensure consistency with the guidelines under this section.

SEC. 7. PEER REVIEW.

(a) IN GENERAL.—The Director of the Office of Management and Budget shall arrange for 2 or more persons that have nationally recognized expertise in regulatory analysis and regulatory accounting and that are independent of and external to the Government, to provide peer review of each accounting statement and associated report under section 4 and the guidelines under section 6 before the statement, report, or guidelines are final.

(b) WRITTEN COMMENTS.—The peer review under this section shall provide written comments to the Director in a timely manner. The Director shall use the peer review comments in preparing the final statements, associated reports, and guidelines.

(c) FACA.—Peer review under this section shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(d) BALANCE AND INDEPENDENCE.—The Director shall ensure that—

(1) the persons that provide peer review under subsection (a) are fairly balanced with respect to the points of view represented;

(2) no person that provides peer review under subsection (a) has a conflict of interest that is relevant to the functions to be performed in the review; and

(3) the comments provided by those persons—
(A) are not inappropriately influenced by any special interest; and
(B) are the result of independent judgment.

I. PURPOSE

The purposes of the "Regulatory Right-to-Know Act of 1999" are to promote the public right-to-know about the costs and benefits of Federal regulatory programs and rules, to increase Government accountability, and to improve the quality of Federal regulatory programs and rules. The bill requires the Office of Management and Budget (OMB) to prepare an annual accounting statement and an associated report. The accounting statement would provide estimates of the costs and benefits of Federal regulatory programs in the aggregate, by agency, by agency program, and by major rule. The associated report would analyze the impacts of Federal rules and paperwork on various sectors and functional areas. Currently, there is no report that analyzes the cumulative impacts of Federal regulations. Americans have a right to know the cumulative costs, benefits, and impacts of Federal regulations.

SUMMARY

In brief, the Regulatory Right-to-Know Act of 1999 is intended to do the following:

A. Require that OMB annually submit to the Congress, simultaneously with the Budget of the United States Government, an accounting statement and associated report on the annual costs and benefits of Federal regulatory programs.

Section 4(a) requires OMB to identify regulatory costs and benefits: (1) in the aggregate; (2) by agency, agency program, and program component; and (3) by major rule. Section 4(c) requires OMB to identify the net benefits or net costs for: (1) each program component, (2) each major rule, and (3) each regulatory option for which costs and benefits were included in any regulatory impact analysis. Section 4(e) requires that each accounting statement cover the current fiscal year, the two preceding fiscal years, and the four following fiscal years. This is the identical time series used in the Budget of the United States Government.

Section 4(b) requires that the associated report include three parts. First, OMB shall provide an analysis of the impacts of Federal rules and paperwork on State and local government, the private sector, small business, wages, consumer prices, economic growth, public health, public safety, the environment, consumer protection, equal opportunity, and other public policy goals. Second, OMB shall identify and analyze overlaps, duplications, and potential inconsistencies among Federal regulatory programs. Finally, OMB shall provide recommendations to reform inefficient or ineffective regulatory programs or program components, including recommendations for addressing market failures. Section 4(f) provides that the various analyses are phased in over a three-year period.

B. Require that OMB provide a summary table including the number of major rules and the number of nonmajor rules issued by each agency in the preceding fiscal year.

C. Require that OMB, before finalizing the accounting statement, associated report, and OMB guidelines, provide the public with no-

tice and an opportunity to comment, and peer review by two or more experts. Section 5 requires OMB to consult with the Congressional Budget Office (CBO) on the accounting statement, associated report, and OMB guidelines. Section 5 also requires OMB, after consideration of the public and peer review comments, to incorporate an appendix to the report addressing the public and peer review comments. To ensure openness, Section 5 also provides that OMB will make all final peer review comments available in their entirety to the public.

Section 7 requires OMB to arrange for external peer review by individuals or organizations with nationally recognized expertise in regulatory analysis and regulatory accounting. Section 7 also requires that these persons are independent of and external to the Government. Further, Section 7 requires that the peer reviewers are fairly balanced with respect to the points of view represented, that the peer reviewers have no conflict of interest, and that the comments provided are not inappropriately influenced by any special interest and are the result of independent judgment.

D. Require that OMB, after consultation with the Council of Economic Advisors, issue guidelines to the agencies to standardize most plausible measures of costs and benefits, the means of gathering information used to prepare the accounting statements and impact analyses, and the format of the accounting statements and summary tables. Section 6 requires that OMB review submissions from the agencies to ensure consistency with OMB's guidelines.

II. NEED FOR LEGISLATION

Over the past four years, Congress has changed the direction of the Federal Government from the endless burden of more taxes and spending to the new fiscal discipline of balance and accountability. America's freedom and innovation have resulted in a quality and productivity revolution and an American economy that is the unparalleled envy of the world. American business has brought incredible improvements to our quality of life, health care, and education. Through the new emphasis on flexibility and innovation, State and local governments have led the way to safer, cleaner, and better places to live. Congress must understand the impact of Federal regulatory programs on our economy and innovation. In addition to taxes, the Federal Government imposes tremendous costs and restrictions on innovation in the private sector, State and local governments, and the public through ever increasing Federal regulations. Here, too, we must strive for quality, efficiency, and accountability.

The burden of Federal regulations on the American public continues to grow. Professor Thomas D. Hopkins, Interim Dean, College of Business at the Rochester Institute of Technology, estimated total regulatory costs for 1999 to be over $700 billion.[1] In his March 24, 1999 testimony at the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs' hearing on H.R. 1074, Dr. Hopkins stated, "Expressed differently, the hidden burden of regulation will be roughly half as large as the Federal Government's entire tax receipts for the year. If an 'informa-

[1] Thomas D. Hopkins article published in the December 1998 journal Policy Sciences.

tional invoice' were mailed to each American family for its share of spending on regulatory compliance, the average family would 'owe' some $7,000 annually, over and above all taxes." Families spend more on regulation than on medical expenses, food, transportation, recreation, clothing, and savings. In an annual report on the Federal regulatory state, Clyde Wayne Crews, Director of Competition and Regulation Policy at the Competitive Enterprise Institute, another witness at the Subcommittee's March 24th hearing, reported that "regulatory costs happen to equal 1996 individual income taxes, which were also $737 billion . . . Corporate taxes at $182 billion, are greatly outdistanced by regulatory costs. Even pretax corporate profits, $640 billion in 1996, are exceeded by regulatory costs." [2]

In his March 24th testimony before the House Government Reform Committee's Subcommittee, Commerce Committee Chairman Thomas J. Bliley, Jr. stated, "By any measure, the task of responsibly managing Federal regulatory programs is large. The current Federal regulatory system encompasses more than 50 Federal agencies and more than 126,000 workers. Between April 1, 1996 and April 30, 1998 Congress received 8,675 new final rules for review. In 1997 alone the Federal Register had published 64,549 pages. In 1996, the Code of Federal Regulations filled 204 volumes and occupied 19 feet of shelf space."

H.R. 1074 builds on provisions in the 1997, 1998, and 1999 Treasury and General Government Appropriations Acts authored by Senators Stevens and Thompson, each of which called for OMB to submit a report that provides estimates of the costs and benefits of Federal regulations. H.R. 1074 establishes a permanent requirement for OMB to annually prepare this important information. Dr. Hopkins testified, "H.R. 1074 would establish the important principle that a report of this nature, with improvements, should be a regular part of the annual cycle of government reporting, rather than an ad hoc intermittent exercise."

The bill will not impose an undue burden on OMB. In fact, CBO estimated that H.R. 1074 "would increase Federal reporting costs by less than $500,000 a year." Much of the needed information is already available. Since President Reagan's 1981 historic executive order, Federal agencies have been required to perform cost-benefit analyses of major rules, which constitute the bulk of Federal regulatory costs and benefits. Also, OMB can use many other sources of information, including private regulatory accounting studies and government studies.

With respect to the provisions in the bill, Dr. Hopkins testified, "The bill's definitions of benefit and cost in Section 3 are sound and exactly what the accounting statement of Section 4(a)(1) should be based upon." California State Senator Jim Costa, representing the National Conference of State Legislatures (NCSL), testified at the Subcommittee's March 24th hearing in support of the bill and its requirement for an impact analysis on State and local governments. He stated:

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[2] P. 7, Clyde Wayne Crews, Jr., "Ten Thousand Commandments: An Annual Policymaker's Snapshot of the Federal Regulatory State," March 1999 Edition.

> To understand the potential benefit of such a report, it should be compared with the procedures and annual reports now provided by the Congressional Budget Office pursuant to the Unfunded Mandates Reform Act (UMRA).
>
> UMRA provides a sound procedural mechanism for assessing the potential fiscal impact of unfunded Federal mandates on state and local governments. This process has proven quite successful in limiting costly unfunded mandates on state and local governments. In short, when Congress is well informed about mandates, fewer mandates are imposed and costs to states and localities are limited. . . .
>
> A similar reporting mechanism, such as that contemplated in H.R. 1074, is needed to prevent, or at least to account for, similar mandates imposed through the regulatory process. . . . An annual report will go a long way to identifying the true fiscal impacts on state and local governments of promulgated rules, the vast majority of which do not have the same visibility as legislation. This report would give Congress an important tool in its oversight function to help ensure that agencies have not exceeded their statutory authority. The report could also assist with identification of unintended or undesirable consequences of current statutory language. . . . They also would give Congress better information on the cumulative costs to states and localities of regulatory actions.

At the Subcommittee's March 24th hearing, Angela Antonelli, Director of the Thomas A. Roe Institute for Economic Studies at The Heritage Foundation, testified, "The health of our nation's economy, and, even more importantly, a desire to achieve the highest levels of investments in public health, safety and environmental protections demands that Congress empower itself and the public with the information and analysis about the benefits and consequences of Federal regulations . . . Until Congress and the public demand more information and accountability from regulators in order to engage them in a debate about regulatory priorities and spending in the same way we do about the annual federal budget, not much change can or should be expected."

With respect to the requirement for OMB to identify and analyze overlaps, duplications, and potential inconsistencies among Federal regulatory programs, State Senator Costa testified, "duplications and overlaps will continue to plague us unless, as provided in H.R. 1704, OMB . . . seeks to identify and resolve these duplications."

With respect to the requirement for OMB to issue guidelines to the agencies to standardize most plausible measures of costs and benefits, the means of gathering information used to prepare the accounting statements and impact analyses, and the format of the accounting statements and summary tables, on March 24th, Ms. Antonelli testified, "There is no reason why agencies cannot follow one set of guidelines. The continuing inconsistency in benefit-cost methods reflects the fact that neither the President nor Congress has demanded any better from the agencies." Dr. Hopkins testified, "In my view, the single most valuable contribution of H.R. 1074 appears in Section 6(a), which calls for standardization of the cost

and benefit data that agencies would be required to provide. The value of this requirement is further enhanced by its applicability to all Federal regulatory agencies and to paperwork."

With respect to the requirement for public comment, State Senator Costa testified, "let me voice NCSL's support of the critical notice and comment requirement in Section 5. . . . In this way, more accurate information can be developed and a dialogue opened on the costs and benefits of regulatory actions." With respect to the requirement for peer review, Ms. Antonelli testified that "Because regulators are self-interested, independent review is essential. . . . it is necessary to ensure that any OMB report be subject to outside, independent review."

The Committee has received letters of support for H.R. 1074 from more than 20 organizations, including the seven major bipartisan organizations representing State and local elected officials. These are the National Governors' Association, National Conference of State Legislatures, Council of State Governments, U.S. Conference of Mayors, National League of Cities, National Association of Counties, and International City/County Management Association. Other organizations endorsing the bill include: Alliance USA, American Farm Bureau Federation, Americans for Tax Reform, Associated Builders and Contractors, the Business Roundtable, Center for the Study of American Business, Chamber of Commerce of the USA, Chemical Manufacturers Association, Citizens for a Sound Economy, National Association of Manufacturers, National Federation of Independent Business, the Seniors Coalition, the 60 Plus Association, and Small Business Survival Committee.

An example of a comment submitted is from Dean Kleckner, President of the American Farm Bureau Federation: "[H.R. 1074] will require that Federal agencies, must, at least annually, review the costs and benefits of their regulatory and other activities. This kind of self-assessment is long overdue and is a healthy exercise. It is the kind of self-assessment farmers must undertake regularly to remain economically viable in a rapidly changing international economy."

OMB itself has recognized the value of presenting information to the public on the costs and benefits of Federal regulations. In its February 1999 report to Congress on the costs and benefits of Federal regulations, OMB stated that, "The 1997 report was our effort to begin an incremental process which we believe will lead to improved information on the effects of regulations."[3] At the Subcommittee's March 24th hearing, Chairman Bliley testified that OMB understands the value of this exercise since, in its February 1999 report, OMB stated: "We hope to continue this important dialogue to improve our knowledge about the effects of regulation on the public, the economy, and American society."[4]

The "Regulatory Right-to-Know Act of 1999" is a basic step toward a smarter partnership in regulatory programs. It is an important tool to understand the magnitude and impact of Federal regulatory programs. The Act will empower all Americans, including State and local government officials, with new information and op-

[3] P. 1, "Report to Congress on the Costs and Benefits of Federal Regulations: 1998", Office of Management and Budget.

[4] P. 2, *Ibid*.

portunities to help them participate more fully and improve our government. More useful information and public input will help regulators make better, more accountable decisions and promote greater confidence in the quality of Federal policy and regulatory decisions. Better decisions and improved regulatory programs will enhance innovation, improve the quality of the environment, secure our economic future, and foster a better quality of life for every American.

III. COMMITTEE ACTION

The bipartisan "Regulatory Right-to-Know Act of 1999" (H.R. 1074) was introduced on March 11, 1999, by Commerce Committee Chairman Tom Bliley, National Economic Growth, Natural Resources, and Regulatory Affairs Subcommittee Chairman David McIntosh, and Representatives Gary Condit and Charles Stenholm. There were 27 other original co-sponsors, including 15 other Democrats and 12 other Republicans.

After introduction, the bill was referred to the Committee on Government Reform. On March 24, 1999, the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs held a hearing on H.R. 1074. On April 20, 1999, the Subcommittee held a mark up of the bill. Chairman McIntosh introduced a substitute as base text. In addition, the Subcommittee accepted an amendment by Ranking Member Dennis Kucinich to add impact analyses by functional areas and to include recommendations addressing market failures. Mr. Kucinich withdrew a second amendment and the Subcommittee, by voice vote, did not accept a third amendment offered by Mr. Kucinich.

On May 19, 1999, the Government Reform Committee held a mark up of the bill. The Committee, by voice vote, accepted an amendment offered by Subcommittee Chairman McIntosh, with Mr. Kucinich's support, on peer review to ensure openness, balance, and independence. Ranking Member Henry Waxman withdrew a second amendment and the Committee, by voice vote, did not accept a third amendment offered by Mr. Kucinich. By voice vote, the Committee approved reporting H.R. 1074, as amended, to the full House.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Title

Section 2. Purposes

The purposes of the bill are to promote the public's right-to-know the benefits and costs of regulatory programs, to increase government accountability, and to improve the quality of regulatory programs.

Section 3. Definitions

Section 3 includes definitions for "benefit," "cost," "major rule," "nonmajor rule," "paperwork," and "program component." The terms "benefit" and "cost" include non- quantifiable and quantifiable social, health, safety, environmental, and economic effects that are expected to result from implementation of, or compliance with, a rule.

Section 4. Accounting statement

Section 4 requires OMB to annually submit to the Congress, simultaneously with the Budget of the United States Government, an accounting statement and associated report on the annual costs and benefits of Federal regulatory programs. Section 4(a) requires that the accounting statement identify regulatory costs and benefits: (1) in the aggregate; (2) by agency, agency program, and program component; and (3) by major rule. For program components, the bill provides OMB discretion in identifying groups of rules and paperwork and their relationships. Initially, there may be broad groupings. After successive comment periods and reports, the Committee expects that the program components identified by OMB will become more refined.

Section 4(b) requires that the associated report include three parts. First, OMB shall provide an analysis of the impacts of Federal rules on State and local government, the private sector, small business, wages, consumer prices, economic growth, public health, public safety, the environment, consumer protection, equal opportunity, and other public policy goals. Second, OMB shall identify and analyze overlaps, duplications, and potential inconsistencies among Federal regulatory programs. Third, OMB shall provide recommendations to reform inefficient or ineffective regulatory programs or program components, including recommendations for addressing market failures.

The impact analyses do not need to be done separately for each rule or program component. The bill provides OMB discretion in aggregating or dividing impact analyses either across or among regulatory programs. The bill does not limit OMB from performing more detailed or additional analyses. For example, OMB could analyze impacts on sectors in the regulated community. OMB should address information on impacts provided by public and peer review comments. Lastly, where possible, the Committee expects OMB to provide quantifiable information.

For the identification of overlaps, duplications, and potential inconsistencies, OMB should, at a minimum, review the objectives of Federal programs and program components and their relationships. For example, where two or more agencies perform related sets of activities, OMB should examine the relationship of these programs. OMB should address public and peer review comments on overlaps, duplications, and potential inconsistencies.

The provision requiring OMB to provide recommendations to reform inefficient or ineffective regulatory programs or program components relates to existing programs and program components. There are a number of sources of information on which OMB could base such recommendations. First, the accounting statement may reveal marginally productive or counterproductive rules or program components. Second, the analyses of overlaps, duplications, and potential inconsistencies may reveal areas for consolidation. Third, OMB should address recommendations offered by the public and peer reviewers. Fourth, existing executive branch efforts for legislative or regulatory amendments to reform existing programs and program components should be included. Fifth, existing or new State, local, private sector, or voluntary programs may reveal more efficient or more effective means to achieve a desired objective.

For the recommendations for addressing market failures that are not adequately addressed by existing regulatory programs or program components, OMB shall consider the full range of existing non-Federal and non-regulatory strategies before concluding there is a market failure. Other strategies include existing Federal, State, and local laws and rules. For any identified market failure, OMB shall explain how the failure of these strategies resulted in a market failure. This provision is not an invitation for recommendations for Federal action in traditional State and local areas of responsibility.

Section 4(c) requires OMB to identify the net benefits or net costs for: (1) each program component, (2) each major rule, and (3) each regulatory option for which costs and benefits were included in any regulatory impact analysis.

Section 4(d) requires OMB to provide a summary table including the number of major rules and the number of nonmajor rules issued by each agency in the preceding fiscal year.

Section 4(e) requires that each accounting statement cover the current fiscal year, the two preceding fiscal years, and the four following fiscal years. This is the identical time series used in the Budget of the United States Government.

Section 4(f) provides that the various analyses are phased in over a three-year period. The Committee expects that OMB will begin to solicit comments in the first year on how to address those analyses that are not required until the second or third years.

Section 5. Notice and comment

Section 5 requires that OMB, before finalizing the accounting statement, associated report, and OMB guidelines, provide the public with notice and an opportunity to comment, and peer review by two or more experts. This section also requires OMB to consult with CBO before finalizing any of the three documents. Further, this section requires OMB, after consideration of the public and peer review comments, to incorporate an appendix to the report addressing the public and peer review comments. To ensure openness, Section 5 also provides that OMB will make all final peer review comments available in their entirety to the public.

Section 6. OMB guidelines

Section 6 requires OMB, after consultation with the Council of Economic Advisors, to issue guidelines to the agencies to standardize most plausible measures of costs and benefits, the means of gathering information used to prepare the accounting statements and impact analyses, and the format of the accounting statements and summary tables. Section 6 also requires that OMB review submissions from the agencies to ensure consistency with OMB's guidelines. This provision does not require or suggest that OMB revise its existing best practices guidelines. However, OMB needs to provide more specific guidelines to ensure the use of the most plausible measures in future reports. The goal is to provide scientifically and economically objective estimates which neither minimize nor exaggerate costs or benefits and which use the best available scientific and economic information. Current discrepancies in agen-

cy estimation procedures have hindered program comparisons and determinations about incremental costs and benefits.

Section 7. Peer review

OMB shall arrange for two or more experts to provide peer review of: (1) the OMB guidelines, and (2) each accounting statement and associated report. The peer reviewers shall provide written comments to OMB. Section 7 requires that the individuals or organizations chosen as peer reviewers have nationally recognized expertise in regulatory analysis and regulatory accounting. This section also requires that these persons are independent of and external to the Government. Further, Section 7 requires that the peer reviewers are fairly balanced with respect to the points of view represented, that the peer reviewers have no conflict of interest, and that the comments provided are not inappropriately influenced by any special interest and are the result of independent judgment. The Committee does not envision that the required peer review is a committee function; therefore, the bill does not require establishment of an advisory committee subject to the Federal Advisory Committee Act. Instead, the Committee expects that the peer reviewers, based on their special expertise and qualifications in regulatory analysis and regulatory accounting, will provide their individual views.

V. OVERSIGHT FINDINGS

Pursuant to Rule XIII, clause 3(c)(1), of the Rules of the House of Representatives, the results and findings for these oversight activities are incorporated in the recommendations found in this bill and in this report.

VI. BUDGET ANALYSIS AND PROJECTIONS

H.R. 1074 provides for no new authorization, budget authority or tax expenditures. Consequently, the provisions of section 308(a)(1) of the Congressional Budget Act of 1974 are not applicable.

VII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 25, 1999.

Hon. DAN BURTON,
Chairman, Committee on Government Reform,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1074, the Regulatory Right-to-Know Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 1074—Regulatory Right-to-Know Act of 1999

H.R. 1074 would require the Office of Management and Budget (OMB) to submit annually to the Congress an accounting statement of the costs and benefits of federal regulations. Prior to its submission, the bill would require that OMB make the statement available for public comment and have it reviewed by two or more experts in regulatory analysis. H.R. 1074 also would require that OMB issue guidelines to agencies for implementing the bill's provisions.

The Congress has required OMB to submit a regulatory accounting statement in each of the past three years, most recently as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Public Law 105–277). CBO assumes that the statements submitted under H.R. 1074 would be similar to those previously submitted by OMB, which have relied on existing information, such as agencies' analyses of new rules, to estimate the aggregate costs and benefits of federal regulations. In addition, Public Law 105–277 already requires that OMB issue guidelines to agencies for implementing a cost-benefit accounting statement. Thus, CBO estimates that implementing H.R. 1074 would increase federal reporting costs by less than $500,000 a year, assuming appropriation of the necessary amounts. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 1074 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on the budgets of state, local, or tribal governments.

The CBO staff contact is John R. Righter. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

VIII. CONSTITUTIONAL AUTHORITY STATEMENT

Clauses 14 and 18 of Article I, Section 8 of the Constitution grants the Congress the power to enact this law.

IX. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

H.R. 1074 does not make any changes in existing law.

X. COMMITTEE RECOMMENDATIONS

On May 19, 1999, a quorum being present, the Committee on Government Reform ordered the bill favorably reported, as amended, by voice vote.

XI. CONGRESSIONAL ACCOUNTABILITY ACT; PUBLIC LAW 104–1

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(B)(3) of the Congressional Accountability Act (P.L. 104–1).

XII. UNFUNDED MANDATES REFORM ACT; PUBLIC LAW 104–4, SECTION 425

The Committee finds that the legislation does not impose any Federal Mandates within the meaning of Section 423 of the Unfunded Mandates Reform Act (P.L. 104–4).

XIII. FEDERAL ADVISORY COMMITTEE ACT (5 U.S.C. APP.) SECTION 5(B)

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., Section 5(b). In fact, Section 7(c) of H.R. 1074 provides that the peer review under the bill is not subject to the Federal Advisory Committee Act.

MINORITY VIEWS

H.R. 1074 is a controversial bill requiring extensive accounting of the annual costs and benefits of regulations. It appears to require significantly more analysis than has been required pursuant to various appropriations riders. H.R. 1074 would require, for the first time, cost/benefit analyses for each agency, program, and program component, and extensive new impact analyses. Further, because there are so many data gaps and methodological problems, the Administration warns that "[a]ggregate estimates of the costs and benefits of regulation offer little guidance on how to improve the efficiency, effectiveness, or soundness of the existing body of regulations."[1]

We join the Administration and numerous labor, public health, environmental, and consumer groups in opposing H.R. 1074.[2]

I. CONCERNS ABOUT H.R. 1074

A. H.R. 1074 WOULD REQUIRE NEW ANALYSES

Proponents of the bill often state that H.R. 1074 merely codifies language that was included in previous appropriations bills. This is simply not true. Appropriations language did not require OMB or agencies to conduct any new analyses. It merely required OMB to compile (1) cost/benefit and impact analyses that were already conducted by the agencies, such as the analyses of major rules required by Executive Order 12866, and (2) regulatory analyses that were conducted by outside entities.[3]

H.R. 1074, on the other hand, would also require the agencies or OMB to conduct:

cost/benefit analyses for each agency,
cost/benefit analyses for each program,
cost/benefit analyses for each program component,
analyses that cover costs and benefits for the two previous years and the following four years,
net benefits and cost calculations for each program,
net benefits and cost calculations for each major rule,

[1] Office of Management and Budget, Office of Information and Regulatory Affairs, *Report to Congress on the Costs and Benefits of Federal Regulations,* 5 (1998).

[2] Over 60 groups opposing H.R. 1074 signed onto a May 18, 1999, letter from Citizens for Sensible Safeguards to the U.S. House of Representatives (attached).

[3] When the language was first adopted in 1996, Senator Levin stated, "The amendment does not, and this is why I am able to support it, does not require OMB to conduct new studies or analyses or develop new data or information. That would be a time-consuming, and expensive use of taxpayer money. Better that OMB staff use its time and money to help make sure new regulations follow the dictates of common sense and be cost-effective regulations. No, this amendment simply directs OMB to put together the already available information that it has on existing Federal regulatory programs and use that to estimate the total annual costs and benefits of each." When similar language was adopted a year later, Senator Thompson stated, "OMB is not mandated to devote vast resources to create such models. Instead, OMB may use available reports, studies, and other relevant information to assess the direct and indirect impacts of Federal rules."

net benefits and cost calculations for each option discussed in any regulatory impact analysis (RIA) for any major rule, and a number of new impact statements, including the impact of regulations on wages, consumer prices, and economic growth.

When testifying in opposition to H.R. 1074, OMB explained that H.R. 1074 would require it "to compile detailed data that they do not now have, and undertake analyses that they do not now conduct, using scarce staff and contract resources, regardless of any practical analytic need as part of the rulemaking process."[4]

In fact, an analysis of every "program component," which is broadly defined as a set of related rules, would require a cost/benefit analysis of every major and minor rule. Pursuant to Executive Order 12866, the agencies—other than the independent agencies—already analyze the cost and benefit of the 60 or so new major rules that are enacted each year. H.R. 1074 would greatly increase the number of required analyses to include the 5000 or so major and minor rules that are enacted each year. In addition, the agencies would need to analyze the enormous number of rules that are already on the books.

B. NEW COST/BENEFIT ANALYSES WOULD BE EXPENSIVE

It is a difficult task to ascertain the cost of conducting these new analyses. However, there are a few studies that provide some guidance. For instance, in March 1997, the Congressional Budget Office (CBO) found that the cost of conducting comprehensive cost/benefit analyses for 85 major rules averaged $573,000 per rule and took an average of three years to complete.[5] Thus, the agencies already spend an estimated $35 million a year on the cost/benefit analyses for the 60 new major rules enacted each year. Similarly, when the Environmental Protection Agency (EPA) analyzed the costs and benefits of one program—the Clean Air Program—the analysis took seven years to complete and cost millions of dollars.

H.R. 1074 would require analysis of the estimated 5000 new rules promulgated each year and an analysis of the many rules already on the books. In addition, this information would need to be compiled in a number of different ways to show the costs and benefits of each agency, program, and program component. Thus, the cost of H.R. 1074 could be substantial.

CBO estimated the cost of H.R. 1074 assuming that the bill did not require new analyses and assuming that OMB would provide a report similar to the report provided pursuant to appropriations language. Given these assumptions, CBO estimated that the cost would be less than $500,000 a year.[6] CBO did not, however, estimate the cost of H.R. 1074 assuming that OMB has to conduct new analyses.

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[4] Testimony of G. Edward DeSeve, Deputy Director for Management, Office of Management and Budget, before the House Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs (March 24, 1999).

[5] Congressional Budget Office, *Regulatory Impact Analysis: Costs at Selected Agencies and Implications for the Legislative Process,* 13 and 30 (March 1997).

[6] Congressional Budget Office, Cost Estimate for H.R. 1074, Regulatory Right-to-Know Act of 1999 (May 25, 1999).

C. AGGREGATE COST/BENEFIT ANALYSES WOULD BE OF LIMITED USE

The new analyses likely would not be as useful as its proponents hope. Although OMB quantifies the aggregate costs and benefits of regulations as required by appropriations language, OMB cautions that there are "enormous data gaps," accurate data is "sparse," and agreed-upon methods for estimating are "lacking."[7] Furthermore, OMB warns that the limits for using estimates "in making recommendations about reforming or eliminating regulatory programs are severe. Aggregate estimates of the costs and benefits of regulation offer little guidance on how to improve the efficiency, effectiveness, or soundness of the existing body of regulations."[8]

Professor Lisa Heinzerling, an expert on regulatory accounting, testified:

> It is ironic that H.R. 1074 is called the "Regulatory Right-to-Know Act." It is ironic because, if this bill is passed, the public will likely know less rather than more about federal regulation. The bottom-line estimates of costs and benefits required by this bill hide moral and political judgments behind a mask of technical expertise. The public is likely to mistake the estimates' precision for accuracy and their technicality for objectivity. In that case the numbers generated as a result of this bill will be worse than useless. They will threaten the very public awareness the bill purports to embrace.[9]

Similarly, when Professor Shapiro, another expert on regulatory accounting, testified on the Senate version of H.R. 1074, he stated:

> My conclusion is that, as a matter of regulatory policy and process, [regulatory accounting] is unlikely to accomplish the objectives of its sponsors and more likely will make regulatory oversight more, not less, difficult. Analysts simply cannot accomplish the type of precise calculations needed for regulatory accounting, and even if they could, the results would not be relevant to policy decisions. Worse, the legislation is likely to mislead, rather than inform, the American public. Finally, the legislation is likely to distract OMB from effective regulatory oversight.[10]

In addition, H.R. 1074 would require cost/benefit and impact analyses of a myriad of rules for which such analyses are useless. For instance, it would require a cost/benefit analysis and impact analyses for rules that make technical changes, such as correcting errors on federal forms. Additional examples are discussed in Section IV.

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[7] Office of Management and Budget, Office of Information and Regulatory Affairs, *Report to Congress on the Costs and Benefits of Federal Regulations,* 2 (1998).

[8] Office of Management and Budget, Office of Information and Regulatory Affairs, *Report to Congress on the Costs and Benefits of Federal Regulations,* 5 (1998).

[9] Testimony of Professor Lisa Heinzerling, Georgetown University Law Center, before the House Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs (March 24, 1999).

[10] Testimony of Professor Sidney Shapiro, School of Policy and Environmental Affairs, Indiana University, before the Senate Committee on Governmental Affairs (April 22, 1999).

D. IMPORTANT BENEFITS LIKELY WOULD BE UNDERESTIMATED

During the Subcommittee markup, H.R. 1074 was improved by adoption of an amendment by Rep. Kucinich that requires an analysis of the beneficial impact of regulations on public health, safety, the environment, and other public policy goals. This amendment provided some balance to the bill, which had previously emphasized the costs, not their benefits.

Despite the adoption of the Kucinich amendment, H.R. 1074 still is likely to underestimate benefits. OMB states that "[v]alid and reliable data are particularly sparse on benefits, a fact that has been noted often by commentators in the literature and analysts in the field." [11] This underestimation of benefits is compounded by the fact that the analyses likely overstate the costs because they do not account for technological advances and industry's ability to adapt. For example, EPA estimated that it would cost $600 per ton to comply with the proposed acid rain controls. However, the actual cost today is less than $100 per ton.

In addition, many benefits are described in qualitative terms—such as the number of lives saved, reduction in illness, or the protection of civil rights—not in monetary terms. Although H.R. 1074 requires a description of qualitative benefits, this does not adequately address the problem. The focus of H.R. 1074 is the aggregate and net benefit calculations which reflect only the monetized costs and benefits and often fail to account for the most important benefits of regulation.

E. SOME IMPACT ANALYSES WOULD BE DUPLICATIVE

Many of the requirements for impact analyses are duplicative. For instance, the Regulatory Flexibility Act (RFA) already requires agencies to examine the impact of proposed and existing rules on small businesses, small organizations, and small governments. The Unfunded Mandates Reform Act (UMRA) requires analyses of costs of federal mandates on state and local governments and the economy.

II. KUCINICH TAXPAYER PROTECTION AMENDMENT

Unfortunately, the Committee did not adopt the "Taxpayer Protection Amendment" offered by Rep. Kucinich. This amendment would have provided that:

(a) OMB and the agencies are not required to generate *new* data or conduct *new* analyses unless the benefits of such data generation or analysis outweighs the cost,

(b) the authorization of funds is limited to $1 million a year, and

(c) the bill will sunset in four years.

Considering the potential cost of H.R. 1074 and the limited use of the analyses, this amendment would prevent a significant waste of taxpayer funds.

Moreover, if, as proponents claim, H.R. 1074 would require no new analyses, the Committee's opposition to this amendment is un-

[11] Office of Management and Budget, Office of Information and Regulatory Affairs, *Report to Congress on the Costs and Benefits of Federal Regulations,* 2 (September 30, 1997).

founded. The amendment clearly provides that the funding limits would not apply to any analyses required by a separate law or Executive Order. For instance, the cost/benefit analyses of major rules conducted pursuant to Executive Order 12866 would not be affected by this amendment. Furthermore, the $1 million limit is twice as high as CBO's estimate of the costs of H.R. 1074 assuming that no new analyses are required.

III. Waxman Corporate Welfare Amendemnt

In addition, we are disappointed that the Committee did not adopt an amendment offered by Rep. Waxman requiring disclosure of corporate welfare to regulated businesses, providing the American public access to a more complete picture of the costs and benefits of federal programs.

IV. Examples of Regulations That Would be Subject to Cost-Benefit Analysis Under H.R. 1074

H.R. 1074 would have a very broad application, requiring cost/benefit and impact analyses for all rules. In many instances these analyses would simply be a waste of money. The following are two examples of the wasteful analyses that would be required.

Guidelines for Drawbridge Operations. The U.S. Coast Guard issues rules regulating the operation of over 460 drawbridges. A temporary rule must be issued and published in the Federal Register each time bridge maintenance would change the drawbridge schedule. For example, on May 14, 1999, the Coast Guard issued a temporary rule to allow the Louisiana Department of Transportation and Development to keep a bridge in Hackberry, Louisiana, closed for 15 hours to replace the emergency electrical power supply. There is no need to perform a cost/benefit analysis of these kinds of rules because they are common sense requirements that are generally issued without controversy. In the case of Hackberry, Louisiana, for example, it was the state of Louisiana—not the federal government—that requested the rule in order to perform the necessary maintenance. H.R. 1074, however, would require cost/benefit analyses for these types of rules.

Education Assistance Mandated by Statute. The Department of Veterans Affairs published a rule in the May 14, 1999, Federal Register, to increase educational assistance payable to reservists by approximately 20 percent. This rule was a purely ministerial function since the 20 percent increase was mandated by the Veterans Benefits Act of 1998. Yet under H.R. 1074, the federal government may now have to spend scarce taxpayer dollars preparing a cost/benefit analysis of this requirement, including an analysis of the rule's impact on wages, productivity, and economic growth.

Henry A. Waxman.
Dennis J. Kucinich.
Jan Schakowsky.
Elijah E. Cummings.
John F. Tierney.
Eleanor H. Norton.
Danny K. Davis.
Chaka Fattah.

ROD R. BLAGOJEVICH.
TOM ALLEN.
MAJOR R. OWENS.
TOM LANTOS.
CAROLYN B. MALONEY.
PATSY T. MINK.

CITIZENS FOR SENSIBLE SAFEGUARDS,
Washington, DC, May 18, 1999.

House of Representatives, Washington, DC.

DEAR REPRESENTATIVES: On behalf of Citizens for Sensible Safeguards, a broad-based coalition of more than 300 public interest organizations, we are writing to express our strong opposition to "The Regulatory Right-to-Know Act" (H.R. 1074), which is the subject of a May 20 markup in the Government Reform Committee. H.R. 1074 would require OMB to conduct an undoable analytical report on the entire federal regulatory system that we believe would only drain scarce agency resources and create confusion over important health, safety, and environmental protections.

Congress has required OMB to conduct a cumulative cost-benefit analysis of agency rules—referred to as regulatory accounting—through appropriations riders over the last three years, and in its two completed reports, OMB has made a special point to underscore the inherent uncertainty of such an endeavor. ". . . we still believe that the limitations of these estimates for use in making recommendations about reforming or eliminating regulatory programs are severe," OMB stated in its second report, released in February. "Aggregate estimates of the costs and benefits offer little guidance on how to improve the efficiency, effectiveness, or soundness of the existing body of regulations."

Yet despite these warnings, H.R. 1074 seeks to dramatically expand analytical requirements contained in the previous appropriations riders and has removed language requiring analysis only "to the extent feasible." Specifically, the legislation calls for OMB to estimate the annual costs and benefits of rules and paperwork (a) in the aggregate, (b) by agency, agency program, and program component, and (c) by major rule. In addition, OMB would have to assess the direct and indirect impacts of federal rules and paperwork on state, local and tribal governments, small business, wages, economic growth, and distributional effects.

One glaring problem here is that much of the information called for is not currently generated during agency rulemakings. When the first appropriations rider was passed, a colloquy in the Senate made clear that the intent was not to generate new data or studies, but rather to pull together existing information. That would not longer be the case under H.R. 1074. For instance, agencies are not currently required to conduct cost-benefit analyses for paperwork under the Paperwork Reduction Act; rather, the agency is to assess "practical utility" and burdens imposed. Testifying against the legislation OMB Deputy Director Ed DeSeve explained, "To satisfy H.R. 1074, agencies may have to be called upon to compile detailed data that they do not now have, and undertake analyses that they do not now conduct, using scarce staff and contract resources, re-

gardless of any practical analytic need as part of the rulemaking process."

But even if resources were not a problem, there would always be the problem of reliability. In order to meet the requirements of the regulatory accounting report, OMB has, not surprisingly, found it necessary to put cumulative costs and benefits in terms of dollars and cents. And indeed, H.R. 1074 puts a premium on monetization, asking OMB to show "net benefits."

However, agencies often evaluate benefits using qualitative factors, such as the reduction in health or safety risks to children, while costs are more easily stated in monetary terms. Such an analytical discrepancy is only accentuated when you attempt to add up all federal regulation at once in a monetized study, producing numbers that are greatly misleading.

When seemingly qualitative factors are converted to monetized figures—as OMB has begun to do to fulfill its regulatory accounting obligations—value judgments become hidden behind a mask of technical expertise. For instance, OMBs most recent report incorporated the estimated benefits of reducing lead in gasoline, including the prevention of IQ loss in children. Although it's hard to imagine a parent who would regard their child's drop in IQ as adequately captured by an estimated loss of future earning capacity, this is actually one of the many value judgments buried in OMB's numbers.

Other problems with reliability exist as well, many of which are elaborated on in OMB's two reports. Perhaps most significant, a study of this kind must rely on agency Regulatory Impact Analyses (RIAs) that are done before rules are actually on the books—even though it is well documented that regulatory costs decrease over time as a result of technological advances, "learning by doing," and other factors. (EPA, for example, estimated in 1990 that acid rain controls would cost electrical utilities about $750 per ton of sulfur dioxide emissions; yet the actual cost today is less than $100 per ton, billions of dollars less than what was initially anticipated.) Adding to the problem that "net benefits" are likely to be understated is the whole series of new subanalyses (listed above) mandated by H.R. 1074, all aimed at elevating cost considerations.

Moreover, H.R. 1074 requires OMB to subject its findings to peer review (on top of a public notice and comment period) by "two or more organizations" that are independent of government and "have nationally recognized expertise in regulatory analysis and regulatory accounting." There are only a handful of groups who would qualify under this language, and virtually all are more concerned with the cost side of the regulatory equation. Given that the bill instructs that OMB "shall use the peer review comments" in preparing its report, this could allow a select and privileged few to greatly bias results.

In sum, by allowing crucial value judgments to be masked by monetized figures, we believe a report of this kind implies a sort of detached objectivity that simply doesn't exist, and in doing so creates less transparency, not more, as proponents suggest. Moreover, the slanted analysis required by H.R. 1074 appears to be intended as a political weapon to undermine critical health, safety, and environmental standards. Certainly such a regulatory account-

ing has no real utility for public policy, as OMB has pointed out. And yet, as constructed by this legislation, it could prove extremely burdensome for already cash-strapped federal agencies.

For these reasons, we strongly urge you to oppose H.R. 1074, "The Regulatory Right-to-Know Act." If you have any questions on this bill or would like to meet with coalition members, please contact Reece Rushing at 202–234–8494.

Sincerely,

AFL–CIO.
AFSCME.
Alton Park/Piney Woods Neighborhood Improvement Corp (TN).
American Lung Association.
American Lung Association of Tennessee.
American Nurses Association.
American Public Health Association.
Americans for Democratic Action.
Center for Marine Conservation.
Center for Science in the Public Interest.
Citizen Action of Southern Tier (NY).
Citizens Committee to Complete the Refuge.
Citizen's Environmental Coalition (NY).
Citizen's Environmental Coalition of Western New York.
Clean Air Council (PA).
Clean Water Council.
Coalition Organized to Protect the Environment (NY).
Consumers Union.
Community Nutrition Institute.
Cook Inlet Keeper.
Defenders of Wildlife.
Earth Concerns of Oklahoma.
Earthjustice Legal Defense Fund.
Environmental Advocates (NY).
Environmental Defense Fund.
Environmental Working Group.
Friends of the Earth.
Green Congress Campaign, Tennessee Environmental Council.
Hudson River Sloop Clearwater.
Kentucky Resources Council, Inc.
League of Women Voters of Nashville.
Long Island Progressive Coalition.
Mining Impact Coalition of Wisconsin.
National Campaign for Pesticide Policy Reform.
National Citizens' Coalition for Nursing Home Reform.
National Environmental Trust.
Natural Resources Council of Maine.
Natural Resources Defense Council.
New Jersey Environmental Lobby.
New York City Environmental Justice Alliance.
New York Public Interest Research Group.
New York Rivers United.
New York Statewide Senior Action.
New World Energy Systems (NM).
Northwoods Wilderness Recovery (MI).
OMB Watch.

Physicians for Social Responsibility.
Professionals Network for Social Responsibility.
Public Citizen.
Sierra Club.
Staten Island Citizens for Clean Air.
Tennessee Citizen Action.
Tenneessee Environmental Council.
Tennessee Industrial Renewal Network.
The Arc of the United States.
The Lake Superior Alliance.
Tip of the Mitt Watershed Council (Petoskey, MI).
UAW.
United Church of Christ, Office for Church in Society.
United Steelworkers of America.
U.S. PIRG.
Westchester People's Action Coalition (NY).
Western N.Y. Council on Occupational Safety & Health.

ADDITIONAL VIEWS

The Minority Views section of this report includes various incorrect or misleading assertions that need to be clarified in this report. First, H.R. 1074 has wide bipartisan and public support, including from the seven major bipartisan organizations representing State and local elected officials. Second, the Minority Views section incorrectly states, "Proponents of the bill often state that H.R. 1074 merely codifies language that was included in previous appropriations bills." Instead, the authors of H.R. 1074 have consistently stated that the bill builds on provisions in the 1997, 1998, and 1999 Treasury and General Government Appropriations Acts.

Third, the Minority Views section asserts that H.R. 1074 "would require a cost/benefit analysis of every major and minor rule" and that "H.R. 1074 would greatly increase the number of required analyses to include the 5000 or so major and minor rules that are enacted each year." This assertion is incorrect. The bill requires no new regulatory impact analyses. Fourth, the minority section asserts, "CBO estimated the cost of H.R. 1074 assuming that the bill did not require new analyses . . . CBO did not, however, estimate the cost of H.R. 1074 assuming that OMB has to conduct new analyses." This assertion is incorrect. CBO's estimate is based on the amended bill as reported by the Committee. H.R. 1074 does not require any new rule-by-rule cost-benefit analyses or any new rule-by-rule impact analyses. Instead, the bill provides for the combining of sets of related rules in broad categories. Except for already-required regulatory impact analyses for major rules, the various analytical requirements relate to information after rules are issued. The bill provides OMB with substantial discretion in how to address the various analytical requirements. CBO is specifically aware of this discretion. Indeed, for the past three years, OMB has been statutorily required to prepare a report which provides an analysis of the costs and benefits of Federal regulations. Thus, CBO is correct in its analysis of the costs of H.R. 1074.

Fifth, H.R. 1074 does not duplicate requirements under the Regulatory Flexibility Act or the Unfunded Mandates Reform Act. Instead, OMB can use analyses provided under these Acts to prepare the annual accounting statement and associated report, required by H.R. 1074. Sixth, the examples cited in the Minority Views section are incorrect. The bill does not require a cost-benefit analysis for individual non-major rules, such as a U.S. Coast Guard temporary rule regulating the operation of a drawbridge or a Department of Veterans Affairs ministerial rule. Moreover, nothing in H.R. 1074 limits any action or requires new analyses before an agency action. Finally, the Minority Views section includes a footnote stating "Over 60 groups opposing H.R. 1074 signed onto a May 18, 1999, letter." The Committee is uncertain what "signed on" means and

has requested but has not yet received any signed letters from these organizations in support of or opposition to H.R. 1074.

The value of the information provided in the bill to quality management in government is well worth the production of OMB's report. The required annual accounting statement and associated report will increase confidence in government and result in better decisions. The Committee believes that Congress and the American people have a right to know the costs, benefits, and impacts of Federal regulatory programs.

DAVID MCINTOSH.

COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, June 3, 1999.

Hon. HENRY WAXMAN,
Ranking Member, House Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR HENRY: Today, the Majority staff of the Committee on Government Reform received a copy of an unsigned letter, dated May 18, 1999, for insertion in the Committee's report on H.R. 1074, "The Regulatory Right-to-Know Act of 1999." The Committee's deadline for the Minority Views section of the report was a week ago. A footnote in the Minority Views section, which was timely filed, stated "Over 60 groups opposing H.R. 1074 signed onto a May 18, 1999, letter." We are uncertain what "signed on" means. On April 6th, to ensure accuracy, we requested in writing for the Minority staff to submit signed letters from any organizations mentioned in letters intended for the record. Today, almost two months later, the Committee has yet to receive a single signed letter from any of the organizations that allegedly "signed on" to the May 18th letter. In contrast, the letters of support for H.R. 1074 mentioned in the Need for Legislation section of the Report were all signed and were all on organizational letterhead.

Unfortunately, time does not permit for us to verify the authenticity of the views of the organizations listed in the unsigned letters. Besides not having the names of persons whom we could contact by telephone or in writing, there are no addresses for us to send followup letters. Today, we were unable to identify several of the organizations, such as the "Alton Park/Piney Woods Neighborhood Improvement Corp (TN)," which has no telephone listing anywhere in Tennessee, "Citizen Action of Southern Tier (NY)," which has no telephone listing anywhere in New York, and the "National Campaign for Pesticides Policy Reform," which we discovered formerly existed in the District of Columbia. Also, we discovered that many of the organizations such as the "National Citizens' Coalition for Nursing Home Reform," are § 501(c)(3) non-profit organizations, whose tax status is dependent on adherence to certain restrictions on lobbying Congress.

Even though the H.R. 1074 Report was completed last week, we have agreed to include the unsigned letters. However, we are concerned about such a precedent and the authenticity of the claimed opposition to H.R. 1074.

Sincerely,

DAVID M. MCINTOSH,
Chairman, Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs.

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