



June 5, 2012

Chairman Ralph Hall
Ranking Member Eddie Bernice Johnson
House Committee on Science, Space and Technology
Washington, DC 20515
Re: Hearing on EPA's Impact on Jobs and Energy Affordability

Dear Chairman Hall and Ranking Member Johnson:

OMB Watch would like to submit the following comments for the record of the hearing on Wednesday, June 6, 2012, on "EPA's Impact on Jobs and Energy Affordability." In our view, the very premise of the hearing – that EPA regulations adversely affect employment or energy prices and that more rigorous analysis of costs and benefits would avoid that impact – is fundamentally flawed. Instead, we believe the EPA – like other regulatory agencies – has a simple mission: to do the best it can to protect Americans from unreasonable risks to their health, safety, and welfare. Taken together, the evidence is compelling that EPA regulations do more than protect people; they underpin the proper functioning of our economy – including employment and energy prices. We submit these comments to set the record straight on the question of regulatory costs and their effect on employment.

OMB Watch is an independent, nonpartisan organization that promotes open, accountable government and health and safety standards that protect people and the environment. OMB Watch has monitored the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA), EPA, and their interactions for more than 25 years. We co-chair the Coalition for Sensible Safeguards (CSS), an alliance of more than 75 consumer, small business, labor, scientific, research, good government, faith, community, health, and environmental organizations joined in the belief that our system of regulatory safeguards is essential to maintaining our quality of life and building a sustainable economy that works for all. Time constraints prevented CSS from reviewing this submission, so it is made on behalf of OMB Watch.

Research demonstrates that estimates of the costs of regulation, made at the time rules are adopted, more often than not *overstate* the economic impact of proposed rules. EPA recently commissioned a study comparing the estimated pre-promulgation costs of five EPA rules (*ex ante* costs) to retrospective estimates of regulatory costs for the same rules (*ex post* costs). Its preliminary findings indicate that EPA overestimated the costs of at least two of the rules examined.¹ The study also summarized existing studies examining the accuracy of *ex ante* cost

¹ Retrospective Study of the Costs of EPA Regulations: An Interim Report of Five Case Studies National Center for Environmental Economics, March 2012, Prepared for Review by the SAB-EEAC in an Advisory meeting scheduled April 19-20, 2012,

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estimates. One study compared *ex ante* direct costs to *ex post* assessments for 28 EPA and OSHA regulations, finding that, in general, *ex ante* total costs are overestimated more often than underestimated.² Of the 13 EPA regulations examined, *ex ante* total costs were overestimated for seven rules, while only two rules had lower *ex ante* cost estimates. Similarly, a 2005 OMB study found that EPA *ex ante* unit cost estimates were accurate in six cases, overestimated in six cases and underestimated in six cases.³ Requiring EPA to conduct more analysis of the costs of regulations, when such analyses are consistently inaccurate, is not sound policy.

EPA is not alone in overestimating the costs of its regulations. In a 1995 study, the now-defunct Congressional Office of Technology Assessment conducted retrospective case studies for eight past OSHA rulemakings – five involving health standards and three involving safety standards.⁴ The cost estimates for OSHA's 1974 vinyl chloride standard considered during rulemaking exceeded \$1 billion, but a survey of the polyvinyl chloride production industry conducted after the standard went into effect concluded that the actual compliance costs were in the \$228-278 million range. OSHA's final cost estimate for its 1978 cotton dust standard projected annual compliance costs of \$283 million, but OTA concluded that actual costs amounted to only about \$82.8 million per year because, as a result of the standard, the textile industry modernized and productivity at its plants improved. OSHA estimated in the early 1980s that its occupational lead exposure standard would cost the industry \$125 million, but actual costs as assessed retrospectively by OTA amounted to only around \$20 million. Similarly, OSHA estimated in 1987 that its formaldehyde standard would impose \$11.4 million in costs on the industry, but actual costs were only \$6 million, in part because the industry moved rapidly to substitute low-formaldehyde resins. In each of these instances, OSHA achieved significant health benefits at a fraction of the predicted cost.

Researchers have suggested several reasons why agency estimates of the costs of regulations often overstate the economic impact of proposed rules.⁵ First, agencies must rely on the potentially regulated industry for cost data, and regulated parties have little incentive to provide accurate information about the potential impact of regulations, since the larger the estimated regulatory costs, the less likely the rule is to be adopted. The Government Accountability Office (formerly the General Accounting Office) has found that most businesses

[http://yosemite.epa.gov/sab/sabproduct.nsf/0/3A2CA322F56386FA852577BD0068C654/\\$File/Retrospective+Cost+Study+3-30-12.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/0/3A2CA322F56386FA852577BD0068C654/$File/Retrospective+Cost+Study+3-30-12.pdf).

² Harrington, W., R. D. Morgenstern, and P. Nelson, On the Accuracy of Regulatory Cost Estimates, *Journal of Policy Analysis and Management* 19(2): 297-322 (2000), available for purchase at <http://onlinelibrary.wiley.com/doi/10.1002/%28SICI%291520-6688%28200021%2919:2%3C297::AID-PAM7%3E3.0.CO;2-X/abstract>.

³ U.S. Office of Management and Budget, Office of Information and Regulatory Affairs (OMB), *Validating Regulatory Analysis: 2005 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities*, http://www.whitehouse.gov/sites/default/files/omb/assets/omb/inforeg/2005_cb/final_2005_cb_report.pdf.

⁴ Office of Technology Assessment (OTA), "Gauging Control Technology and Regulatory Impacts in Occupational Safety and Health," (1995).

⁵ McGarity and Ruttenberg, "Counting the Costs of Health, Safety, and Environmental Regulation," 80 *Tex. L. Rev.* 1997 (2002).

have no meaningful way of estimating potential regulatory costs, so the estimates they submit are guesses.⁶ Other researchers have demonstrated that cost estimates submitted to regulatory agencies in advance of rules too often ignore the fact that adoption of a new regulation creates an incentive for industry to innovate and develop less expensive ways to comply. Agencies routinely ignore the impact technological innovation has in reducing expected regulatory costs.

Similarly, research indicates that regulations can increase, rather than decrease, employment, albeit modestly. This is true largely for two reasons: first, regulations can directly or indirectly spur investment, innovation, and hiring. Second, effective environmental regulations can support the overall sustainable functioning of our economy.

The Economic Policy Institute has concluded, "[t]aken as a whole . . . the literature studying individual regulations and specific industries tends to show that the broad fear of substantial regulation-induced job loss at the industry level is unfounded."⁷ They base this conclusion, in part, on a study of the effect of stringent air quality regulations in the Los Angeles area. Economists Eli Berman and Linda Bui found that the regulations "probably increased labor demand slightly" (and that there was "no evidence" they led to reductions in employment).⁸ A different study of the employment impact of environmental regulations in four heavily-polluting sectors found that such rules had a small but positive effect in the petroleum and plastics sectors, and no statistically significant effect in the steel and pulp and paper sectors.⁹

Among the reasons regulations do not cause job losses is because they induce firms to hire additional abatement or compliance workers. Additionally, they often spur development of innovative technologies or processes. In fact, a Harvard Business School economist has argued that such gains can entirely offset the cost of compliance.¹⁰ This is particularly likely to be true when – as is currently the case – corporations are holding significant capital reserves and unemployment is high. While individual corporations may be reluctant to invest in environmental technologies on their own, sector-wide upgrades of the type generated by EPA regulations are likely to drive capital investment, technological innovation, and, ultimately, increased hiring.

Strong environmental safeguards can also protect against job losses and other adverse effects of pollution. For example, the British Petroleum Deepwater Horizon disaster killed eleven workers and injured seventeen others before spilling nearly five million barrels of oil into

⁶ General Accounting Office, "Regulatory Burden: Measurement Challenges and Concerns Raised By Selected Companies" (Nov. 1996).

⁷ Isaac Shapiro and John Irons, "Regulation, Employment, and the Economy: Fears of job loss are overblown," Economic Policy Institute Briefing Paper, April 2011.

⁸ Eli Berman and Linda T.M. Bui, "Environmental Regulation and Labor Demand: Evidence from the South Coast Air Basin," *Journal of Public Economics* 79: 265, 293, 2001.

⁹ Richard D. Morgenstern, William A. Pizer, and Jhih-Shayang Shih, "Jobs Versus the Environment: An Industry-Level Perspective," *Journal of Environmental Economics and Management* 43: 412-436, 2002.

¹⁰ Michael Porter and C. Van der Linde, "Toward a New Conception of the Environment-Competitiveness Relationship," *Journal of Economic Perspectives* 9(4): 97-118, 1995.

the Gulf of Mexico. This was both an environmental disaster and an economic one: researchers estimate that over seven years, the damage from the blowout will have a more than \$8.5 billion impact on the Gulf Coast's economy, including lost wages, lost profits, and the loss of more than 22,000 jobs.¹¹ Separately, BP has already spent \$14 billion on clean-up costs.¹² Furthermore, EPA studies demonstrate that the single-year impacts of the 1990 Clean Air Act Amendments (to take only one example) can be measured not only as 160,000 lives saved, 130,000 heart attacks prevented, and 86,000 hospital admittances avoided – but also as the 13 million additional days of work and 3.2 million additional days of schooling which were possible because workers and students were healthier.¹³

We urge you to allow EPA to remain focused on its mission of protecting public health and the environment and not to compel the agency to squander its resources on additional layers of analysis that do not improve the health, safety, or welfare of the American people.

Thank you for the opportunity to submit these comments for the record.

Sincerely,

A handwritten signature in cursive script that reads "Randy S. Rabinowitz". The signature is written in black ink and is positioned above the typed name and title.

Randy Rabinowitz
Director of Regulatory Policy, OMB Watch

¹¹ U. Rashid Sumaila and Andrés M. Cisneros-Montemayor, "Impact of the *Deepwater Horizon* well blowout on the economics of US Gulf fisheries," *Canadian Journal of Fisheries and Aquatic Sciences* 69(3): 499-510, 2012.

¹² Dominic Rushe, "BP sues Halliburton for Deepwater Horizon oil spill clean-up costs," *The Guardian*, Jan. 3, 2012.

¹³ U.S. Environmental Protection Agency, Office of Air and Radiation, "The Benefits and Costs of the Clean Air Act: 1990 to 2020," Final Report, Washington, D.C., EPA, March 2011, 7-9.